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THIS INSTRUMENT PREPARED BY:
Patrick H. Poole, Esq.
Ortale Kelley Law Firm
330 Commerce Street, Suite 110
Nashville, Tennessee 37201

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 124 CAROTHERS CROSSING TOWNHOMES, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

**THIS DECLARATION**, made and entered into by Regent Homes, LLC, a Tennessee Limited Liability Company, hereinafter referred to as the "Developer".

WITNESSETH:

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

**WHEREAS**, the Developer desires to submit the Property described on Exhibit "A" together with all buildings, structures, improvements, and other permanent fixtures of whatever kind thereon, and all rights and privileges belonging or in any way pertaining thereto, to the provisions of the Horizontal Property Act of the State of Tennessee as the same may be amended from time to time for the express purpose of establishing thereon a horizontal property regime to be known as 124 CAROTHERS CROSSING TOWNHOMES; and,

**WHEREAS**, the Property is subject to that certain Declaration of Covenants, Conditions and Restrictions for the Carothers Crossing (the "Master Subdivision") recorded as Instrument Number 20070627-0076582, Register's Office for Davidson County, Tennessee, as amended (the "Master Declaration");

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

**WHEREAS**, Notwithstanding any provisions to the contrary herein, this Declaration is at all times subject to and subordinate to the Master Declaration.

**NOW, THEREFORE**, the Developer declares as follows:

1. **Definitions.** As used herein, unless the context otherwise requires:
   (a) "Act" means the Horizontal Property Act of the State of Tennessee, Tennessee Code Annotated, Section 66-27-101, et seq., as the same may be amended from time to time.
   (b) "Association" means 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC., a Tennessee not-for-profit corporation.
   (c) "Board" means the Board of Directors of 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC., a Tennessee not-for-profit corporation.

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

(e) "By-Laws" mean the By-Laws of the 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC. attached hereto as Exhibit "C" and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Declaration dealing with the administration and maintenance of the property shall be deemed to be part of the By-laws.

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

(g) "General Common Elements" shall mean all of the property, except the Units and Private Elements, not including Limited Common Elements.

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

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

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

(k) "Master Association" shall mean Carothers Crossing Neighborhood Association, Inc., a Tennessee not-for-profit corporation, its successors and assigns.

(l) "Master Declaration" shall mean and refer to that certain Declaration of Covenants, Conditions, and Restrictions for Carothers Crossing dated June 26, 2007 and recorded as Instrument 20070627-0076582, Register's Office for Davidson County, Tennessee, as may be amended from time to time.

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

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

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

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

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

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

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

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

(u) "Unit" shall mean a portion of the Property as shown and designated in the Plat for separate ownership and shall include the Private Elements and the residence and improvements now and hereafter located hereon. The Units are identified by a number or alphabetic letter (or combination thereat) on the Plat, and may be held and conveyed by reference to such number or

letter. Conveyance of a Unit shall automatically convey the undivided membership of each Unit Owner in the Association. Any Unit may be jointly or commonly owned in any state recognized under applicable law. For purposes herein, the term "Unit" shall equate to the same meaning as the term "apartment" in the Horizontal Property Act.

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

2. **Submission of Property to the Act**. The Developer does hereby submit and subject Property as shown on the attached plat to the provisions of the Horizontal Property Act of the State of Tennessee as amended from time to time and does hereby establish a Horizontal Property Regime to be known as 124 CAROTHERS CROSSING TOWNHOMES.

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

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

5. **Formation of Association.**

(a) **Association of Unit Owners and Administration and Operation of the Property.** There has been formed an Association having the name 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC., a Tennessee not-for-profit corporation, which Association shall be the governing body for all Unit owners, and shall be operated to provide guidelines for the maintenance, repair, replacement, administration, and operation of the property, as provided in the Act, this Declaration and the By-Laws. The Unit Owners shall be members of the Association, with each Unit holding an undivided membership interest appurtenant to a Unit being in an equal share, subject to the provisions concerning voting hereinafter set forth. The By-Laws for the Association shall be the By-Laws attached to this Declaration as Exhibit "C" and made a part hereof. The Board of Directors of the Association shall be elected and serve in accordance with the provisions of the By-Laws. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and any funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners, in accordance with the provisions of this declaration and By-Laws. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be divided among the respective Unit Owners with one (1) vote granted to each Unit (except that the Developer shall have three (3) votes per Unit as provided below).

(b) **Voting Membership.**

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

(ii) **Class B.** The Class B member shall be the Developer and shall be entitled to three (3) votes for each Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(A) when one hundred percent (100%) of the Units have been sold by Developer; or
(B) December 1, 2027.

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

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

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

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

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

7. **Ownership of the Common Elements.** Ownership of the Common Elements shall be vested in the Association.

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

Regulations of the Association. In addition to the restrictions set forth herein, the Property shall be subject to all use restrictions set forth in the Master Declaration.

9. **Storage Areas and Parking Spaces.** Parking shall be subject to such rules and regulations as the Board may prescribe.

10. **Common Expenses and Enforcement.**

(a) **Common Expenses.** Except as specifically provided otherwise herein, each Unit Owner shall pay an equal share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with these Declarations and Bylaws (which expenses are herein sometimes referred to as "common expenses"'), including, but not limited to, the maintenance and repair thereof and any and all replacements and additions thereto. Payment of common expenses, including any prepayment thereof required by any contract for a sale of a Unit, shall be in such amounts and at such times as determined in the manner provided in the Bylaws. No Unit Owner shall be exempt from payment of such Unit Owner's proportionate share of the common expenses by waiver or non-use of enjoyment of the Common Elements, or by abandonment of such Owner's Unit. If any Unit Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof, together with interest thereon at the rate of Ten percent (10%) per annum, after said common expenses become due and payable, shall constitute a lien on the interest of such Unit Owner in the Unit as provided in the Act. Each assessment for common expenses against a Unit shall also be the personal obligation of the Unit Owner at the time the assessment is due. A successor in title to a Unit shall not be personally obligated to pay any unpaid assessments for common expenses which have been levied against a Unit unless such successor in title expressly assumes the payment of the same, provided, however, any lien encumbering a Unit as above described shall not be affected by transfer of a Unit.

