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

**(THIS IS A PLANNED UNIT DEVELOPMENT PURSUANT TO TENNESSEE CODE ANNOTATED § 66-27-103(b))**

**THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TRINITY HEIGHTS TOWNHOMES, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS**, is made and entered into by **106 DUKE STREET, LLC, a Tennessee limited liability company, effective as of September 7, 2018** (the "Effective Date").

## W I T N E S S E T H:

**WHEREAS**, Developer (as hereinafter defined) is the owner of certain real property located in Davidson County, Tennessee, and described on Exhibit A, attached hereto and incorporated herein by reference (the "Parcel"); and

**WHEREAS**, Developer intends to and does hereby submit the Parcel, together with all buildings, structures, improvements, and other permanent fixtures of any kind thereon, and all rights and privileges belonging or in any way pertaining thereto (collectively, the "Property"), to the provisions of the Tennessee Horizontal Property Act, Tennessee Code Annotated § 66-27-101 et seq., for the express purpose of establishing thereon a horizontal property regime with private elements; and

**WHEREAS**, Developer further desires to establish said horizontal property regime with private elements for Developer's own benefit and for the mutual benefit of all future owners or occupants of the Property or any part thereof and intends that all future owners, occupants, mortgagees, and any other persons hereinafter acquiring any interest in the Property shall hold such interest subject to certain rights, easements, and privileges in, over, and upon the Property and to certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance thereof as hereinafter set forth, all of which are declared to be in

furtherance of a plan to promote and protect the cooperative aspects of residence on the Property and are established for the purpose of enhancing the value, desirability, and attractiveness of the Property.

**NOW, THEREFORE**, 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 § 66-27-101, et seq.

(b) "Association" means Trinity Heights Townhouse Corporation, a Tennessee not-for-profit corporation, which is a "Townhouse Corporation" as defined in Tennessee Code Annotated § 66-27-102(a)(15).

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

(d) "Building(s)" means the building(s) located on the Parcel and forming part of the Property and containing the Units. The location of the "Buildings" are and shall be delineated on the Plat.

(e) "Bylaws" means the Bylaws of the Association attached hereto as Exhibit C and incorporated herein by reference, as amended from time to time. For purposes of the Act, all provisions contained in this Declaration dealing with the administration and maintenance of the Property shall be deemed to be a part of the Bylaws.

(f) "Common Elements" means all of the Property except for the Units which is now or hereafter owned by the Association. The Common Elements are all areas included in the Parcel that are not a part of the Units or Private Elements shown on the Plat and shall be held by the Association for the common use and enjoyment of all Unit Owners, subject to the terms and conditions hereof. The Common Elements shall include, but shall not be limited to, lawns, roadways, parking areas, drainage structures and facilities, ponds, waterways, fences, mailboxes, sidewalks, signs, lights, utilities, and other improvements. The Common Elements are transferred and conveyed to and vested in the Association. "Common Elements," as used herein, shall also mean "General Common Elements" as set forth in the Act.

(g) "Declaration" means this Declaration, as amended from time to time.

(h) "Developer" means 106 Duke Street, LLC, a Tennessee limited liability company, its successors and assigns, provided that such successors or assigns are designated in writing by such trustee as successors or assigns of trustee's rights hereunder.

(i) "Development Period" means the period of time commencing on the date of the recording of this Declaration and ending on the day that is the earlier to occur of (a) the day that is six (6) months after the date on which at least eighty-seven and one-half percent (87.5%) of the Units have been conveyed to the initial purchasers thereof by Developer, (b) the

day that is three (3) years after the first conveyance of a Unit to the initial purchaser thereof by Developer, or (c) any day prior to the days specified in clauses (a) or (b) of this sentence on which Developer in Developer's sole discretion elects to terminate the Development Period by calling the First Annual Meeting (as defined in the Bylaws).

(j) "Eligible Mortgagee" means any holder of a first deed of trust or mortgage encumbering a Unit who has submitted to the Association a written request to notify such holder of any proposed action requiring the consent of a specified percentage of all such holders who have submitted such a request and who has received from the Association a written acknowledgment of receipt of the request.

(k) "Limited Common Elements" means all Common Elements exclusively serving only a single Unit or adjoining Units as an inseparable appurtenance thereto, the enjoyment, benefit, or use of which is reserved to the lawful Occupants of such Unit(s) either in this Declaration, on the Plat, or by the Board or by later decision of all Unit Owners.

(l) "Majority" or "majority of the Unit Owners" means the owners of more than fifty percent (50.0%) of the voting rights of the Unit Owners. For purposes of applying this definition at any time, Developer shall be deemed to be a Unit Owner, not only with respect to completed Units owned by Developer at such time, but also with respect to any incomplete or unconstructed Units owned by Developer.

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

(n) "Parcel" means the parcel(s) or tract(s) of real estate described on Exhibit A attached to this Declaration.

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

(p) "Plat" means the map or drawing of the Parcel submitted pursuant to the provisions of the Act showing the number of each Unit and setting forth its area, location, and other data necessary for identification, including, but not limited to, the area of the Private Elements upon which the Unit is located. The Plat is attached hereto as Exhibit B and is incorporated herein by reference.

(q) "Private Elements" means the lot area upon which a 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.

(r) "Property" means all of the land and space comprising the Parcel and all improvements and structures thereon, including, but not limited to, 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 the 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) "Unit" means 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 or hereafter located thereon. The Units are identified by number or letter on the Plat and may be held and conveyed by reference to such number. Conveyance of a Unit shall automatically convey the undivided membership of each Unit Owner in the Association. Each Unit is numbered or lettered as shown on the Plat. Any Unit may be jointly or commonly owned in any estate recognized under applicable law. The term "Unit," as used in this Declaration, shall have the same meaning as the term "Apartment," as used in the Act, except that ownership shall include Private Elements as part of a planned unit development.

(u) "Unit Owner" means the Person(s) whose estates or interests, individually or collectively, comprise and aggregate fee simple ownership of a Unit and shall be deemed the same as a "co-owner" under the Act. Unless specifically provided otherwise herein, Developer shall be deemed a Unit Owner so long as Developer is the title holder of any Unit.

**2. Submission of Property to the Act.** Developer, by recording this Declaration, does hereby (a) submit and subject the Parcel and the Property to the provisions of the Act and (b) establishes a horizontal property regime with private elements as authorized and described in the Act.

**3. Plat.** The Plat sets forth the numbers, areas, locations, 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 such Unit 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 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, partition, or in any other manner cause such Unit Owner's Unit to be separated or divided into any tracts or parcels different from the whole Unit as shown on the Plat.

**5. Association of Unit Owners and Administration and Operation of the Property.**

(a) Association. There has been or will be formed an Association having the name of Trinity Heights Townhouse Corporation, a Tennessee not-for-profit corporation, which Association shall be the governing body for all of the Unit Owners and shall be operated to provide for the maintenance, repair, replacement, administration, operation, and care of the Property other than the Units, the Private Elements, and the Limited Common Elements, as provided in the Act, this Declaration, and the Bylaws. The Unit Owners shall be members of the Association, with each Unit holding an undivided membership interest in the Association which

shall be appurtenant to such Unit, each such membership interest appurtenant to a Unit being in an equal share, subject to the provisions concerning voting hereinafter set forth. The Bylaws for the Association shall be the Bylaws attached to this Declaration as Exhibit C, which are incorporated herein by reference. The Board of the Association shall be elected and shall serve in accordance with the provisions of the Bylaws. 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 use and benefit of Unit Owners in accordance with the provisions of this Declaration and the Bylaws. Each Unit Owner shall be a member of the Association so long as such Unit Owner is a Unit Owner. A Unit Owner's membership shall automatically terminate when such Unit Owner 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 automatically 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 as set forth herein.

(b) Voting; Classes of Membership. Class A Members shall be all Unit Owners 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 members. The vote for such Unit shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Unit. The Class B Member shall be Developer, who shall be entitled to ten (10) votes for each Unit owned. The Class B membership shall cease upon the sale of all Units to owner-occupants.

(c) Management of Property. Developer or, upon election and appointment, the Board shall have the authority, but shall not be required, 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 Developer or the Board. Developer or the Board may require that such Managing Agent have fidelity bond coverage on its employees handling Association funds. The cost of such services shall be a Common Expense.

(d) Use by Developer. During the period of sale by Developer, Developer and Developer's agents, employees, contractors, and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to, and egress from the Buildings and Property as may be required for purposes of sale of the Units. Developer and its employees may maintain customary signs in connection therewith and may use Units as a sales office or as model units.

(e) Non-Liability of Developer and the Board and Officers. Developer and the Board and the officers of the Association shall not be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever in their capacities as directors or officers or during any period of Developer control, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Unit Owners and the Association shall indemnify and hold harmless Developer and each of the directors on the Board or the officers and their respective heirs, executors, administrators, successors, and assigns in accordance with the Charter of the Association and the Bylaws.

