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DECLARATION OF CONDOMINIUM

FOR

HILTON DOWNTOWN NASHVILLE HOTEL AND GARAGE, A CONDOMINIUM

TABLE OF CONTENTS

ARTICLE 1. NAME 1

ARTICLE 2. DEFINITIONS 1

Section 2.1. Act 1
Section 2.2. Annual Assessment 1
Section 2.3. Association 1
Section 2.4. Board or Board of Directors 1
Section 2.5. Building 1
Section 2.7. Bylaws 1
Section 2.8. Charter 1
Section 2.9. Common Elements 2
Section 2.10. Common Expenses 2
Section 2.11. Common Profits 2
Section 2.12 Condominium 2
Section 2.13. Condominium Instruments 2
Section 2.14. Declarant 2
Section 2.15. Effective Date 2
Section 2.18. Environmental Laws 2
Section 2.20. Floor Plans 2
Section 2.21. Hazardous Substances 2
Section 2.22. Insurance Shortfall Payment 3
Section 2.23. Legal Requirements 3
Section 2.24. Life-safety Systems 3
Section 2.25. Limited Common Element 3
Section 2.26. Majority 3
Section 2.27. Master Maintenance Manual 3
Section 2.28. Mold 3
Section 2.29. Mortgage 3
Section 2.30. Mortgagee or Mortgage Holder 3
Section 2.31. Notice of Application Completion 3
Section 2.32. Occupant 3
Section 2.34. Official Records 3
Section 2.36. Owner 4
Section 2.38. Percentage Interests 4
Section 2.39. Permitted Overnight Delivery 4
Section 2.40. Permittee 4
Section 2.41. Person 4
Section 2.42. Plat 4
Section 2.43. Property Monitoring and Access Systems 4

Section 2.45. Reviewing Owner 4
Section 2.47. Secure Electronic Signature 5
Section 2.48. Special Assessment 5
Section 2.49. Specific Assessment 5
Section 2.50. Submitted Property 5
Section 2.56. Total Association Vote 5
Section 2.57. Unit 5

ARTICLE 3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS 6

ARTICLE 4. UNITS AND BOUNDARIES 6

Section 4.1. Unit Description and Interests 6
Section 4.2. Unit Boundaries 6

ARTICLE 5. COMMON ELEMENTS 7

ARTICLE 6. LIMITED COMMON ELEMENTS 8

ARTICLE 7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES 9

ARTICLE 8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES 9

ARTICLE 9. ASSOCIATION RIGHTS AND RESTRICTIONS 9

ARTICLE 10. ASSESSMENTS 11

Section 10.1. Purpose of Assessments 11
Section 10.2. Types of Assessments 11
Section 10.3. Annual Budget and Annual Assessment 11
Section 10.4. Special Assessments 12
Section 10.5. Specific Assessments 13
Section 10.6. Payment of Assessments 13
Section 10.7. Creation of the Lien and Personal Obligation for Assessments 13
Section 10.8. Non-Payment of Assessments 14
Section 10.9. Surplus Funds and Common Profits 14
Section 10.10. Statement of Account 15

ARTICLE 11. INSURANCE 15

Section 11.1. Generally 15
Section 11.2. Property Insurance 15
Section 11.3. Liability Insurance 16
Section 11.4. Annual Review and Allocation of Costs Between Units 17
Section 11.5. Coverage Requirements 17
Section 11.6. Other Required Insurance 18
Section 11.7. Liability Insurance Maintained by Unit Owners 19

Section 11.8. Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies 19
Section 11.9 Application of Deductibles 20
Section 11.10 Failure to Obtain Insurance 20

ARTICLE 12. REPAIR AND RECONSTRUCTION 21

Section 12.1. General 21
Section 12.2. Cost Estimates 21
Section 12.3. Source and Allocation of Proceeds 21
Section 12.4. Floor Plans and Specifications 22
Section 12.5. Encroachments 22
Section 12.6. Construction Fund 22
Section 12.7. Delegation 22

ARTICLE 13. ARCHITECTURAL CONTROLS 24

Section 13.1. Alterations to a Unit 24
Section 13.2. Signs and Flags. 25
Section 13.3. Encroachments onto Common Elements 25
Section 13.4. Subdivision of a Unit 26
Section 13.6. Applications 26
Section 13.7. Condition of Approval 27
Section 13.8. Limitation of Liability 27
Section 13.9. No Waiver of Future Approvals 27
Section 13.10. Enforcement 27
Section 13.11. Standards of Reconstruction and Maintenance 27

ARTICLE 14. USE RESTRICTIONS 29

Section 14.1. Use of the Units 29
Section 14.2. Prohibited Uses 29
Section 14.3. Rubbish, Trash, and Garbage 29
Section 14.4. Ventilation of Cooking Apparatus 29
Section 14.5. Use of the Roofs 29
Section 14.7. Use of Limited Common Elements 30
Section 14.8. Abandoned Personal Property 30
Section 14.9. Loading Dock 31
Section 14.11. Pest Control 31

ARTICLE 15. MAINTENANCE AND SERVICE RESPONSIBILITY 31

Section 15.1. Maintenance By Unit Owner 31
Section 15.2. Maintenance By Association. 31
Section 15.3. Building Systems 32

Section 15.4. Life-safety Systems 32
Section 15.5. Failure to Maintain 33
Section 15.6. Exterior Glass Surfaces and Doors 33
Section 15.7. Mold Disclosure and Waiver 33
Section 15.8. Association Inspection Obligations 35
Section 15.9. Unit Owner Inspection Rights 35

ARTICLE 16. MORTGAGEE RIGHTS 36

Section 16.1. Consent Required 36
Section 16.2. Assessments 36
Section 16.3. Notices 36
Section 16.4. Duplicative Notices 37
Section 16.5. No Priority 37
Section 16.6. Notice to Association 37
Section 16.7. Failure of Mortgagee to Respond 37
Section 16.8. Cure Rights 37
Section 16.9. No Invalidity of Mortgage Lien 37
Section 16.10. Construction 38

ARTICLE 17. DEFAULT AND REMEDIES 38

Section 17.1. Remedies Cumulative 38
Section 17.2 Authority and Enforcement 38
Section 17.3. Fining and Suspension Procedure 38
Section 17.4. Self-Help Rights 39
Section 17.5. Conditions of Self-Help Rights 40

ARTICLE 18. COMPLIANCE WITH LAWS AND ZONING 40

Section 18.1. Compliance with Laws and Covenants 40
Section 18.2. Environmental 40
Section 18.3. Unit Owner's Indemnity 41
Section 18.4. Density Allocation and Zoning Compliance 41

ARTICLE 19. GENERAL PROVISIONS 42

Section 19.1. Dispute Resolution 42
Section 19.2. Declarant Services 43
Section 19.3. Enforcement 43
Section 19.5. No Third Party Beneficiaries 43
Section 19.6. Successor-in-Title 43
Section 19.7. Notices 43
Section 19.8. Security 43
Section 19.9. Disclosures 44

Section 19.10. Conflict 44
ARTICLE 20. EMINENT DOMAIN 44

Section 20.1. Common Elements Taken 44
Section 20.2. Unit Taken 44
Section 20.3. Mortgagee Notice 45

ARTICLE 21. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS 45
Section 21.1. Utilities – Blanket Easement 45
Section 21.2. Surface Water Drainage and Runoff 46
Section 21.3. Life-Safety – Blanket Easement 46
Section 21.4. Property Monitoring and Access System – Blanket Easement 46
Section 21.5. Blanket Easement for Lateral and Subjacent Support; Building Systems; Party Walls and Encroachments 46
Section 21.6. Emergency – Blanket Easement 47
Section 21.7. Access Easements Benefiting the Association 47
Section 21.8. Easements Benefiting Declarant 48
Section 21.10. Commonly Metered-Used Items. 48
Section 21.11. Cooperation 48
Section 21.12. Damages Resulting From the Exercise of Easement Rights. 48

ARTICLE 22. AMENDMENT 48
ARTICLE 23. SEVERABILITY 49

EXHIBITS

SUBMITTED PROPERTY ..... "A"
PERCENTAGE INTERESTS ..... "B"
FLOOR PLANS AND PLAT ..... "C"
DISCLOSURES ..... "D"
BYLAWS ..... "E"

STATE OF TENNESSEE

COUNTY OF DAVIDSON

DECLARATION OF CONDOMINIUM

FOR

HILTON DOWNTOWN NASHVILLE HOTEL AND GARAGE, A CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM FOR HILTON DOWNTOWN NASHVILLE HOTEL AND GARAGE, A CONDOMINIUM (the "Declaration") is made the date set forth below by Nashville Downtown Hotel, LLC, a Delaware limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property located in Nashville, Davidson County, Tennessee as described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, a plat of survey for the Condominium has been prepared by Barge Waggoner Sumner & Cannon, Inc. ("BWSC"), dated July 15, 2015, attached hereto as Exhibit "C" and incorporated herein by reference; and

WHEREAS, floor plans for the Condominium were prepared by BWSC, and are attached hereto as Exhibit "C" and incorporated herein by reference; and

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto, including the improvements thereof, to the provisions of this Declaration and to the Tennessee Condominium Act; and

NOW, THEREFORE, Declarant hereby declares that the property described in Exhibit "A", including the improvements located thereon, is hereby submitted and made subject to: (a) the form of real property ownership provided in the Tennessee Condominium Act, and (b) the provisions of this Declaration. By recording this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged, or otherwise encumbered subject to the provisions of the Tennessee Condominium Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth and/or described in this Declaration, which shall run with the title to, the property, and shall be binding on all Persons having any right, title or interest in all or any portion of the property, binding on their respective heirs, legal representatives, successors, successors in title and assigns.

DECLARATION OF CONDOMINIUM
FOR
HILTON DOWNTOWN NASHVILLE HOTEL AND GARAGE, A CONDOMINIUM

ARTICLE I. NAME.

The name of the condominium is Hilton Downtown Nashville Hotel and Garage, A Condominium (hereinafter referred to as the "Condominium", as further defined herein, and is hereby submitted to the Tennessee Condominium Act of 2008.

ARTICLE II. DEFINITIONS.

Generally, terms used in this Declaration, the Bylaws, and the Charter shall have their normal, generally accepted meanings or the meanings given in the Act or the Tennessee Nonprofit Corporation Act. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws, and the Charter shall be defined as follow:

Section 2.01 **Act** shall mean the Tennessee Condominium Act of 2008, Section 66-27-201, et seq., Tenn.

Section 2.02 **Annual Assessment** shall mean the assessment to be uniformly levied by the Board against each Unit as more particularly described in Section 10.3 hereof.

Section 2.03 **Association** shall mean Hilton Downtown Nashville Condominium Association, Inc., a Tennessee nonprofit corporation, its successors or assigns.

Section 2.04 **Board** or **Board of Directors** shall mean the board of directors of the Association, which shall be the body responsible for management and operation of the Association.

Section 2.05 **Building** shall mean that certain twelve (12) level hotel building and two (2) level parking garage located on the real property described in Exhibit "A", as more particularly shown on the Floor Plans and Plat.

Section 2.06 **Building Systems** shall mean all systems and facilities for water, air, ventilation, smoke evacuation, emergency generator, air conditioning and heating (including, without limitation, refrigerant lines, chilled water lines, electric lines, thermostatic control lines and related facilities), natural gas, steam, electricity, energy, drainage, sewage, communications, and other utilities and all chutes, flues, ducts, conduits, pipes, lines, utility meters, wiring and all similar components, or other conduit, raceways and other pathways relating to any of the foregoing (including, without limitation, closed circuit television lines, high speed internet lines and fiber optic cable lines). Property Monitoring and Access Systems shall be deemed Building Systems. Life-Safety Systems shall not be deemed Building Systems.

Section 2.07 **Bylaws** shall mean the Bylaws of the Association attached hereto as Exhibit "E" and incorporated herein by this reference.

Section 2.08 **Charter** shall mean the Charter of Hilton Downtown Nashville Hotel and Garage

Condominium Association, Inc., which has been filed with the Tennessee Secretary of State's Office.

Section 2.09 Common Elements shall mean those portions of the Condominium other than the Units.

Section 2.10 Common Expenses shall mean actual or anticipated expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

Section 2.11 Common Profits shall mean all income collected or accrued by or on behalf of the Association other than income derived from assessments.

Section 2.12 Condominium shall mean the condominium created under and pursuant to this Declaration.

Section 2.13 Condominium Instruments shall mean this Declaration, all exhibits to this Declaration, and the Plat and Floor Plans, all as may be supplemented or amended from time to time.

Section 2.14 Declarant shall mean Nashville Downtown Hotel, LLC, a Delaware limited liability company, its successors and assigns, and any other Person as further set forth in Section 66-27-102(a)(6) of the Act, provided such successors and/or assigns are designated in writing by Declarant as a successor and/or assign of the rights of Declarant set forth herein by reference.

Section 2.15 Effective Date shall mean the date on which this Declaration is recorded in the Official Records.

Section 2.16 Environmental Laws shall mean and include all present and future federal, state or local laws, rules orders ordinances and regulations pertaining to environmental regulation or the use, processing, storage disposal, generation or transportation of Hazardous Substances or any contamination, cleanup or disclosure related thereto, including, but not limited to, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. and such regulations as may be promulgated with respect thereto, including, but not limited to the regulations contained in 40 CFR Part 280.

Section 2.17 Floor Plans shall mean the plans for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein by reference.

Section 2.18 Garage Unit shall mean that certain Unit in which a parking structure has been constructed, as more particularly shown on Exhibit "C" hereto.

Section 2.19 Hazardous Substances shall means those substances now or hereafter included within (whether as a result of such substance's inclusion on a list, physical characteristics or otherwise) any of the definitions of "hazardous substances", "hazardous waste", "hazardous materials", "pollutant", "contaminant" or "toxic substance" under or otherwise regulated by, any Environmental Laws; including, but not limited to (a) mixtures containing listed Hazardous Substances and waste generated from the treatment, storage or disposal of Hazardous Substances, (b) asbestos, (c) polychlorinated biphenyls, (d) radioactive materials and (e) petroleum (including crude oil or any fraction thereof), natural gas, natural gas

liquids, liquefied natural gas and synthetic gas.

Section 2.20 Hotel Unit shall mean that certain Unit in which a hotel has been constructed, as more particularly shown on Exhibit "C" hereto.

Section 2.21 Insurance Shortfall Payment shall mean the amount of money assessed to one (1) or more of the Owners, as applicable, subsequent to a casualty, which damages and/or destroys all of any portion of the Condominium, as contemplated in Section 12.3 hereof.

Section 2.22 Legal Requirements shall mean all applicable federal, state and local laws, orders, rules and regulations.

Section 2.23 Life-safety Systems shall mean those systems designed to protect the Building and its Occupants from emergencies, including, but not limited to, pumps, control valves, smoke alarms, horns, strobes, emergency lighting, smoke evacuation or exhaust systems, sprinklers (including stand pipes, fire pumps and control valves, foremen's control and enunciator panels and related facilities), call boxes, emergency generators and other related improvements, devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.24 Limited Common Element shall mean a portion of the Common Elements reserved for the exclusive use of less than all Units.

Section 2.25 Majority means more than fifty percent (50%) of the total eligible number.

Section 2.26 Master Maintenance Manual shall mean those certain maintenance criteria, maintenance manuals, and warranty requirements for the Building provided by Declarant to the Association in accordance with Section 15.8 hereof.

Section 2.27 Metro shall mean the Metropolitan Government of Nashville and Davidson County, Tennessee.

Section 2.28 Mold shall collectively mean mold, mildew, fungi, mycotoxins, and/or microbiological organisms.

Section 2.29 Mortgage shall mean any deed of trust, deed to secure debt, mortgage or other similar instrument filed in the Official Records that encumbers all or a portion of the Units as reflected in the Official Records.

Section 2.30 Mortgagee or **Mortgage Holder** shall mean the holder of any Mortgage.

Section 2.31 Notice of Application Completion shall have the meaning set forth in Section 13.6 below.

Section 2.32 Occupant shall mean any Person, including any Unit Owner having a right to occupy or use all or any portion of a Unit for any period of time.

Section 2.33 Official Records shall mean the official land records of the Register's Office for

Davidson County, Tennessee.

Section 2.34 Owner shall mean the record titleholder of a Unit, but shall not include a Person who is only a Mortgagee. A Mortgagee who forecloses or otherwise takes ownership of a Unit shall be deemed an Owner upon the acquisition of such ownership. The term "Owner" shall refer to the owner of a particular Unit and the term "Owners" shall refer collectively to the owners of all of the Units.

Section 2.35 Outdoor Patio Area shall mean that outdoor patio area attached to the Hotel Unit as shown on the Floor Plan.

Section 2.36 Percentage Interests shall mean the undivided ownership percentage interest in the Common Elements appurtenant to each Unit as set forth in Exhibit "B" to this Declaration.

Section 2.37 Permitted Overnight Delivery shall mean delivery of any notice that satisfies the following:

(a) Such notice is delivered through the United States Postal Service or through a commercial firm which is regularly engaged in the business of document delivery or document and package delivery;

(b) The terms of the sender's engagement of the services of the United States Postal Service or commercial firm call for the document to be delivered not later than the next business day following the day on which it is received for delivery by the United States Postal Service or the commercial firm; and

(c) The sender receives from the United States Postal Service or the commercial firm a receipt acknowledging receipt of the document, which receipt is signed by the addressee or an agent of the addressee.

Section 2.38 Permittee shall mean any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contractor of an Owner, Occupant, or Declarant, as applicable.

Section 2.39 Person shall mean any individual, corporation, limited liability company, firm, association, partnership, trust or other legal entity.

Section 2.40 Plat shall mean the plat for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein by reference.

Section 2.41 Property Monitoring and Access Systems shall mean those systems designed to control access and provide surveillance of the Condominium, including, without limitation, all card readers, closed-circuit televisions cameras, alarm sensors, control panels and related equipment, devices and improvements, and other related improvements, devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.42 Reviewing Owner shall mean the Owner reviewing a request from another Owner for approval for a modification, improvement, or change as provided in Article 13 hereof.

Section 2.43 Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

Section 2.44 Special Assessment shall mean an assessment uniformly levied by the Board against all Units in accordance with their respective Percentage Interests to fund an expense of the Association not included in the annual budget or to otherwise fund a shortfall in the operating account of the Association.

Section 2.45 Specific Assessment shall mean an assessment levied by the Board against a Unit as permitted in Section 66-27-414 of the Act, elsewhere in the Act, or as provided below:

(a) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be specifically assessed against the Unit(s) to which that Limited Common Element is allocated equitably, in the Board of Director's reasonable discretion;

(b) Any Common Expense or portion of the Common Expense benefiting fewer than all of the Units may be specifically assessed exclusively against the Units benefited;

(c) The costs of insurance may be specifically assessed in proportion to risk and the factors in described in Section 11.4 below;

(d) The costs of any common utilities shall be specifically assessed in proportion to usage;

(e) If any Common Expense is caused by the misconduct of any Unit Owner, the Association may specifically assess that expense exclusively against the Owner's Unit; and

(f) Fines and other charges assessed against less than all the Units shall be deemed Specific Assessments.

Section 2.46 Submitted Property shall mean all that tract or parcel of land located in Davidson County, Tennessee and being more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

Section 2.47 Total Association Vote shall mean all of the eligible votes attributed to members of the Association (including votes attributable to Declarant).

Section 2.48 Trust Funds shall have the meaning described in Section 12.08 below.

Section 2.49 Unit shall mean those portions of the Condominium intended for separate ownership.

Section 2.50 Work shall have the meaning described in Section 12.01 below.

ARTICLE III. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS

The Submitted Property and subject to this Declaration and the Act is located in Davidson County, Tennessee, being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference. The Plat and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

ARTICLE IV. UNITS AND BOUNDARIES

Section 4.01 Unit Description and Interests. The Condominium shall be initially divided into two (2) Units and Common Elements, some which Common Elements may be allocated as Limited Common Elements. Each Unit consists of its defined space together with an undivided Percentage Interest in the Common Elements appurtenant thereto.

Section 4.02 Unit Boundaries. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units shall have the following boundaries and are depicted on the Floor Plans:

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be as follows:

(i) Except as otherwise provided herein, the perimetrical or vertical boundaries of each Unit shall be the vertical plane formed by the innermost exterior surface wall of the Building, with all materials constituting the façade of the building, as well as the studs, drywall, sheetrock, gypsum board, and similar coverings being part of the Common Elements and/or Limited Common Elements.

(ii) To the extent a Unit is bounded by the glass exterior glass windows or doors, the perimetrical or vertical boundaries of the Unit shall be the vertical plane formed by the innermost exterior surface of the glass surface (with the glass itself and window mullion constituting part of the Common Elements and/or Limited Common Elements).

(iii) With respect to non-structural common walls between Units or between a Unit and Common Element interior improvements, the perimetrical or vertical boundary of the Unit served thereby shall be the centerline of such wall.

(b) Horizontal Boundaries. The horizontal boundaries of each Unit shall be as follows:

(i) Except as otherwise provided herein, the upper horizontal boundary of a Unit is the horizontal plane formed by the lowermost surface of the concrete slab above the ceiling of the Unit on the level on which the Unit is located, with the concrete slab above not constituting part of the Unit. The lower horizontal boundary shall be the horizontal plane formed by the uppermost surface of the concrete slab below the flooring of the Unit on the level on which the Unit is located, with the flooring constituting part of the Unit, but the concrete slab or foundation below the flooring of the Unit not constituting part of such Unit.

(ii) Notwithstanding anything to the contrary herein, in the event a portion of a Unit is located on a level of the Building directly above another portion of the same Unit located on the level

below, there shall not be deemed to be any horizontal boundary between the portions of the same Unit.

(c) Additional Information to Interpret Unit Boundaries.

(i) Except as may be otherwise provided for herein, the Unit boundaries shall exclude any portion of the Common Elements that may be located within such Unit's boundaries as described in Section 4.2 above.

(ii) Any elevator (including, but not limited to elevator cab, elevator shafts, elevator pits, and all related mechanical and electrical rooms and/or systems) exclusively serving a Unit, as shown on the Floor Plans, shall be deemed part of such Unit.

(iii) Any stairwell exclusively serving a Unit, as shown on the Floor Plans, shall be deemed part of such Unit.

(iv) Any entry door (including exterior glass doors) exclusively serving a Unit shall be deemed part of the Unit so served.

(v) Those portions of the Building Systems (including any portion of the Building Systems located outside the boundaries of the Unit) that exclusively serve a single Unit shall be deemed part of the Unit.