The Developer shall not be required to expend from its own funds any sums of money for maintenance, improvements, or any other expenses of the administration of the Common Elements, and no Unit owned by the Developer shall be assessed for common expenses, or otherwise, until such time as construction of such Unit is completed and occupied by a tenant of Developer, or is sold by the Developer. This paragraph of Section 10(a) may not be modified or amended without the unanimous written consent of all Unit Owners.

(b) **Enforcement.** In the event any Unit Owner fails to maintain such Owner's Unit, including its Private Elements, or the Limited Common Elements attributable to such Unit, if said Limited Common Elements maintenance responsibility shall be designated to the applicable Unit Owner, or in the event any Unit Owner fails to pay such Owner's proportionate share of any common expense when such is due, then in any such event the Board may after ten (10) day notice to the defaulting Unit Owner, perform such maintenance, advance and pay such sums, or do any other reasonable act necessary to cure such default. The Association shall have a lien against the Unit of the defaulting Unit Owner securing payment of the sums expended or advanced, and shall be entitled to enforce such lien by filing suit in a court of competent jurisdiction. In the event the Association is successful in such suit, it shall be entitled to recover reasonable attorney fees and costs incurred in such suit and enforcement of its rights.

(c) **Deed of Trust Protection.** The lien for common expenses payable by a Unit Owner shall be subordinate to the lien of a recorded deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses on its deed of trust. This Subsection (c) shall not be amended, changed, modified or rescinded without the prior written consent of all deed of trust beneficiaries of record.

(d) **Special Assessments**. In addition to the annual assessments for common expenses authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Unit Owners.

(e) **Assessments and Fees Paid to Master Association**. A specified amount of the annual assessment paid by each Unit to the Association shall be paid by the Association to the Master Association to cover the General Assessments levied by the Master Association with respect to the Condominium Property pursuant to Section 9.2 of the Master Declaration. The amount of General Assessments to be paid by the Association to the Master Association shall be included on the annual budget.

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

12. **Separate Real Estate Taxes.** Real estate taxes shall be separately taxed to each Unit Owner for his Unit and its Private Elements and its corresponding interest in the Association, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner by the property assessor, but rather are taxed on the property as a whole, then each Unit Owner shall pay its proportionate share thereof in accordance with such unit owners respective percentage of ownership interest in the Association, and, in said event, such taxes shall be deemed a common expense.

13. **Insurance and Casualty Losses.**

(a) **Insurance.** The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements on the Common Elements. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained, including coverage for vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction of said improvements in the event of damage or destruction from any insured hazard.

In addition to casualty insurance on the Common Elements, the Association shall, as a common expense, obtain and continue in effect adequate blanket all-risk casualty insurance, if reasonably available, and if not reasonably available, fire and extended coverage, in such form as the Board of Directors deems appropriate for one hundred (100%) percent of the replacement cost of the Units, excluding the replacement of any fixtures, cabinets, appliances, flooring, or other improvements installed or supplied by the Owners, or their tenants, or personal property of the Owners, or their tenants, guests, and invitees located within said Units or upon the Units.

The Board shall also obtain a public liability policy covering the Common Elements, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million ($1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Two Million ($2,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand ($500,000.00) Dollar minimum property damage limit.

Premiums for all insurance shall be common expenses of the Association and shall be included in the

Assessment. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be a maintenance expense to be paid by the Person or Persons who would be liable for the loss or repair in the absence of insurance. If the loss affects more than one Unit, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected party's portion of the total cost of repair, or otherwise as the Board determines equitable. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner shall be responsible for paying any deductible pertaining to his or her Unit. If any Owner fails to pay the deductible when required hereunder, then the Association may pay the deductible and assess the cost to the Owner. Notwithstanding anything to the contrary herein, in the event of an insured loss under the Association's policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of any assessment or charge owned to the Association, then the Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in (ii) below. Such insurance shall be governed by the provisions hereinafter set forth:

(i) All policies shall be written with a company licensed to do business in Tennessee which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(ii) All policies shall be for the benefit of the Association and its Members and their Mortgagees, as their interests may appear.

(iii) Exclusive authority to adjust losses under policies obtained by the Association on the Property shall be vested in the Association's 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.

(iv) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(v) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Davidson County, Tennessee, area.

(vi) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(A) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(B) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(C) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewable on account of the actions of any one or more individual Owners;

(D) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(E) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(F) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than three (3) months' assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

(b) **Individual Insurance.** Each Owner may, at such Owner's expense, obtain insurance coverage for loss of or damage to any fixtures, cabinets, appliances, flooring, improvements installed or supplied by the Owners, or their tenants, or personal property of the Owners, or their tenants, guests, and invitees located within said Units, and each Owner shall carry liability insurance covering the Owner's Unit for all damage or injury, including bodily injury, death, and property damage, arising from any condition or occurrence on the Owner's Unit. The Board shall upon request make available for review by Owners a copy of the Association's insurance policies to allow Owners to assess their personal insurance needs. All insurance obtained by the Owner of each Unit shall, whenever such provisions shall be available, provide that the insurer waives its right of subrogation as to any claims against other Owners, the Association or Developer, and their respective servants, agents, employees and guests.

