Return to:

Prepared by:
Darryl Moss
3500 Lenox Road
4th Floor
ATLANTA, GA 30326

DECLARATION OF CONDOMINIUM

FOR

222 2ND AVENUE, A CONDOMINIUM

Karen Y Johnson Davidson County
Batch# 178053 **DEEDMAST**
12/26/2018 03:30:02 PM 124 pgs
Fees: $622.00 Taxes: $0.00
20181226-0125334

COPYRIGHT © 2018
All rights reserved. This Declaration may be used only in connection with the property at 222 2nd Avenue, A Condominium, and the operation of the 222 2nd Avenue Condominium Association, Inc.

TABLE OF CONTENTS

ARTICLE 1. NAME. 1

ARTICLE 2. DEFINITIONS. 1

Section 2.1. Act. 1
Section 2.2. Annual Assessment. 1
Section 2.3. Appeal Professional. 1
Section 2.4. Appeal Professional Appointment Deadline Date. 1
Section 2.5. ARC or Architectural Review Committee. 1
Section 2.6. ARC Appeal Notice. 1
Section 2.7. ARC Architect Appointment Deadline Date. 1
Section 2.8. Art Wall. 1
Section 2.9. Assessment Allocation Agreement. 1
Section 2.10. Association. 1
Section 2.11. Association Appeal Notice. 2
Section 2.12. Board or Board of Directors. 2
Section 2.13. Brownfield Agreement. 2
Section 2.14. Building. 2
Section 2.15. Building Utility and Service Systems. 2
Section 2.16. Bylaws. 2
Section 2.17. Charter. 2
Section 2.18. Common Elements. 2
Section 2.19. Common Expenses. 2
Section 2.20. Common Profits. 2
Section 2.21. Condominium. 2
Section 2.22. Condominium Instruments. 2
Section 2.23. Contractor. 2
Section 2.24. Declarant. 2
Section 2.25. Effective Date. 2
Section 2.26. Electronic Document. 2
Section 2.27. Electronic Signature. 2
Section 2.28. Environmental Laws. 3
Section 2.29. External Sidewalk Area. 3
Section 2.30. Financial Services Institution. 3
Section 2.31. Floor Plans. 3
Section 2.32. Hazardous Substances. 3
Section 2.33. Inner Sidewalk Area. 3
Section 2.34. Insurance Shortfall Payment. 3
Section 2.35. Legal Requirements. 3
Section 2.36. Life-safety Systems. 3
Section 2.37. Limited Common Element. 3
Section 2.38. Majority. 4
Section 2.39. Master Project Manual. 4
Section 2.40. Mold. 4
Section 2.41. Mortgage. 4
Section 2.42. Mortgagee or Mortgage Holder. 4
Section 2.43. Notice of Application Completion. 4
Section 2.44. Occupant. 4
Section 2.45. Office Terrace. 4
Section 2.46. Office Vapor Barrier. 4
Section 2.47. Official Records. 4
Section 2.48. Owner. 4
Section 2.49. Parking Deck. 4
Section 2.50. Parking Revenue Management and Operating Protocol Agreement. 4
Section 2.51. Percentage Interests. 4

Section 2.52. Permitted Overnight Delivery 4
Section 2.53. Permittee 5
Section 2.54. Person 5
Section 2.55. Plat 5
Section 2.56. Property Monitoring and Access Systems 5
Section 2.57. Retail Terrace 5
Section 2.58. Retail Vapor Barrier 5
Section 2.59. Review Standards 5
Section 2.60. Secure Electronic Signature 5
Section 2.61. Signage Band 5
Section 2.62. Special Assessment 5
Section 2.63. Specific Assessment 5
Section 2.64. Submitted Property 6
Section 2.65. Telecommunications Activity 6
Section 2.66. Telecommunications Equipment 6
Section 2.67. Total Association Vote 6
Section 2.68. Unit 6
Section 2.69. Unit Utility and Service Systems 6
Section 2.70. Utility and Service Systems 6
Section 2.71. Valet Zone # 1 6
Section 2.72. Valet Zone # 2 7
Section 2.73. Valet Provider 7
Section 2.74. Valet Services 7
Section 2.75. Vapor Barrier 7