(vi) Those portions of the Life-safety Systems (including any portion of the Life-safety Systems located outside the boundaries of the Unit) that exclusively serve a single Unit shall be deemed part of the Unit.

(vii) Structural columns that support more than one (1) Unit or one or more Units and the Common Elements shall not be part of any Unit, but shall be Common Elements; structural columns that support only one (1) Unit shall be part of such Unit.

(viii) In the event that there is a conflict between the boundaries of a Unit as described in this Section 4.02 and as shown on the Floor Plans, the Floor Plans shall control. It is the express intent of Declarant that the property described as being part of a Unit shall for all purposes herein be treated as and constitute a lawfully described "Unit" as that term is defined in the Act. In the event that there is a final judicial determination by a court of competent jurisdiction that the boundaries of a Unit or any portion thereof are so indefinite and vague so as to not create a legally constituted "Unit" within the meaning of the Act, then that portion of the Unit that has not been adequately described shall be severed from the property deemed a part of the Unit (if the remainder of the Unit, excluding the severed portion thereof, constitutes a properly described Unit under the Act) and shall thereafter be deemed to be Limited Common Elements reserved to the exclusive use of said Unit, subject to the rights and obligations of other Unit Owners with respect to said property.

ARTICLE V. COMMON ELEMENTS

The Common Elements consist of all portions of the Condominium not constituting a part of a Unit. The Common Elements shall include, without limitation: Life-safety Systems serving the Common Elements or more than one (1) Unit; Building Systems serving the Common Elements or more than one (1)

Unit; structural columns that support more than one (1) Unit and/or Common Elements; sidewalks; exterior landscaping; and other items as may be identified by the Association from time to time. Notwithstanding any provision to the contrary stated herein, any door or doors enclosing any of the above-listed rooms or serving more than one (1) Unit shall be deemed a part of the Common Elements. For the avoidance of doubt, Common Elements shall include all structural elements of the Building, whether or not located within a Unit, including, but not limited to, all foundations, footings, columns, girders, slabs, ceiling beams and supports, interior load bearing walls, all facades, exterior walls, elevator shafts and loading docks.

Ownership of the Common Elements shall be by the Owners as tenants-in-common. Each Owner shall own an undivided Percentage Interest in and to the Common Elements attributable to the Unit owned by such Owner. Such undivided Percentage Interest ownership may be altered only by the consent of all Owners and their respective Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration, except as provided in Section 13.6 below without approval of the Owners or Mortgagees.

The Common Elements shall remain undivided and no Unit Owner or any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Unit Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Unit Owners.

ARTICLE VI. LIMITED COMMON ELEMENTS

The Limited Common Elements located in the Condominium and the Unit or Units to which they are allocated are as follows:

(a) General.

(i) The portions of the Life-safety Systems serving one (1) or more but less than all Units are allocated as Limited Common Elements to the Unit or Units so served;

(ii) Any Building System, or portion thereof, serving more than one (1) Unit but not all Units is allocated as a Limited Common Element to the Units so served;

(iii) Any portions of the Common Elements on which there is located any portion of the air conditioning, heating, plumbing, ventilating, exhaust, mechanical, electrical, elevator or telecommunication systems exclusively serving a particular Unit are allocated as Limited Common Elements to the Unit so served. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote or consent of any affected Unit Owner, relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical or telecommunication systems serving a particular Unit, provided that after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation; and

(iv) The Board of Directors is hereby authorized to allocate and to reallocate Limited Common Elements and Common Elements not previously allocated, provided that any such allocation or reallocation shall be made in accordance with the provisions of the Act and this Declaration.

A Common Element not previously allocated as a Limited Common Element may be so allocated upon written application to the Association by the Unit Owner or Unit Owners for whose exclusive use such Common Element is requested; provided, however, no such assignment shall be approved by the Board of Directors which would materially impair the rights of the other Unit Owners under this Declaration. A Limited Common Element may be reallocated by the Board upon written application to the Association by the Unit Owner or Unit Owners to whose Unit the Limited Common Element appertains and the Unit Owner or Unit Owners to whose Unit the Limited Common Element is being reallocated. Upon such application and such approval by the Board, the Association shall prepare and execute an amendment to this Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be consented to and executed by the Unit Owner or Unit Owners making such application. A Limited Common Element allocated to a Unit may not be reallocated by the Board without the prior written consent of the Unit Owner of the Unit to which such Limited Common Element is allocated.

(b) Limited Common Elements Assignments. The Limited Common Elements constitute the following: (i) Building Systems serving more than one but less than all Units shall be allocated to the units served, (ii) Building Systems serving one Unit only shall be allocated to the Unit served, and (iii) the Outdoor Patio Area shall be allocated to the Hotel Unit. The Board, without need for a membership vote, is hereby authorized to allocate and reallocate Limited Common Elements not previously assigned, provided that any such allocation or reallocation shall be made in accordance with the Act.

ARTICLE VII. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit, excluding Persons holding such interest under a Mortgage, are members of the Association, and except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, the Unit Owner of each Unit shall be entitled to exercise the number of votes for each Unit as set forth in Exhibit "B" attached hereto and incorporated herein. All votes shall be equally weighted.

ARTICLE VIII. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

Except as provided elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the Percentage Interests.

Ad valorem real estate taxes for the first calendar year after the establishment of the Condominium shall be paid by the Unit owners in accordance with their Percentage Interests. Thereafter each Unit owner shall independently pay its separately assessed tax charges.

ARTICLE IX. ASSOCIATION RIGHTS AND RESTRICTIONS.

In addition to and not in limitation of all other rights it may have, the Association, acting through its Board of Directors, shall have the right and authority:

(a) to enter into Units for maintenance, emergency or life-safety purposes, which right may be exercised by the Board of Directors, officers, agents, employees, managers and all police officers,

firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the affected Unit Owner or Occupant. For the purposes of this paragraph (a), an emergency justifying immediate entry into Units shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a person or animal might be injured or sick and require immediate medical attention. No one exercising the rights granted in this paragraph (a) shall be liable for trespass, damages or in any other manner by virtue of exercising such rights, except as provided in the Act. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that the Association, acting through its Board of Directors, shall have no duty or obligation to enter Units.

(b) to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Common Elements and Limited Common Elements;

(c) to enforce use restrictions, provisions contained within the Declaration and Bylaws, and rules and regulations promulgated and adopted by the Association by the imposition of reasonable monetary fines and the suspension of use privileges;

(d) to grant and accept permits, licenses, utility easements, leases and other easements;

(e) to control, manage, operate, maintain, improve and replace all portions of the Common Elements;

(f) to represent and act on behalf of the Unit Owners in the event of damage or destruction as a result of casualty loss in accordance with the provisions of the Act and Article 12 hereof;

(g) to represent and act on behalf of the Unit Owners in the event of any loss resulting from condemnation or eminent domain in accordance with the provisions of the Act and Article 20 hereof;

(h) to acquire, hold and dispose of tangible and intangible personal property and real property;

(i) to collect security deposits in reasonable amounts, as determined by the Board of Directors in its sole discretion, to protect against any damage to the Condominium, including, without limitation, damage resulting from: Occupants moving in or out of a Unit; the transportation and use of construction materials on the Submitted Property; and the alteration, modification or addition to a Unit and any Limited Common Element appurtenant thereto. Costs for repair of such damage may be deductible from the security deposit and any additional expenses may be assessed against the Unit as a Specific Assessment;

(j) to approve contractors or subcontractors who have access to the Submitted Property for the purpose of making repairs or improvements based on rules and regulations promulgated and adopted by the Board, which may include, without limitation: financial stability of the contractors and/or subcontractors; history of compliance with the Condominium Instruments and rules and regulations promulgated and adopted by the Association; and other factors that may be reflective of quality and ability. The Board may also impose insurance requirements and collect other non-refundable fees for use of the loading docks and trash receptacles;

(k) at the sole expense of the Association, without need for a membership vote and without the written consent of any affected Unit Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical or telecommunications system serving a particular Unit, provided that after such relocation; the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation;

(l) to close permanently or temporarily any portion of the Common Elements (excluding the Limited Common Elements, and any Common Elements the use of which is reasonably necessary for access to or from a Unit and any portion of the Common Elements over, on, upon or which the Association has an easement) with thirty (30) days prior notice to all Unit Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days after the closing explaining the reason for the closing; and

(m) to enter into joint agreements and contracts with other Unit Owners for the provision of services, including, without limitation, management, landscaping, porter, utilities, amenities, concierge and property monitoring services.

ARTICLE X. ASSESSMENTS.

Section 10.01 Purpose of Assessments.

The Association shall have the power to levy assessments as provided herein. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Units as may be more specifically authorized from time to time by the Board.

Section 10.02 Types of Assessments.

Each Owner of a Unit, by acceptance of a deed to a Unit whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following types of assessments with such assessments to be established and collected as hereinafter provided:

(a) Annual Assessments;

(b) Special Assessments; and

(c) Specific Assessments.

Section 10.03 Annual Budget and Annual Assessment.

(a) Preparation of Budget. For each fiscal year, the Board shall prepare a budget listing by category the estimated Common Expenses (including the establishment and maintenance of such reserves as the Board may consider appropriate) for such year. The Board shall cause the proposed annual budget and Annual Assessments roster based thereon to be delivered to each not less than thirty (30) days prior to the beginning of the fiscal year to which the proposed annual budget and Annual Assessments roster relate and shall become effective (subject to the terms hereof) as of the first day of the next fiscal year.

(b) Annual Assessments. Each Owner shall pay an Annual Assessment based on the Percentage Interest allocated to the Owner's Unit. The amount of the Common Expenses paid as an Annual Assessment shall be based on the total Common Expenses as estimated in the annual budget, less the following:

(i) Any amounts in the budget to be funded by the payment of Specific Assessments; and

(ii) Undistributed and unreserved Common Profits.

(c) Failure to Establish Annual Budget. In the event the proposed budget is not approved or the Board of Directors fails for any reason to determine the budget for the succeeding fiscal year, then and until such time as a budget shall have been determined as provided herein, the budget and Annual Assessments roster in effect for the then current year shall continue for the succeeding year, provided, however the budget and Annual Assessment shall be one hundred and five percent (105%) of the preceding year's amount or such higher amount as shall be necessary to include any mandatory, non-controllable expenses (including, but not limited to, the premiums for any insurance the Association is required to obtain, utilities, taxes, and any required governmental registration, filing, permit, or similar fees, and charges).

(d) Budget Adjustments. The Board of Directors shall have the right to:

(iii) not spend the full amount budgeted for any particular line item in the budget;

(iv) spend more than what has been budgeted;

(v) shift revenues and expenses within the budget from one line to another; and

(vi) adopt a revised budget during the fiscal year, provided, however, such proposed revised budget and Annual Assessment shall be delivered to the Owners at least thirty (30) days prior to the proposed effective date thereof.

(e) Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget, which may take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal Annual Assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the annual budget and Annual Assessment as provided above. A copy of the capital reserve budget shall be distributed to each Owner in the same manner as the operating budget.

Section 10.04 Special Assessments.

The Board shall have authority at any time to levy a Special Assessment against all Owners based on the Percentage Interests. The Board shall send notice of any Special Assessment to all Owners.

Section 10.05 Specific Assessments.

The Board may, at any time and in addition to any other rights it may have, levy a Specific Assessment against such Units as, in its discretion, it shall deem appropriate. The Board shall send notice of which shall be sent to the applicable Owner(s). The Board may not levy Specific Assessments for periodic maintenance, repair, or replacement of any portion of the Common Elements (excluding Limited Common Elements) or the Units which the Association has the obligation to maintain, repair, or replace. Failure of the Board of Directors to exercise its authority under this Subparagraph shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority to assess as a Specific Assessment under this Section.

Section 10.06 Payment of Assessments.

(a) Annual Assessments. Unless otherwise provided by the Board of Directors, the Annual Assessments shall be paid in equal monthly installments due on the first day of each month.

(b) Special Assessment and Specific Assessments. The Board of Directors shall establish the date payment of any Special Assessment or Specific Assessment is due. In the Board's discretion, Special Assessments or Specific Assessment may be paid in installments.

(c) Exemptions. No Owner may exempt itself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to perform its obligations required hereunder or an inconvenience or discomfort arising from the Association's performance of its duties. Notwithstanding anything to the contrary stated herein, Declarant shall have no obligation to fund budgetary deficits of the Association.

Section 10.07 Creation of the Lien and Personal Obligation for Assessments.

All assessments, together with charges, interest, costs and reasonable attorneys' fees actually incurred, in the maximum amount permitted by this Declaration or the Act, whichever is less, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. The Association may foreclose the lien by judicial action or in like manner as a deed of trust with power of sale under Sections 35-5-101, et seq., Tenn. Code Ann., provided that the Association shall first give notice of its action to the Owner and to all lienholders of record prior to the first publication of notice as required under said section and the Act. The lien shall have priority to all other liens and encumbrances on a Unit except as to those liens described in Section 66-27-415(b)(1)(A), (B), and (C) of the Act and said lien shall also be subject to the other provisions of Section 66-27-415 of the Act.

All assessments, together with charges, interest, costs and reasonable attorneys' fees shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due. Each such Owner of a Unit and its grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

The equitable charge and lien provided for in this Section shall be in favor of the Association for the

use and benefit of all Owners. Each Owner, by its acceptance of a deed to a Unit, vests in the Association or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose such liens. The Association shall have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

Section 10.08 Non-Payment of Assessments. Any assessment and related charges that are due to the Association pursuant to this Declaration, or any portion thereof, that is not paid when due shall be delinquent and the Owner shall be in default. Without limitation, the Board may impose the following:

(a) If any assessment, any related charges or any portion thereof is not paid in full by the tenth (10^{th}) day after the due date, a late charge equal to ten percent (10%) of the amount not paid (or such higher amounts as may be authorized by the Act) may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per annum (or such higher rate as may be permitted by the Act) shall accrue from the due date.

(b) If part payment of the assessment and/or related charges is made, the amount received may be applied first to costs and reasonable attorneys' fees actually incurred, then to late charges, then to interest, then to delinquent assessments and then to current assessments.

(c) If any assessment, any related charges or any portion thereof remains delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the Annual Assessment for the then-current fiscal year and of any Special Assessment or Specific Assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall be obligated to pay the entire amount so accelerated.

(d) If assessments and other charges or any portion thereof remain unpaid for more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws, the Act and Tennessee law, including reasonable attorneys' fees actually incurred.

(e) Not less than thirty (30) days after the Association sends notice by certified mail or Statutory Overnight Delivery, return receipt requested, to the Owner both at the address of the Unit and at any other address or addresses which the Owner may have designated to the Association in writing, the Association may foreclose its lien by an action, judgment, and foreclosure in the same manner as other liens for the improvement of real property pursuant to the provisions of this Declaration, the Bylaws, the Act and Tennessee law.

Enforcement under this Section is not dependent upon or related to other restrictions and/or other actions.

Section 10.09 Surplus Funds and Common Profits.

(a) Common Profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such Common Profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or

credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit or added to the Association's capital reserve account.

(b) If the Board of Directors reasonably determines that during a fiscal year there will likely be a surplus of assessments paid by an Owner at the end of such fiscal year (excluding amounts designated for reserves), the Board may, but shall not be required to, reduce the amount of the assessments to be collected from such Owner for the remainder of that fiscal year. Any Owner who has already paid such Owner's entire assessment obligation for the fiscal year at the time of such reduction shall, in the discretion of the Owner, either receive a refund of the overpayment or a credit of the amount of the overpayment towards the Owner's assessment obligation to the Association for the following fiscal year.

Notwithstanding the above, the Association may first apply the amount of any overpayment toward any other amount the Owner may owe to the Association.

Section 10.10 Statement of Account. Any Owner, Mortgagee or a Person having executed a contract for the purchase of a Unit or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines or other charges against a Unit. The Association shall respond in writing within seven (7) days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable administrative fee as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

ARTICLE XI. INSURANCE.

Section 11.01 Generally. The Association, acting through the Board of Directors, shall obtain as a Common Expense and maintain at all times, insurance which meets or exceeds the insurance requirements for condominium associations set forth in Section 66-27-413 of the Act as amended. This insurance may consist of one or more stand alone policies obtained by the Association or a master or group insurance policy or program available to a Unit Owner provided that such policy or program meets or exceeds the requirements set forth in this Article 11.

Section 11.02 Property Insurance.

(a) Scope of Property Coverage.

(i) Notwithstanding the minimum insurance requirements of the Act, the Board of Directors shall utilize commercially reasonable efforts to secure a blanket hazard insurance policy providing "special perils" coverage in an amount equal to the full insurable replacement cost, before application of deductibles, of all Common Elements of the Condominium (including Limited Common Elements). If "special perils" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. Subject to the provisions of this Declaration, the Association may additionally obtain such other property insurance as the Association may determine to be necessary or desirable. In the event that any Unit is subject to more stringent insurance requirements as a result of any Mortgage placed upon such Unit, the Board will be obligated to satisfy the more stringent requirements, and, the Board, if

necessary, will obtain such additional insurance coverage as may be required. Any additional costs incurred as a result of the foregoing will be borne by the Owner whose Unit was subject to the more stringent requirements. To the extent any Unit is not subject to any Mortgagee requirements regarding insurance of the Unit, the owner of the Unit shall maintain commercially reasonable coverages for the Unit for all portions not insured by the Association, and shall use commercially reasonable efforts to secure coverages for the Unit substantially similar to those described above in this Subsection (i).

(ii) For the purposes of this Section 11.2, the term "structures" to be insured by the Association shall include (except as may be provided elsewhere herein) all building structures, systems, improvements, personal property owned by the Association, conduits, pipes, finishes (including paint, wall coverings and floorings) and fixtures constituting the Condominium as shown on the construction plans used to obtain building permits for the Condominium. In the event such construction drawings do not adequately or fully depict the nature of structures comprising a Unit, then the Unit Owner shall submit to the Board appropriate plans certified by a registered architect or engineer appropriately depicting such structures. In the event such construction drawings do not adequately or fully depict the nature of structures comprising a Common Element, then the Board shall obtain appropriate plans certified by a registered architect or engineer appropriately depicting such structures.

(iii) In the event of any subsequent changes or alterations to structures that are Common Elements or other portions of Condominium for which the Association is responsible to maintain, the Association shall utilize commercially reasonable efforts to bind the Association's carrier to provide property insurance adequately covering the changed or altered structures.

(iv) Notwithstanding any provision to the contrary contained herein, any Unit Owner may request in writing that the Association obtain property insurance for that Unit in excess of the requirements provided for above or to reflect changes or alterations to the "structures" as defined above. The Association can elect to obtain or not obtain such insurance after evaluating whether it can obtain such insurance at a reasonable cost, the increased risks to the Association, if any, of obtaining the insurance, the extent to which obtaining the requested insurance will create any administrative burdens, if any, for the Association and whether the insurance would be more logically obtained directly by a Unit Owner. Any such coverage shall be assessed against the Unit Owner as a Specific Assessment for whom such coverage is provided.

(b) Beneficiaries of Property Insurance. All property insurance obtained by the Association pursuant to this Declaration shall designate the Association as the named insured, individually and as agent for the Owners collectively, without naming them individually, and as agent for their respective Mortgagees.

Section 11.03 Liability Insurance.

(a) Scope of Liability Coverage. The Association, acting through the Board of Directors, shall utilize commercially reasonable efforts to secure commercial general liability insurance, including medical payments insurance, with single limit coverage for injuries to a single person and damage to property of not less than $1,000,000 per occurrence and $2,000,000 aggregate or such higher amounts required by the Act. The commercial general liability policy or policies shall cover occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Common

Elements and other portions of the Condominium which the Association has the responsibility to maintain.

(b) Beneficiaries of Liability Insurance. All liability insurance obtained by the Association pursuant to this Declaration shall run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Unit Owners, and their respective Mortgagees, and all other Persons entitled to occupy a Unit, as their interests may appear. The liability insurance obtained by the Association shall name as an additional insured the Board of Directors, its officers, all agents and employees of the Association, the Unit Owners and their respective Mortgagees, as their interests may appear.

Section 11.04 Annual Review and Allocation of Costs Between Units. The Board of Directors shall, at least once every year, conduct an insurance review to determine if the Association's policy or policies in force are adequate to meet the needs of the Association and to satisfy the minimum requirements of the Act and this Declaration. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent or insurance underwriter to verify that insurance policies in existence meet the needs of the Association and satisfy the minimum requirements of the Act and this Declaration. The property and liability insurance obtained by the Association will disproportionately benefit the different Units due to the scope and nature of: (a) the uses of each of the Units; (b) the differing nature of insurance risk associated with the use of each Unit; (c) the type and cost of the improvements and betterments within each Unit; (d) the size of each Unit; (e) any additional insurance or coverages benefiting less than all of the Units; and (f) any other factors which the agent or underwriter reasonably determines would affect the equitable allocation of the costs of the insurance policies. Therefore, the Association shall hire no less than annually an independent insurance expert familiar with allocating the costs of property and liability insurance in similar communities to equitably allocate the cost of the property and liability insurance policies being obtained by the Association between the different Units based on the factors referenced above. The Board shall then proportionately assess the cost of this insurance against the different Units as Specific Assessments in accordance with the recommendations of the independent insurance expert.

Section 11.05 Coverage Requirements.

(a) The Board shall use commercially reasonable efforts to obtain policies that will provide the following:

(i) the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent and the Unit Owners;

(ii) any "other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;

(iii) the Association's policy shall be endorsed as primary and non-contributory with regard to Unit Owners;

(iv) until the expiration of ten (10) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Unit Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their

agents, employees, or household members, nor be canceled for nonpayment of premiums;

(v) the master policy may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days prior notice in writing to the Board of Directors, Unit Owners, and all Mortgagees; and

(vi) an agreed value endorsement in the Association's property insurance policy waiving co-insurance limitations.

(b) All policies of insurance shall be written with a company licensed to do business in the State of Tennessee. The company shall agree to provide insurance certificates to each Unit Owner and Mortgagee upon request.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by the Unit Owners or their respective Mortgagees.