(c) **Damage and Destruction.**

(i) Immediately after damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with filing and adjusting all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Property, with such costs to also include professional fees and premiums for such bonds as the Board determines to be necessary. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(ii) Any damage or destruction to the Common Elements shall be repaired or reconstructed unless the Members representing at least eighty (80%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. Any damage or destruction to the Units shall be promptly repaired or reconstructed unless the Unit Owners representing one hundred (100%) percent of the total vote of the Unit Owners within each building of connected damaged or destroyed Units, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. In the event of substantial damage or destruction, each Mortgagee shall be entitled to written notice of the damage, and nothing in the documents provided shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Unit. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

(iii) In the event that it should be determined in the manner described above that the damage or destruction to the Common Elements shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Property shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

(iv) If, after a fire or other casualty causing damage to the Units, the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the additional costs shall be assessed against the Owners of the Units damaged in proportion to the damage suffered. If there are surplus funds after repair and reconstruction is completed, such funds shall be common funds of the Association to be used as directed by the Board. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Subdivision was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original plans and specifications as approved by the Board. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements to the Units damaged as a result of fire or other casualty.

(v) Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose Unit such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Subdivision was originally constructed. Such encroachment shall be allowed to continue in existence for so long as the reconstructed structure shall stand.

(vi) Notwithstanding any provision in the Declaration or Bylaws to the contrary, if the damage or destruction to the Common Elements is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the

necessity of a vote of the Members, levy a special assessment against all Owners on the same basis as provided for assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

(d) **Disbursement of Proceeds**. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as herein provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Elements shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made to any portion of the Common Elements, any proceeds remaining after making such settlement as is necessary with the Mortgagee(s), shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made to any Unit, any proceeds remaining, after making such settlement as is necessary with the Mortgagee(s), shall be paid to the respective Owner(s).

(e) **Construction Fund**. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair as set forth in this Section to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction designated by the Board.

14. **Maintenance, Access and Easements.**

(a) **Association's Maintenance Responsibility.** Except for any Common Elements which are to be maintained by the Master Association pursuant to the Master Declaration, or any amendment or supplement thereto, or any other recorded document or instrument, the Association shall maintain and keep in good repair the Common Elements, as defined in Section 1(f), with such maintenance to be funded as hereinafter provided, subject to any insurance then in effect. Maintenance may also include such portions of any additional property included within the Subdivision as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association. Except as otherwise specifically provided herein, all costs associated with the maintenance, repair and replacement of Common Elements shall be a common expense to be allocated among all Units as part of the assessment. The Association may maintain property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage, including personal injury or property damage, caused by or stemming from the Association's failure to maintain or repair, or properly maintain or repair, any item for which it has the maintenance and or repair obligation as set forth herein.

(i) In addition to the operation, maintenance, and management duties of the Association set forth in Section 14(a) above, the Association shall provide for the maintenance, care, repair, and replacement of the following portions of the General Common Elements and Limited Common Elements: the exterior landscaping (except such landscaping installed by, or on behalf of, the Unit Owner and such landscaping enclosed by a fence), walkways, porches, located upon or about each Unit, with the exception of elevated decks, and/or balconies. The Association shall have the right, however, to contract with the respective Unit Owner for the maintenance of such elevated decks, balconies, and for the maintenance of such other areas and items as the Board may deem appropriate. The Association also shall maintain the exterior of each Unit as follows:

painting, maintenance, and nonstructural repair of exterior building surfaces as the Board shall deem necessary and proper, including roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, replacement of trim, caulking and other repairs to roof covers (to include the repair and replacement of all non-structural components of the roof of each Unit), and other miscellaneous repairs of a nonstructural nature. Such exterior maintenance shall not include glass surfaces (weather windows or sliding glass doors, storm doors, front or rear entry doors, screens, or patio covers. The balance of the Units and other improvements located on the respective Units shall be maintained by the Owner of the particular Unit involved.

(ii) Notwithstanding the foregoing, if the need for exterior maintenance and repair by the Association as required by this paragraph is caused by the willful or negligent conduct or act an Owner, his/her family, guest, invitees, or other Persons using or occupying his/her Unit with his/her express or implied permission, the cost of such repair or maintenance shall be assessed against such Owner and shall be due and payable thirty (30) days from the date of notice thereof, such assessment to be collected and enforced as provided in this Declaration. Such assessment shall not require the approval of any of the Members; provided, however, that any Owner against which any such assessment is levied shall be entitled to notice, a hearing, and an opportunity to do the corrective work required, prior to an assessment being levied against such Owner in accordance with the provisions of this paragraph. For the sole purpose of performing the exterior maintenance upon each Unit required by this Section, the duly authorized employees or agents of the Association shall have the right, after reasonable notice to the Owner, to enter upon any Unit at reasonable hours of any day except Sunday.

(b) **Owner's Maintenance Responsibility.** In accordance with this Declaration, all maintenance of the Private Elements and interior portions of the Unit, all structural components of the Unit, entry doors, doorways and doorsteps, windows, window casings, glass, decks, balconies, patios, utility boxes, and other improvements not maintained by the Association, including, but not limited to, fencing, driveways, garages, garage doors, air conditioning units, as well as any landscaping, planting beds, bushes and trees installed or planted by or on behalf of a Unit Owner, shall be the sole responsibility of the Owner thereof. If the Board determines that any Owner has failed or refused to properly maintain and keep in good repair and free of debris and rubbish, the Owner's Unit, and otherwise generally perform his or her maintenance responsibility, then the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. Unless the Board determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days and diligently pursue such maintenance or repair to completion. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided, then the Association may perform it and assess all costs incurred by the Association against the Unit and the Owner thereof, which assessment shall be a lien against said Unit and Owner, in accordance with this Declaration. If, during the course of performing the maintenance of an Owner's Unit, the Association discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at Owner's expense without prior notice to the Owner. Any costs, including attorneys' fees and other costs of

collection, associated with work performed on behalf of an Owner by the Association shall attach as a lien to such Owner's Unit if not reimbursed in a timely manner upon notification by the Association. The Board may alternatively enforce this Section through monetary fines against the Owner or Unit and each day the maintenance, repair, or replacement is not completed shall constitute a separate violation for which fines may be assessed on a daily basis.