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 the Bylaws, the determination thereof by the Board shall be final and binding on each and all such Unit Owners.

7. **Ownership and Use of the Common Elements; Parking on Common Elements.** Ownership of the Common Elements shall be and hereby is transferred and conveyed to and vested in the Association. Except as hereinafter set forth, each Unit Owner shall have the right to use the Common Elements (except the Private Elements and Limited Common Elements) in common with any other Unit Owners as may be required for the purposes of access, ingress to, egress from, use, occupancy, and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to each Unit Owner and such Unit Owner's agents, guests, tenants, family members, customers, invitees, and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Private Elements and Limited Common Elements attributable to such Unit Owner's Unit. Such rights to use the Common Elements shall be subject to and governed by the provisions of the Act, this Declaration, the Bylaws, and any rules and regulations established by the Association. All vehicles must be parked in designated parking areas at all times while on the Property. No vehicles may be parked in driveway areas at any time. Parking may also be subject to such further rules and regulations as the Board may implement from time to time.

8. **Common Expenses.**

(a) Common Elements. Each Unit Owner, except Developer, shall pay an equal share of any expenses of the administration, operation, maintenance, replacement, restoration, and repair of the Common Elements and any additions or replacements thereof (but not of/to the Private Elements or Limited Common Elements) and of any other expenses, including, but not limited to, insurance premiums and appropriate working capital funds and reserves, incurred in accordance with this Declaration and the Bylaws (which expenses are herein sometimes referred to herein as a "Common Expense" or "Common Expenses"). 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, except Developer, 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 Unit Owner's Unit. If any Unit Owner, except Developer, shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof, together with interest thereon at the maximum rate then allowed by applicable law after said Common Expenses become due and payable, as well as all attorneys' fees and costs of collection, shall constitute a lien on the interest of such Unit Owner in such Unit Owner's Unit as provided in the Act. The sale or conveyance of a Unit shall in all cases be subject to all unpaid assessments against the Unit Owner thereof for such Unit Owner's proportionate share of the Common Expenses, and, if the same are not paid by the Unit Owner prior to any sale or conveyance, such assessments shall be a lien against the Unit and shall be payable by the new Unit Owner. Likewise, all taxes and other levies and assessments by governmental taxing bodies shall be a lien against individual Units. The assessments against a Unit for Common Expenses will commence as of the later of the date that such Unit is completed

and ready for occupancy, as evidenced by a certificate of occupancy or similar approval issued by the appropriate governmental authority, or sale of the Unit by Developer to an unrelated third party purchaser; provided, however, that Developer shall not have any liability for assessments for Units. Units owned by Developer shall not accrue liability for assessments of any nature while owned by Developer.

Notwithstanding anything herein to the contrary, Developer shall not be required to expend from Developer's own funds any sums of money for maintenance, improvements, or other expenses of the administration of the Common Elements, and no Unit owned by Developer shall be assessed for Common Expenses or otherwise assessed until such time as construction of such Unit is completed and the Unit is sold by Developer.

For and in consideration of the foregoing, the privileges and protections of this Declaration and the Bylaws and the mutual enjoyment and use of the Common Elements and the rest of the Property, the receipt and sufficiency of which are hereby acknowledged, and to secure the payment of Common Expenses, principal, interest, and attorneys' fees, a lien is expressly retained and granted in favor of the Association on each and every Unit Owner's Unit and proportionate share of the membership in the Association.

(b) Enforcement. In the event any Unit Owner fails to maintain such Unit Owner's Unit, the Private Elements, and the Limited Common Elements attributable to such Unit, or in the event any Unit Owner fails to pay such Unit Owner's proportionate share of any Common Expense when due, then, in any such event, the Board may, after ten (10) days' 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, the Association shall be entitled to recover reasonable attorneys' fees and costs incurred in such suit and enforcement of the Association's rights.

(c) Mortgage and Deed of Trust Protection. The lien for Common Expenses payable by a Unit Owner is and shall be subordinate to the lien of a first mortgage or deed of trust encumbering the corresponding Unit, except for the corresponding proportionate share of Common Expenses that become due and payable from and after the date on which the mortgagee or beneficiary thereunder takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security), or forecloses its mortgage or deed of trust. The lien for Common Expenses shall not be affected by any sale or transfer of a Unit, except in the case of a foreclosure of a first mortgage or deed of trust encumbering such Unit (or a conveyance in lieu thereof), in which event such foreclosure or conveyance shall extinguish the lien for the amount of the corresponding proportionate share of Common Expenses that became due and payable prior thereto, but shall not relieve any subsequent Unit Owner from liability for the payment of assessments arising thereafter. Any delinquent assessments for Common Expenses that are extinguished by virtue of the foreclosure of or other exercise of remedies under any such mortgage or deed of trust may be reallocated and assessed to all of the Units as Common Expenses.

(d) Special Assessments. In addition to the annual assessments for Common Expenses authorized above, if any, 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, but not limited to, fixtures and personal property related thereto.

**9. Party Walls.** For the purposes hereof, any wall which shall be built as part of the original construction of any Unit and shall be placed upon the dividing line between any two (2) Units shall constitute a "party wall". The following provisions shall apply to each party wall: (a) notwithstanding anything herein to the contrary, the general rules of law and any applicable statutes regarding party walls shall apply; (b) the cost of reasonable repairs and maintenance of the party wall shall be shared by the Unit Owners who make use of said party wall; (c) if a party wall is destroyed or damaged by fire or other casualty, any Unit Owner who has used the wall may restore it, and, if another Unit Owner makes use of such party wall, such Unit Owner shall share in the cost of restoration thereof, without prejudice, however, to the right of any Unit Owner to call for a larger contribution to the cost of restoration from any other Unit Owner under any rule of law regarding liability for negligence or willful acts or omissions; and (d) if any Unit Owner desires that a party wall be rebuilt or restored, all Unit Owners who use such party wall shall agree to such rebuilding or restoration to the party wall's original condition. Notwithstanding anything herein to the contrary, any Unit Owner who, by such Unit Owner's negligence or willful act or omission, causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. Each Unit shall be subject to a maintenance easement of reasonable width to permit the Unit Owner of the adjoining Unit, if any, who utilizes a party wall to properly and adequately maintain or repair such party wall; provided, however, that such adjoining Unit Owner shall not cause damage to the adjoining Unit Owner's Unit as a result of the performance of any such maintenance or repair and shall repair any damage so caused and shall not unreasonably interfere with the use, occupancy, or enjoyment of the adjoining Unit Owner's Unit in the course of such maintenance or repair. The right of any Unit Owner to contribution from any other Unit Owner and any easements granted under this Section shall be appurtenant to the land and each Unit Owner's Unit and shall pass to each Unit Owner's successors in title.

**10. Mortgages and Deeds of Trust.** Each Unit Owner shall have the right, subject to the provisions hereof, to make separate mortgages and deeds of trust for such Unit Owner's respective Unit, together with such Unit Owner's respective membership interest in the Association. No Unit Owner shall have the right or authority to grant, make, or create or cause to be granted, made, or created any mortgage, deed of trust, or other lien on or affecting the Property or any part thereof, except to the extent of the Unit Owner's own Unit and the Unit Owner's membership interest in the Association corresponding thereto.

Any holder, insurer, or guarantor of a deed of trust or mortgage on a Unit may file with the Association a written request for the information listed below in this paragraph. Such request shall state the requesting party's identity and address and the Unit number or address of the Unit encumbered by the corresponding deed of trust or mortgage. Such request shall be effective only upon delivery to such holder, insurer, or guarantor, at the address specified in the request, of the

Association's written acknowledgment of receipt of the request. Upon the effectiveness of such request, such holder, insurer, or guarantor shall be entitled to timely written notice of (a) any condemnation or casualty loss that affects a material portion of the Property or the Unit encumbered by the corresponding deed of trust or mortgage; (b) any sixty (60)-day delinquency in the payment of any assessments or charges owed by the Unit Owner who owns the Unit encumbered by the corresponding deed of trust or mortgage; (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (d) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

11. **Separate Utility and Tax Assessments; Utility and Meter Service.** Utility services for Units shall be separately metered, and all utility charges for Units shall be assessed to and constitute the sole responsibility of the respective Unit Owners thereof. In the event that any utility services are not separately metered, the charges for such utility services shall be paid by the Unit Owners served thereby pro rata in accordance with their relative proportionate shares. Real estate taxes shall be separately assessed to each Unit Owner for such Unit Owner's Unit, including the corresponding percentage of membership in the Association, as provided in the Act. In the event that such taxes for any year are not separately assessed to each Unit Owner, but rather are assessed on the Property as a whole, then such taxes shall be treated as Common Expenses, and each Unit Owner shall pay the Unit Owner's proportionate share thereof. Utility meters for all Units may be located on or within one Unit. Easements are hereby granted for the location of such meters and for utility lines and service and for access to such utility lines and service for reading and maintenance purposes from such meters over all the Units for the benefit of each Unit Owner serviced by the utility meters, lines, and service.