(e) Nothing contained herein gives any Unit Owner or other party a priority over any rights of Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Unit Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Unit Owner and the Mortgagee as the case may be. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

Section 11.06 Other Required Insurance. In addition to the insurance required hereinabove, the Association shall obtain as a Common Expense the insurance set forth below, which insurance will be allocated to each Unit in accordance with the Percentage Interests appurtenant to each Unit as set forth on Exhibit "B" hereto:

(a) worker's compensation insurance if and to the extent necessary to meet the requirements of law;

(b) officers' and directors' liability insurance in such amounts as the Association may determine; and

(c) crime insurance or fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such crime insurance or bonds, if reasonably available, shall be in an amount consistent with the business judgment of the Board of Directors, but in no event less than three (3) months' assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the policy or bond, as applicable; provided, however, coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following forms:

(i) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association;

(ii) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or

(iii) two (2) members of the Board of Directors must sign any checks written on the reserve account.

Section 11.07 Liability Insurance Maintained by Unit Owners.

(a) Each Unit Owner shall obtain and thereafter continuously maintain in full force and effect for at least the entire term the Unit Owner owns the Unit general liability insurance with single limit coverage for injuries to a single person and damage to property of not less than $1,000,000 for occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Unit or other portion of the Condominium which the Unit Owner has the responsibility to maintain.

(b) Notwithstanding any provision to the contrary contained herein, any Unit Owner may request in writing that the Association obtain liability insurance for that Unit Owner in accordance with the requirements provided for above. The Association can elect to obtain or not obtain such additional insurance after evaluating whether it can obtain such insurance at a reasonable cost, the increased risks to the Association, if any, of obtaining the insurance, the extent to which obtaining the requested insurance will create any administrative burdens, if any, for the Association and whether the insurance would be more logically obtained directly by a Unit Owner. Any such coverage shall be specially assessed against the Unit Owner for the Unit Owner for whom such coverage is provided.

Section 11.08 Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies.

(a) Property Monitoring Services. The Unit Owner or Occupant of any portion of a Unit who has hired a property monitoring service for part or all of such Unit shall require such property monitoring service to keep in force, at all times, such commercial general liability insurance policies issued by responsible insurance companies licensed to do business in the State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss incurring in connection with the operation of such property monitoring service. Such insurance shall have limits for bodily injury to or personal injury to or death of any person. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than One Million Dollars ($1,000,000) combined single limit per occurrence/aggregate.

(b) Restaurants and Establishments Serving Alcoholic Beverages. The Unit Owner or Occupant of any portion of a Unit which operates a business that serves alcoholic beverages for consumption on or off the Submitted Property to members of the public shall keep in force at all times a liquor liability insurance policy issued by responsible insurance companies licensed to do business in the

State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss incurring in connection with the operation of such business. Such insurance shall have limits for bodily injury to or personal injury to or death of any person. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Three Million Dollars ($3,000,000) combined single limit per occurrence/aggregate.

(c) Waste Service Company. The Unit Owner or Occupant of any portion of a Unit who has hired a waste service company to remove trash, garbage or debris from such Unit shall require such company to keep in force at all times such commercial general liability insurance policies issued by responsible insurance companies licensed to do business in the State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss incurring in connection with the operation of such waste removal services. Such insurance shall have limits for bodily injury to or personal injury to or death of any person. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than One Million Dollars ($1,000,000) combined single limit per occurrence/aggregate.

(d) Coverage Requirements. If commercially reasonably available, the insurance required pursuant to this Section 11.8 shall: (A) provide that the policy may not be canceled or reduced in amount or coverage below the requirements hereof, without at least ten (10) days prior written notice by the insurer to the insured and to the additional insured; (B) provide for severability of interests; (C) provide that an act or omission of the insured or the additional insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other insured; and (D) name each of the Association, the other Unit Owners, and the other Persons referenced above as an additional insured. All relevant Unit Owners to whom this Section 11.8 applies shall furnish the Association upon request with a certificate affirming that such insurance is in full force and effect, that the premiums have been paid in full, and that each of the provisions listed herein is included in the policy.

Section 11.09 Application of Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one (1) Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Unit Owner's portion of the total cost of repair. Notwithstanding the foregoing, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Unit Owner or Unit Owners fail to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Unit Owner or Unit Owners as a Specific Assessment.

Section 11.10 Failure to Obtain Insurance. In the event that any Unit Owner fails to obtain insurance to be maintained by a Unit Owner pursuant to this Declaration, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of Specific Assessments under Article 10 hereof.

ARTICLE XII. REPAIR AND RECONSTRUCTION.

Section 12.01 General. In the event of damage to or destruction of all or any part of the Common Elements (including the Limited Common Elements) as a result of fire or other casualty, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the Common Elements (including the Limited Common Elements) (the "Work"). As it relates to the damage or destruction of a Unit, the Owner of such Unit shall arrange for and supervise the prompt repair and restoration thereof. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the damage and nothing in these documents shall be construed to afford a priority to any Unit Owner with respect to the distribution of proceeds to any such Unit.

Section 12.02 Cost Estimates. Promptly after a fire or other casualty causing damage to the Common Elements (including the Limited Common Elements), the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Common Elements (including the Limited Common Elements) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

Section 12.03 Source and Allocation of Proceeds. In the event that the net insurance proceeds (i.e. the remainder obtained by subtracting the property insurance policy insurance proceeds actually and unconditionally received by or on behalf of the Association) from the total amount of the "hard" and "soft" costs required to restore, replace or repair the damage or destruction resulting from an insured loss with respect to all or any portion of the Condominium) made available for reconstruction or repair are insufficient to satisfy all of the costs and expenses of reconstruction and repair, each of the Owners, to the extent the Owners have an interest in the Condominium and any or all improvements thereon affected by casualty, shall pay, and shall be obligated for, its applicable Insurance Shortfall Payment. The Insurance Shortfall Payment shall be calculated as follows:

(a) in the event that the damage and/or destruction from the casualty to the Common Elements (other than the Limited Common Elements) affects more than one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owners of the Units that are affected by the casualty damage and/or destruction in proportion to each affected Owner's portion of the total cost of reconstruction and repair as allocated by the insurer;

(b) in the event that the damage and/or destruction from the casualty affects a Limited Common Element allocated to only one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owner of the Unit to which such Limited Common Element is allocated; and

(c) in the event that the damage and/or destruction from the casualty affects a Limited Common Element allocated to more than one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owners of the Units to which the Limited Common Element is allocated in proportion to each affected Owner's portion of the total cost of reconstruction and repair as allocated by the insurer.

Aside from its obligation to pay assessments for the Units that it owns, Declarant shall have no obligation to fund any deficit arising from insufficiency of insurance proceeds. If there are surplus funds after repair and reconstruction is completed, any surplus attributable to overpayments of Insurance Shortfall Payments shall be rebated to the Owner(s) that paid the Insurance Shortfall Payments on an equitable basis and any other surplus funds shall be credited to the next Annual Assessment (or installment thereof) chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit.

Section 12.04 Floor Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the Floor Plans and specifications under which the Building and other improvements on the Submitted Property was originally constructed to standard finish so as to exclude any upgrades made to Units, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original Floor Plans and specifications are approved by the Board of Directors.

Section 12.05 Encroachments. Encroachments upon or in favor of the Units that may be created as a result of such reconstruction or repair (including, but not limited, as a result of requirements to comply with amended building code or other Legal Requirements) shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the Floor Plans and specifications under which the building and other improvements on the Submitted Property was originally constructed or later approved in accordance with this Declaration. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

Section 12.06 Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association or the Insurance Trustee (as applicable) from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section to be disbursed by the Association in reasonably appropriate progress payments to such contractor(s), supplier(s) and personnel performing the work or supplying materials or services for the repair and reconstruction of the Condominium as are designated by the Board of Directors. No progress payments shall be disbursed until the Association has adopted procedures it deems reasonable and appropriate for the disbursement of such payments.

Section 12.07 Delegation. The Board of Directors shall have authority to delegate to any Unit Owner, subject to such conditions deemed appropriate by the Board, any of its rights and/or responsibilities in this Article 12 related to the repair or reconstruction of a Unit in the event the damage to or destruction as a result of fire or other casualty of all or any part of such Unit Owner's Unit. In the event of such delegation, the Unit Owner shall perform such delegated duties in a manner consistent with this Article 12 and subject to the conditions imposed by the Board.

Section 12.08 Insurance Trustee. Notwithstanding anything in this Article 12 to the contrary, so long as either or both Units are secured by a Mortgage, proceeds of insurance maintained pursuant to the terms of this Declaration shall be disbursed as provided in this Section 12.08. At all times that a Mortgage secured by a Unit is outstanding, the Board shall maintain an Insurance Trustee. The "Insurance Trustee" will be an Institutional Lender (defined below), designated by the Board. If required by any Mortgagee holding a Mortgage secured by a Unit, such Mortgagee will be the Insurance Trustee until its release of all

Units from the lien of its mortgage and with respect to the Insurance Trustee, the Board will meet the most stringent requirements of any Mortgagee holding a Mortgage secured by a Commercial Unit. In the event there is more than one Mortgagee entitled to be the Insurance Trustee under the terms of the applicable Mortgage, (i) if only one Unit is affected by such casualty or condemnation (taking into consideration any damage or taking of any Common Elements which benefit the Units), the Insurance Trustee shall be the Mortgagee of such Unit and (ii) if more than one Unit is affected by such casualty or condemnation (taking into consideration any damage or taking of any Common Elements which benefit the Units), the Insurance Trustee will be the Mortgagee of the Hotel Unit (or, if there is more than one Mortgage of the Hotel Unit, the Mortgagee whose Mortgage is the highest priority) or if there is no Mortgagee of the Hotel Unit, the Board will designate the Insurance Trustee from among such Mortgagees. "Institutional Lender" means a savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually, as a trustee, as a servicing agent or in a fiduciary capacity), a private pension fund, a credit union or a credit company, an insurance company, a religious educational or eleemonsynary institution, a federal, state or municipal employee's welfare, benefit, pension or retirement fund, any governmental agency or entity insured by a governmental agency, any brokerage or investment banking organization (or an affiliate thereof), whether acting in its own capacity or on behalf of its clients, any real estate mortgage investment conduit or similar investment vehicle, or any combination of persons that would otherwise constitute Institutional Lenders; provided however (i) a person (other than a real estate mortgage investment conduit or similar investment vehicle) will not constitute an Institutional Lender unless such person has net assists of at least $100 million and (ii) Institutional Lender shall also include any person who is generally recognized in the capital markets as an institutional lender. Notwithstanding the foregoing, any Institutional Lender may designate an agent or a loan servicer to be the Insurance Trustee.

Insurance proceeds and awards from any condemnation received in excess of $2,000,000.00 will be payable to the Insurance Trustee (if a lesser amount is received it will be paid over the Board) for the benefit of all Owners and their Mortgagees with respect to the portion thereof allocated to the Units. To the extent required under the Mortgage, a Mortgagee holding such Mortgage secured by a Unit will have the right to participate in any adjustments regarding loss or damage to Units secured by such Mortgage and the Common Elements and no such adjustment will be made without the consent of such Mortgagee.

All monies actually received by the Insurance Trustee (the "Trust Funds") will be held in trust for (i) the benefit of all Owners, with respect to the portion thereof allocated to the Common Elements, (ii) for the benefit of all Garage Unit Owner and its Mortgagee with respect to the portion thereof allocated to the Garage Unit and the Limited Common Elements which serve exclusively the Garage Unit, and (iii) for the benefit of the Hotel Unit Owner and its Mortgagee with respect to the Hotel Unit and the Limited Common Elements which serve exclusively the Hotel Unit.

To the extent required under a Mortgage, a Mortgagee holding such Mortgage secured by a Unit will have the right to participate in any adjustment regarding loss or damage to the Common Elements and the section of the Building in which the Unit secured by such Mortgage is located and no such adjustment will be made without the consent of such Mortgagee.

The Insurance Trustee will disburse the Trust Funds to the contractors engaged in the Work in appropriate progress payments.

ARTICLE XIII. ARCHITECTURAL CONTROLS.

Section 13.01 Alterations to a Unit.

(a) Except as otherwise provided in this Declaration, each Owner shall be expressly permitted to make and/or permit architectural changes, alterations and improvements to be made to the interior portions of their respective Units (including changes which are visible from the exterior of the Units) without the approval of the Reviewing Owner, provided that the same do not:

(i) adversely affect the structural integrity of any portion of the Building;

(ii) adversely affect the Building Systems, Life-safety Systems, or the Property Monitoring and Access Systems; or

(iii) violate this Declaration or any rules and regulations adopted by the Board of Directors from time to time.

(iv) Notwithstanding anything to the contrary stated herein, without first obtaining the prior written approval of the Reviewing Owner, no Owner may make any alteration to or within a Unit that:

(v) makes any alteration to, place anything on, make any encroachment onto or across any portion of the Common Elements (including the Limited Common Elements unless otherwise provided herein);

(vi) makes any material change, addition, alteration or construction (including painting) to the exterior of any Unit;

(vii) involves connecting to or relocating Common Element pipes, lines, conduits and/or other apparatus for access to common utilities that are located outside of the Unit boundaries (provided, however, an Owner shall not relocate or make any connection to a Common Element pipe, line, conduit and/or other apparatus for access to common utilities if such connection will impair or have an adverse effect to the utilities or service of utilities to another Unit or any portion of another Unit);

(viii) places an excessive load on any structural or load bearing portions of a Unit; or

(ix) requires penetration of any Common Element concrete slab, concrete column, or other concrete portion of the structure of the Building.

(b) The Reviewing Owner shall not grant approval unless the Owner of the Unit for which the change is being requested has presented to the Reviewing Owner such information as the Reviewing Owner may reasonably require, which may include, but shall not be limited to, the following documentation: (i) a report or drawing prepared and certified by a structural engineer licensed in the State of Tennessee, which report or drawing shall demonstrate that such proposed interior modifications will not in any way affect or impair the structural soundness or integrity of the Building or any of the Units; (ii) plans for the proposed modifications; and (iii) a certificate of insurance from applicant's contractor, which names

the Association and the Owner of Unit as an additional insured. In addition, the Reviewing Owner may require that within thirty (30) days of completion of the interior modifications, the Reviewing Owner shall be provided with a copy of the certificate of occupancy, and an inspection report prepared and certified by a structural engineer licensed in the State of Tennessee.

(c) Furthermore, if alterations to the interior of a Unit requires the penetration of the concrete floor or ceiling slab, the requesting Owner shall also provide the Reviewing Owner upon its request with a report prepared and certified by a structural engineer licensed in the State of Tennessee confirming that an x-ray analysis or other analysis acceptable to the Reviewing Owner has been performed for the purposes of verifying that such penetration of the concrete floor or ceiling slab will not impair the structural integrity of such concrete floor or ceiling slab or result in the severing of any structural post-tension system. In addition, all building code requirements must be complied with and necessary permits and approvals secured for any interior modifications.

Section 13.02 Signs and Flags.

(a) General. Except as may be provided for herein or as may be required by legal proceedings, no signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies shutters of any kind, or other similar items visible from the exterior of a Unit shall be erected, placed or permitted to remain on the Condominium (except for such items existing as of the Effective Date, or replacements thereto) without the prior written consent of both Owners. The Board shall have the right to erect reasonable and appropriate signs or lighting of any kind on the Common Elements on behalf of the Association.

(b) Signage Bands. An Owner of a Unit, on behalf of itself or its Permittees, shall be permitted to place signage on any signage band allocated to such Unit, subject to the following conditions:

(i) All signage shall comply with all applicable Metro ordinances and other applicable Legal Requirements;

(ii) All signage affixed on a signage band shall pertain to the businesses conducted within the Unit to which such signage band is allocated; No signage shall contain, consist of, or include flashing lights, moving parts, or audible sounds (other than sounds attendant to the operation of such sign); and

(iii) The Owner of the Unit to which the signage band is allocated shall maintain, repair, and replace all signage or other improvements within such signage band.

(c) Grandfathered. Notwithstanding anything to the contrary stated herein, any and all signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies or shutters that are approved by Reviewing Owner shall be deemed to be "grandfathered" and shall not be removed without the written consent of the benefited Unit Owner or Occupant of a Unit.

Section 13.03 Encroachments onto Common Elements. The Board of Directors, subject to this Article 13, may permit Owners to make encroachments onto the Common Elements and enclosures of same as it deems acceptable.

Section 13.04 Subdivision of a Unit. An Owner shall not subdivide such Owner's Unit without the prior written consent of the other Owner(s). In the event of subdivision made with the prior written consent of the other Owner(s), the votes described on Exhibit "B" shall be re-allocated among the subdivided units; provided, however, that the sum of such re-allocated votes shall at all times equal a ratio of two (2) votes with respect to all units that may comprise the parcel identified as the Hotel Unit as of the date hereof to one (1) vote with respect to all units that may comprise the parcel identified as the Garage Unit as of the date hereof.

Section 13.05 Relocation of Boundaries.

(a) Boundaries between adjoining Units may be relocated only in accordance with the provisions of Section 66-27-312 of the Act and this Declaration.

(b) The Owners seeking to relocate the boundaries of their Units must submit an application to and obtain the prior written consent of the Board of Directors in order to relocate the boundaries of such Units.

(c) An amendment to this Declaration shall identify the Units involved and shall state that the boundaries between those Units are being relocated by agreement of the Owners thereof. The Owners of the Units involved shall specify in their written application to the Board of Directors either: (i) the reallocations between the Units involved of the aggregate Percentage Interests attributable to the relocated Units (which shall equal the combined total previously allocated to the Units), or (ii) state that there shall be no such reallocation of the aggregate Percentage Interests attributable to the relocated Units. The amendment to the Declaration shall reflect such reallocations or the absence thereof if deemed reasonable by the Board of Directors. If the reallocations specified by the Owners of the Units involved or the absence thereof is deemed unreasonable by the Board of Directors, it shall so notify such Owners and permit them to amend their written application so as to specify reallocations acceptable to the Board of Directors.

Section 13.06 Applications.

(a) Applications for approval required hereunder shall be in writing and shall provide such information as the Reviewing Owner may reasonably require including, but not limited to, the documentation described in Section 13.2. Once an application and all required information is received by the Reviewing Owner, the Reviewing Owner shall stamp the application as being complete, and shall then forward to the applicant a written notice of application completion (the "Notice of Application Completion"). The Reviewing Owner shall be authorized to retain an engineer, architect or other consultant to review such application and related documentation and plans, and all costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the Reviewing Owner until such time as all costs and expenses related to the review of an application have been paid by the applicant. The Reviewing Owner shall be the sole arbiter of such application and may withhold approval for any reasonable reason, including purely aesthetic considerations, materials to be used, harmony with the external design of the Building and other structures that may be located on the Submitted Property, and it shall be entitled to stop any construction that is not in conformance with approved plans.

(b) If the Reviewing Owner or its designated representative fails to approve or to

disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, its approval will not be required and this Section will be deemed complied with; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is in violation of this Declaration, Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable building codes, zoning or other laws.

Section 13.07 Condition of Approval. As a condition of approval for a requested architectural modification, a Unit Owner, on behalf of itself and its successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such modification. In the Reviewing Owner's discretion, a Unit Owner may be required to verify such condition of approval by written instrument in recordable form acknowledged by such Unit Owner. The Reviewing Owner also may establish such other reasonable conditions of approval as it determines necessary or appropriate, including reasonable construction commencement and completion times.

Section 13.08 Limitation of Liability. Review and approval of any application hereunder may be made on any basis, including solely the basis of aesthetic considerations only and neither the Reviewing Owner, Association, nor the Board shall not bear any responsibility for ensuring the design quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. The Association, the Board of Directors, the Reviewing Owner, or members of the foregoing shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications.

Section 13.09 No Waiver of Future Approvals. Each Unit Owner acknowledges that the Reviewing Owner will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Approval hereunder shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whenever subsequently or additionally submitted for approval or consent.

Section 13.10 Enforcement. Any construction, alteration or other work done in violation of this Article 13 shall be deemed to be nonconforming. Upon written request from the Association or the Reviewing Owner, a Unit Owner shall, at his/her/its own cost and expense, promptly remove or cause the removal of any non-conforming construction, alteration or other work and shall restore the property to substantially the same condition as existed prior to the non-conforming construction. Should the Unit Owner fail to do so, the Association or its designees shall have the right to enter the property and do so. All costs thereof, including reasonable attorneys' fees actually incurred, shall be an assessment and lien against such Unit Owner. In addition, the Association may impose a fine in accordance with Article 17 hereof. Moreover, if any Unit Owner or Occupant makes any change, alteration or construction (including landscaping) upon the Common Element in violation hereof, such Unit Owner or Occupant does so at that Unit Owner's or Occupant's sole risk and expense and subject to possible removal by the Association at any time. The Board may require that the change, alteration or construction remain on the Common Element without reimbursement to the Unit Owner or Occupant for any expense incurred in making the change, alteration or construction.

Section 13.11 Standards of Reconstruction and Maintenance. Any construction (which work, as used in this Section shall include, without limitation, the reconstruction of the improvements on the

Submitted Property and any alterations, restoration, maintenance, repair, modernization, expansion, demolition, razing of existing improvements on the Submitted Property) which shall or may be performed by the Unit Owner of any Unit shall be subject to and performed in accordance with the following requirements and standards:

(a) Upon commencement of any construction, the party performing such construction shall diligently prosecute such construction to completion.

(b) All construction shall be performed in a good and workmanlike manner and in accordance with all Legal Requirements.

(c) The Unit Owner of each Unit shall perform its respective construction so as not to:

(i) cause any unnecessary increase in the cost of construction of others;

(ii) unreasonably interfere with the construction of others and/or any other construction being performed on the Submitted Property or any part thereof;

(iii) unreasonably impair the use or occupancy of the Submitted Property or any part thereof by the Unit Owner and/or its Occupants of the other Unit; or

(iv) cause disputes with labor unions that interfere with the construction of others or the use, occupancy, enjoyment or operation of the Submitted Property or any portion thereof.

(d) The Unit Owner of each Unit shall use commercially reasonable efforts to cause its architects, contractors and subcontractors to cooperate and coordinate its construction with architects, contractors and subcontractors of the Unit Owners of the other Units to the extent reasonably practicable to achieve the objectives set forth in this Section in such a manner so as not to cause any unnecessary interruption of or undue interference with the business or the residential occupancy of any portion of another Unit and to ensure that the vehicular, pedestrian and utility connections between the Units are constructed in accordance with first-class construction practices.

(e) The Unit Owner of each Unit will at all times:

(v) take any and all safety measures reasonably required to protect those using the easements established by this Declaration from injury or damage caused by or resulting from the performance of its construction;

(vi) indemnify, hold harmless and defend the Association and the Owners of the other Unit from and against all claims, demands, suits, costs, expenses and liabilities arising from or in respect to the death, accidental injury, loss or damage cause to any natural person or the property of any person as shall occur by virtue of its construction; and

(f) indemnify and hold the Association, and the Owners of the other Unit harmless from and against mechanics, materialmen's and/or laborer's liens and all costs, expenses and liabilities arising from its construction.