(c) **Access and Easements.** A joint and mutual easement hereby exists for any installation, maintenance, repair and replacement of any and all pipes, wires, conduits, or other utility lines running through or around any Unit's Private Elements or Limited Common Elements, if applicable. An easement exists for ingress and egress and maintenance in favor of any public utility providing utility services to the Units and to each Unit Owner if necessary to maintain their Unit by accessing the other unit's Private Elements or Limited Common Elements. Reasonable notice to access the adjoining Unit's Private Elements or Limited Common Elements shall be given to the affected Unit Owner unless access is required due to emergency circumstances.

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

15. **Alterations, Additions or Improvements and Architectural Control.** No alteration of any General Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize alterations, additions and improvements of the General Common Elements, if any, as provided in the By-Laws. Any Unit Owner may make alterations, additions or improvements within his Unit, Private Elements and Limited Common Elements without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the General Common Elements, if any, Limited Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

16. **Decorating.** Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating and maintenance pertaining to his Unit and the Private and Limited Common Elements serving his Unit, as may be required from time to time.

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

18. **Use and Occupancy Restrictions.** Subject to the provisions of the By-Laws, no part of the Property may be used for purposes other than housing and the related common purposes for which the property was designed and as allowed by zoning laws. Each Unit shall be used as a residence or such other use permitted by this Declaration, and for no other purpose, except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. No Unit may be offered by its Owner to the public at large for temporary

transient accommodations; however, nothing in this Section shall prohibit Unit Owners from leasing their Units to others to be used as a residence. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from: (a) maintaining his personal professional library; (b) keeping his personal business or profession records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions.
The General Common Elements, if applicable, shall be used only by Unit Owners and their agents, servants, tenants, family members, customers, invitees, and licensees for access, ingress to, and egress from the respective Units and for such other purposes incidental to use of the Units. The use, maintenance and operation of the General Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner.

19. **Remedies.** In the event of any violation of the provisions of the Act, this Declaration, By-Laws, or rules and regulations of the Association by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit), the Association, or its successors or assigns, shall have each and all of the rights and remedies which may be provided for in the Act, this Declaration, By-Laws, or said rules and regulations, .or which may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and to sell the same as provided hereinafter in this Paragraph No. 19, or for any combination of remedies, or for any other relief. All expenses in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of Fifteen percent (15%) per annum or such other uniform lawful rate as the Board shall determine, until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Board or Paying Unit Owner shall have a lien for all of the same, as well as for nonpayment of common expenses, upon the Unit, and its appurtenant interest in the Common Elements of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property; provided, however, that. such lien shall be subordinate to the lien of a recorded first mortgage or deed of trust on the Unit, to the extent herein able set forth in Paragraph No. 10 (b) hereof. In the event of any such default by a Unit Owner, the Board and/or Paying Unit Owner, shall have the authority to correct such default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. This Paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of mortgage and deed of trust liens against the Units.

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

If any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate the Act, or any of the covenants or restrictions or provisions of this Declaration, the By-Laws, or the regulations adopted by the Board, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board or Paying Unit Owner, or shall occur repeatedly during any ten (I 0) day period after such written notice or request to cure such violation from the Board, then the Board shall have the power to issue to said defaulting Owner a notice in writing terminating the rights of said defaulting Owner to continue as a Unit Owner and to continue to occupy, use, or control his Unit, and thereupon an action in equity may be filed by the Board against said defaulting Owner for a decree of mandatory injunction against such defaulting Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Owner's right to occupy, use, or control the Unit owned by him on account of said violation, and ordering that all the right, title and interest of said defaulting Owner in the Property shall be sold (subject to the lien of any existing deed of trust or mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees, and all other expenses of the proceeding and sale, and all such items shall be taxes against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder, or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration.

20. **Amendments.**

(a) **Amendments Annexing Additional Phases**. N/A

(b) **Other Amendments**. The provisions of this Declaration may be amended by an instrument in writing, setting forth such amendment, signed by sixty-seven (67%) percent of the Unit Owners; provided, however, that all lien holders of record have been notified by certified mail of such amendment, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument. However, if the Act, this Declaration or the By-Laws require the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration, then any instrument amending any provision of this Declaration with respect to such action shall be signed by all Unit Owners and/or all lien holders or both as required by the Act or this Declaration. Any amendment shall be effective upon the recording of such instrument in the Office of the Register of Davidson County, Tennessee; provided, however, that no provisions in this Declaration may be amended so as to conflict with the provisions of the Act. Notwithstanding the above, the Developer shall have the right to make and record any necessary amendment to this instrument for the express purpose of completion of development or correction of clerical errors, or as may be required to obtain FHA, VA, FNMA and/or FHLMC approval for the horizontal property regime. Additionally, so long as the Developer maintains weighted voting rights under Class B membership in the Association, the Developer shall have the right and authority to reconfigure the layout, floor plan or other aspects of any Units or the location of any Units as determined by the Developer.

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

22. **Rights and Obligations.** Each Grantee of Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens, and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration. All future Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. Any restrictions or rules in the By-Laws which are more than administrative in nature such .as, but not limited to, reservations and future rights of Developer are hereby incorporated into and made a part of this Declaration by reference. All rights, benefits and privileges hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of su.ch grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance. All present and future Unit Owners and .Occupants of a Unit shall be subject to, and shall comply with the provisions of the By-Laws appended hereto and recorded herewith, pursuant to Tennessee Code Annotated, Section 66-27-111, as they may be amended from time to time. The acceptance of a deed of conveyance, devise, or lease to a Unit, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the By-Laws, and any Rules and Regulations promulgated thereunder, as they may be amended from time to time, are assumed, accepted and ratified by such Unit Owner or Occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

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

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

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

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

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

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

or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless both members of the Association have agreed to such dedication, transfer, purpose, or condition;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27. **Notices.** Notices provided for in the Act, Declaration or By-Laws shall be in writing and shall be addressed to the Association, at 6901 Lenox Village Drive, Suite 107, Nashville, Tennessee, 37211 or at such other address as hereinafter provided. The Association may designate a different address or addresses for notices to it by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgement of the receipt thereof.