ARTICLE 3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS 7

ARTICLE 4. UNITS AND BOUNDARIES 7
Section 4.1. Unit Description and Interests. 7
Section 4.2. Unit Boundaries. 7

ARTICLE 5. COMMON ELEMENTS 9

ARTICLE 6. LIMITED COMMON ELEMENTS 9

ARTICLE 7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES. 10

ARTICLE 8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES 10

ARTICLE 9. ASSOCIATION RIGHTS AND RESTRICTIONS. 11

ARTICLE 10. ASSESSMENTS. 12
Section 10.1. Purpose of Assessments. 12
Section 10.2. Types of Assessments. 12
Section 10.3. Annual Budget and Annual Assessment. 12
Section 10.4. Special Assessments. 13
Section 10.5. Specific Assessments. 13
Section 10.6. Payment of Assessments. 13
Section 10.7. Creation of the Lien and Personal Obligation for Assessments. 14
Section 10.8. Non-Payment of Assessments. 14
Section 10.9. Surplus Funds and Common Profits. 15
Section 10.10. Statement of Account. 15

ARTICLE 11. INSURANCE. 15
Section 11.1. Generally. 15
Section 11.2. Property Insurance. 15
Section 11.3. Liability Insurance. 16
Section 11.4. Annual Review and Allocation of Costs Between Units. 17



Section 11.5. Coverage Requirements. 17
Section 11.6. Other Required Insurance. 18
Section 11.7. Liability Insurance Maintained by Unit Owners. 18
Section 11.8. Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies. 19
Section 11.9. Insurance Requirements for Contractors. 20
Section 11.10. Application of Deductibles. 20

ARTICLE 12. REPAIR AND RECONSTRUCTION. 20
Section 12.1. General. 20
Section 12.2. Cost Estimates. 20
Section 12.3. Source and Allocation of Proceeds. 20
Section 12.4. Floor Plans and Specifications. 21
Section 12.5. Encroachments. 21
Section 12.6. Construction Fund. 21
Section 12.7. Delegation. 21

ARTICLE 13. ARCHITECTURAL CONTROLS. 22
Section 13.1. Alterations to Retail Unit. 22
Section 13.2. Signs and Flags. 22
Section 13.3. Encroachments onto Common Elements. 23
Section 13.4. Subdivision of a Unit. 24
Section 13.5. Relocation of Boundaries. 24
Section 13.6. Applications and Appeals. 24
Section 13.7. Condition of Approval. 28
Section 13.8. Limitation of Liability. 28
Section 13.9. No Waiver of Future Approvals. 28
Section 13.10. Enforcement. 28
Section 13.11. Approval of Contractors. 28
Section 13.12. Standards of Work, Reconstruction and Maintenance. 28

ARTICLE 14. USE RESTRICTIONS 30
Section 14.1. Use of the Units. 30
Section 14.2. Prohibited Uses. 30
Section 14.3. Rubbish, Trash, and Garbage. 32
Section 14.4. Ventilation of Cooking Apparatus. 32
Section 14.5. Use of the Roofs. 32
Section 14.6. Limitation of Damage, Nuisance, Noise, and Vibration. 32
Section 14.7. Use of Limited Common Elements. 33
Section 14.8. Abandoned Personal Property. 33
Section 14.9. Loading Dock. 33
Section 14.10. Parking Deck. 33
Section 14.11. Valet Parking. 36
Section 14.12. Pest Control. 36
Section 14.13. Sidewalk Areas. 36
Section 14.14. Office Terrace. 37
Section 14.15. Retail Terrace. 38
Section 14.16. Art Wall. 38
Section 14.17. Limitations on Use of Certain Shared Rooms. 38
Section 14.18. No Smoking. 38