(g) Before commencing construction or maintenance work of any kind (including use of a suspended crane) on or in a Unit owned by another Unit Owner (hereinafter referred to as the "Affected Unit Owner"), the Unit Owner performing the work (hereinafter referred to as the "Responsible Unit Owner") shall provide the Association and the Affected Unit Owner with acceptable assurances of completion of performance and evidence of liability and worker's compensation insurance from reputable, financially solvent insurance companies with coverage and limits comparable to the coverage and limits generally required or carried by institutional lenders or investors in real estate in the City of Nashville naming the Association and the Affected Unit Owner as an additional insured and otherwise reasonably satisfactory to the Association and the Affected Unit Owner. In addition, the Association and/or the Affected Unit Owner may require the Responsible Unit Owner to provide evidence reasonably satisfactory to the Association and/or Affected Unit Owner that the Responsible Unit Owner has sufficient funds available to it to complete and pay for the work or maintenance in question before permitting the Responsible Unit Owner to commence such work or maintenance on the Unit of the Affected Unit Owner.

ARTICLE XIV. USE RESTRICTIONS

Section 14.01 Use of the Units. All portions of the Units shall be used only for such purposes that are lawful and permitted by applicable zoning ordinances and shall be subject to all of the use restrictions set forth in this Declaration. Notwithstanding the foregoing, no activity shall be conducted on any portion of the Units that constitutes a public or private nuisance or hazardous or threatens the life-safety of other Unit Owners or Occupants of the Condominium, as may be determined in the reasonable discretion of the Board of Directors.

Section 14.02 Prohibited Uses. Notwithstanding anything to the contrary in this Declaration, no part of the Condominium may be used for other than their current purposes as a hotel with respect to the Hotel Unit and parking with respect to Garage Unit without the prior written consent of both Owners.

Section 14.03 Rubbish, Trash, and Garbage. Each Owner shall regularly remove all rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for removal from such Limited Common Elements) and no Owner shall allow rubbish, trash, and garbage to accumulate therein. No garbage or trash shall be placed on the Common Elements, temporarily or otherwise, except in trash chutes, trash compactors, or trash facilities designated by the Association. Each Owner shall dispose of rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for such disposal from such Limited Common Elements) in sealed bags and either place such in the trash chutes, trash compactors, or other designated trash facilities designed for collection or remove such from the Submitted Property.

Section 14.04 Ventilation of Cooking Apparatus. Unless otherwise approved in writing by the Board of Directors, cooking exhaust from cooking apparatus located within the Hotel Unit must be filtered through a commercially designed exhaust system and vented through vents that exit through (a) the exterior walls of the Hotel Unit, or (b) roof of the Building.

Section 14.05 Use of the Roofs. The Association, and its designated agents and contractors, shall have access to the roof for performing its maintenance and repair responsibility, if any. The Hotel Unit Owner may use the roof areas of the Hotel Unit Building in a manner consistent with current practice.

Section 14.06 Limitation of Damage, Nuisance, Noise, and Vibration.

(a) Without the prior written consent of the Board of Directors, nothing shall be done or kept by any individual on the Submitted Property, or any portion thereof (other than those activities or things reasonably expected to be associated with a permitted use) that would be in violation of any statute, rule, ordinance, regulation or permit of any governmental body, or materially increase the Common Expenses.

(b) Furthermore, except to the extent permitted above in this Section and except for the prior written consent of the Board of Directors:

(i) noxious, destructive or offensive activity shall not be carried on within any portion of the Submitted Property; and

(ii) no Owner or its Permittees may use or allow the use of the Unit or any portion of the Submitted Property at any time, in any way or for any purpose which may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the reasonable discretion of the Board of Directors, a public or private nuisance.

(c) Except as provided for above in this Section, no Owner, Occupant or agent of such Owner or Occupant shall conduct any business which, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or safety of the Submitted Property or any structure created thereon or impair any easement or other interest in real property thereto.

(d) No damage to or waste of the Common Elements, or any portion thereof, shall be permitted by any Owner or Occupant. Each Owner shall indemnify, defend, and hold harmless the Association and the other Owners from and against all claims, demands, suits, costs, expenses and liabilities resulting from any such damage or waste caused by such Owner or its Permittees.

Section 14.07 Use of Limited Common Elements. Except as otherwise provided herein, the use of the Limited Common Elements allocated to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are allocated, and said Unit Owner's Permittees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, except as expressly stated otherwise.

Section 14.08 Abandoned Personal Property. Personal property, other than vehicles as permitted herein, shall not be kept, or allowed to remain upon any portion of the Common Elements, other than on a Limited Common Element, without prior written permission of the Board of Directors. If the Board determines that a violation exists, then, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The Board shall send the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed. Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 14.09 Loading Dock. The Association shall be responsible for managing the use of the loading docks. The Association may designate certain docks primarily for the use of one (1) or more Units. In allocating the use of such docks, the Association shall take into account safety, order, and such other relevant factors as it determines appropriate. The Unit Owners and their Permittees shall reasonably cooperate with the Association in scheduling deliveries and pick-ups from the loading dock to facilitate the cooperative use of the loading docks.

Section 14.10 Pest Control. Each Owner of a Unit shall have regular extermination of insects, pests, and vermin performed in the Unit.

ARTICLE XV. MAINTENANCE AND SERVICE RESPONSIBILITY

Section 15.01 Maintenance By Unit Owner. Except in the event of casualty or condemnation or as otherwise expressly provided in this Declaration, each Owner shall operate and fully maintain, repair and, when necessary, replace, at its cost and expense, all portions of such Owner's Unit, and all areas that Owner has agreed to operate, maintain, repair and replace elsewhere in this Declaration, so that the same are at all times in good order, condition and repair, consistent with property of similar stature to that of the Unit in the Nashville, Tennessee metropolitan area. The Owner of the Hotel Unit shall operate and fully maintain, repair and, when necessary, replace, at its cost and expense, all portions of the Outdoor Patio Area. Additionally, the Owner of the Hotel Unit shall operate and fully maintain, repair and, when necessary, replace, at its cost and expense, all above-ground portions of the Common Elements constituting the Building in which the Owner of the Hotel Unit operates a hotel, including the roof of the Building.

The foregoing obligation by each Owner to operate, maintain, repair and, when necessary, replace, shall include, without limitation: (i) keeping all portions of the Unit and any Limited Common Element serving such Unit in a clean, orderly and sanitary condition; (ii) removing, to the extent practicable, snow, ice and surface waters; and (iii) keeping all marking and directional signs, if any, within the Unit clear, distinct and legible. Without limiting the foregoing, but in supplementation thereof, unless otherwise provided herein, any and all decorative fascia, canopies, awnings, signage, flags, banners and similar items that are located on or attached to a Unit shall be maintained, repaired and replaced at the sole cost of the Owner of such Unit. Notwithstanding anything to the contrary stated herein, the Owners shall be permitted to enter into an agreement separate from this Declaration to provide for the sharing of all or part of the responsibility and costs of operation, administration, and maintenance of the Owners' Units and Limited Common Elements allocated to such Units.

Section 15.02 Maintenance By Association. The Association shall operate and fully maintain, repair and, when necessary, replace, the following:

(a) all Common Elements, including all Limited Common Elements (except the Outdoor Patio Areas), provided, however, the costs of such Limited Common Elements shall be assessed against the Owner(s) of the Unit(s) to which such Limited Common Elements are allocated as Specific Assessments;

(b) all Building Systems (subject to the limitations more specifically set forth in Section 15.3 below); and

(c) all Life-safety Systems (subject to the limitations more specifically set forth in

Section 15.4 below).

Subject to the maintenance responsibilities herein provided, and except as provided to the contrary herein, including without limitation, the provisions provided to the contrary of Section 17.4 below dealing with self-help, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property: caused by the elements; caused by the Owner of any Unit or any of its Permittees or other Persons; or resulting from any interruption, unavailability, or malfunction of utility services; flooding, sewer overflow, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner or Occupant of a Unit has put the Association on written notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to any Owner of any Unit or such Owner's Occupant or Permittee for loss or damage, by theft or otherwise, of any property, which may be stored in or upon any of the Common Elements or any Unit. The Association shall not be liable to any Owner or any Owner's Occupant or Permittee, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association or from any action taken by the Association to comply with any law ordinance or with any order or directive of any municipal or other governmental authority.

Section 15.03 Building Systems. As to the Building Systems (excluding Life-safety Systems, which are covered under Section 15.4) below), to the extent portions thereof service solely an individual Unit and are thereby part of such Unit, the Owner of the Unit being so served shall be solely responsible for maintaining, repairing and replacing those portions of such Building Systems at its expense. To the extent portions of the Building Systems service more than one (1) Unit or the Common Elements, such Building Systems shall be maintained, repaired and replaced by the Association. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote or consent of any affected Owner, relocate any portion of the Building Systems serving a particular Unit or Units, provided that after such relocation, the Building Systems serving the Unit or Units functions at least as well and at no greater cost to the Owner as existed prior to the relocation.

Section 15.04 Life-safety Systems. As to the Life-safety Systems, to the extent portions thereof service solely an individual Unit, the Owner of Unit being so served shall be solely responsible for maintaining, repairing and replacing those portions of such facilities at its expense. To the extent portions of the Life-safety Systems service more than one (1) Unit or the Common Elements, such facilities shall be maintained, repaired and replaced by the Association. Notwithstanding anything to the contrary herein, each Owner, at its cost and without reimbursement from the other Owners, shall be responsible for the

maintenance, repair and replacement of (i) sprinkler heads located in its Unit, as well as all branch and feed lines that exclusively support such heads, wherever located; provided, however, that such portion of such branch and feed lines located within party walls, levels and ceilings, if any, shall be maintained, repaired and replaced by the Owners of the adjoining Units; and (ii) all fire control devices (such as smoke detectors and call boxes) located in its Unit. The Association shall, as frequently as reasonably appropriate for similar facilities (but in no event less frequently than annually) and at its cost (but subject to reimbursement as a Common Expense), engage a firm to thoroughly test the Life-safety Systems and issue reports respecting same, copies of which shall be promptly furnished to all Owners. The Owners agree to cooperate and communicate with each other in respect of the testing, reconfiguration, disengagement (while repairs or reconfiguration are on-going) and alarms of the Life-safety Systems, with a view toward minimizing interruption and disruption to the Occupants of the Condominium, and maximizing the prompt dissemination of information regarding emergency situations. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote or consent of any affected Owner, relocate any portion of the Life-safety Systems serving a particular Unit or Units, provided that after such relocation, the Life-safety Systems serving the Unit or Units functions at least as well and at no greater cost to the Owner as existed prior to the relocation.

Section 15.05 Failure to Maintain. Notwithstanding the foregoing obligations to maintain, repair and replace, if any Unit Owner or those claiming by, through or under it, abuses, misuses or fails to operate, maintain, repair or replace in the manner provided in this Declaration any item for which it is responsible hereunder or otherwise creates a situation in any portion of the Submitted Property with respect to which non-exclusive easements and licenses have been granted by this Declaration such that said areas require maintenance, repair or replacement in excess of what would be required by normal use of said areas for their intended purposes, the Unit Owner causing the excess use shall be responsible for the excess costs of operating, maintaining, repairing and replacing said areas. Each Unit Owner shall maintain and promptly upon request, from time to time, make available to any other Unit Owner maintenance records for its Unit with respect to which easement rights exist under this Declaration. As to any items (such as exterior painting) that require coordination or cooperation as to timing, materials, payment or the like, the parties shall be reasonable in so cooperating and coordinating.

Section 15.06 Exterior Glass Surfaces and Doors.

(a) Each Owner shall be responsible for the maintenance, repair and replacement of all exterior glass surfaces and glass doors (together with all components thereof, including without limitation, glass or other transparent materials, hardware, locks, gliders, frames, door or window casings and weather stripping thereof) that are part of such Owner's Unit.

(b) Each Owner shall be responsible for the interior and exterior cleaning of the glass surfaces that are part of such Owner's Unit.

Section 15.07 Mold Disclosure and Waiver.

(a) MOLD IS PRESENT IN SOIL, AIR AND ELSEWHERE IN THE ENVIRONMENT. MOLD CAN PROLIFERATE IN VARIOUS ENVIRONMENTS, INCLUDING, AMONG OTHERS, DAMP AREAS SUCH AS BATHROOMS AND WITHIN WALLS AND PARTITIONS. CONCERNS HAVE BEEN EXPRESSED ABOUT THE POSSIBLE ADVERSE

EFFECTS ON HUMAN HEALTH FROM EXPOSURE TO MOLD. ACCORDING TO THE CONSUMER PRODUCT SAFETY COMMISSION AND THE AMERICAN LUNG ASSOCIATION, SOME DISEASES OR ILLNESSES HAVE BEEN LINKED WITH BIOLOGICAL POLLUTANTS IN THE INDOOR ENVIRONMENT, INCLUDING SOME FORMS OF MOLD. HOWEVER, IT IS BELIEVED THAT MANY OF THESE CONDITIONS MAY ALSO HAVE CAUSES UNRELATED TO THE INDOOR ENVIRONMENT. THEREFORE, AS OF THE EFFECTIVE DATE, IT IS UNKNOWN HOW MANY POTENTIAL HEALTH PROBLEMS RELATE PRIMARILY OR EXCLUSIVELY TO INDOOR AIR QUALITY OR MOLD. DECLARANT AND THE ASSOCIATION ARE NOT QUALIFIED AND HAVE NOT UNDERTAKEN TO EVALUATE ALL ASPECTS OF THIS VERY COMPLEX ISSUE. DECLARANT AND THE ASSOCIATION HAVE NOT PERFORMED ANY TESTING OR EVALUATION OF, AND MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE PAST, CURRENT OR FUTURE PRESENCE OR ABSENCE OF MOLD IN ANY OF THE UNITS, THE LIMITED COMMON ELEMENTS APPURTENANT TO THE UNITS, ANY UNFINISHED PERIMETER WALLS LOCATED WITHIN A UNIT OR ANY OTHER COMMON ELEMENTS, OR WITHIN THE VICINITY OF THE SUBMITTED PROPERTY. DECLARANT AND THE ASSOCIATION RECOMMEND THAT EACH OWNER CONDUCT ITS OWN INVESTIGATION AND CONSULT WITH SUCH EXPERTS AS THE OWNER DEEMS APPROPRIATE REGARDING THE OCCURRENCE AND EFFECTS OF MOLD, AND THE POTENTIAL SENSITIVITY OR SPECIAL RISK THAT THE OWNER AND HIS, HER OR ITS OCCUPANTS, WHO WILL OCCUPY OR USE THE UNIT, MAY BE SUBJECT TO.

(b) WHEN EXCESSIVE MOISTURE OR WATER ACCUMULATES INDOORS, MOLD GROWTH CAN AND WILL OCCUR, PARTICULARLY IF THE MOISTURE PROBLEM REMAINS UNADDRESSED. THERE IS NO PRACTICAL WAY TO ELIMINATE ALL MOLD IN AN INDOOR ENVIRONMENT. THE KEY TO CONTROLLING INDOOR MOLD GROWTH IS TO CONTROL MOISTURE. EACH OWNER SHALL MAINTAIN THEIR RESPECTIVE UNITS IN SUCH A MANNER AS TO REDUCE THE POTENTIAL FOR INCREASED MOLD FORMATION OR GROWTH, INCLUDING, WITHOUT LIMITATION, MAINTAINING AND REPAIRING ALL HEAT, VENTILATION, AND AIR CONDITIONING SYSTEMS SERVING SUCH OWNER'S UNIT IN GOOD CONDITION AND USING AND OPERATING SUCH SYSTEMS AT REASONABLE LEVELS, KEEPING VENTS AND/OR FANS CLEAR AND FUNCTIONING AND PREVENTING AND REPAIRING PLUMBING, WINDOW AND OTHER LEAKS AND SOURCES OF MOISTURE. EACH OWNER SHALL CONDUCT PERIODIC INSPECTIONS OF THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, FOR THE PRESENCE OF MOLD OR CONDITIONS WHICH MAY INCREASE THE ABILITY OF MOLD TO PROPAGATE WITHIN THE UNIT OR OTHER PORTIONS OF THE CONDOMINIUM. FURTHERMORE, EACH OWNER SHALL MONITOR THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, ON A CONTINUAL BASIS FOR EXCESSIVE MOISTURE, WATER OR MOLD ACCUMULATION. IF WATER OR MOISTURE IS DISCOVERED IN OR AROUND SUCH AREAS, THE OWNER SHALL IMMEDIATELY SEEK TO ELIMINATE THE SOURCE OF THE WATER OR MOISTURE. FAILURE TO ELIMINATE THE SOURCE OF MOISTURE CAN RESULT IN ADDITIONAL DAMAGE AND THE GROWTH OF MOLD, AND DECLARANT SHALL NOT BE RESPONSIBLE FOR SUCH

DAMAGES. EACH OWNER, BY TAKING TITLE TO A UNIT, HEREBY WAIVES ALL RIGHTS TO DAMAGES AND SUBROGATION OF DAMAGES RESULTING FROM MOLD IN THE UNIT. EACH OWNER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT AND THE ASSOCIATION FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, COSTS, EXPENSES AND LIABILITIES, INCLUDING ALL CASES OF PERSONAL INJURY OR PROPERTY DAMAGE, CAUSED BY THE PRESENCE OF MOLD AND/OR WATER OR MOISTURE IN THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, TO THE EXTENT THAT THE DAMAGES ARE CAUSED BY: (I) THE OWNER'S NEGLIGENCE OR FAILURE TO PROPERLY MAINTAIN AND MONITOR SUCH AREAS; OR (II) THE OWNER'S FAILURE TO PROMPTLY TAKE APPROPRIATE CORRECTIVE MEASURES AND MINIMIZE ANY DAMAGE CAUSED BY WATER OR MOISTURE (INCLUDING, WITHOUT LIMITATION, FAILURE TO PROMPTLY NOTIFY AND ENGAGE THE HELP OF APPROPRIATE PROFESSIONALS OR EXPERTS).

Section 15.08 Association Inspection Obligations.

(a) Contract for Services. In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations otherwise set forth in this Declaration) or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair and physical condition of the Condominium.

(b) Inspection Responsibilities. The Association may, from time to time, provide certain maintenance criteria, maintenance manuals, and warranty requirements for the Building (collectively, the "Master Maintenance Manual"). The inspectors shall inspect component parts of the Condominium in accordance with any Master Maintenance Manual. The Association shall update any Master Maintenance Manual on a regular basis. The Association shall be responsible for meeting all requirements under any such Master Maintenance Manual.

(c) Schedule of Inspections. Such inspections shall take place at least annually or as recommended in any Master Maintenance Manual. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. Subject to the provisions of the Declaration below, the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(d) Notice to Declarant. For a period of ten (10) years after the conveyance of the last Unit in the Condominium, or any portion thereof, to a Unit Owner other than Declarant or its affiliates, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

Section 15.09 Unit Owner Inspection Rights. Each Unit Owner shall have the right, but not the obligation, to inspect the physical condition and operation of the Building Systems and Life-safety Systems.

In conjunction with such right, each Unit Owner shall have a non-exclusive easement to enter any portion of the Submitted Property necessary to facilitate such inspection, provided, however, a Unit Owner desiring to access another Unit shall provide written notice to the applicable Unit Owner at least three (3) business days before desiring entry to the Unit (except in the event of an emergency in which case no advance notice shall be required).

ARTICLE XVI. MORTGAGEE RIGHTS

Section 16.01 Consent Required. Unless both Owners and their respective first Mortgagees give their consent, the Association or the membership shall not:

(a) By act or omission seek to abandon or terminate the Condominium;

(b) Change the pro rata interest or obligations of any individual Unit for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;

(c) Partition or subdivide any Unit in any manner inconsistent with the provisions of this Declaration;

(d) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or

(e) Use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such portion of the Condominium.

Section 16.02 Assessments. Where a Mortgage Holder obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit that became due prior to such acquisition of title unless provided otherwise in the Act. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Unit Owners of all the Units, including such Mortgage Holder, its successors and assigns. Additionally, such Mortgage Holder shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

Section 16.03 Notices. Upon written request to the Association, identifying the name and address of the holder and the Unit, any Mortgage Holder will be entitled to timely written notice of the following:

(a) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such Mortgage Holder; ,

(b) any delinquency in the payment of assessments or charges owed by a Unit Owner of a Unit subject to a first Mortgage held by such Mortgage Holder which remains unsatisfied for a period of thirty (30) days and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within thirty (30) days;

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

(d) any proposed action that would require the consent of a specified percentage of Mortgage Holders, as specified herein;

(e) any proposed amendment of the Condominium Instruments effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto; (iii) the number of votes in the Association appertaining to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted; or

(f) any proposed termination of the Condominium.

Section 16.04 Duplicative Notices. Upon written request to the Association, identifying the name and address of the holder and the Unit, a Mortgage Holder shall be entitled to receive any and all written notices that are sent by the Association to the Unit Owner of the Unit to which the Mortgage Holder has a secured interest.

Section 16.05 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Unit Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of the Condominium.

Section 16.06 Notice to Association. Upon request, each Unit Owner shall be obligated to furnish to the secretary of the Association the name and address of any Mortgagee encumbering such Unit Owner's Unit.

Section 16.07 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's written request, provided that all written requests by the Board are delivered to the Mortgagee by certified or registered mail, return receipt requested or by Permitted Overnight Delivery.

Section 16.08 Cure Rights. Any Mortgagee shall have the right, but not the obligation, at any time prior to the termination of the Condominiums Instruments, and without payment of any penalty, to do any act or thing required of any Unit Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee; and to do any act or thing which may be necessary or proper to be done in the performance and observance of the agreements, covenants and conditions hereof. All payments so made and all things so done and performed by any Mortgagee shall be deemed the same as if would have been made, done and performed by any Unit Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee hereto instead of by said Mortgagee.

Section 16.09 No Invalidity of Mortgage Lien. No violation of the Condominium Instruments, by, or enforcement of the Condominium Instruments against, any party shall impair, defeat or render invalid the lien of any Mortgage.

Section 16.10 Construction. Nothing contained in this Article 16 shall be construed to reduce the percentage vote that must otherwise be obtained under the Condominium Instruments or Tennessee law for any of the actions set forth in this Article 16.