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

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

29. **Party Walls.** N/A

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

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

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

33. **Conflicts.** To the extent that any provision of this Declaration conflicts with the provisions of the Act, the Master Declaration, the Bylaws, or the Charter, all as amended and supplemented from time to time, the provisions of the Act, the Master Declaration, this Declaration, the Bylaws, and the Charter in that order, shall control.

**[SIGNATURE PAGES TO FOLLOW]**

IN WITNESS WHEREOF, the undersigned has executed this Declaration this 29th day of September, 2017.

DEVELOPER:
Regent Homes, LLC, a Tennessee Limited Liability Company

By:_____
David C. McGowan, Jr., Chief Manager

**STATE OF TENNESSE )**
**COUNTY OF DAVIDSON )**

Before me, the undersigned, a Notary Public in and for State and County aforesaid, personally appeared David C. McGowan, Jr., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Chief Manager of Regent Homes, LLC, a Tennessee limited liability company, the within named bargainor, and that he, as Chief Manager of the company, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Chief Manager.

Witness my hand, at office in Nashville, Tennessee, on ~~August~~ September 29th, 2017.

_____
NOTARY PUBLIC

My Commission Expires: July 2, 2018

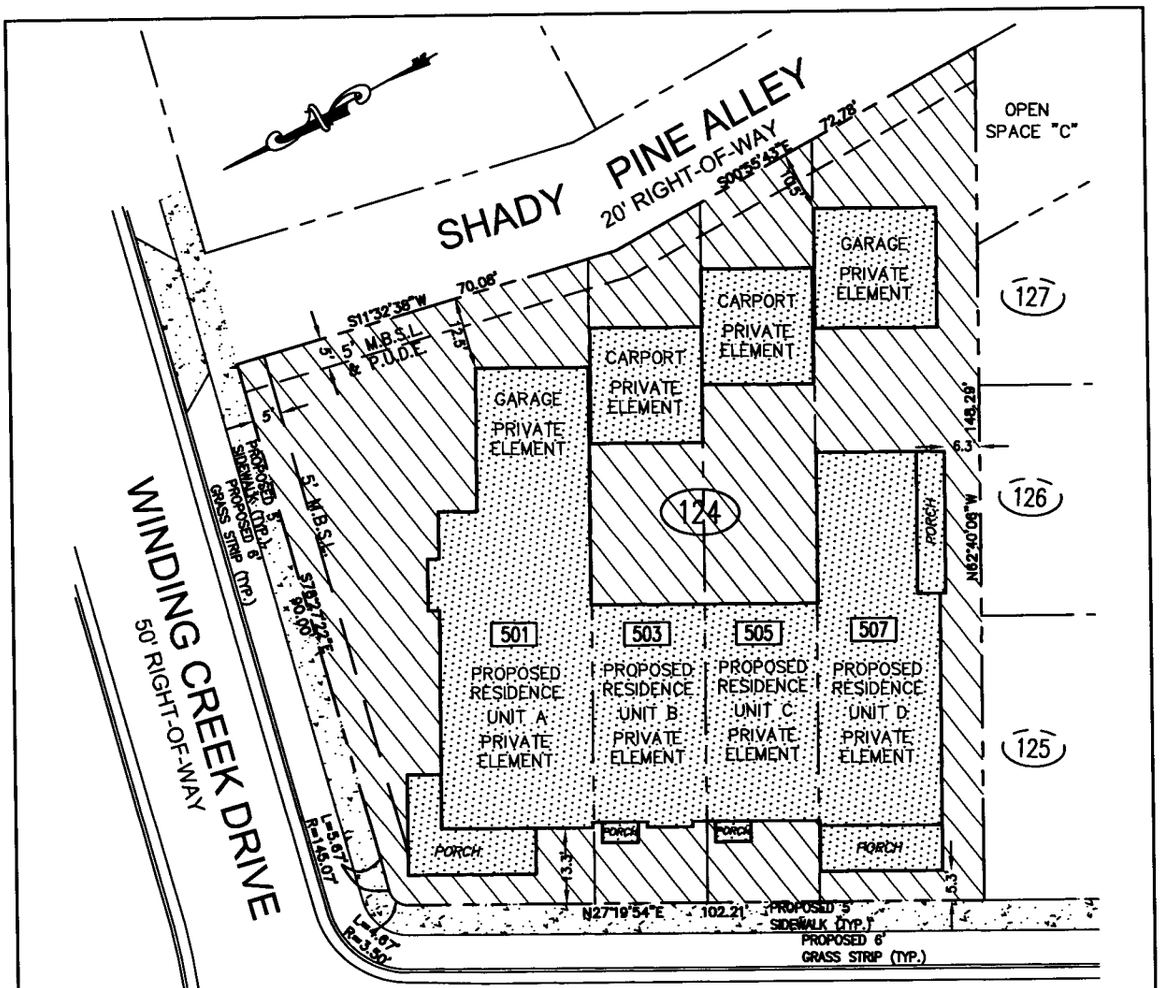
RESHEA JONES NOTARY PUBLIC EXPIRES TENNESSEE JULY 2, 2018 DAVIDSON CO., TN

**EXHIBIT "A"**
**(Legal Description)**

Land in Davidson County, Tennessee, being Lot No. 124, as shown on the map entitled Carothers Crossing, Phase 3, Section 1, of record in Instrument No. 20170523-0051054, Register's Office for Davidson County, Tennessee, to which plan reference is hereby made for a more complete and accurate legal description.