12. **Insurance; Casualty and Reconstruction.** Each Unit Owner shall obtain and at all times maintain in full force and effect for such Unit Owner's Unit insurance against losses or damage by fire and such other hazards as are covered under either a "named peril" or an "all risk" policy for the full insurable replacement cost of the Unit, as well as all additions and improvements thereto, decorations, furnishings, and personal property therein and against such other hazards and for such amounts as such Unit Owner shall deem advisable. Insurable replacement cost shall be deemed to be the cost of restoring the Unit to substantially the same condition in which it existed prior to damage or destruction. Such insurance coverage shall be written by an insurance carrier licensed to do business in the State of Tennessee with a credit rating according to Standard & Poor or A.M. Best of at least BBB. Each insurance policy shall be in the name of and the proceeds thereof shall be payable to the Unit Owner, and the Association shall be named as an additional insured. The policy of insurance shall also contain, if available at reasonable expense, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be paid by the respective Unit Owners; provided, however, that premiums for such insurance may be paid by the Association and billed back to the Unit Owner, if not paid by the Unit Owner, but the Association shall have no obligation to make such payment.

In the event of damage to or destruction of any part of the Units as a result of fire or other casualty covered by insurance, the Unit Owner affected by the casualty shall arrange for the prompt repair and restoration of the damaged or destroyed portions of the Unit substantially in accordance with the original plans and specifications therefor. Where the insurance proceeds are

insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by the Unit Owner affected by the damage. If the Unit Owner does not promptly reconstruct a damaged or destroyed Unit, the Board may, but shall not be obligated to, arrange for the repair and restoration of the Unit, and may take possession of and use the insurance proceeds for such purpose.

The Board may, in addition, maintain casualty insurance coverage on any insurable improvements located on the Common Elements. The Board shall have authority to and shall also obtain comprehensive public liability insurance, in such amounts as the Board deems desirable (but in no event less than $1,000,000.00), and worker's compensation insurance and other liability insurance as the Board deems desirable, insuring each Unit Owner, the mortgagee(s) of record, if any, the Association, the Board, Developer, any Managing Agent, and each of their respective members, officers, directors, agents, and employees, from (a) liability in connection with the Common Elements, and (b) liability arising out of legal proceedings relating to employment contracts to which the Association is a party (to the extent such insurance is reasonably available). The premiums for such insurance shall be Common Expenses. The Board shall also have authority to and may obtain such other insurance and bonds, including, without limitation, fidelity insurance and bonds, as the Board deems desirable, in such amounts, from such sources, and in such forms as the Board deems desirable, insuring the Property and each member of the Board and officer of the Association, and each member of any committee appointed pursuant to the Bylaws of the Association, from liability arising from the fact that said person is or was director or officer of the Association or a member of any such committee. The premiums for such insurance and bonds shall be Common Expenses.

**13. Maintenance, Repairs, and Replacements.**

(a) Obligations of Unit Owners. Each Unit Owner, at such Unit Owner's expense, shall be responsible for all maintenance of, repairs to, and replacements within and to such Unit Owner's Unit, Private Elements, and Limited Common Elements and shall pay all expenses associated therewith. Should the Unit Owner fail or refuse to maintain, repair, or replace, as directed by the Board, the exterior of such Unit Owner's Unit, such Unit Owner's Private Elements, and/or such Unit Owner's Limited Common Elements, the Board or any other Unit Owners may cause said maintenance, repairs, or replacements to be made and may exercise remedies as set forth in this Declaration.

(b) Obligations of Association. The Association shall be responsible for maintenance of and repairs within any Common Elements, if any, other than Private Elements and Limited Common Elements.

(c) Loss Attributable to Unit Owner. Notwithstanding the foregoing, if, due to the act or neglect of a Unit Owner or the agent, guest, tenant, family member, invitee, licensee, or household pet of any Unit Owner, damage shall be caused to the Common Elements or maintenance, repair, or replacement are required which would otherwise be a Common Expense, then such Unit Owner shall pay for such damage or such maintenance, repair, and replacements, as may be determined to be necessary by the Association, to the extent not covered by the Association's insurance or to the extent sufficient proceeds are not collected from the

insurance carrier.

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

**14. Decorating.** Each Unit Owner, at such Unit Owner's expense, shall furnish such Unit Owner's Unit and be responsible for all decorating and maintenance within such Unit Owner's Unit and Private Elements and the Limited Common Elements serving such Unit, subject to the terms hereof.

**15. Encroachments and Easements.** If any portion 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.

The Association shall have the right to grant permits, licenses, and easements over the Common Elements for utilities and for other purposes reasonably necessary or useful for the proper maintenance or operation of the horizontal property regime.

The Units and Common Elements shall have and be subject to the following easements:

(a) If any portion of the Common Elements shall actually encroach upon any Unit, or if any Unit, including, but not limited to, utility lines and service associated with such Unit, shall actually encroach upon any portions of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are shown by the Plat, due to engineering errors, errors in original construction, reconstruction, or repair, settlement or shifting of a Building, or movement of any portion of any other improvements on the Property, or any similar cause, there shall be deemed to be mutual easements to the extent of such encroachments, so long as the same shall exist; provided, however, that in no event shall an easement for encroachment be created in favor of a Unit Owner if said encroachment occurred due to the willful act of said Unit Owner, and further provided that the physical boundaries of a Unit following construction or any reconstruction or repair thereof will be in substantial accord with the description of those boundaries in this Declaration.

(b) Each Unit Owner shall have a perpetual and non-exclusive easement for ingress and egress to such Unit Owner's Unit, in, upon, over, under, across, and through the Common Elements (other than Limited Common Elements, the enjoyment, benefit, or use of which is reserved exclusively to other Unit Owners), which easement shall be appurtenant to the

Unit of such Unit Owner and shall pass with the Unit as and when a transfer or conveyance of ownership of the Unit occurs.

(c) Developer hereby reserves a perpetual and non-exclusive easement in, upon, over, under, across, and through the Common Elements and Private Elements for the purpose of the installation, maintenance, repair, and replacement of sewer, water, power, and telephone pipes, lines, mains, conduits, poles, or transformers, facilities for cable television systems, and any and all other equipment or machinery necessary or incidental to the proper functioning of any utilities systems servicing the Property, which easement shall be for the benefit of Developer and any governmental agency, utility company, or other entity (public or private) that requires the same for the purpose of furnishing one or more of the foregoing services.

(d) Developer hereby reserves an easement in, upon, over, under, across, and through the Common Elements during the Development Period in order to maintain such facilities and perform such operations as in the sole opinion of Developer may be reasonably required, convenient, or incidental to the construction of the Units and the Common Elements and the sale of the Units, including, but not limited to, a business office, sales office, storage area, construction yard, sign, or model Units, and for a period of two (2) years after the Development Period, in order to make any repairs to improvements on the Property, including, without limitation, the Units, that Developer may deem necessary or that may be required pursuant to contracts of sale made with purchasers of Units.

(e) In accordance with the specifications of each governmental body having jurisdiction over the construction of public roads, a right and easement is hereby reserved by Developer to construct all streets, roads, alleys, or other ways as now or hereafter may be shown on the Plat or any future recorded plat at such grades or elevations as Developer in Developer's sole discretion may deem proper. For the purpose of constructing such streets, roads, alleys, or ways, Developer additionally shall have a temporary construction easement upon and along the Common Elements for the construction of same, and no Unit Owner shall have any right of action or claim for damages against anyone on account of the grade or elevation at which such road, street, alley, or public way hereafter may be constructed or on account of any bank slopes constructed within the limits of said easement.

(f) The Association and Developer reserve a perpetual and non-exclusive easement of unobstructed ingress and egress in, upon, over, under, across, and through the Common Elements, Private Elements, and Units for the purpose of maintaining, repairing and replacing the Common Elements or any equipment, facilities, or fixtures affecting or servicing the Common Elements or any of the Private Elements for which the Association has maintenance responsibility, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner or Occupant, except that, in the case of an emergency, such right of entry shall be immediate and absolute, regardless of whether the Unit Owner or Occupant is present at the time or whether request is made.

**16. Association's Right to Purchase at a Foreclosure Sale.** The Board shall have the power and authority to bid and purchase, for and on behalf of any Unit or interest therein, at a

sale pursuant to a deed of trust or mortgage foreclosure, a foreclosure of the lien for Common Expenses under the Act, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of seventy-five percent (75.0%) of the Unit Owners. Such consent shall set forth a maximum price which the Board or its duly authorized agent may bid and pay for said Unit.