ARTICLE XVII. DEFAULT AND REMEDIES

Section 17.01 Remedies Cumulative. The remedies set forth in this Article 17 for breach of the provisions set forth in the Condominium Instruments shall be in addition to and not in substitution for any other remedies available to any Unit Owner for breach of the Condominium Instruments set forth in this Declaration or available at law, in equity or otherwise, all of which are intended to be cumulative.

Section 17.02 Authority and Enforcement. The Submitted Property shall be used only for those uses and purposes set out in this Declaration. Every Owner and its Permittees shall comply with this Declaration, Bylaws and rules and regulations promulgated and adopted by the Association and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one (1) or more aggrieved Owners, to take action to enforce the terms of this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association. The Board of Directors shall have the power to impose reasonable fines, which fines shall constitute a lien upon the Unit Owner's Unit for violation of any duty imposed under this Declaration, the Bylaws or any rules and regulations promulgated and adopted by the Association; provided, however, nothing herein shall authorize the Association or the Board to limit the use of Common Elements or voting rights and the Association and Board shall not be permitted to do so. In the event that any Owner of a Unit violates this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association and a fine is imposed, notice of such violation shall be sent to such Owner and the fine shall be an assessment and a lien against the Unit until paid. The failure of the Board to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 17.03 Fining and Suspension Procedure. The Board shall not impose a fine unless and until the Association has sent or delivered written notice to the violating Owner as provided in this Section 17.3. Any such fine or fines may be effective or commence upon the sending of a Notice of Uncured Violation as set forth in Section 17.3(b) below or such later date as may be set forth in such Notice of Uncured Violation, notwithstanding the violator's right to request a hearing before the Board to challenge such fine or fines under Section 17.3(c) below.

(a) Notice to Cure. If any provision of this Declaration or the Bylaws or any rule or regulation of the Association is violated, the Board shall send the violating Unit Owner a written Notice to Cure identifying the violation(s) and fine(s) to be imposed in the event that the violation(s) is not fully cured by the end of the "Cure Period." The "Cure Period" shall be: (a) five (5) business days, if the violation can be cured or remedied solely by the payment of money; or (b) thirty (30) days, as to any other violation; provided, however, that (1) in the case of an emergency involving either imminent danger of personal injury or imminent danger of material damage to property or the interruption of utility services or other critical services to any Unit, the Cure Period shall be such time as is reasonably necessary in light of the circumstances if curative action is promptly commenced and (2) except in the case of such an emergency, if the nature of the failure is such that it is not subject to cure or remedy solely by the payment of money and if the failing Unit Owner has commenced appropriate curative action prior to the expiration of the Cure Period and thereafter has diligently pursued the completion of such cure and is continuing to do so, then the Cure

Period shall be extended for such additional period of time, but not more than sixty (60) days, as shall be required to cure such failure with appropriate, diligent and continuous action. Nothing contained in this Section 17.3(a) shall be construed to give rise to any default on the part of any Owner under this Declaration based on any interruption of utility services or other critical services if the cause or cure of such interruption is not within the reasonable control of such Unit Owner.

(b) Failure to Cure After Notice. If the violating Unit Owner fails to timely cure the violation(s) specified in the written notice to cure, the Board shall send the violating Unit Owner a written Notice of Uncured Violation identifying the uncured violation(s) and the fine(s) being imposed and further advising the violating Unit Owner of the right to request a hearing before the Board to contest the violation(s) or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence seven (7) days from the date on which the violating Unit Owner receives said written Notice of Uncured Violation or such later date specified in such Notice of Uncured Violation, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, fines may be imposed by the Association for each day the violation continues or occurs again up to the maximum amount set forth in Section 17.3(d) below without further notice to the violating Unit Owner.

(c) Hearing. If a written request for hearing is received from the violating Unit Owner within ten (10) days of the date of the notice of Notice of Uncured Violation provided above, then the Board shall schedule and hold in executive session a hearing affording the violating Unit Owner a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time.

(d) Maximum Fine. The Board of Directors on behalf of the Association may impose a fine in an amount not to exceed Five Hundred Dollars ($500.00) per day for any one violation of this Declaration or the Bylaws or any rule or regulation of the Association, up to a maximum amount of Ten Thousand Dollars ($10,000) for any one (1) continuing violation of this Declaration or the Bylaws or any rule or regulation of the Association. Under no circumstance shall this maximum fine provision limit or prevent the Association from pursuing all other legal and equitable remedies available to enforce the provisions of this Declaration.

Section 17.04 Self-Help Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 17.3 above, but with the obligation to comply with the procedures set forth in this Section and in Section 17.5 below. In any such action, to the maximum extent permissible, the violating Unit Owner shall pay all costs, including reasonable attorneys' fees actually incurred. If self-help is going to be undertaken, the Association or its duly authorized agent shall send a written notice to the violating Unit Owner giving such violating Unit Owner not less than ten (10) days within which to cure such violation (except in the event of an emergency in which case the requirement of ten (10) days written notice shall not apply and shall be waived). Such notice shall describe the violation and the violating Unit Owner's obligations under this Declaration in reasonable detail and request that the violating Owner thereafter diligently commence and continue the actions necessary to cure such violation.

Section 17.05 Conditions of Self-Help Rights. The right of the Association or its duly authorized agent to perform any work under the foregoing Section 17.4 shall be subject to the following conditions and requirements:

(a) Not less than five (5) days prior written notice shall be given to the violating Owner (except in the event of an emergency in which case the requirement of notice shall not apply and shall be waived) that the Association or its duly authorized agent anticipates performing such work, together with notification of the proposed scope and location of such work and the anticipated date of start and completion of such work.

(b) Such work shall be performed in such a manner as not to cause any unnecessary interruption of or undue interference with the business of the violating Unit Owner and/or its Occupants.

(c) Such work shall be diligently pursued to completion and, upon completion, the Association or its duly authorized agent shall, subject to the work described in Section 17.4 above, restore the relevant portion of the violating Unit Owner's Unit as closely as is practicable to the condition that existed immediately before the commencement of such work.

(d) The Association shall indemnify and hold the violating Unit Owner harmless from and against any and all expenses, liabilities, obligations, damages, penalties, claims, actions, costs and expenses, including reasonable attorneys' fees actually incurred, in connection with loss of life, bodily injury and/or damage to property caused by the Association, its employees or agents in connection with the performance of such work, except to the extent the same was caused by the negligence or misconduct of the violating Unit Owner, its employees, licensees or invitees.

(e) If the Association or its duly authorized agent is performing this self-help work, the Association shall pay for all costs and expenses as and when it incurs them in connection with any such work performed, but shall be permitted to collect all such amounts from the violating Owner pursuant to Section 17.3 above.

ARTICLE XVIII. COMPLIANCE WITH LAWS AND ZONING

Section 18.01 Compliance with Laws and Covenants. Each Unit Owner and its Permittees shall each be responsible for complying with all Legal Requirements now or hereafter enacted or promulgated by the United States of America, State of Tennessee, County of Davidson, Metro and any other governmental entity or agency now or hereafter having jurisdiction over the Condominium or any portion thereof.

Section 18.02 Environmental.

(a) No Owner, Occupant or other Permittee shall generate, treat, reclaim, transport, handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its agents, employees, contractors or invitees to generate, treat, reclaim, transport, handle, store, deposit, use, process, manufacture, dispose of or release any Hazardous Substance of any kind at, from, on, in, under or in the air above any part of a Unit or the Condominium, including, but not limited to, any surface waters or groundwater located thereon or into public sanitary or storm sewer systems or any sump pumps serving the Unit or Condominium, except for such generation, transportation, handling, storage, deposit, use, processing, manufacturing, lawful air emissions, and lawful discharges to sewer systems made in

compliance with all Environmental Laws, including, but not limited to such compliance activities as performing pre-treatment, obtaining permits and giving notices as required by Environmental Laws. Notwithstanding the above, this prohibition shall not apply to the presence, use, or storage on the Condominium in compliance with Environmental Laws of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal office, residential, retail, restaurant, and parking uses and to maintenance and operation of the Condominium (including, but not limited to, Hazardous Substances in consumer products).

(b) Each Owner and Occupant of a Unit, or any portion thereof, shall be responsible for and shall pay all costs and expenses related to the disposal or release by such Owner or Occupant of any Hazardous Substances in, on, under or in the air above such Unit, which costs and expenses shall include, but not be limited to, closure, removal, remediation, cleanup, containment and other response costs, injuries to persons, damages to property, legal expenses and interest paid to any governmental entity.

(c) No Owner or other Occupant of a Unit, or any portion thereof, shall handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its Permittees to handle, store, deposit, use, process, manufacture, dispose of or release any explosives, or any flammable, odorous, noxious, corrosive, or pollutant materials or any other goods that would cause danger or nuisance to a Unit or any portion of the Condominium. Furthermore, areas located within a Unit or the Condominium shall not be used for any purposes unlawful or contrary to any Legal Requirements.

(d) The provisions of this Section 18.2 do not affect the rights, liabilities or obligations of any Person under Environmental Laws or other applicable laws, except as may otherwise be expressly provided herein.

Section 18.03 Unit Owner's Indemnity. Each Owner (hereinafter referred to as the "Indemnifying Unit Owner") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other Unit Owners and the Association (hereinafter referred to as the "Indemnitee") from and against any and all actions or proceedings arising therefrom, by or on behalf of any Person other than the Indemnitee, arising from the Indemnifying Unit Owner's use, possession or management of the Indemnifying Unit Owner's Unit or activities therein or arising out of the Indemnifying Unit Owner's use, exercise or enjoyment of the easements and licenses granted hereunder and from and against all costs, reasonable attorney's fees actually incurred, expenses and liabilities incurred with respect to any such claim, action or proceeding arising therefrom. In case any action or proceeding is brought against the Indemnitee by reason of any such claim, Indemnifying Unit Owner, upon notice from Indemnitee, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to Indemnitee. Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitee.

Section 18.04 Density Allocation and Zoning Compliance.

(a) Compliance. Without limiting the provisions of this Section 18.4, and except to change a permitted zoning non-conformity to a zoning conformity, no Owner shall: (i) alter, modify or limit the maximum density allowed for another Unit or the permitted land uses of the Submitted Property; (ii) use the Submitted Property for any use other than those permitted under the zoning classification for the Submitted Property in effect on the Effective Date, (iii) seek a special use permit; or (iv) make any

alterations or allow any use of its respective Unit or take or fail to take any action that would violate the provisions of the Metro Zoning Ordinance (hereinafter collectively referred to as "Zoning Change"). In the event any Owner desires to seek a Zoning Change, such Owner must receive the prior written consent of all Owners. Such consent by the other Owners shall be deemed proper authorization for the Owner seeking the Zoning Change to act on behalf and as the limited lawful agent of the other Owner to seek and obtain said Zoning Change, whereupon the other Owner shall do all things as may be reasonably requested to obtain approval of the Zoning Change, at no cost or expense to the Owner not seeking the change. The aforementioned authorization to act as the limited lawful agent shall be limited to the purposes expressly contemplated herein and any attempt to use the authorization in violation of this Declaration shall be deemed null and void.

(b) Permitted Changes. In order to ensure that the building density of the improvements currently or to be located on the Submitted Property does not exceed the maximum density requirements of this zoning classification, the maximum floor area ratio (hereinafter referred to as "FAR") shall be allocated as follows:

(i) Initial Allocations: The Owner of each Unit shall not build on its Unit a total floor area exceeding the amount necessary to complete the improvements contemplated in the Floor Plans recorded on the Effective Date.

(ii) Remaining FAR: The remaining FAR for the Submitted Property shall be allocated to the Unit Owner of the Hotel Unit.

ARTICLE XIX. GENERAL PROVISIONS

Section 19.01 Dispute Resolution.

(a) Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Unit Owner's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) or more than twenty-one (21) days from the date of receipt of the request.

(b) All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or allegedly sustaining such damage.

(c) All Owners hereby acknowledge and agree that no Owner shall be entitled to institute any legal action against anyone which is based on any alleged defect in the Common Elements, but rather, that all such actions shall be instituted by the Association on behalf of the Owners.

Section 19.02 Declarant Services. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by developments such as this Condominium including, but not limited to, management services. Each Unit Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates.

Section 19.03 Enforcement. A breach by a Unit Owner of the agreements set forth herein would cause irreparable and continuing injury to the other Unit Owners and, in the event of such breach, monetary damages may be insufficient to compensate such other Unit Owners for its injury. Accordingly, in the event of any breach or threatened breach of this Declaration by a Unit Owner, each affected other Unit Owner shall have the right (without the necessity of posting bond) to injunctive relief or to the issuance of an order to compel performance to enforce the provisions set forth herein; provided, however, such right shall be cumulative of any other rights and remedies under this Declaration, at law or in equity.

Section 19.04 No Third Party Beneficiaries. Except as expressly provided herein, nothing contained in this Declaration shall be deemed to create any rights or benefit in favor of any Person other than the Unit Owners, their successors, successors-in-title and assigns.

Section 19.05 Successor-in-Title. The provisions of this Declaration shall apply to, inure to the benefit of and be binding upon the entirety of the Submitted Property, as applicable, and the Unit Owner from time to time of any portion of the Submitted Property including, without limitation, any Mortgagee acquiring an interest in any portion of the Submitted Property or any improvements thereon by reason of foreclosure, deed or assignment in lieu of foreclosure or purchase at foreclosure sale; provided, however, Mortgagee shall not incur or be required to assume any obligation under this Declaration unless and until such Mortgagee has so acquired an interest in any portion of the Submitted Property or any improvements thereon. The failure or default by a Unit Owner to comply with any provision hereof shall not affect the validity of any Mortgage, lien or other similar security instrument that may then be existing on such Unit Owner's Unit. Whenever in this Declaration a reference to a Unit Owner is made, such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of such owner or party.

Section 19.06 Notices. Each notice concerning the subject matter of this Declaration shall be in writing and shall be deemed to have been properly been given or served by (i) the deposit of the same with the United States Postal Service or any official successor thereto, designated as certified mail, return receipt requested, bearing adequate postage and addressed to the addressee at the last known address or (ii) Statutory Overnight Delivery by a reputable overnight commercial courier with receipt for delivery obtained by courier properly addressed to the last known address of the addressee of such notice. Each notice may also be served by a commercial courier service addressed as hereinafter provided. Each notice shall be effective upon being deposited with the U.S. Mail or any authorized courier service as aforesaid, but any time frames for responding to any such notice shall run from the date of actual receipt of such notice as indicated by the return receipt of the records of any courier service used. Refusal to accept a notice or communication or the inability to deliver a notice or communication hereunder due to a changed address of which a party has not been notified shall be deemed actual receipt of such notice or communication. For the purposes of this Section, the address of each Unit Owner shall be reflected in the books and records of the Association.

Section 19.07 Security. THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE

REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE SECURITY ON THE PROPERTY; HOWEVER, EACH OWNER AND OCCUPANT, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, INVITEES, AND OTHER PERMITTEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE PROPERTY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE PROPERTY AND COMMIT CRIMINAL ACTS ON THE PROPERTY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE PROPERTY WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER AND OCCUPANT TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER AND OCCUPANT. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF MEASURES UNDERTAKEN.

Section 19.08 Disclosures. Each Owner and Occupant acknowledges and understands the disclosures set forth in Exhibit "C" hereto.

Section 19.09 Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of Tennessee law, then to the extent that the provisions of Tennessee law cannot be waived by agreement, Tennessee law shall control.

ARTICLE XX. EMINENT DOMAIN

Section 20.01 Common Elements Taken. If any portion of the Common Elements is taken by eminent domain, the award therefor shall be allocated to the Owners in proportion to their respective Percentage Interests or deposited into the Association's operating account or reserve account to be applied to Common Expenses, at the option of the Board; provided, however, that the portion of the award attributable to the taking of any permanently allocated Limited Common Element shall be allocated to the Owner of the Unit to which such Limited Common Element was so allocated at the time of the taking. If any Limited Common Element is permanently allocated to more than one Unit at the time of the taking, the portion of the award attributable to the taking thereof shall be allocated in equal shares to the Owners of the Units to which it was so allocated.

Section 20.02 Unit Taken.

(a) If one (1) or more Units are taken by eminent domain, the Percentage Interests pertaining to any such Units shall then pertain to the remaining Units to be allocated to them in proportion to their respective Percentage Interests. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

(b) If a portion of any Unit is taken by eminent domain, the Board shall determine the fair market value of the portion of such Unit not taken (based on a determination by a court having jurisdiction

over such eminent domain proceeding, or otherwise based on a report prepared by an independent appraiser); and the Percentage Interests pertaining to any such Unit shall be reduced, in the case of each such Unit, in proportion to the diminution in the fair market value of such Unit resulting from the taking. The portion of Percentage Interests thereby divested from the Owner of any such Unit shall be reallocated among that Unit and the other Units in the Condominium in proportion to their respective Percentage Interests. Any Units partially taken shall participate in such reallocation on the basis of their Percentage Interests as reduced in accordance with the preceding sentence. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

(c) If the taking of a portion of any Unit makes it impractical to use the remaining portion of that Unit for the primary purpose permitted by the Condominium Instruments, the entire Percentage Interests pertaining to that Unit shall then pertain to the remaining Units, to be allocated to them in proportion to their respective Percentage Interests, and the remaining portion of that Unit shall thenceforth be a part of the Common Elements. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

Section 20.03 Mortgagee Notice. Each Eligible Mortgage Holder shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Owner in the distribution of proceeds to such Unit.

ARTICLE XXI. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS

Declarant does hereby establish and create perpetual, non-exclusive (except as and to the extent provided to the contrary herein) easements in, to, over, across, under and through portions of Submitted Property for the purposes contemplated in this Article for the use and benefit of the respective Unit Owners and each of their respective Permittees, Mortgagees and successors and assigns. The scope, nature and extent of the easements described in this Article 21 shall be as follows:

Section 21.01 Utilities – Blanket Easement. Subject to the other provisions of this Declaration relating to specific existing or future utilities and the general conditions established in this Article 21, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement for access, ingress, egress to, from, under, through, over and across any portion of such other Units and the Common Elements upon which any existing or future utilities and related improvements are located and the portion of such other Units and the Common Elements reasonably necessary to access those areas where existing or future utilities and related improvements are located, including, but not limited to, electric power, water, fuel, storm drainage, sewer, natural gas, telephone, HVAC refrigerant lines, property monitoring and other telecommunications systems such as closed-circuit cable television and high-speed internet, and controlled access systems and all conduit, raceways and other pathways relating to any of the foregoing which benefit another Unit as of the Effective Date, for the purpose of maintaining, repairing, replacing and using such utilities, subject to the right of the Unit Owner of the Unit (or, in the case of the Common Elements, the Association) upon which such utilities may be located to relocate such utilities at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time.

Section 21.02 Surface Water Drainage and Runoff. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) upon which any surface water drainage and runoff flow, which benefits another Unit as of the Effective Date, subject to the right of the Unit Owner of the Unit on which such surface water drainage and runoff flow to collect and discharge same at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time; and provided that no Unit Owner benefited by such drainage may construct any new improvements or alter any existing or future improvements upon such Unit Owner's property or otherwise divert the flow of water from such Unit Owner's property onto another Unit such that the rate of flow of such drainage or runoff would materially adversely increase over the rate of flow presently existing as of the date hereof, without the prior consent of the affected Unit Owner which consent shall not be unreasonably withheld, conditioned or delayed.

Section 21.03 Life-Safety – Blanket Easement. Declarant hereby grants for the benefit of the Association and each Unit a perpetual, non-exclusive easement over and across any portion of the Submitted Property upon which any Life-safety Systems are located for the purpose of maintaining, repairing, replacing and using the Life-safety Systems, subject to: (i) the specific maintenance obligations and assessment provisions set forth elsewhere in this Declaration; (ii) the right of the Unit Owner of the Unit on which such systems may be located to relocate the same at its own cost and expense in a manner reasonably satisfactory to the benefited Unit Owner at any time; and (iii) the right of the Unit Owner of the Unit upon which a Life-safety System is located to modify or relate the systems to meet with requirements of governmental authorities.

Section 21.04 Property Monitoring and Access System – Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) upon which the existing or future Property Monitoring and Access Systems and related improvements which serve the Units are located for the purpose of maintaining, repairing, replacing and using such Property Monitoring and Access System, subject to: (i) the specific maintenance obligations and assessment provisions set forth elsewhere in this Declaration; and (ii) the right of the Unit Owner of the Unit on which such systems or a portion thereof may be located to relocate same at its own cost and expense in a manner reasonably satisfactory to the benefited Unit Owner at any time. The Unit Owner of any Unit benefited by such easement shall not unreasonably refuse to approve the modification or relocation of the easement granted herein by the Unit Owners of the Unit upon which they are located to the extent required to comply with any requirements that may from time-to-time be imposed by any governmental entity having jurisdiction over such matters.

Section 21.05 Blanket Easement for Lateral and Subjacent Support; Building Systems; Party Walls and Encroachments. Subject to the other provisions of this Declaration relating to specific, existing or future utilities and the general conditions established in this Article 21, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) as follows:

(a) All portions of the Submitted Property that are presently utilized for lateral and subjacent support of any portion of Units (including, without limitation, footings, foundations, and the

parking structure), to the extent located within any such Units and benefiting the other Units, as same may from time to time be relocated, constructed or reconstructed in accordance with the terms of this Declaration.

(b) All portions of the Submitted Property as may be reasonably required for access to support columns (including, without limitation, footings, foundations, and the parking structure), beams, slabs, shear walls, vent and other shafts, mechanical rooms, party walls, ceilings and floors, utility, fire safety, communications, Property Monitoring and Access System, and similar facilities, emergency generator, sump pumps and lift stations, discharge wells, grease traps, HVAC equipment and other building components from time to time located within a Unit or Units and benefiting another Unit, together with the right to inspect, maintain, repair, reconfigure, shore, construct, reconstruct and replace same in accordance with the terms hereof. The foregoing easement for access shall also exist for the purposes of: (A) permitting each of the respective Unit Owners of Units reasonable access to portions of such Unit Owner's Unit that abut portions of a Unit owned by another Unit Owner as may reasonably be required for such access; and (B) permitting the Unit Owners of Units to reasonably exercise the easements and other rights granted herein and elsewhere in this Declaration.

(c) The Building Systems located within one (1) Unit and benefiting another Unit or Units.

(d) All portions of Units that consist of party walls, as same may be reconstructed; all portions of Units that encroach on the other (including, without limitation, balcony, terrace, canopy, awning, landscaping and roof projections and decorative fasciae); and all portions of Units on which unintentional encroachments arise from construction or reconstruction as permitted hereunder or caused by settling which may from time to time hereafter exist.