Being the same property conveyed to Regent Homes, LLC, a Tennessee limited liability company by Deed from WM SUB CC, LLC, a Tennessee limited liability company, of record in Instrument No. 20170728-0076801, Register's Office for Davidson County, Tennessee.

**EXHIBIT "B"**
**Site Plan**




## LEGEND

= PRIVATE ELEMENTS

= LIMITED COMMON ELEMENTS

## SITE PLAN

OWNER: REGENT HOMES
ADDRESS: 501, 503, 505, & 507 PLEASANT STREET
CITY: NOLENSVILLE, DAVIDSON COUNTY, TENNESSEE
LOT # 124 SUBD. CAROTHERS CROSSING PH 3 SEC 1
MAP: 188-10-C PARCEL: 124 PLAN: 33.00'X88.33'RE
PLAN: 20.00'X41.67'RE
PLAN: 20.00'X41.67'RE
PLAN: 21.83'X73.33'RE
RECORD: PL-20140523-0044819 R.O.D.C., TN
SCALE: 1"=20' DATE: SEPTEMBER 21, 2017

**SETBACKS**
(URBAN CODE=NC)
FRONT: MIN=0', MAX=10'
SIDE: MIN=0', MAX=5'
REAR: 5'

| | |
|---|---|
| SHEET 1 OF 1 | TITLE: SITE PLAN / HORIZONTAL PROPERTY REGIME |
| JOB: 2017-0358 | **REGENT HOMES, LLC** |
| DATE: 9-21-2017 | **LOT 124** |
| CKD. BY: MWH | **501, 503, 505, & 507 PLEASANT STREET** |
| BY: MAF | **NOLENSVILLE, DAVIDSON COUNTY, TENNESSEE** |

H & H LAND SURVEYING, INC.
612 A FITZHUGH BLVD.
SMYRNA, TENNESSEE 37167
PHONE: (615) 831-0756

**EXHIBIT "C"**

BY-LAWS OF

124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC.

ARTICLE I

Members (Unit Owners)

Section 1. Eligibility. The members of 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC., a Tennessee not-for-profit corporation, shall consist of the Unit Owners of the property known as 124 CAROTHERS CROSSING TOWNHOMES located at Nashville, Davidson County, Tennessee (the "property"). If a Unit Owner is a trust, then the member shall be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, the member may be an officer, partner or employee of such Unit Owner or beneficiary.

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

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

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

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

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

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

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

ARTICLE II

Board of Directors

Section 1. Number, Election and Term of Office. The Board of Directors of the Association (referred to in the Horizontal Property Act of the State of Tennessee as the "board of administrators" and sometimes referred to herein as the "Board") shall consist of two (2) members (hereinafter referred to as "Directors").

Section 2. Qualification. The Directors shall consist of each Unit Owner or spouse of each Unit Owner. Should any Unit Owner Director transfer title to his or her Unit, the respective successor Unit Owner shall assume the transferor's position as Director. If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

Section 3. Vacancies. Any vacancy occurring in the board shall be filled by majority vote of the remaining members thereof. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director whom he succeeds.

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

Section 5. Removal. Any non-Unit Owner Director may be removed from office with or without cause by the vote of a majority of the Unit Owners.

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

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

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

a) To elect and remove the officers of the Association;

b) To administer the affairs of the Association and the property;

c) To engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer, and operate the property or any part thereof for all Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve;

d) To formulate policies for the administration, management and operation of the property and the Common Elements;

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE III

## Officers

Section 1. Designation. At each regular annual meeting of the Board, the Directors present at such meeting

shall elect the following officers of the Association by a majority vote:

a) A President, who shall be a Director, who shall preside over meetings of the Board and of Unit Owners, and who shall be the chief executive officer of the Association;

b) A Secretary/Treasurer, who shall keep the minutes of all meetings of the Board and of Unit Owners, financial records, and who shall, in general, perform all the duties incident to the office of Secretary/Treasurer;

c) Such additional officers as the Board shall see fit to elect.

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

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

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of said Board. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by vote of two-thirds (2/3) of the total membership of the Board at a special meeting thereof.

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

## ARTICLE IV

## Assessments

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

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

If any Unit Owner shall fail or refuse to make any such payment when due, such delinquent payment shall be subject to a late charge in an amount established by the Board, and such delinquent payment shall also bear interest at the highest permissible rate of interest allowed in the State of Tennessee. Such delinquent payment, together with penalty and interest, shall constitute a lien, as provided in the Act and Declaration, enforceable by the Board and/or Paying Unit Owner, on the interest of such Unit Owner in the property. The Association, acting through the Board or its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with legal interest and reasonable attorney's fees to be fixed by the court. Furthermore, if any Unit Owner shall fail or refuse to pay when due his proportionate share of the expenses, the Association, acting through its Board, shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Horizontal Property Act, the Declaration, or these By-Laws, or as are otherwise available

at law or in equity, for the collection of all unpaid assessments.

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

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

## ARTICLEV

## Use and Occupancy Restrictions

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

Each Unit Owner shall maintain such Owner's Unit in good condition and in good order and repair, at such Owner's expense, and shall not do or allow anything to be done in such Owners Unit which may increase the cost or cause the cancellation of any insurance on the General Common Elements. No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry, or other articles outside such Owner's Unit, or which may be visible from the outside of such Owner's Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of such Owner's Unit, or install outside such Owner's Unit any canopy or awning, or outside radio or television antenna, or Citizens Band radio transmitters, neon signs, or other equipment, fixtures or items of any kind unless the same shall be in keeping with the quality of the units as originally constructed. The foregoing restrictions as to use and occupancy shall not be construed to prohibit a Unit Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a patio or deck which is a Private Element No owner of a Unit shall display, hang, store or use any signs or flags outside such Owner's Unit or which may be visible from the outside of such Owner's Unit (except for special events or sports flags for no longer than 48 hours at a time) without the prior written permission of the Board of the written permission of the Managing Agent, acting in accord with the Board's discretion. So long as Developer owns any Units, the Developer shall not require Board approval for signage it deems necessary for the marketing of the project.