The Board shall have authority to make such mortgage arrangements and special assessments proportionately among the respective Unit Owners and other such financing arrangements as the Board may deem desirable in order to close and consummate the purchase or lease of a Unit or interest therein by the Association. However, no such financing arrangement may be secured by an encumbrance on any interest in the Property other than the Unit or interest therein to be purchased or leased and the percentage interest in the Association appurtenant thereto.

17. **Use and Occupancy Restrictions.** Subject to the provisions of the Bylaws, no part of the Property may be used for purposes other than single-family housing and the related common purposes for which the Property was designed and as allowed by municipal zoning laws. Each Unit shall be used as a residence or for such other use permitted by this Declaration and for no other purposes, except that professionals may use their residences (not in violation of applicable zoning laws) as a home office. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from: (a) maintaining a personal professional library; (b) keeping personal business or professional records or accounts; or (c) handling personal or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions, provided that they do not violate the above restrictions. Notwithstanding anything herein to the contrary, any Unit lease shall be in writing and shall be subject to this Declaration and to the Bylaws. Furthermore, notwithstanding anything herein to the contrary, nothing herein shall prevent any Unit from being rented out through Airbnb or any similar short-term rental marketplace, provided that such use conforms with any and all applicable codes, zoning ordinances, regulations, requirements, statutes, and laws and that the Unit Owner maintains all necessary permits and other permissions required by law.

No Unit or Common Elements or Limited Common Elements may be used in violation of the restrictions and provisions contained herein or in the Bylaws.

The use, maintenance, and operation of the Common Elements shall not be obstructed, damaged, or unreasonably interfered with by any Unit Owner and shall be subject to any lease, concession, or easement, whether presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements. Developer is irrevocably empowered, notwithstanding anything herein to the contrary, to sell, lease, or rent any Unit owned by Developer to any Person approved by Developer. Developer shall have the right to transact on the Property any business deemed necessary by Developer to consummate the sale, lease, or resale of the Units. As long as Developer owns a Unit, neither the other Unit Owners, nor their use of their Units shall interfere with the sale of a Unit by Developer.

**18. Remedies.** In the event of any violation of the provisions of the Act, this Declaration, the Bylaws, or any rules and regulations of the Board or Association by any Unit Owner (either by the Unit Owner's own conduct or by the conduct of any other Occupant of such Unit Owner's Unit), the Association, or its successors or assigns, or the Board, or its agent, or the other Unit Owners, as the case may be, shall have each and all of the rights and remedies provided for in the Act, this Declaration, the Bylaws, or any applicable rules and regulations and which may be available, at law or in equity, and may prosecute an action or other proceeding against such defaulting Unit Owner and/or other party or parties for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, for damages or injunction or specific performance, for judgment for payment of money and collection thereof, or for the right to sell the Unit through judicial process as provided hereinbefore, or for any combination of remedies, or for any other relief. All expenses of the Board or other Unit Owners in connection with any such actions or proceedings, including, but not limited to, court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum rate of interest then allowed by applicable law, until paid, shall be charged to and assessed against such defaulting Unit Owner and shall be added to and deemed part of such Unit Owner's respective share of the Common Expenses, and the Board or other Unit Owners shall have a lien for all of the same, as well as for nonpayment of the Unit Owner's respective share of the Common Expenses, upon the Unit and ownership interest in the Association of such defaulting Unit Owner and upon all of such Unit Owner's additions and improvements thereto and upon all of such Unit Owner's personal property in such Unit Owner's Unit or located elsewhere on the Property; provided, however, that such lien shall be subordinate to the lien of a recorded mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of said Common Expenses which become due and payable from and after the date on which the said mortgage or deed of trust owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security), or files suit to foreclose its mortgage or deed of trust. In the event of any such default by any Unit Owner, the Board or the Managing Agent, if so authorized by the Board, or the other Unit Owners 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. This paragraph shall not be amended, changed, modified, or rescinded without the prior consent of all holders of record of mortgages and deeds of trust against 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 or other Unit Owners the right, in addition to any other rights provided for in this Declaration, to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

If any Unit Owner (either by such Unit Owner's conduct or by the conduct of any other occupant of such Unit Owner's Unit) shall violate the Act or any of the covenants or restrictions or provisions of this Declaration or any rules and 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, the Managing Agent, or the other Unit Owners or shall occur repeatedly during any ten (10)-day period after such written notice or request to cure such violation from the Board, the Managing Agent, or the other Unit Owners, then the Board or other Unit Owners shall have the power to issue to said defaulting Unit Owner a notice in writing terminating the rights of the defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use, or control such Unit Owner's Unit, and thereupon an action in equity may be filed by the Board or other Unit Owners against the defaulting Unit Owner for a decree of mandatory injunction against the defaulting Unit Owner or Occupant, or, in the alternative, for a decree declaring the termination of said defaulting Unit Owner's right to occupy, use, or control the Unit owned by such Unit Owner on account of said violation, which action or injunction shall order that all the right, title, and interest of said defaulting Unit Owner in the Property shall be sold (subject to 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 Unit Owner from reacquiring such Unit Owner's interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the 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 the 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 Association 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.

**19. Amendments.** Except as otherwise provided in this Declaration, the provisions of this Declaration may be changed, modified, or rescinded only by an instrument in writing, setting forth such change, modification, or rescission, signed by not less than seventy-five percent (75.0%) of the Unit Owners and acknowledged. For purposes of the foregoing sentence, Developer shall be deemed to be a Unit Owner not only with respect to completed Units owned by Developer at such time, but also with respect to any incomplete or unconstructed Units as to which Developer is the owner at such time. Notwithstanding the foregoing, the approval of Eligible Mortgagees representing at least fifty-one percent (51.0%) of the Units subject to deeds of trust or mortgages held by Eligible Mortgagees shall be required for the amendment of any provision of this Declaration that relates to any of the following (sometimes referred to herein as "Major Decisions") or the approval by the Unit Owners of any matter that is submitted to a vote of the Unit Owners pursuant to this Declaration and that relates to any Major Decision: (a) voting rights; (b) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25.0%) or the lien for assessments or the priority thereof; (c) reductions in reserves for maintenance, repair, and replacement of the Common Elements; (d) responsibility for maintenance and repairs; (e) reallocation of interests in the Common Elements or rights to their use; (f) except as otherwise set forth in this Section, redefinition of any Unit boundaries; (g) conversion of Units into Common Elements and vice versa; (h) expansion or contraction of the Property, or the addition, annexation, or withdrawal of property from the Property; (i) hazard or fidelity insurance requirements; (j) imposition of any restrictions on the leasing of units; (k) imposition of any restrictions on a Unit Owner's right to sell or transfer the Unit Owner's Unit;

(l) a decision by the Association to establish self-management of the Property, if professional management had been required previously by this Declaration, the Bylaws, or any Eligible Mortgagee; (m) restoration or repair of the Property (after damage or partial condemnation) in a manner other than as specified by this Declaration or the Bylaws; (n) the protection or benefit of holders, insurers, or guarantors of deeds of trust or mortgages on Units.

Notwithstanding the foregoing, an amendment or supplement to this Declaration, the Plat, or the Bylaws to correct clerical or scrivener's errors or for the purpose of making modifications to reflect the actual locations and areas of the Units, as built, need only be executed by Developer, and the joinder or approval of the Association, the Unit Owners, and Eligible Mortgagees shall not be required.

Notwithstanding the foregoing, any termination of this Declaration by the Unit Owners may not be effected without the concurrence of Eligible Mortgagees representing at least seventy-five percent (75.0%) of the Units subject to deeds of trust or mortgages held by Eligible Mortgagees.

Notwithstanding anything herein to the contrary, whenever, pursuant to this Declaration or the Bylaws, the agreement, concurrence, or approval of an Eligible Mortgagee is required or otherwise sought, such Eligible Mortgagee's agreement, concurrence, or approval may be assumed and deemed to have been given if such Eligible Mortgagee fails to submit a response to a written proposal for an amendment or other action within thirty (30) days after such Eligible Mortgagee receives proper notice of the proposal by certified or registered mail, return receipt requested.

Notwithstanding anything herein to the contrary, if any of the Act, this Declaration, or the Bylaws requires the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration or the Bylaws, then any instrument changing, modifying, or rescinding any provision of this Declaration with respect to such action shall be signed by all Unit Owners or all lien holders or both as required by the Act, this Declaration, or the Bylaws.

Any change, modification, or rescission of the Declaration shall be effective only upon recording of such instrument in the Register's Office for Davidson County, Tennessee; provided, however, that no provision in this Declaration may be changed, modified, or rescinded so as to conflict with the provisions of the Act.

Notwithstanding the above, Developer shall have the right to make and record any necessary amendments 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, Fannie Mae, and/or FHLMC approval for the horizontal property regime.