Notwithstanding anything to the contrary stated herein, the dividing walls, floors and ceilings separating two (2) Units, if any, shall be deemed to be party walls, floors and ceilings and each such Unit Owner shall be responsible for one-half of the costs of maintenance, repair and replacement of such party walls, floors and ceilings; provided, however, each Unit Owner shall take all steps required to assure that the fire separation capabilities of such party walls, floors and ceilings are not breached or otherwise adversely impacted by it or anyone claiming by, through or under it. The Unit Owners shall cooperate and coordinate with each other with respect to the maintenance, repair and replacement of any such party walls, floors and ceilings.

Section 21.06 Emergency – Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) that is needed for emergency egress from the Building. This easement shall include, without limitation, the easement and right of the Unit Owners and Permittees to use such portions of the stairwells as is necessary to affect such emergency egress.

Section 21.07 Access Easements Benefiting the Association. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and its Permittees a perpetual, non-exclusive easement for access, ingress and egress to, from, over, under and through the entire Submitted Property for the performance of its obligations and duties hereunder.

Section 21.08 Easements Benefiting Declarant. Declarant hereby reserves a perpetual, non-exclusive easement for the purpose of access for ingress and egress over the Condominium, including the Units, the Common Elements, and Limited Common Elements, to inspect, examine, survey, photograph, and perform such tests, inspections, studies or other evaluations of the Condominium as Declarant and its agents, employees or contractors, or others may deem necessary in conjunction with Declarant's review of construction conditions on the Condominium. The foregoing easement shall expire upon the occurrence of the later of the following events: the date upon which Declarant no longer owns a Unit or any portion thereof; or (b) ten (10) years after the Effective Date. To the extent that damage is inflicted on the Common Elements, Limited Common Elements, or on any Unit through which access is taken, Declarant, whether by itself or through agents, employees, contractors, or others, shall be liable for the prompt repair thereof.

Section 21.09 Commonly Metered-Used Items. The Unit Owners acknowledge that some utility services on the Submitted Property may be metered to one (1) Unit Owner and may benefit another Unit Owner. Except where expressly provided to the contrary herein, the Unit Owner being metered shall have the right, at any time, at its cost, to have an engineer or other consultant reasonably acceptable to the other Unit Owner analyze the typical amount of usage allocable to the other Unit Owner. The Unit Owner being metered may invoice the other Unit Owner for the costs of utility service allocable to the other Unit Owner (based on such typical amount of usage and the rates being charged by the applicable utility companies to the metered Unit Owner). Either Unit Owner shall have the right to install sub-meters, at its cost and shall also have the right to at any time, at its cost, to take such steps as may be required to connect the items served by the other Unit Owner's utility meters to its own utility meters or to install separate components that serve solely its Unit and disconnect its Unit from components operated, maintained, repaired and replaced by the other Unit Owner. In the absence of any of the foregoing, each Unit Owner shall pay for all utility service metered to it and for the costs of operating, maintaining, repairing and replacing such components in a manner so that there will be no disruption of service to the other Unit Owner.

Section 21.10 Cooperation. All easements and licenses granted in this Declaration and the use thereof, shall be deemed to be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted. Each Unit Owner agrees to cooperate with the reasonable requests of the other Unit Owner in furtherance of the spirit and intent of the matters addressed in this Declaration. To this end, in the event that a Unit Owner of a Unit limits access to its respective Unit and/or the Limited Common Elements serving such Unit, such Unit Owner shall provide the other Unit Owner having easement rights over such areas a reasonable means of access over the areas to which such easement rights appertain.

Section 21.11 Damages Resulting From the Exercise of Easement Rights. Notwithstanding anything to the contrary stated herein, damages caused by the exercise of the easement rights granted in this Article 21, including, but not limited, to reasonable attorneys' fees actually incurred, shall be paid by the responsible Unit Owner, provided that the Permittee of a Unit Owner causing such expense shall be jointly and severally liable.

ARTICLE XXII. AMENDMENT

Except where a different vote is expressly required for action under any other provisions of this Declaration or by the Act, in which case such different vote shall be necessary to amend such provision, the

Condominium Instruments may be amended by the affirmative vote, written consent or any combination of affirmative vote and written consent of all Owners, and such amendment shall otherwise comply with the provisions of Section 66-27-317 of the Act. Notwithstanding the above, no amendment shall modify, alter or delete any provision of the Condominium Instruments that benefits Declarant or any license, easement or other use rights of Declarant without the written consent of Declarant attached to and recorded with such amendment. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the president and recorded in the Official Records.

Notwithstanding that certain of the easements created hereby may ultimately run to the benefit of Occupants and Permittees of an Owner of all or part of the Condominium or other non-property owners, nothing contained in this Declaration shall imply that the consent of any such other benefited parties is required in connection with an amendment, modification or termination of this Declaration, unless expressly provided in this Declaration.

ARTICLE XXIII. SEVERABILITY

If any provisions of this Declaration or the application thereof to any entity or circumstances shall be invalid or unenforceable to any extent and such invalid provision does not materially affect the rights of the parties hereto, the remainder of this Declaration and the application of such provisions to any other entity or circumstance shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

[SIGNATURE CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration on this 22nd day of July 2015.

DECLARANT:

Nashville Downtown Hotel, LLC,
a Tennessee limited liability company

By: _____
Name: Mario A Romine
Title: Authorized Signatory

STATE OF Florida

COUNTY OF Miami-Dade

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Mario A. Romine with whom I am personally acquainted and who, upon oath, acknowledged himself to be the authorized signer of Declarant, the within named bargainer, a Tennessee limited liability company, and that he as such authorized signer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the entity by himself as such authorized signer.

Witness my hand and official seal at office this 20 day of July, 2015.

_____
Notary Public My commission expires:

My commission x

_____

CYNTHIA C. CIARCIA
MY COMMISSION #FF225615
EXPIRES: MAY 23, 2019
Bonded through 1st State Insurance

EXHIBIT "A"

DESCRIPTION OF SUBMITTED PROPERTY

Being land in Nashville, First Civil District, Sixth Councilmanic District, Davidson County, Tennessee, located on the north side of Demonbreun Street between Fourth Avenue South and Fifth Avenue South, said land being Lot 1 as shown on the Plat of Resubdivision of Lot 1, Consolidation Plat for Nashville Hotel Complex of record in Instrument Number 20001211-0121560, Register's Office Davidson County, Tennessee and more particularly described as follows:

Beginning at a concrete monument in the northerly right-of-way of Demonbreun Street at the westerly terminus of a curve return to the westerly right-of-way of Fourth Avenue South;

Thence, along said right-of-way , S 62° 15' 45" W, 309.40 feet to the easterly terminus of a curve return to the easterly right-of-way of Fifth Avenue South;

Thence, along said curve 39.34 feet to a point in the easterly right-of-way of Fifth Avenue South, said curve having a central angle of 90° 09' 40", a radius of 25.00 feet, a tangent of 25.07 feet and a chord of N 72° 39' 25" W. 35.40 feet;

Thence, along the easterly right-of-way of said Fifth Avenue South the following calls;

N 27° 34' 35" W, 281.08 feet
N 27° 48' 16" W, 109.55 feet
N 27° 29' 32" W, 219.56 feet, to a point in the northwesterly corner of said Lot 1, said point also being the southwesterly corner of a Pedestrian Way;

Thence, along the northerly line of said Lot 1 and with the southerly line of said Pedestrian Way, N 62° 30' 28" E, 156.28 feet;

Thence, S 27° 19' 07" E, 42.18 feet;

Thence, N 62° 30' 28" E, 18.85 feet;

Thence, S 27° 29' 32" E, 39.79 feet to a point in the southerly corner of Alley Number 69;

Thence, along the southerly right-of-way of said Alley, N 62° 32' 56" E, 186.40 feet to the westerly right-of-way of Fourth Avenue South;

Thence, along said right-of-way the following calls;

S 27° 12' 23" E, 130.04 feet,
S 27° 17' 28" E, 110.07 feet,
S 27° 30' 05" E, 279.29 feet, to an iron pin in the northerly terminus of a curve return to the northerly right-of-way of Demonbreun Street;

Thence, along said curve 39.17 feet to the Point of Beginning, said curve having a central angle of 89° 45' 50", a radius of 25.00 feet, a tangent of 24.90 feet and a chord of S 17° 22' 50" W, 35.28 feet;

Containing 209,579 square feet, or 4.81 acres, more or less.

Being the same property conveyed to Nashville Downtown Hotel, LLC, by deed of record in Instrument No. 200411240141017, in the Register's Office for Davidson County, Tennessee.

EXHIBIT "B"

PERCENTAGE INTERESTS

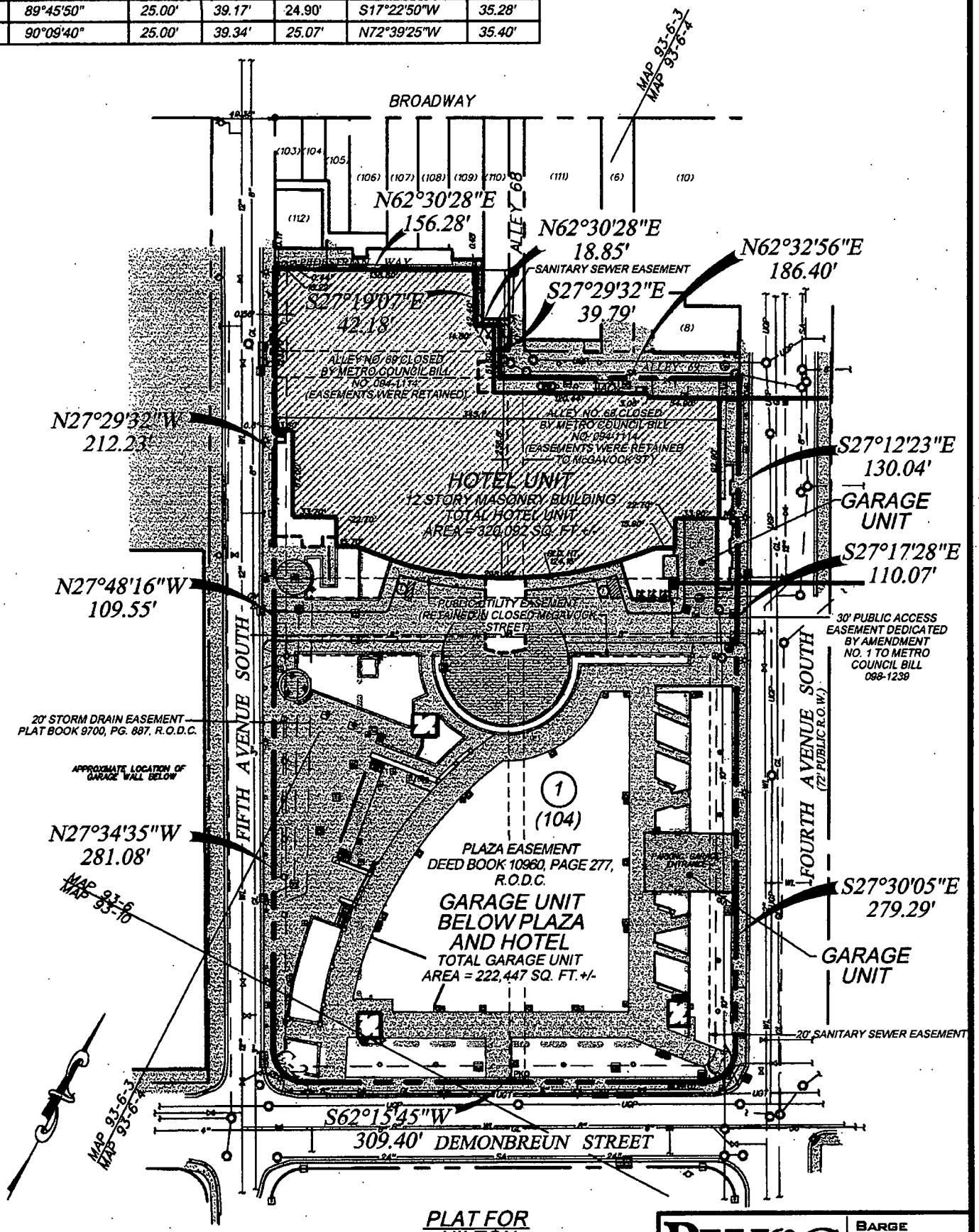
Unit	Approximate Square Footage	Percentage Interest	Number of Votes
Hotel Unit	320,092	59.00%	2
Garage Unit	222,447	41.00%	1
Total	542,539	**100%**	3

EXHIBIT "C"

FLOOR PLANS AND PLAT

[SEE ATTACHED]

CURVE	DELTA	RADIUS	LENGTH	TAN.	CHORD BRG.	CHORD
C-1	89°45'50"	25.00'	39.17'	24.90'	S17°22'50"W	35.28'
C-2	90°09'40"	25.00'	39.34'	25.07'	N72°39'25"W	35.40'



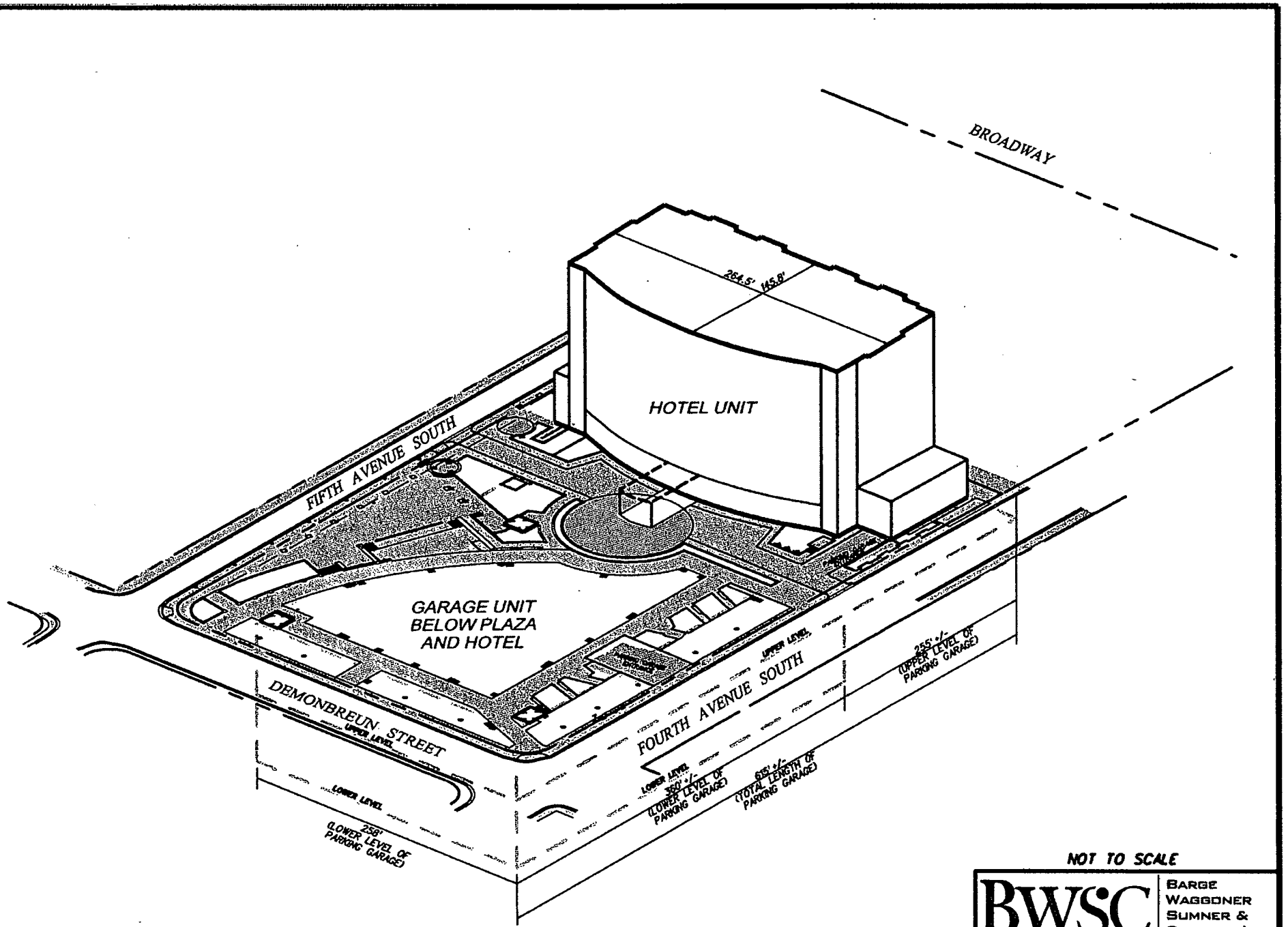
100 50 0 50 100

SCALE: 1" = 100'

PLAT FOR HILTON DOWNTOWN NASHVILLE HOTEL AND GARAGE CONDOMINIUM

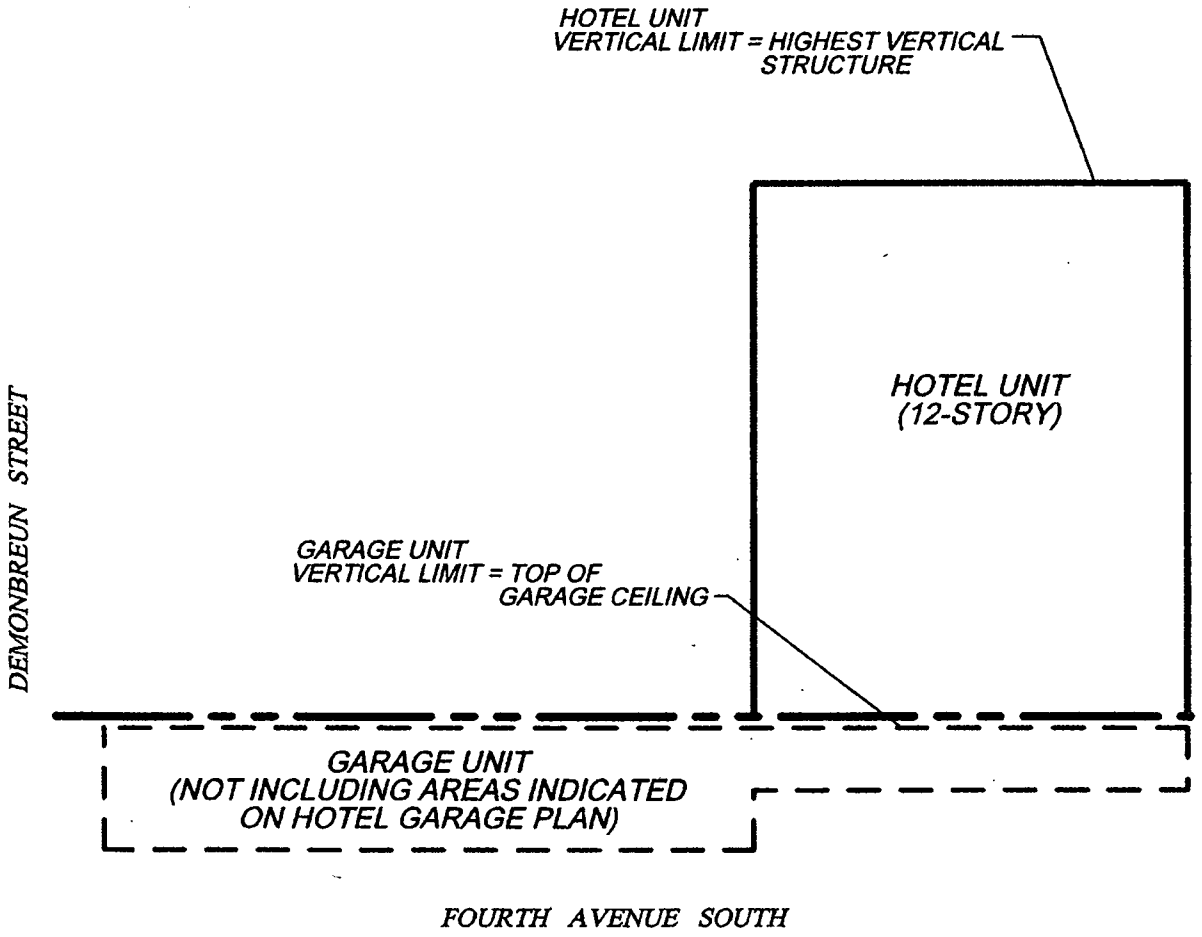
BWSC
BARGE WAGGONER SUMNER & CANNON, INC.
ENGINEERS ARCHITECTS PLANNERS
LANDSCAPE ARCHITECTS AND SURVEYORS
211 Commerce Street, Suite 600 Nashville, Tennessee 37201
PHONE (615) 254-1500 FAX (615) 255-6572

3/7/02 7-15-02



NOT TO SCALE

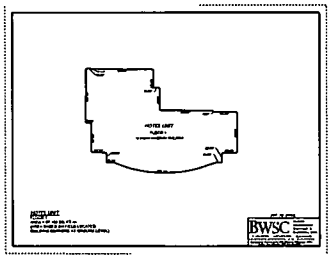
BWSC
BARGE
WAGGONER
SUMNER &
CANNON, INC.
ENGINEERS ARCHITECTS PLANNERS
LANDSCAPE ARCHITECTS AND SURVEYORS
211 Commerce Street, Suite 600 Nashville, Tennessee 37201
PHONE (615) 254-1500 FAX (615) 255-5572