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

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

All dogs owned by Unit Owners and kept in a Unit shall be on leash or within the fenced area of a Unit's Limited Common Elements while outside the Unit. All such dogs shall be exercised by the Owner at places

on the Property which do not interfere with the use and enjoyment of the same by other Owners. An Owner shall be responsible for all damage to the General Common Areas caused by said Owner's dog and the Owner shall clean up after such Owner's dog.

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

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

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

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

Section 7. Architectural Control. N/A

Section 8. Patios. All patios and decks shall be maintained by the owner to which area is assigned and shall be designated as a Private Element.

Section 9. Landscaping. Landscaping shall be maintained by the applicable Unit Owner and shall be weeded and mulched as necessary in order to maintain appropriate curb appeal for this type of development.

Section 10. Fencing. Except as to fencing already installed at the time of recording of these bylaws, no chain link fencing shall be allowed. Any fencing installed shall be in keeping with the quality of the Units as originally constructed.

Section 11. Parking. Parking shall be in the areas so designated to each Unit as prescribed herein and subject to rules and regulations of the Board.

Section 12. Rules and Regulations. Unit Owners shall be subject to such further restrictions as may be contained rules and regulations of the Association concerning the use of Units and the Common Elements which may be enacted from time to time by the Board. Such rules and regulations shall be binding rules and regulations of the Association and copies of such rules and regulations and any amendments or additions thereto shall be furnished to all Unit Owners upon request.

## ARTICLE VI

### Contractual Powers

No contract or other transaction between this Association and one (1) or more of its Directors, or between

the Association and any corporation, firm or association in which one (I) or more of the Directors of the Association are Directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

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

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

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

## ARTICLE VII

## Amendments

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

## ARTICLEVIII

## Indemnification

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

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

reasonable incurred by him in connection therewith.

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

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

## ARTICLE IX

## Mortgages

Section 1. Notice to Board. A Unit Owner who mortgages his Unit shall notify the Board of the name and address of his mortgagee and shall file a conformed copy of the note and deed of trust or mortgage with the Board; and the Board shall maintain such information in a book entitled "Mortgages of Units".

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

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

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

Section 5. Interest of Valid First Mortgagee. The interest of valid first mortgagee shall be superior to the interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first mortgagee has incorporated the terms of these By-Laws, the Declaration and the

contract in its deed of trust, then said first mortgagee may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust notwithstanding any enforcement instituted by the Board.

## ARTICLEX

### Definition of Terms

The terms used in these By-Laws, to the extent they are defined therein, shall have the same meaning as set forth in the Declaration for 124 CAROTHERS CROSSING TOWNHOMES, of record in the Office of the Register of Deeds for Davidson County, Tennessee.

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

## ARTICLE XI
### Conflicts

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

SIGNATURE PAGE TO FOLLOW

The foregoing Bylaws are hereby adopted as the Bylaws of 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION, INC. by the undersigned as of this the 29th day of September, 2017.

David C McGowan Jr., PRESIDENT

**EXHIBIT "D"**

ATTORNEY'S CERTIFICATE
124 CAROTHERS CROSSING TOWNHOMES

A HORIZONTAL PROPERTY REGIME
WITH PRIVATE ELEMENTS

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

1) The Declaration of Covenants, Conditions and Restrictions for 124 CAROTHERS CROSSING TOWNHOMES, a Horizontal Property Regime with Private Elements.

2) By-Laws of 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC. (a not-for-profit corporation).

3) The plat for 124 CAROTHERS CROSSING TOWNHOMES, a Horizontal Property Regime, which plat shows private elements.

4) The Charter of 124 CAROTHERS CROSSING TOWNHOMES HOMEOWNERS ASSOCIATION INC. (a not-for-profit corporation).

Witness my hand this 24th day of September, 2017.

THE ORTALE KELLEY LAW FIRM

Patrick H. Poole, Attorney

**EXHIBIT "E"**

CHARTER
124 CAROTHERS CROSSING TOWNHOMES ASSOCIATION, INC.

**Tre Hargett**
Secretary of State

**Division of Business Services**
**Department of State**
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102

124 CAROTHERS CROSSING TOWNHOMES ASSOCIATION, INC.
6901 LENOX VILLAGE DR UNIT 107
NASHVILLE, TN 37211-7199

September 26, 2017

## Filing Acknowledgment

Please review the filing information below and notify our office immediately of any discrepancies.

| | | | |
|---|---|---|---|
| **SOS Control # :** | **000924903** | Formation Locale: | TENNESSEE |
| Filing Type: | Nonprofit Corporation - Domestic | Date Formed: | 09/26/2017 |
| Filing Date: | 09/26/2017 3:37 PM | Fiscal Year Close: | 12 |
| Status: | Active | Annual Report Due: | 04/01/2018 |
| Duration Term: | Perpetual | Image # : | B0413-9342 |
| Public/Mutual Benefit: | Mutual | | |
| Business County: | DAVIDSON COUNTY | | |

**Document Receipt**

| | | |
|---|---|---|
| Receipt # : 003592913 | Filing Fee: | $100.00 |
| Payment-Check/MO - ORTALE, KELLEY, HERBERT & CRAWFORD, NASHVILLE, TN | | $100.00 |

**Registered Agent Address:**
DAVID C. MCGOWAN, JR.
7287 CAROTHERS RD
NOLENSVILLE, TN 37135-9300

**Principal Address:**
6901 LENOX VILLAGE DR UNIT 107
NASHVILLE, TN 37211-7199

Congratulations on the successful filing of your **Charter** for **124 CAROTHERS CROSSING TOWNHOMES ASSOCIATION, INC.** in the State of Tennessee which is effective on the date shown above. You must also file this document in the office of the Register of Deeds in the county where the entity has its principal office if such principal office is in Tennessee. Please visit the Tennessee Department of Revenue website (apps.tn.gov/bizreg) to determine your online tax registration requirements. If you need to obtain a Certificate of Existence for this entity, you can request, pay for, and receive it from our website.