**20. Notices.** Notices provided for in the Act, this Declaration, or the Bylaws shall be in writing and shall be addressed, (a) if to a Unit Owner, to the address of such Unit Owner's Unit, (b) if to Developer, to the principal business address of Developer listed with the Tennessee Secretary of State, and (c) if to the Association or Board, as the case may be, to the

registered office, as set forth in Charter of the Association or to such other address as may be designated by the Association or the Board from time to time, or at such other address as may be hereinafter provided. The Association or Board may designate a different address or addresses for notices by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices 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 acknowledgment 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 Unit Owner whose Unit is subject to such mortgage or trust deed.

**21. Severability.** If, in any circumstance, any provision of this Declaration or the Bylaws or any section, sentence, clause, phrase, word, or the application thereof is held invalid, the validity of the remainder of this Declaration and the Bylaws and 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 or the Bylaws shall be construed as if such invalid part was never included therein.

**22. 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, then 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 the State of Tennessee holding office as of the date of this Declaration.

**23. Rights and Obligations.** Each grantee of Developer, by 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 Bylaws which are more than administrative in nature (including, 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 of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any Person having at any time an interest or estate in said land and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

All present and future Unit Owners, tenants, and Occupants of a Unit shall be subject to and shall comply with the provisions of the Bylaws appended hereto and recorded herewith as they may be amended from time to time. The acceptance of a deed of conveyance or devise or of a lease to a Unit or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the Bylaws 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, tenant, or Occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any Person having at any time any interest or estate in such Unit, as though

such provisions were recited and stipulated at length in each and every deed, conveyance, or lease thereof.

The terms and conditions of this Declaration, the Bylaws, and any rules and regulations adopted by the Board may be incorporated by reference in and become part of the agreement between any mortgagee and any present or future Unit Owner who enters into such an agreement with a mortgagee. When so incorporated, any default in the terms and conditions of this Declaration, the Bylaws, and any applicable rules and regulations may be considered to be a default by the mortgagee, whereupon said 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.

**24. 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 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 holder 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.

**25. Condemnation.** In the event of a taking of a part of the Private Elements, Units, or Common Elements through condemnation or by exercise of the power of eminent domain, the award made for such taking shall be payable to the Association. The Association is hereby designated to represent the Unit Owners in any such proceedings and any related negotiations, settlements, or agreements and is hereby appointed the agent and attorney-in-fact of the Unit Owners for such purposes. If a majority of the Board approves repair and restoration, the Board shall arrange for repair and restoration, and the Board shall disburse the proceeds of such award to the contractor(s) engaged in such repair and restoration in appropriate progress payments. In the event that the Board does not approve the repair and commence restoration within one hundred twenty (120) days after any taking by the public or private authority, the Board shall disburse the net proceeds of such award on the basis of each Unit's proportionate share.

If the whole or more than two-thirds (2/3) of all the Buildings and Common Elements are taken through condemnation or by exercise of the power of eminent domain, as determined by the Board, and if not less that seventy-five percent (75.0%) of the Unit Owners, together with Eligible Mortgagees representing at least fifty-one percent (51.0%) of the Units subject to deeds of trust or mortgages held by Eligible Mortgagees, determine that restoration of the affected portion(s) of the Property is not feasible or otherwise shall not take place, then such restoration shall not be required. In such event, the Board, as soon as is reasonably practicable and as agent for the Unit Owners, shall sell the Property, in its then condition, free from the effect of this Declaration, which shall terminate upon such sale, on terms satisfactory to the Board, and the net

proceeds of such sale and of all condemnation awards shall thereupon be distributed to the Unit Owners and their mortgagees, as their interests may appear. If and to the extent requested by the Board, the Unit Owners shall join in any conveyance necessary to facilitate such sale. If the Board fails to consummate a sale pursuant to this paragraph within twenty-four (24) months after the destruction or damage occurs, then the Managing Agent or the Board or any Unit Owner shall record a sworn declaration setting forth such fact and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in this Declaration has terminated and that judicial partition of the Property may be obtained pursuant to the laws of the State of Tennessee. Upon final judgment of a court of competent jurisdiction decreeing such partition, this Declaration shall terminate.

**26. Rights Reserved.** Each Unit Owner's right of enjoyment of the property commonly owned by the Association, as herein created, shall be subject to:

(a) The right of the Association, as provided in the Bylaws, to suspend the enjoyment and 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 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, dedication, or transfer or determination as to the purposes or as to the conditions thereof shall be effective unless Developer and its successors and/or assigns and all members of the Association agree to such act; and

(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.

**27. Provisions Relative to Mortgagees' Rights and to Federal Home Loan Mortgage Corporation and Fannie Mae Regulations.** Notwithstanding anything to the contrary contained in this Declaration or in the Bylaws, all terms, conditions, and regulations which are now existing or which may be amended from time to time promulgated by the Federal Home Loan Mortgage Corporation ("FHLMC") or Fannie Mae ("Fannie Mae") pertaining to projects of this nature are hereby incorporated as terms and conditions of this Declaration and the Bylaws and shall be governing upon the Property, Developer, and the Association, so long as such terms or conditions are not inconsistent with the laws of the State of Tennessee as found in Tennessee Code Annotated § 66-27-101, et seq., as such may be amended.

**28. Legal Opinion.** The legal opinion required by Tennessee Code Annotated § 66-27-103 has been issued and delivered to Developer.

**IN WITNESS WHEREOF**, Developer has executed this Declaration effective as of the Effective Date.

**DEVELOPER:**

106 DUKE STREET, LLC,
a Tennessee limited liability company

BY: LEGACY SOUTH CAPITAL, LLC,
a Tennessee limited liability company

BY: _____
Frank E. Neal, IV, its President

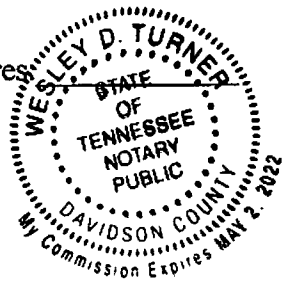
STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **FRANK E. NEAL, IV**, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is **PRESIDENT** of the maker or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

Witness my hand and official seal this 7th day of September, 2018.

_____
Notary Public

My Commission Expires: _____



## EXHIBIT A

## LEGAL DESCRIPTION

**106 Duke Street, Nashville, TN 37207**

Located in the 12th (old 17th) District, more particularly described as follows:

Beginning at a point on the southern margin line of Duke Street, being the N.E. corner of a tract of land sold to H. O. Gary by Lottie K. Netterville, as recorded in Davidson County, Tennessee, Record Book 1308, page 430; thence southward 286 feet, more or less, along the eastern border line of said Gary tract to the southeast corner thereof and continuing along the east border line of a tract sold to Ben Williams by Lottie K. Netterville, as recorded in Record Book 1315, page 519, to the northwest corner of the tract sold by Lottie K. Netterville to Ben Williams, as of Record Book 1341, page 305; thence eastward 100 feet along the northern border line of the last named Williams tract to a point; thence northward 295 feet, more or less, to a point on the southern border line of Duke Street; thence westward along the southern border line of Duke Street 100 feet to the point of beginning.

Being the same property conveyed by Devin Hauersperger to 106 Duke Street, LLC by deed of record in Instrument No. _201809070089042___, Register's Office for Davidson County, Tennessee.

**110 Duke Street, Nashville, TN 37207**

The following described property located in the Twelfth (12th) Civil District of Davidson County, Tennessee, described as follows:

Beginning at a stake on the southerly margin of Duke Street, being the northeasterly corner of a tract of land deeded by Lottie Keele Netterville to Estelle Jones Brewington, as of record in Book 1341, page 592, Register's Office; thence southwardly along the easterly line of Brewington Tract to the southeasterly corner of the Brewington Tract, being 294 feet, more or less; thence eastwardly along the line of a tract of land deed by Keele Netterville, to Ben Williams, as of record in Book 1341, page 305, Register's Office, this being a distance of 159 feet which reaches the easterly border line of a tract of land deeded to Lottie Keele Netterville, by deed from William Magruder Netterville, as of record in Book 802, page 199, Register's Office; thence northwardly along the eastern border of line of the said Netterville tract 147 feet to a point; this being the southeasterly corner of a tract deeded by Lottie Keele Netterville to the Dickerson Road Church of Christ, as of record in Book 999, page 367, Register's Office; thence westwardly in a line parallel to Duke Street 80 feet; thence northwardly 175 feet, more or less, to a stake on the southerly line of Duke Street; thence westwardly along the southerly side of Duke Street, 113 feet, more or less, to the point of beginning.

Being the same property conveyed by Mark J. Schottland and John R. Schottland to 106 Duke Street, LLC by deed of record in Instrument No. _____, Register's Office for Davidson County, Tennessee.