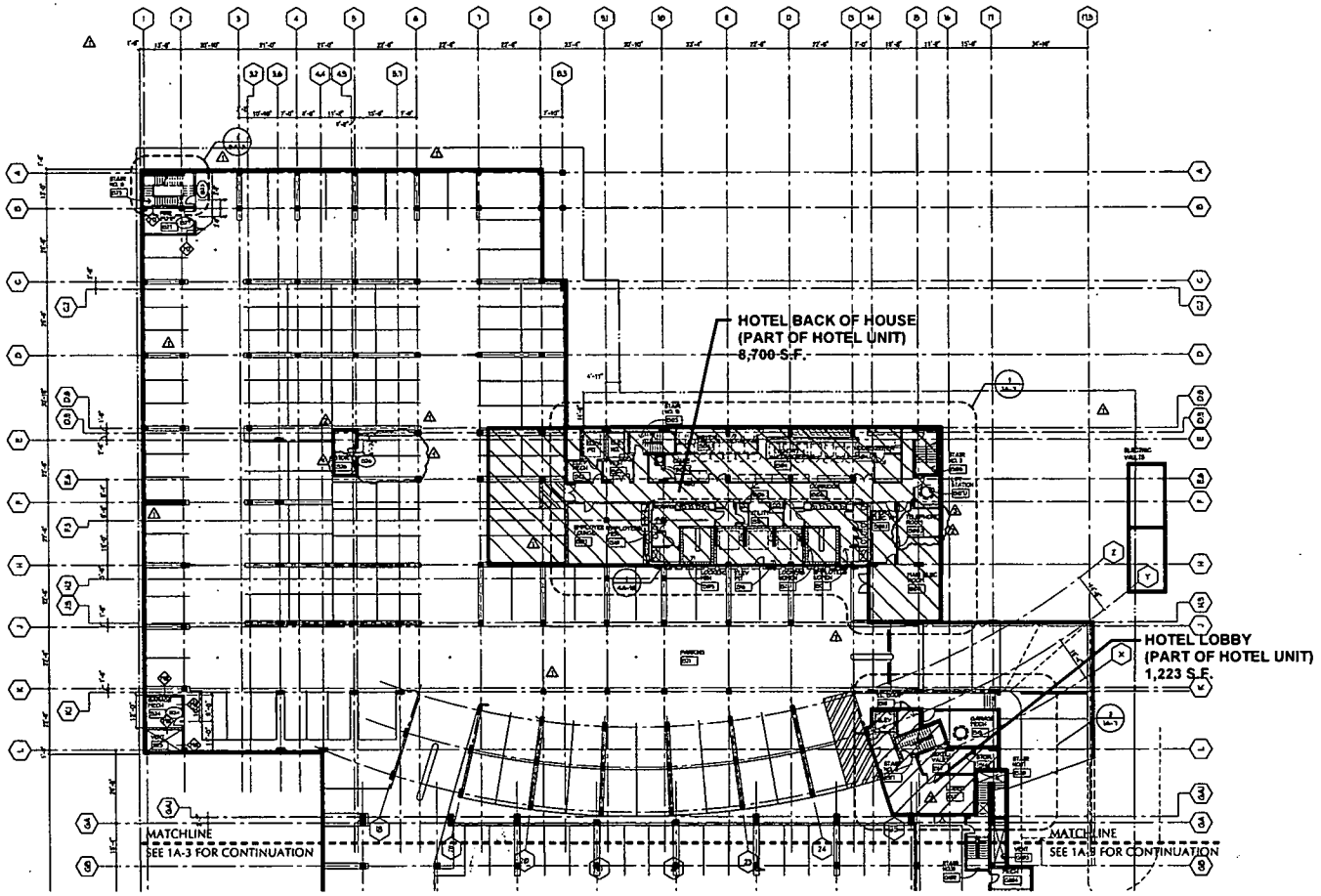


NOT TO SCALE

EAST ELEVATION VIEW
HILTON
DOWNTOWN NASHVILLE
HOTEL AND GARAGE
CONDOMINIUM

BWSC
BARGE WAGGONER SUMNER & CANNON, INC.
ENGINEERS ARCHITECTS PLANNERS
LANDSCAPE ARCHITECTS AND SURVEYORS
211 Commerce Street, Suite 800 Nashville, Tennessee 37201
PHONE (615) 254-1500 FAX (615) 255-6372





HOTEL UNIT
HOTEL BACK OF HOUSE AREA = 8,700 S.F.
HOTEL LOBBY AREA = 1,223 S.F.
TOTAL AREA = 9,923 S.F. (FOR GARAGE UPPER LEVEL)
(AREA BASED ON GRAPHICAL SCALING OF ARCHITECTURAL PLANS)

KEY PLAN

1 / 1A-5 HOTEL GARAGE PLAN
SCALE: 1/16" = 1'-0"

JOSEPH E. RABUN
ARCHITECT
THE COAST BUILDING
1400 COLLEGE PARK DRIVE, SUITE 100
DUNWOODY, GEORGIA
ATLANTA, GA 30320
404-327-9455 FAX 404-327-9434

NASHVILLE HILTON SUITES

PRINT LOG
3/1/99 PERMIT SET
4/21/99 BULLETIN 3
5/21/99 BULLETIN 6
9/21/99 BULLETIN 8

REVISIONS

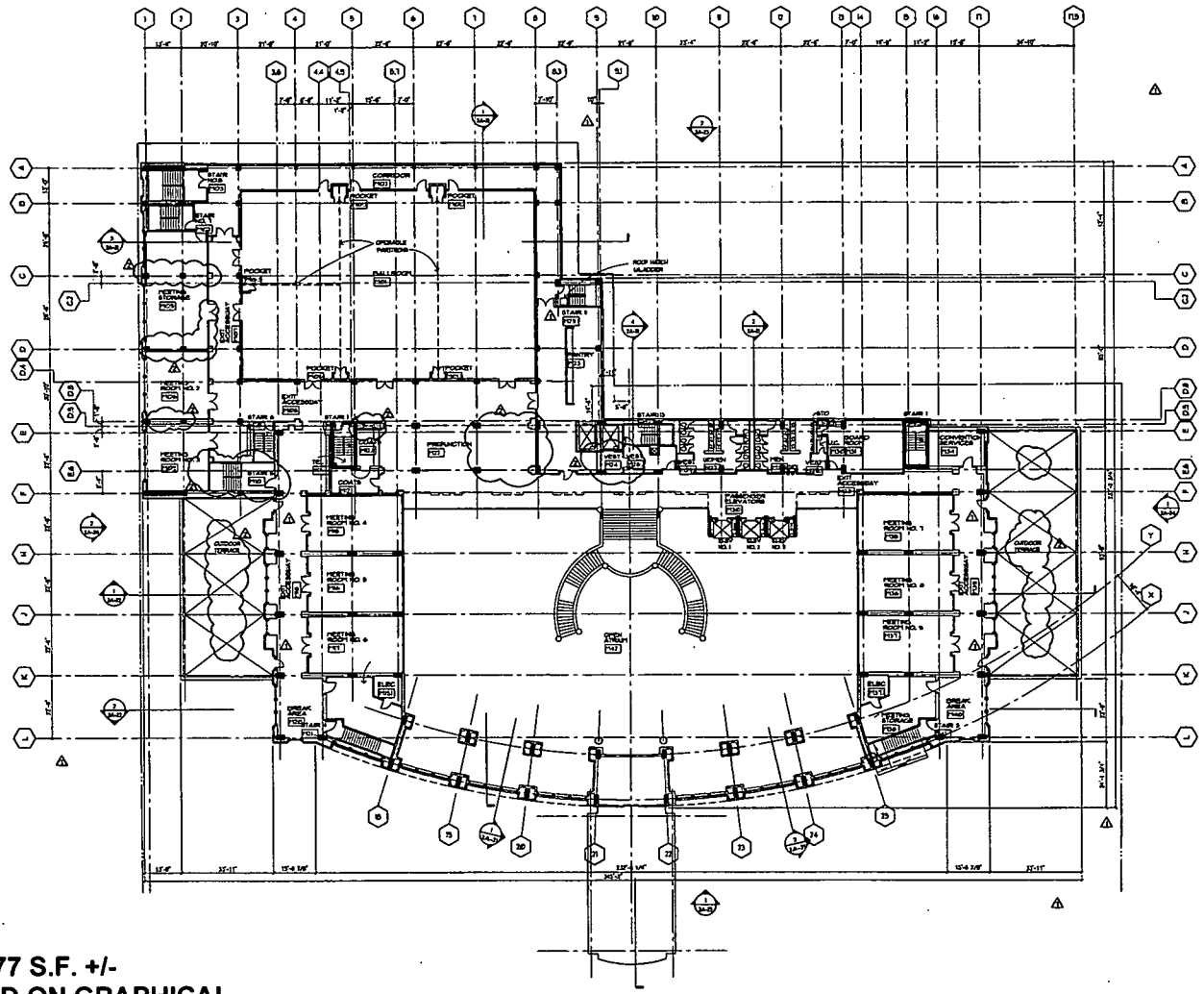
TITLE
HOTEL GARAGE PLAN

PROJECT NUMBER
331

DATE
1 MARCH 1999

SHEET NUMBER
1A-5

RELEASED FOR CONSTRUCTION



HOTEL UNIT
FLOOR 2
AREA = 34,477 S.F. +/-
(AREA BASED ON GRAPHICAL SCALING OF ARCHITECTURAL PLANS)



KEY PLAN

1 / 2A-2 MEETING LEVEL PLAN
SCALE: 1/16" = 1'-0"

JOSEPH E. RABUN
ARCHITECT
THE COURT BUILDING
THE COURT STREET, SUITE 300
ATLANTA, GA 30303
404-577-4433 FAX 404-522-9414

NASHVILLE HILTON SUITES

FRONT END
6/5/98 PERMIT SET
6/15/98 BULLETIN 3
9/29/98 BULLETIN 8

REVISIONS

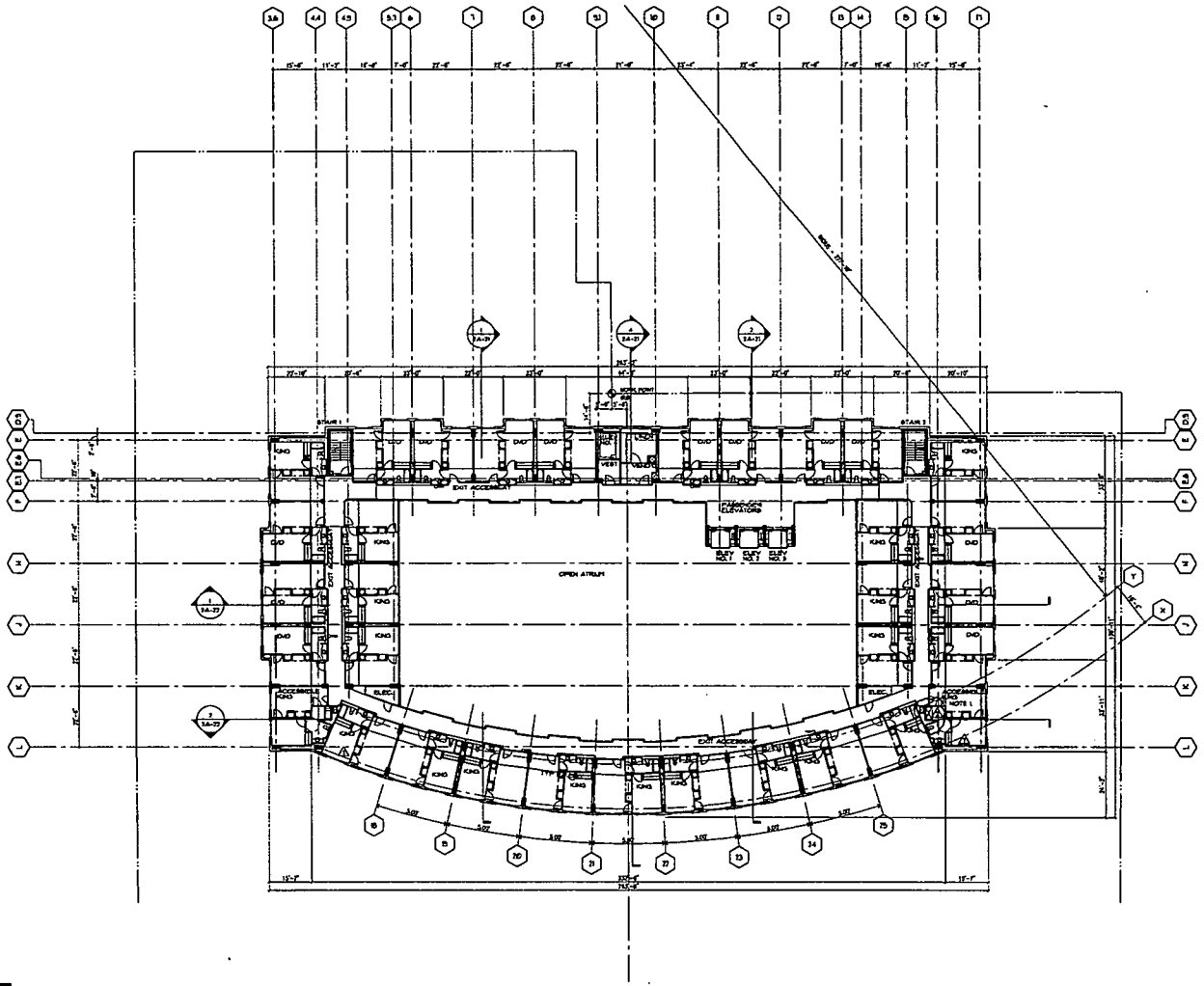
TITLE
MEETING LEVEL PLAN

PROJECT NUMBER
331

DATE
1 MARCH 1999

SHEET NUMBER
2A-2

RELEASED FOR CONSTRUCTION



HOTEL UNIT
FLOORS 3-12
AREA = 21,850 S.F. +/- PER FLOOR
TOTAL = 218,500 S.F. +/-
(AREA BASED ON GRAPHICAL SCALING OF ARCHITECTURAL PLANS)

NOTE 1. LOCATION OF ROLL-IN SHOWER, SHALL BE AT THE EAST SIDE ACCESSIBLE KING AT ALL GUEST LEVELS 1 THRU 10.

NOTE: PROVIDE 3/16" WOOD BUFFER GUARDS, AND TRIP BOARDS TO 4'-0" AFF AT ALL BACK-OF-HOUSE CORRIDORS, AND ALL PERIMETER OF SERVICE ELEVATOR LOBBIES. SEE DETAIL 9/A4.1-P1.

1 / 2A-3 GUEST LEVELS 1 THROUGH 9 PLAN
SCALE: 1/16" = 1'-0"

KEY PLAN

JOSEPH E. RABUN
ARCHITECT
744 COURT BUILDING
44 BROAD STREET, NW, SUITE 300
ATLANTA, GA 30303
404-577-9400 FAX 404-522-8454

NASHVILLE HILTON SUITES

PRINT LOG
3/1/99 PERMIT SET
6/15/99 BULLETIN 8
10/2/99 REVISION

REVISIONS

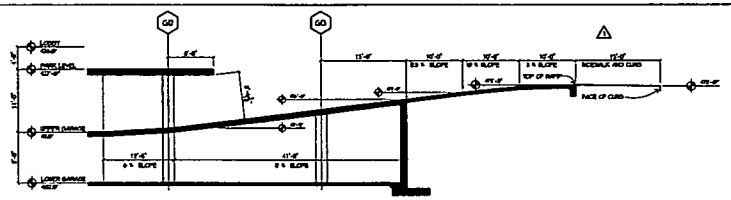
TITLE
TYP GUEST LEVEL PLAN

PROJECT NUMBER
331

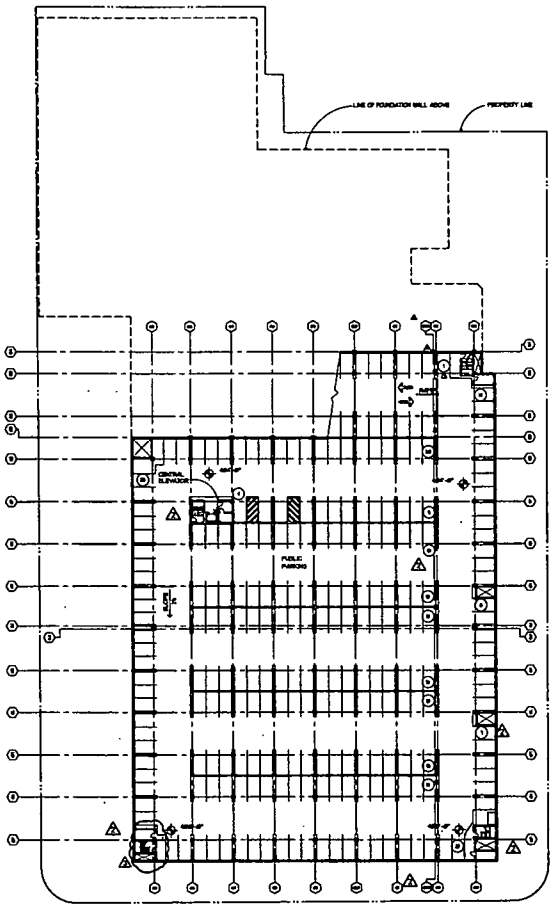
DATE
1 MARCH 1999

SHEET NUMBER
2A-3

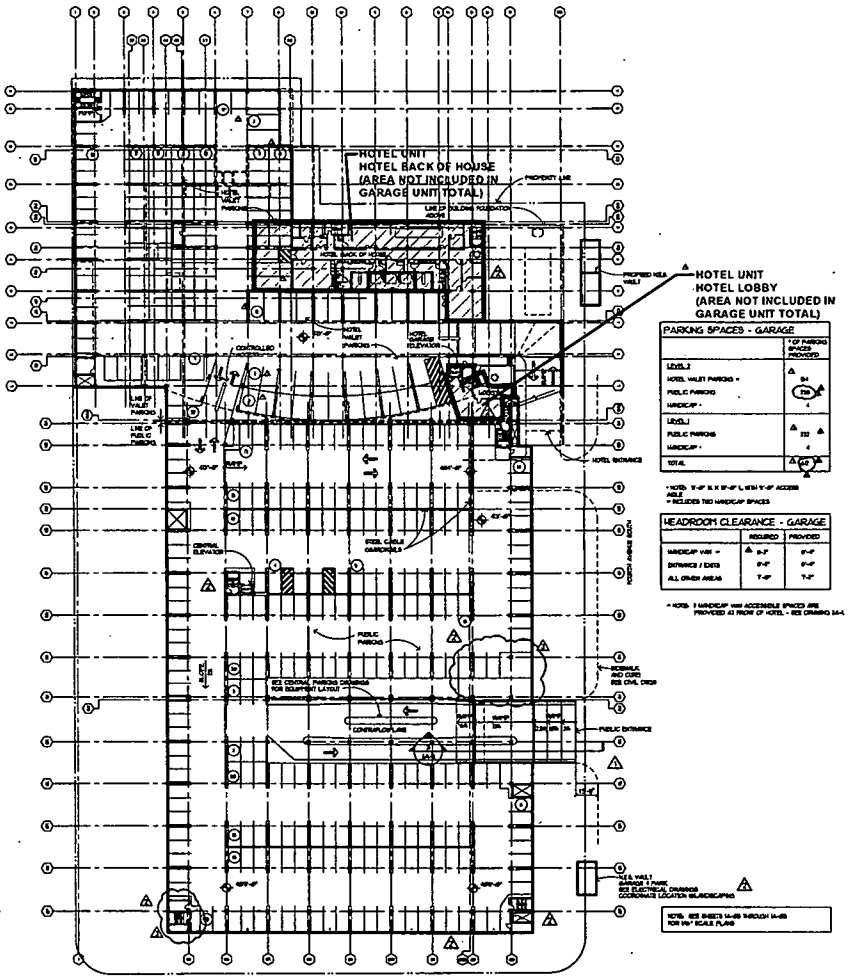
RELEASED FOR CONSTRUCTION



3 / 1A-1 RAMP @ FOURTH AVE. SO (PUBLIC GARAGE)
SCALE: 1/8" = 1'-0"



1 / 1A-1 KEY PLAN - GARAGE LOWER LEVEL
SCALE: 1/32" = 1'-0"



2 / 1A-1 KEY PLAN - GARAGE UPPER LEVEL
SCALE: 1/32" = 1'-0"

GARAGE UNIT
LOWER LEVEL GARAGE AREA = 79,080 S.F. +/-
UPPER LEVEL GARAGE AREA = 143,367 S.F. +/-
TOTAL AREA = 222,447 S.F. +/-
(AREA BASED ON GRAPHICAL SCALING OF ARCHITECTURAL PLANS)

JOSEPH E. RABUN
ARCHITECT

NASHVILLE HILTON SUITES

PRINT LOG
- 3/1/99 PERMIT SET
- 4/7/99 BULLETIN 2
- 4/21/99 BULLETIN 3
- 5/14/99 BULLETIN 4

REVISIONS

TITLE
KEY PLAN - GARAGE

PROJECT NUMBER
331

DATE
1 MARCH 1999

SHEET NUMBER
1A-1

RELEASED FOR CONSTRUCTION

EXHIBIT "D"

DISCLOSURES

(a) The Association budget is based on estimated expenses only and such expenses may increase or decrease from time to time.

(b) The Condominium is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

(c) The natural light available to and views from a Unit may change over time due to, among other circumstances, additional development (including, but not limited to, construction by Declarant or its affiliates of adjacent properties) and the removal or addition of landscaping.

(d) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.

(e) Since in every community there are conditions which different people may find objectionable, it is acknowledged that there may be conditions outside of the Condominium that a Person finds objectionable and that it shall be the sole responsibility of each Person to become acquainted with community conditions that could affect the Condominium.

(f) Concrete surfaces in portions of the Building are subject to cracking due to (i) water penetration, (ii) expansion and contraction of the concrete with temperature changes, (iii) building settlement, and (iv) other circumstances or conditions. Declarant shall not be liable for any such cracking.

(g) No representations are made that the Units are or will be soundproof or that sound and/or vibrations may not be transmitted from one Unit to another, from the Common Elements to a Unit, or within portions of a Unit. The plumbing and concrete, tile, hardwood, and other uncovered surfaces within the Units may transmit noise, and such noise shall not constitute a use that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Unit Owner and/or Occupant.

(h) The Condominium is located in an urban environment and contains both residential and commercial uses. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking, trash being picked up, deliveries being made, equipment being operated, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in an urban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in urban areas and these things are part of the reality and vibrancy of urban living. While steps have been taken to mitigate sound in the design and construction of the Condominium, the Units are not totally soundproof or free from vibrations. Sounds and vibrations can also be generated from sources located within the Units or Common Elements including elevator motors, heating and air conditioning equipment, pump rooms, other mechanical equipment, and the playing of music.

(i) The Floor Plans and the dimensions and square footage calculations shown thereon are only approximations. Any Person that is concerned about any representations regarding the Floor Plans should

do his/her own investigation as to the dimensions, measurements and square footage shown thereon.