You must file an Annual Report with this office on or before the Annual Report Due Date noted above and maintain a Registered Office and Registered Agent. Failure to do so will subject the business to Administrative Dissolution/Revocation.

Tre Hargett
Secretary of State

Processed By: Tammy Morris

FILED

BB413-03442 09/20/2017 3:37 PM Received by Tennessee Secretary of State Fee Exempt

# CHARTER

# OF

# 124 CAROTHERS CROSSING TOWNHOMES ASSOCIATION, INC.

The undersigned natural person, having capacity to contract and acting as the incorporator of a corporation under the Tennessee Nonprofit Corporation Act, adopts the following Charter for such corporation:

1. The name of the corporation is 124 CAROTHERS CROSSING TOWNHOMES ASSOCIATION, INC., a Tennessee nonprofit corporation.

2. The name of the initial registered agent of the corporation is DAVID C. MCGOWAN, JR..

3. The address of the initial registered office of the corporation shall be 7287 Carothers Road, Nolensville, TN 37135.

4. The address of the principal office of the corporation in the State of Tennessee shall be 6901 Lenox Village Drive, Suite 107, Nashville, TN 37211.

5. The name and address of the incorporator is Patrick H. Poole, Esq., Ortale Kelley, P.O. Box 198985, 330 Commerce Street, Suite 110, Nashville, Tennessee 37201.

6. The corporation is a mutual benefit corporation.

7. The corporation is not for profit.

8. This corporation is organized for the purpose of providing for the ownership, operation, maintenance, preservation, development, and control of all property known as 124 CAROTHERS CROSSING TOWNHOMES as established by a Declaration of Covenants, Conditions and Restrictions and Bylaws for the benefit and use of the owners and residents of the Units indicated thereon and in pursuit thereof to:

a. Acquire, by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in accordance with the law and in connection with the purposes of this corporation;

b. Fix, levy, collect and enforce payment by any lawful means of all charges and assessments levied or assessed against members of the corporation and to pay all expenses incident to the conduct of the business of the corporation including all licenses, taxes, or other charges levied against the property of the corporation;

c. Borrow money and mortgage, pledge, or deed in trust any or all of its real or personal property as security for money borrowed for debts incurred;

d. Contract or otherwise provide for necessary or desired maintenance, or improvement, repair, restoration or alteration of its real and personal property, and to purchase, if necessary, equipment, and employ personnel to achieve these purposes;

e. Represent and promote the welfare of the owners and residents of the Units located within 124 CAROTHERS CROSSING TOWNHOMES and to have and exercise any and all rights, powers, and privileges which a corporation not for profit organized under the Tennessee General Corporation Act may now or hereafter have or exercise; and

f. Generally engage in any other lawful endeavor or activity in furtherance of the foregoing, so long as such endeavor or activity does not prevent the corporation from being, or maintaining its status as, a homeowners association as defined by Section 528(c)(1) of the Internal Revenue Code of 1986 or corresponding section of any future income tax code.



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20161130-0034A 08/20/2017 3:37 PM Received by Tennessee Secretary of State The Harpeth

9. This corporation is to have members. Every person or entity who is a record owner of a fee interest in any Unit located within 124 CAROTHERS CROSSING TOWNHOMES shall be a member of the corporation. Nothing herein is intended to include persons or entities holding any interest intended merely as security for the performance of an obligation. Ownership of a Unit shall be the sole qualification for members, and a membership shall not be transferable other than as it is appurtenant to ownership of a Unit. When more than one (1) person holds an interest in a Unit, only one (1) certificate of membership shall issue and the rights and privileges accruing to such membership shall be assigned among the owners as they may agree.

10. To the extent allowed by the laws of the State of Tennessee, no present or future directors of the corporation (or his or her estate, heirs and personal representatives) shall be liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director shall be further eliminated to the fullest extent allowed by the laws of the State of Tennessee, as may hereafter be adopted or amended.

11. With respect to claims or liabilities arising out of service as a director or officer of the corporation, the corporation shall indemnify and advance expenses to each present and future director and officer to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

12. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its directors, officers, members or other private individuals or persons, except that the corporation shall be authorized and empowered to (a) pay reasonable compensation for goods and services rendered, (b) rebate excess

membership dues, fees or assessments, and (c) make payments in furtherance of the purposes set forth herein.

13. Upon dissolution, after all creditors of the corporation have been paid any excess membership dues, fees or assessments have been rebated, its assets shall be distributed to the then current Unit Owners.

14. This Charter may be amended upon the approval of at least three-fourths (3/4) vote of eligible Unit Owners, however, this Charter may be amended unilaterally: (1) by the incorporator up to the date the last Unit is conveyed to an owner other than Declarant or builders holding title solely for purposes of development and sale; or (2) by the Board of Directors at any time as permitted under Tenn. Code Ann. §§ 48-51-101 *et seq.*

**DATED** this 26 day of September, 2017.

Patrick H. Poole, Incorporator
Ortale Kelley
P.O. Box 198985
330 Commerce St. Suite 110
Nashville, Tennessee 37201
Phone: (615) 256-9999
Fax: (615) 726-1494



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