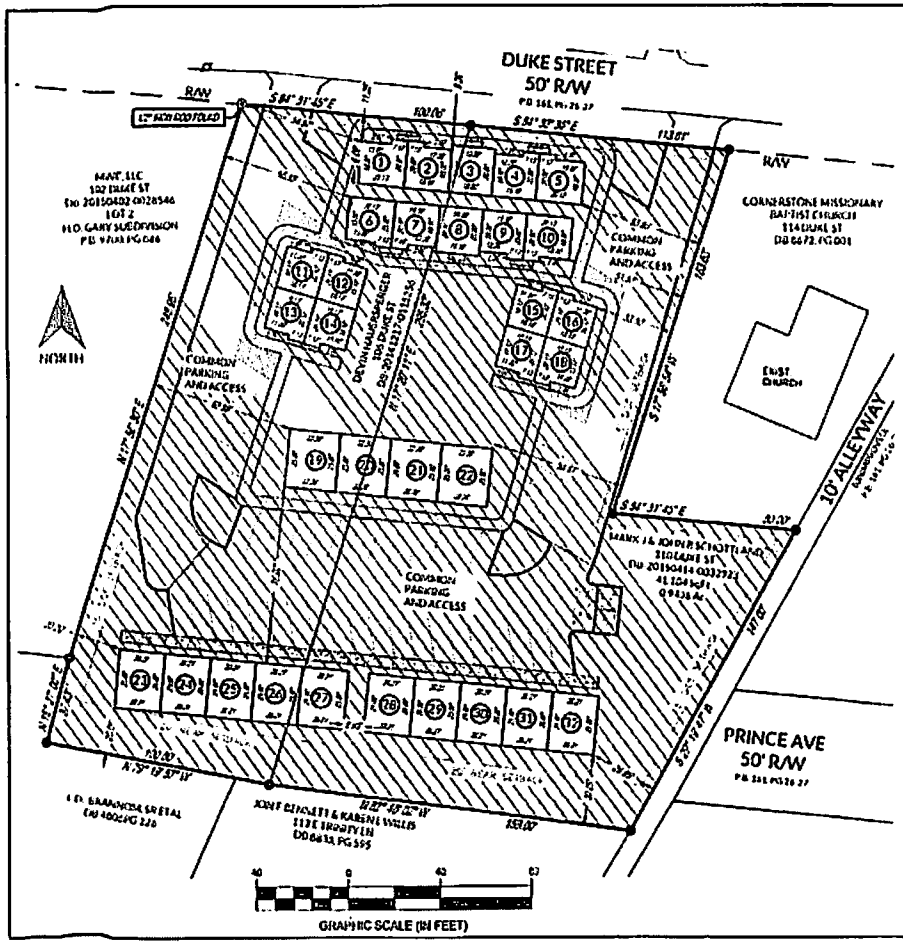
201809070089044

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# EXHIBIT B

# PLAT

744217.1/020180756




## PRIVATE ELEMENT CHART

| UNIT # | AREA (SqFt) | UNIT # | AREA (SqFt) | UNIT # | AREA (SqFt) |
|---|---|---|---|---|---|
| 1 | 377 SqFt | 12 | 343 SqFt | 23 | 505 SqFt |
| 2 | 363 SqFt | 13 | 343 SqFt | 24 | 505 SqFt |
| 3 | 380 SqFt | 14 | 343 SqFt | 25 | 505 SqFt |
| 4 | 363 SqFt | 15 | 343 SqFt | 26 | 505 SqFt |
| 5 | 377 SqFt | 16 | 343 SqFt | 27 | 505 SqFt |
| 6 | 377 SqFt | 17 | 343 SqFt | 28 | 505 SqFt |
| 7 | 363 SqFt | 18 | 343 SqFt | 29 | 505 SqFt |
| 8 | 380 SqFt | 19 | 555 SqFt | 30 | 505 SqFt |
| 9 | 363 SqFt | 20 | 555 SqFt | 31 | 505 SqFt |
| 10 | 377 SqFt | 21 | 555 SqFt | 32 | 505 SqFt |
| 11 | 343 SqFt | 22 | 555 SqFt | | |

## COMMON ELEMENT

| | |
|---|---|
| | 56,244 SqFt |

**SURVEYOR'S CERTIFICATION:**

DONOVAN BENSON
TENNESSEE NO. 2046

# HORIZONTAL PROPERTY REGIME PLAT

**LEGACY SOUTH BUILDERS**

| | |
|---|---|
| 113 DUKE STREET<br>NASHVILLE | 6TH COUNCIL DISTRICT<br>DAVIDSON COUNTY, TENNESSEE |
| SCALE: 1"=40' | DATE: 10/16/2018 |
| DESIGN: BBA<br>DRAWN: DPD<br>CHECKED: BBA | BA LAND PROFESSIONALS |
| JOB NO: 18-0132 | SHEET NO: 1 OF 1 |

20180907008904S

# EXHIBIT C

# BYLAWS

# OF

# TRINITY HEIGHTS TOWNHOUSE CORPORATION

## ARTICLE I

Rights of Developer During Development Period

Section 1. Development Period. As used in these Bylaws, the terms "Developer" and "Development Period" shall have the meanings set forth in the Declaration. With respect to Developer, "Unit" shall be deemed to include not only completed Units owned by Developer at such time, but also shall include any incomplete or unconstructed Units as to which Developer is the owner of the corresponding Private Elements at such time.

Section 2. Meetings of Association. Notwithstanding anything contained herein to the contrary, meetings of the Association during the Development Period shall take place only upon the call of Developer. At any such meeting, Developer may (but shall not be required to) submit to a vote of the Unit Owners any matter that properly may come before a meeting of the Association, and the other provisions hereof shall be applicable to all proceedings in connection with any matter so submitted. Except as provided in the immediately preceding sentence, and notwithstanding any provision herein to the contrary, during the Development Period, Developer, in Developer's sole discretion, shall determine all matters that may properly come before the Board or the Association.

Section 3. Board of Directors. Notwithstanding anything contained herein to the contrary, during the Development Period, the Board of Directors (as hereinafter defined) shall be composed of such number of persons (not to exceed three (3)) as Developer from time to time shall determine, and the Board of Directors shall be appointed by Developer from time to time, shall serve for such terms, and shall be subject to removal by Developer, all as Developer shall determine in Developer's sole discretion; provided, however, that no such Director's term shall extend later than the date of the First Annual Meeting.

Section 4. Officers. Notwithstanding anything contained herein to the contrary, during the Development Period, the officers of the Association shall be appointed by Developer from time to time, shall serve for such terms, and shall be subject to removal by Developer, all as Developer shall determine in Developer's sole discretion; provided, however, that no such officer's term shall extend later than the organizational meeting of the new Board of Directors following the First Annual Meeting.

Section 5. Amendment of Bylaws During Development Period. Notwithstanding anything herein to the contrary, these Bylaws and any Rules and Regulations may not be amended by the Unit Owners during the Development Period without the express, prior written approval of Developer.

## ARTICLE II

### Members (Unit Owners)

Section 1. Eligibility. The members of Trinity Heights Townhouse Corporation, a Tennessee not-for-profit corporation (the "Association"), shall consist of the respective Unit Owners of Trinity Heights Townhomes, a Horizontal Property Regime with Private Elements (the "Property"). These and other terms are used in these Bylaws as they are defined in the Declaration of Covenants, Conditions, and Restrictions for Trinity Heights Townhomes, a Horizontal Property Regime with Private Elements (the "Declaration"), which Declaration is recorded in the Register's Office for Davidson County, Tennessee. The words "member" or "members" as used in these Bylaws mean and shall refer to a "Unit Owner" or "Unit Owners," as the case may be, as defined in the Declaration. If a Unit Owner is a land title holding trust under the terms of which all powers of management, operation, and control of the Unit remains vested in the trust beneficiary, then the member shall be the beneficiary of such trust.

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

Section 3. Annual Meetings. An annual meeting of Unit Owners shall be held at the time and place specified in the notice of such meeting, provided that such place shall be within five (5) miles of the Property. The annual meeting of Unit Owners shall be held at a time established by the Board of Directors at least annually. At the annual meeting, the Unit Owners shall elect Directors, receive reports on the activities and financial condition of the Association, and transact such other business as may properly come before the meeting. The first annual meeting (the "First Annual Meeting") shall be called by Developer at such time as, in Developer's discretion, Developer deems best.

Section 4. Special Meetings. The Association may hold a special meeting of the Unit Owners upon the call of the Board of Directors or at least three (3) Unit Owners. Any call or demand for a special meeting shall describe the purpose(s) for which the special meeting is to be held.

Section 5. Notice of Meetings. The Association shall notify the Unit Owners of the date, time, and place of each annual and special meeting of Unit Owners no fewer than two (2) nor more than sixty (60) days before the meeting date. The notice of a meeting shall also contain

such other information as may be required by these Bylaws.

Section 6. Waiver of Notice. A Unit Owner's attendance at a meeting:

(a) Waives objection to lack of notice or defective notice of the meeting unless the Unit Owner at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting; and

(b) Waives objection to consideration of a particular matter at the meeting that is not within the purpose(s) described in the meeting notice, unless the Unit Owner objects to considering the matter when it is presented.