(j) Declarant may be constructing portions of the Condominium and engaging in other construction activities related to the improvement of Common Elements and Units. Such construction activities may, from time to time, produce certain conditions on the Condominium, including, without limitation: (A) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (B) smoke; (C) noxious, toxic, or corrosive fumes or gases; (D) obnoxious odors; (E) dust, dirt or flying ash; (F) unusual fire or explosion hazards; (G) temporary interruption of utilities; and/or (H) other conditions that may threaten the security or safety of Persons on the Condominium. Notwithstanding the foregoing, such conditions on the Condominium resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

(k) During the course of the construction of any improvements, including the building, variations from the original plans and specifications, some of which add or reduce the scope of work are inevitable and can, do, and did occur as a matter of intention and/or as a matter of necessity. While the building was constructed, some code requirements may have changed or the interpretation of code requirement by government officials may have changed during the interim period which were not incorporated into the design of the building.

(l) Declarant shall have no liability should the Condominium be forced to change its name. Declarant shall have no duty to contest any claim asserting that the name should be changed.

(m) Improvements may have been constructed on adjoining properties that may encroach onto the Submitted Property. Declarant gives no representations or warranties as to property rights, if any, created by such any such encroachments.

(n) The Condominium may be subject to erosion and/or flooding during intense or prolonged periods of rain.

(o) Trucks, sports utility vehicles, vans, minivans, large sedans, or any other vehicles other than compact passenger vehicles may not fit into parking spaces.

(p) Elevators serving the building may malfunction from time to time and become stuck between levels for temporary periods. Neither Declarant nor the Association shall be liable for any such malfunctions

(q) Any artwork displayed in the Common Elements may not be the property of the Association. Such artwork may be the property of Declarant and Declarant shall retain the right to remove or alter such artwork at any time. Artwork may also belong to other third parties, such as artists and galleries, who have permitted the artwork to be temporarily displayed on the Common Elements.

(r) Water may pond on various portions of the Submitted Property having impervious surfaces, such as the parking area, patios, balconies, and sidewalks, as applicable.

(s) Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, fire hydrants or storm drain inlets or basins.

(t) Declarant makes no representations or warranties regarding the future development or use of any properties adjacent to or in the vicinity of the Condominium (collectively "Adjacent Properties"). Any floor plans, renderings, models, drawings, and the like provided by Declarant or its representatives or agents, which purport to depict the Adjacent Properties, or any portion thereof, are merely projections, which are subject to change and do not reflect an actual commitment to develop the Adjacent Properties in any particular manner. No assurances are made that the improvements which may be built on all or any portion of the Adjacent Properties will be substantially identical to the improvements in the Building in any way whatsoever, including but not limited to the quality of construction, the principal materials to be used in such construction and architectural style. The development of the Adjacent Properties may alter or block the views available from the Units.

(u) The grading of the soil and other natural elements as well as man-made building materials creates unwanted and undesired gases and other contaminates in homes and buildings (both new and existing construction). Also, since energy conservation has become a concern, there is a need to build homes and buildings that are more airtight. As a result, these homes and buildings trap unwanted gases in different degrees depending on how each person lives within their home or such building. To date measurements of such unwanted gases (such as the radon gas described below and carbon dioxide) are reported as parts of the air they occupy.

(v) Ice and/or snow may accumulate on sidewalks and paved areas during periods of cold weather temperatures. This may result in slippery and dangerous conditions unsuitable for pedestrian traffic. Each Owner and Occupant shall be deemed to assume the risk of injury and damages arising from such conditions.

EXHIBIT "E"

BYLAWS

BYLAWS

OF

HILTON DOWNTOWN NASHVILLE HOTEL AND GARAGE

CONDOMINIUM ASSOCIATION, INC.

A NOT-FOR-PROFIT CORPORATION

I. GENERAL PURPOSE

Hilton Downtown Nashville Hotel and Garage Condominium Association, Inc., a Tennessee not-for-profit corporation (hereinafter the "Association"), has been organized for the purpose of administering the operation and management of condominium facilities for the use and benefit of the Unit owners of Hilton Downtown Nashville Hotel and Garage, a Condominium, a condominium development located in Nashville, Davidson County, Tennessee (hereinafter referred to as "the Condominium"), which is more particularly described in a Declaration creating such condominium recorded or to be recorded in the office of the Register of Deeds for Davidson County, Tennessee (the "Declaration"). The terms and provisions of these Bylaws are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Charter of the Association (the "Charter") and the Declaration. The terms and provisions of the Charter and the Declaration are incorporated herein by reference and shall be controlling wherever the same may be in conflict herewith. Any inconsistency or conflict between the provisions hereof and of the Charter shall be resolved in favor of the provisions of the Charter. Any inconsistency or conflict between the provisions hereof and of the Declaration shall be resolved in favor of the provisions of the Declaration. For purposes of these Bylaws, capitalized terms shall have the meaning set forth in the Declaration unless otherwise stated or the context so requires. The Association shall perform the care and upkeep of the Submitted Property as set out in the Declaration. Capitalized terms not defined herein shall have the meanings given them in the Declaration.

II. MEMBERSHIP AND VOTING RIGHTS

A. Membership. Each person or entity who is a record owner of a fee interest in a Unit or Units shall automatically be a member of the Association (hereinafter referred to as "Member"). Voting by the Members in the affairs of the Condominium and the Association shall not be on the basis of one vote per Unit, but shall be on the basis of the number of votes assigned in the Declaration. In the event that more than one Member owns a Unit, the votes of that Unit shall be cast by the Member named in a certificate signed by all of the Owners of the Unit and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not on file, the vote of such Members shall not be considered in determining the requirement for a quorum, nor for any other purpose.

B. Change of Membership. Change of membership shall be accomplished by recording in the Davidson County Register's Office a deed or other instrument establishing record title to a Unit, and delivery to the Secretary of the Association of a recorded copy of such instrument. The membership of the prior Owner in the Association shall be thereby terminated.

C. Suspension of Rights. The membership and voting rights of any Member may be suspended by the Board of Directors for any period during which any assessment against the Unit to which its membership is appurtenant remains unpaid beyond applicable notice and cure periods; but upon payment of such assessments, and any interest accrued thereon, the Member's rights and privileges shall be restored as of the date of payment. Further,

if rules and regulations governing the use of the Submitted Property and the conduct of persons thereon have been adopted and published, as authorized in the Declaration or these Bylaws, the rights and privileges of any person in violation thereof or in violation of the provisions hereof may be suspended at the discretion of the Board of Directors.

D. Proxies. Proxy ballots shall be permitted with respect to all elections of Directors, and all amendments to the Charter, the Declaration, or these Bylaws, or any other matter that is to come before a meeting of, or otherwise be considered by, the membership of the Association. All proxies shall be in writing, signed by the individual Owner or Owners (or in the case of joint owners by the person named in the certificate described in Section A of this Article II), or by his duly authorized representative(s) and delivered to the Secretary of the Association, or such other person as the President may designate, at least twenty-four (24) hours prior to the commencement of the meeting at which ballots are to be cast.

III. MEETINGS OF MEMBERS

A. Place of Meetings. All meetings of the Members of the Association shall be held at the Submitted Property or at such other place as may be designated by the Board of Directors.

B. First Annual Meeting and Regular Annual Meetings. All annual Members' meetings shall be held on the day and month of the year to be established by the Board of Directors. At such meeting the election of Directors shall take place and the Members may transact such other business as may properly come before them.

C. Special Meetings. Special meetings of Members may be called by the President whenever he or she deems such a meeting advisable or shall be called by the Secretary when ordered by a majority of the Board of Directors, or upon the written request of Members of the Association representing at least fifteen percent (15%) of all votes entitled to be cast at such meeting. Unless Members representing at least 2/3rds of all votes entitled to be cast request such a meeting, no special meeting may be called to consider any matter that is substantially the same as a matter voted upon at any meeting of the Association held during the preceding twelve (12) months, which determination shall be made in the sole and absolute discretion of the Board of Directors.

D. Notice. Notice of all Members' meetings, regular or special, shall be given by the President, Vice President, or Secretary of the Association (or other officer of the Association in absence of said officers) to each Member, unless waived by the Member in writing. Such notice shall be written or printed and shall state the time, place, and purposes for which the meeting is called. Such notice shall be given to each Member not less than ten (10) days or more than two months prior to the date set for such meeting, which notice shall be mailed or presented personally to each Member within said time.

E. Quorum and Adjourned Meetings. A quorum at a Members' meeting shall consist of persons entitled to cast a majority of the votes of the entire membership. In the absence of a quorum, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time, until a quorum shall be present or represented.

F. Action by Written Consent. Whenever Members of the Association are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by the persons entitled to vote thereon.

G. Organization. At each meeting of the Association, the President or, in his or her absence, the Vice President (or in the absence of both the President and the Vice President, a Member present in person or represented by proxy and entitled to vote thereat) shall act as a chairman, and the Secretary or, in his or her absence, a person whom the chairman shall appoint, shall record the minutes of the meeting.

H. Voting. Except as otherwise required by the Charter, the Declaration, or any law, the affirmative vote of a majority of the votes represented at any duly called Members' meeting at which a quorum is present shall be binding upon the Members. The election of directors shall be by a secret ballot.

I. Member in Good Standing. A Member shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting if and only if all Assessments appertaining to its Unit and less than thirty (30) days delinquent have been paid, together with all interest, costs, attorneys' fees, penalties, and other expenses, if any, properly chargeable to such Member and to its Unit, at least three (3) days prior to the date fixed for such meeting.

J. Order of Business. The order of business at the annual meeting of the Members or at any special meetings insofar as practicable shall be:

1. Roll call (or check-in procedure)
2. Proof of notice of meeting or waiver of notice
3. Reading of minutes of preceding meeting
4. Establish number and term of memberships of the Board of Directors (if required and noticed)
5. Reports of committees
6. Election of directors (if required and noticed)
7. Unfinished business
8. New business
9. Ratification of budget (if required and noticed)
10. Adjournment

IV. BOARD OF DIRECTORS

A. Number and Qualification. The Board of Directors of the Association shall consist of at least three (3) persons. At least a majority of the Board of Directors shall be Members (or representatives of Members) of the Association. The Board of Directors shall be elected by a majority of the Members. Provided, so long as there are two (2) Members (the Hotel Unit Owner and the Garage Unit Owner), the Garage Unit Owner shall be entitled to elect one (1) Director, and the Hotel Unit Owner shall be entitled to elect two (2) Directors.

B. Term of Office. Each Director's term of office shall be one (1) year.

C. Organizational Meeting. The organizational meeting of a newly elected Board of Directors shall be held within fourteen (14) days of their election at such time and at such place as shall be fixed by the Directors at the Association meeting at which they were elected, and no further notice of the organizational meeting shall be necessary in order to legally constitute such a meeting, providing a quorum of the Board of Directors shall be present.

D. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held each fiscal year. Notice of regular meetings shall be given by the Secretary or other designated person to each director, personally or by mail, telephone, or telefax, at least three (3) days prior to the day named for such meetings, unless notice is waived.

E. Special Meetings. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of any two (2) Directors. Not less than three (3) days' notice of a meeting shall be given to each Director personally, by mail, telephone, or telefax, which notice shall state the time, place, and purpose of the meeting.

F. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by a member of the Board of Directors at any meeting of the Board shall be deemed a waiver of notice by him or her. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting. In the discretion of the Board of Directors, meetings of the Board of Directors or portions thereof may be open to Members of the Association for observation or participation in such manner and to the extent the Board of Directors may deem appropriate.

G. Quorum and Adjourned Meetings. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business and acts of the majority of Directors present at a meeting at which a quorum is present shall be acts of the Board of Directors, unless otherwise provided in the Charter and/or the Declaration. If any Directors' meeting cannot be organized because a quorum is not present, the Directors who are present may adjourn the meeting from time to time until a quorum is present.

H. Removal of Members of the Board of Directors. At any duly held regular or special meeting of the Members, any one or more Directors may be removed with or without cause by 2/3rds of the votes held by the Members represented, and a successor may immediately be elected (or appointed, as applicable) to fill the vacancy thus created. Each person so elected shall be a Director for the remainder of the term of the Director whose term he is filling and until his successor is duly elected and qualified. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting.

I. Vacancies. Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members of the Association shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy; provided, however, in the event that the vacancies on the Board of Directors (other than by Declarant removal) result in only one Director remaining on the Board, a special meeting of the Association shall be called by the President in order to fill such vacancies. Each person so elected at a special meeting of the Association shall serve as a Director for the remainder of the term of the Director whose term he or she is filling and until his successor is duly elected and qualified. If the vacancy has been filled by a vote of the remaining Directors, each person so elected shall be a director until his or her successor is elected at the next meeting of the Association.

J. Consent in Lieu of Meeting and Vote. Anything to the contrary in these Bylaws, the Charter, or the Declaration notwithstanding, the entire Board of Directors shall have the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote if the entire Board of Directors, or all the directors empowered to act, whichever the case may be, shall consent in writing to such action.

K. Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, except as provided by the Declaration, these Bylaws, the Act, or applicable law. The Board of Directors shall have, subject to the aforementioned limitations, the powers and duties necessary for the administration of the affairs of the Association and of the Condominium, which shall include, but not be limited to, the following:

1. To make, levy, and collect assessments against Members and Members' Units to pay Common Expenses, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

2. To cause the Common Elements to be maintained according to as set forth in the Declaration and as required by law;

3. To make and amend rules and regulations governing the use of the Submitted Property for the use and benefit of the Members, so long as such rules and regulations and other limitations that may be placed upon the use of the Submitted Property do not conflict with the terms of the Charter and/or the Declaration;

4. To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, as may be necessary or convenient in the operation and management of the Common Elements and in accomplishing the purposes set forth in the Charter or the Declaration;

5. To contract for the management of the Association, and to delegate to such manager all of the powers and duties of the Association, subject to the limitations of the Declaration and the Act, with the cost of employing such manager to be a part of the Common Expenses (and provided that the fee paid to any such manager shall not exceed the market rate for such services);

6. To comply with and to enforce by legal means all terms and conditions of the Declaration, the Charter, these Bylaws, and any rules and regulations now or hereafter promulgated governing the use of the Condominium;

7. To pay all taxes and assessments that are liens against any part of the Submitted Property and to assess the same against the Members and their respective Units;

8. To carry insurance for the protection of the Members and the Association as provided in the Declaration;

9. To employ personnel (including, without limitation, attorneys and accountants) for reasonable compensation to perform the services required for proper administration of the Association, with such costs to be Common Expenses;

10. To borrow money for the maintenance, well-being and any replacement of the Submitted Property, the repayment of which shall be Common Expenses;

11. To cause to be kept a complete record of all its acts and corporate affairs and to present a summary report thereof to the Members at the annual meeting or at any special meeting;

12. To delegate to Members responsibilities concerning the maintenance, repair, replacement, and insurance of portions of the Submitted Property; and

13. To exercise any other power necessary and proper for the governance of the Association, the performance of the Association's duties under the Declaration, or the exercise of the Association's rights under the Declaration.

L. Eligibility of Directors. Nothing contained in these Bylaws shall prohibit a Director from being an officer, nor preclude the Board of Directors from employing a Director as an employee of the Association or contracting with a Director for the management of the Condominium, subject, however, to the limitations contained herein and in the Declaration.

V. Officers

A. Designation. The executive officers of the Association shall be a President and a Secretary, each of whom shall be elected annually by the Board of Directors at any meeting. The Board of Directors may also appoint such other officers as in its judgment may be necessary to manage the affairs of the Association. Any person may hold two (2) or more offices, except that the President shall not also be the Secretary or an Assistant Secretary.

B. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the Board of Directors meeting following each annual meeting of the Members, and such officers shall hold office at the pleasure of the Board of Directors.

C. Removal of Officers. Upon any affirmative vote of a majority of all Directors, any officer may be removed, either with or without cause, after opportunity for a hearing, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purposes. Vacancy in any office from whatever cause shall be filled by the Board of Directors by majority vote of all Directors, at any regular or special meeting of the Board of Directors.

D. Duties and Responsibilities of Officers.

1. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and the Board of Directors. He or she shall have all the powers and duties which are usually vested in the office of the President of an association including but not limited to the power to appoint committees from among the Members from time to time, as he or she may in his or her discretion determine appropriate, to assist in the conduct of the affairs of the Association.

2. The Secretary shall keep the minutes of all proceedings of the Board of Directors and the Members and shall keep the minute book and record all proceedings therein. He or she shall be responsible for serving all meeting notices to the Members and directors, and such other notices as required by law. He or she shall keep the books and records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the Secretary of an association and as may be required by the directors or President. He or she shall keep the Assessment rolls and accounts of the Members; he or she shall keep the books of the Association in accordance with good accounting practices; and he or she shall perform all other duties incident to the office of Treasurer.

E. Amendments to Declaration. Pursuant to the Declaration and Tennessee Code Annotated section 66-27-406(a)(5), the President or the Secretary, or either of them acting alone, may prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

VI. Compensation, Indemnification, and Exculpability of Officers, Directors, and Committee Members

A. Compensation. No compensation shall be paid any officer or any Director or committee member for acting as such officer or Director, unless the Board of Directors determines that such compensation is appropriate. Nothing herein stated shall prevent any officer, Director, or committee member from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association; provided, however, that any such expenses incurred or services rendered shall have been authorized in advance by the Board of Directors.

B. Indemnification. Each Director, officer, or committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him, in connection with any proceeding to which he may be a party or in any settlement thereof, by reason of his being or having been a director, committee member, or agent of the Association, whether or not he is a director, committee member, or officer at the time such expenses are incurred, except in such cases wherein he is adjudged guilty of willful misfeasance or gross negligence in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director, officer, or committee member may be entitled.

C. Exculpability. Unless acting in bad faith, neither the Board of Directors as a body nor any Director, officer, committee member, or agent of the Association, shall be personally liable to any Member in any respect for any action or lack of action arising out of the execution of his office. Each Member shall be bound by the good faith actions of the Board of Directors, officers, committee members, and agents of the Association, in the execution of the duties of said directors, officers, committee members, or agents.

VII. Fiscal Management

A. Assessments.

1. The Board of Directors shall adopt a budget for each fiscal year of the Association and such budget shall contain estimates of the amount of monies deemed necessary for the Common Expenses, the manner of expenditure thereof, and the proposed assessments against each Owner. Each Owner shall be obligated to pay his proportionate share of the Common Expenses assessed against it by the Board of Directors in accordance with the Declaration, the Charter, these Bylaws, or applicable law. The timing and due dates of such payments shall, subject to the terms of the Declaration, be established by the Board of Directors.

2. The Board of Directors shall give notice to each Unit Owner, in writing, of the amount estimated by the Board of Directors for Common Expenses for the management and operation of the Association for the next ensuing budget period and the proposed annual assessments, directed to the Unit Owner at its last known address by ordinary mail or by hand delivery. Said notice shall be conclusively presumed to have been delivered five (5) days after deposit in the United States mail.

3. The omission by the Board of Directors, before the expiration of any year, to fix the assessment thereunder for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration and Bylaws or a release of any Owner from the obligation to pay the assessments, or an installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

B. Other Assessments. In addition to the annual Assessments authorized by Section A of this Article VII, the Board of Directors may levy such other assessments as may be permitted pursuant to the Declaration.

C. Reserves. The Board of Directors shall not be obligated to expend all of the Assessments collected in any accounting period, but must establish and maintain reasonable reserves for the periodic maintenance, repair, and replacement of the Common Elements, which reserves will be established and maintained out of the annual Assessments.

D. Depository. The depository of the Association shall be such bank or banks and/or federal savings and loan associations as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be by such persons as are authorized by the Directors.

E. Examination of Books and Records. The Board of Directors shall keep a detailed account, in chronological order, of the receipts and expenditures affecting the Condominium and its administration and specifying the maintenance and repair expense of the Common Elements and any other expenses incurred. Such books, the vouchers accrediting the entries made thereon, copies of the Declaration, these Bylaws, any rules and regulations, and other books, records, and financial statements of the Association shall be maintained at the principal office of the Association and shall be available for inspection by Members or by a Member's authorized agent, holders, insurers, and guarantors of Mortgages that are secured by Units in the Condominium during normal business hours or under any other reasonable circumstances. Such books and records shall be audited annually at the expense of the Association.

F. Management Contracts. The Association may enter into professional management contracts or other agreements.

G. Fidelity Bonds. The Association shall, subject to the provisions of the Declaration, maintain blanket fidelity bonds for all persons who either handle or are responsible for funds held or administered by the Association, whether or not they receive compensation for such services. Any management agent handling funds for the Association must also be covered by a fidelity bond.

H. Interest and Attorneys' Fees. The Board of Directors shall have the option, in connection with the collection of any charge or assessment from a Unit Owner, to impose a late fee pursuant to the terms of the Declaration. In the event attorneys' fees or other costs are incurred by the Board of Directors in the collection of any such charge or Assessment, the Unit Owner shall be responsible for payment of all such reasonable attorneys' fees and other costs, in addition to such other costs allowable by law.

J. Annual Report. An accounting of the accounts of the Association shall be made annually, the cost of the annual accounting shall be deemed a Common Expense, and a copy of the report of such accounting shall be furnished to each Member not later than March 1 of the year following the year for which the report is made. In addition, any holder of a first Mortgage on a Unit shall, upon written request, be entitled to a copy of the report provided it pays any reasonable expenses of the Association incurred in rendering such copy.

X. ENFORCEMENT

A. Enforcement. The Board of Directors shall have the power, at its sole option, to enforce the terms of the Declaration and this instrument or any rule or regulation promulgated pursuant thereto, by any or all of the following: lawful self-help; sending notice to the offending party to cause certain things to be done or undone, restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof; complaint to the duly constituted authorities; or by taking any other action before any court, summary or otherwise, as may be provided by law.

B. Waiver. No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

XI. AMENDMENTS

Subject to the provisions contained in the Declaration and in the Act, these Bylaws may be altered or repealed, or new Bylaws may be made, at any meeting of the Members of the Association or the Board of Directors duly held for such purpose, previous to which written notice shall have been sent, a quorum being present, by an affirmative vote of 75% of the votes in the Association or a majority of the Directors. Directors and Members not present at the meetings considering the amendment may express their approval in writing. Any amendment that would require the amendment of the Declaration or that would necessitate the approval of such amendment to the Declaration by a Mortgagee pursuant to provisions of the Declaration, must be approved and consented to by Mortgagees holding first

Mortgages with respect to Units representing at least 75% of such Units. These Bylaws shall be amended, if necessary, so as to make the same consistent with the provisions of the Declaration.

XII. CONFLICT; INVALIDITY

A. Conflict. Anything to the contrary herein notwithstanding, if any provision of these Bylaws is in conflict with or contradiction of the Declaration or the Charter, or with the requirements of any law or regulation, then the requirements of said Declaration, Charter, law, or regulation shall be deemed controlling.

B. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the enforceability or affect the remaining provisions of the Bylaws.