Section 7. Voting. Members shall be all Unit Owners 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 members. The vote for such Unit shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Unit.

Notwithstanding the foregoing, no Unit Owner who is in default in the payment of assessments hereunder shall be entitled to exercise the right to vote hereunder until such Unit Owner has cured such default. A Unit Owner shall be deemed to be in default if such Unit Owner has not paid such Unit Owner's assessments within ten (10) days after the date such assessments are due. A Unit Owner may protest the amount of the assessment, but must pay the assessment in full during the pendency of the protest.

Section 8. Quorum. Unless otherwise required by law, a majority of the votes entitled to be cast by Unit Owners must be represented at any meeting of the Unit Owners to constitute a quorum on that matter. If, however, such quorum is not represented at any such meeting, the Unit Owners present at the meeting in person or represented by proxy shall have the power to adjourn from time to time without notice other than announcement at the meeting until the requisite quorum is present or represented, when any business may be transacted which might have been transacted at the meeting as provided in the original notice.

Section 9. Voting Requirements. Except as otherwise provided in these Bylaws, the Declaration, or the Act, action on any matter voted upon at a meeting of the Unit Owners is approved if a majority of the Unit Owners vote in favor of the action.

Section 10. Action by Written Consent. Any action which is required or permitted to be taken at a meeting of the Unit Owners may be taken without such a meeting if all Unit Owners entitled to vote on the action consent to taking such action without a meeting. If all of such Unit Owners so consent, the affirmative vote of the number of votes that would be necessary to authorize or take such action at a meeting shall be the act of the Unit Owners, except as otherwise provided in these Bylaws. Such consent (or counterpart(s) thereof) shall describe the action taken, be in writing, be signed by each Unit Owner entitled to vote on the action, indicate each signing Unit Owner's vote or abstention on the action, and be delivered to the

Secretary/Treasurer of the Association and included in the minutes or Association records.

## ARTICLE III

### Board of Directors

Section 1. Number, Election, and Term of Office. The Board of Directors of the Association (referred to in the Act as the "board of administration," and sometimes referred to herein as the "Board") shall consist of not more than three (3) persons (hereinafter referred to as "Directors"). Directors shall be elected at the annual meeting of the Association's Unit Owners by the vote of Unit Owners as hereinafter provided, except that Developer shall appoint the interim Board of Directors ("Interim Board") until the First Annual Meeting. At the First Annual Meeting, the Unit Owners shall, among other business, elect the members of the first Board of Directors ("First Board"). Those candidates for election as directors who receive the greatest number of votes cast either in person, by ballot, or by proxy at the meeting shall be elected. The terms of office for the First Board shall be fixed so that one (1) Director shall serve for one (1) year, two (2) Directors shall serve for two (2) years and one (1) Director shall serve for three (3) years. At the expiration of the initial term of office of each respective Director, a successor shall be elected by all those entitled to vote to serve a term of two (2) years.

Section 2. Qualification. Except for those persons making up the Interim Board, each Director shall be a Unit Owner or the spouse of a Unit Owner (or, if a Unit Owner is a trustee of a trust, a Director may be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation, limited liability company, partnership, or other entity, a Director may be an officer, member, partner, or employee of such Unit Owner or beneficiary). If a Director shall cease to meet such qualifications during such Director's term, such Director shall cease to be a Director, and such Director's place on the Board shall be deemed vacant.

Section 3. Vacancies. Any vacancy occurring on the Board shall be filled by majority vote of the remaining Directors. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director succeeded.

Section 4. Regular Meetings. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

Section 6. Notice of Meetings. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time, and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the

time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in any one (1) adjournment.

Section 7. Waiver of Notice. If a Director attends or participates in a meeting, such Director waives any required notice of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 8. Quorum and Voting. A quorum of the Board of Directors consists of a majority of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors, except as otherwise provided in these Bylaws.

Section 9. Vacancy. If a vacancy occurs on the Board of Directors, including a vacancy resulting from a removal of a Director with or without cause:

(a) The Unit Owners may fill the vacancy;

(b) The Board of Directors may fill the vacancy; or

(c) If the Directors remaining in office constitute less than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of the Directors remaining in office.

Any Director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director succeeded.

Section 10. Removal of Directors. The Unit Owners may remove any Director, with or without cause, at any special meeting which is specifically called for that purpose by a vote of seventy-five percent (75.0%) of the Unit Owners.

Section 11. Action Without Meeting. Action which is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent(s) shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary/Treasurer of the Association and included in the minutes filed with the Association's records.

Section 12. Indemnification. With respect to claims or liabilities arising out of service as a Director of the Association, the Association shall indemnify and advance expenses to each present and future Director (and such Director's estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as

hereafter adopted or amended.

Section 13. Immunity. To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and such Director's estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

Section 14. Compensation. Directors shall receive no compensation for their services as Directors unless expressly provided for in resolutions duly adopted by the Unit Owners.

Section 15. Powers and Duties. The Board shall have the following powers and duties:

(a) to elect and remove the officers of the Association as hereinafter provided;

(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 of the 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 thereof;

(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;

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

(g) to provide for the designation, hiring, and removal of employees and other personnel, including accountants and attorneys, to engage or contract for the services of others, 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, but only as allowed by law;

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

(k) to borrow money for the purpose of maintenance or repair of Common Elements;

(l) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Unit Owners (as said majority is defined in the Declaration), as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners;

(m) to secure insurance policies as require by the Declaration;

(n) to resolve or mediate disputes, conflicts, or problems between Unit Owners;

(o) when necessary, to interpret the rules and regulations of the Association and the Declaration; and

(p) to exercise all other powers and duties of a board of administration as referred to in the Horizontal Property Act of the State of Tennessee and all powers and duties of the Board of Directors referred to in the Declaration or these Bylaws.

Section 16. Non-Delegation. Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association, or the officers of the Association any powers or duties which, by law, have been delegated to the Unit Owners.

## ARTICLE IV

### Officers

Section 1. Designation. At each regular meeting, the Directors present at said meeting shall elect the following officers of the Association by a majority vote, provided a quorum exists:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the 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 the Unit Owners and all 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 a 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 Directors 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 succeeded.

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

Section 6. Removal. The Board of Directors may remove any officer at any time with or without cause by a majority vote.

Section 7. Indemnification. With respect to claims or liabilities arising out of service as an officer of the Association, the Association shall indemnify and advance expenses to each present and future officer (and such officer's estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

## ARTICLE V

### Assessments

Section 1. Annual Budget; Working Capital and Reserve Funds. The Board may cause to be prepared an estimated annual budget for each fiscal year of the Association. 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 and reserve funds, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other Common Expenses. A working capital fund shall be maintained by the Association to insure that the Association will have funds available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or advisable by the Board. The working capital fund shall be maintained in an account for the use and benefit of the Association, and disbursements from such fund shall be made as directed by the Board. The first purchaser of a Unit from Developer shall establish the initial working capital fund in an aggregate amount equal to two (2) months' estimated assessments for each Unit. Each Unit's share of the working capital fund in the aggregate amount of two (2) months' estimated assessments shall be collected and transferred to the Association at the time of the closing of the sale of such Unit to the purchaser from Developer. Amounts paid into the working capital fund shall in no event be considered advance payments of regular monthly assessments. A reserve fund shall also be maintained by the Association to insure that the Association will have funds

available for the replacement of and any necessary additions to the Common Elements. The reserve fund shall be funded from the regular monthly assessments for Common Expenses and shall be maintained in an account for the use and benefit of the Association. Disbursements from such fund shall be made as directed by the Board.

Section 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as such Unit Owner's respective monthly assessment for the Common Expenses, one-twelfth (1/12) of such Unit Owner's proportionate share of the Common Expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with such Unit Owner's respective ownership interest in the Association as set forth in the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of such Unit Owner's respective monthly assessment as last determined. Each Unit Owner shall pay such Unit Owner's monthly assessment on or before the first day of each month. No Unit Owner shall be relieved of the obligation to pay such Unit Owner's assessment by abandoning or not using such Unit Owner's Unit, the Common Elements, or the Private Elements.

Section 3. Partial Year or Month. For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year or any succeeding fiscal year shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Each Unit Owner shall pay such Unit Owner's assessment for the following month or fraction of a month, which assessment shall be in proportion to the Unit Owner's respective ownership interest in the Association and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

Section 4. Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner and to any other party required by the Declaration or these Bylaws a statement for the year so ended showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. Lien. It shall be the duty of every Unit Owner to pay such Unit Owner's proportionate share of Common Expenses, as provided in the Declaration.

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 maximum rate then allowed by applicable law, after said Common Expenses become due and payable, shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit

Owner in the Property; provided, however, that such lien 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 are due and payable from and after the date on which such deed of trust beneficiary either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or files suit to foreclose on its deed of trust. The provisions of this paragraph of this Section 5 shall not be amended, changed, modified, or rescinded in any way without the prior written consent of all such lien holders of record.

The Association and its successors and assigns and the Board and its agents shall have the right to enforce the lien as provided in the Declaration, and there shall be added to the amount due the costs of any suit maintained to enforce the lien and other fees and expenses, together with legal interest and reasonable attorneys' fees. The Board or the Association 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 Bylaws or as are otherwise available, at law or in equity, for the collection of all unpaid assessments.

Section 6. Records and Statements of Account. The Board shall cause to be kept detailed and accurate records in a book in chronological order of the receipts and expenditures affecting the Property specifying and itemizing the expenses incurred.

Section 7. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance 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 ownership. When fewer than all the Unit Owners are responsible for the existence of any such lien, the Unit Owner(s) responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

Section 8. Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use, and account of all the Unit Owners.

Section 9. Association Records. The Association shall keep as permanent records minutes of all meetings of its Unit Owners and Board of Directors, a record of all actions taken by the Unit Owners or Board of Directors without a meeting, and all appropriate accounting records.

Section 10. Records at Principal Office. The Association shall keep at all times a copy of the following records at its principal office:

(a) Its Charter and all amendments thereto;

(b) These Bylaws and all amendments thereto;

(c) All resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations, and obligations of Unit Owners or any class or category of Unit Owners;

(d) The minutes of all meetings of Unit Owners and the records of all actions taken by Unit Owners;

(e) All written communications to Unit Owners generally within the past three (3) years, including the past three (3) years' annual financial statements;

(f) A list of the names and business or home addresses of its current Directors and officers;

(g) The most recent annual report delivered to the Tennessee Secretary of State;

(h) Its Declaration and all amendments thereto; and

(i) A book entitled "Mortgages of Units" listing the name and address of each deed of trust beneficiary or mortgagee of a Unit of which the Board has notice.

## ARTICLE VI

### 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 or other Unit Owners cause unreasonable noise or disturbance to others.

Each Unit Owner shall maintain such Unit Owner's Unit and Limited Common Elements in good condition and in good order and repair at such Unit Owner's expense and shall not do or allow anything to be done to such Unit Owner's Unit or Limited Common Elements which may increase the cost or cause the cancellation of insurance on the other Unit(s) or on the Common Elements. No Unit Owner shall display, hang, store, or use any clothing, sheets, blankets, laundry, or other articles outside such Unit Owner's Unit or which may be visible from the outside of such Unit 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 Unit Owner's Unit, or install outside such Unit Owner's Unit any canopy, awning, outside radio or television antenna, Citizens Band radio transmitter, satellite dish, or other equipment, fixture, or item of any kind, without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's

direction, or of the other Unit Owners. 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 appurtenant to such Unit Owner's Unit. No Owner of a Unit shall display, hang, store, or use any sign outside such Unit Owner's Unit or which may be visible from the outside of such Unit Owner's Unit without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's direction, or of the other Unit Owners.

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 no pet shall be kept for any commercial purpose and not more than a total of three (3) pets may be kept at any time. All pets shall be kept in strict accordance with any administrative rules and regulations relating to household pets from time to time adopted or approved by the Board, and no pet shall, in the judgment of the Board, constitute a nuisance to others.

All dogs owned by Unit Owners and kept in a Unit shall be on leash while outside the Unit. All dogs shall be exercised by the Unit Owner at places on the Property which do not interfere with the use and enjoyment of the same by other Unit Owners. A Unit Owner shall be responsible for all damage caused by said Unit Owner's pets.

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

Section 5. Storage. Storage of boats, trailers, campers, and motor homes on the Property shall not be permitted.

## ARTICLE VII

Contractual Powers

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm, or association in which one or more of the Directors of the Association are directors, members, or are financially interested shall be 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 such Director's or Directors' votes are counted, if the circumstances specified in either of the following subparagraphs exists:

(a) the fact of the common directorship, membership, or financial interest is disclosed or known to the Board or committee and noted in the minutes, and the Board or committee authorizes, approves, and/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 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 VIII

### Amendments

Except as otherwise specifically provided in the Declaration or these Bylaws, these Bylaws may be amended, modified, or revoked in any respect from time to time only by the vote of not less than seventy-five percent (75.0%) of the Unit Owners; provided, however, that (a) the approval of Eligible Mortgagees representing at least fifty-one percent (51.0%) of the Units subject to deeds of trust or mortgages held by Eligible Mortgagees shall be required for the amendment of any provision of these Bylaws that relates to any Major Decision, (b) the contents of these Bylaws always shall contain those particulars that are required to be contained herein by the Act, and (c) no modification of or amendment to these Bylaws shall be valid unless set forth in an amendment to the Declaration. Any amendment(s) shall not be effective until they are recorded in the Register's Office for Davidson County, Tennessee.

## ARTICLE IX

### Deeds of Trust

Section 1. Notice to Board. A Unit Owner who mortgages such Unit Owner's Unit shall notify the Board of the name and address of the deed of trust beneficiary and shall file a copy of the deed of trust with the Board, which shall keep a book listing the mortgages or deeds of trust on the Units.

Section 2. Notice of Unpaid Common Expenses. The Board, whenever so requested in writing by a deed of trust beneficiary of a Unit, shall promptly report any then unpaid assessments, fees, or Common Expenses due from or any default by the Unit Owner of the mortgaged Unit.

Section 3. Notice of Default. The Board, when giving notice to a Unit Owner of a default in paying Common Expenses or any other default, shall send a copy of such notice to each deed of trust beneficiary of record covering such Unit whose name and address has theretofore been furnished to the Board and which has requested in writing to be sent a copy of such notice(s).

Section 4. Examination of Books. Each Unit Owner and any other Persons as specified in the Declaration shall be permitted to examine the books and records of the Association, the Declaration, and these Bylaws, and any rules and regulations of the Association during normal business hours and upon request.

Section 5. Interest of Valid First Deed of Trust. The interest of a valid first deed of trust 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 deed of trust has incorporated the terms of these Bylaws, the Declaration, and the contract in its deed of trust, then the beneficiary of the first deed of trust may, at its option, declare a default in its deed of trust by reason of any default hereunder and may proceed to enforce its rights according to the terms of the deed of trust notwithstanding any enforcement instituted by the Board.

## ARTICLE X

### Definition of Terms

The terms used in these Bylaws, to the extent they are not defined herein, shall have the same definition as set forth in the Declaration, as such may be amended from time to time, which Declaration is recorded in the Register's Office for Davidson County, Tennessee.

The term "member," as used in these Bylaws, generally means "Unit Owner" as defined in the Declaration. "Deed of trust," as used herein, includes a mortgage. "Deed of trust beneficiary" includes a mortgagee and a holder of a deed of trust.

## ARTICLE XI

### Miscellaneous Provisions

Section 1. No Seal. The Association shall have no seal.

Section 2. Notices. Whenever notice is required to be given to Unit Owners, Directors, or officers, unless otherwise provided by law, the Declaration, the Charter, or these Bylaws, such

notice may be given in person, by mail, or by nationally recognized overnight carrier such as FedEx or UPS. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address which appears for each such Person on the books of the Association. Notice shall be deemed to have been given at the earliest of the following:

(a) When received;

(b) One (1) business day after its deposit with a nationally recognized overnight carrier;

(c) Two (2) business days after its deposit in the United States mail if sent first class, postage prepaid; or

(d) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

For the purposes of this Section, the term "business day" shall mean a day other than a Saturday, Sunday, federal holiday, or other day on which commercial banks in Nashville, Tennessee are authorized or required by law or executive order to close.

Section 3. Waiver of Notice. Whenever any notice is required to be given under the provisions of any statute or of the Declaration, the Charter, or these Bylaws, a waiver thereof in writing signed by the Person entitled to such notice, whether before or after the date stated thereon, delivered to the Secretary/Treasurer of the Association and included in the minutes or corporate records, shall be deemed equivalent thereto.

Section 4. Negotiable Instruments. All checks, drafts, notes, or other obligations of the Association shall be signed by such officers of the Association or by such other Person(s) as may be authorized by the Board of Directors.

Section 5. Deposits. The monies of the Association may be deposited in the name of the Association in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or Person(s) designated by resolution adopted by the Board of Directors.

Section 6. Committee Members. With respect to claims or liabilities arising out of service as a member of a committee duly appointed by the Board of Directors of the Association, the Association shall indemnify and advance expenses to each such present and future committee member (and such committee member's estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

## ARTICLE XII

## Conflicts

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



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## True Copy Certification

I, Catherine H. Gwyn, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

Signature

STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

Personally appeared before me, Jonna L. Hall, a notary public for this county and state, Catherine H. Gwyn who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary's Signature

My Commission Expires: 10/14/2019

Notary's Seal