ARTICLE 15. MAINTENANCE AND SERVICE RESPONSIBILITY. 39
Section 15.1. Maintenance By Unit Owner. 39
Section 15.2. Maintenance By Association. 40
Section 15.3. Utility and Service Systems. 40
Section 15.4. Life-safety Systems. 40
Section 15.5. Sidewalk Areas. 40

Section 15.6. Failure to Maintain. 41
Section 15.7. Mold Disclosure and Waiver. 41
Section 15.8. Association Inspection Obligations. 42
Section 15.9. Unit Owner Inspection Rights. 43
Section 15.10. Vapor Barrier. 43

ARTICLE 16. MORTGAGEE RIGHTS 43
Section 16.1. Consent Required. 43
Section 16.2. Assessments. 44
Section 16.3. Notices. 44
Section 16.4. Duplicative Notices. 44
Section 16.5. No Priority. 44
Section 16.6. Notice to Association. 44
Section 16.7. Failure of Mortgagee to Respond. 44
Section 16.8. Cure Rights. 45
Section 16.9. No Invalidity of Mortgage Lien. 45
Section 16.10. Construction. 45

ARTICLE 17. DEFAULT AND REMEDIES 45
Section 17.1. Remedies Cumulative. 45
Section 17.2. Authority and Enforcement. 45
Section 17.3. Fining and Suspension Procedure. 45
Section 17.4. Self-Help Rights. 46
Section 17.5. Conditions of Self-Help Rights. 47

ARTICLE 18. COMPLIANCE WITH LAWS AND ZONING 47
Section 18.1. Compliance with Laws and Covenants. 47
Section 18.2. Environmental. 47
Section 18.3. Unit Owner's Indemnity. 48
Section 18.4. Zoning Compliance. 48

ARTICLE 19. GENERAL PROVISIONS 48
Section 19.1. Dispute Resolution. 48
Section 19.2. Declarant Services. 49
Section 19.3. Enforcement. 49
Section 19.4. Parking Spaces and Vehicles. 49
Section 19.5. Sustainability Certification. 49
Section 19.6. No Third Party Beneficiaries. 50
Section 19.7. Successor-in-Title. 50
Section 19.8. Notices. 50
Section 19.9. Security. 50
Section 19.10. Disclosures. 51
Section 19.11. Conflict. 51

ARTICLE 20. EMINENT DOMAIN 51
Section 20.1. Common Elements Taken. 51
Section 20.2. Unit Taken. 51
Section 20.3. Mortgagee Notice. 52

ARTICLE 21. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS 52
Section 21.1. Utilities - Blanket Easement. 52
Section 21.2. Surface Water Drainage and Runoff. 52
Section 21.3. Utility and Service Systems - Blanket Easement. 52
Section 21.4. Blanket Easement for Lateral and Subjacent Support; Utility and Service Systems; Party Walls and Encroachments. 53
Section 21.5. Emergency - Blanket Easement. 53
Section 21.6. Access Easements Benefiting the Association. 53

Section 21.7. Easements Benefiting Declarant. 54
Section 21.8. Commonly Metered-Used Items. 54
Section 21.9. Cooperation. 54
Section 21.10. Damages Resulting From the Exercise of Easement Rights. 54

ARTICLE 22. AMENDMENT 54

ARTICLE 23. SEVERABILITY 55

EXHIBITS

SUBMITTED PROPERTY ..... "A"

PERCENTAGE INTERESTS ..... "B"

CHART OF COMMON ELEMENTS AND UNITS ..... "C"

FLOOR PLANS AND PLAT ..... "D"

DISCLOSURES ..... "E"

BYLAWS ..... "F"

STATE OF TENNESSEE
COUNTY OF DAVIDSON

DECLARATION OF CONDOMINIUM

FOR

222 2ND AVENUE, A CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM FOR 222 2ND AVENUE, A CONDOMINIUM (the "Declaration") is made the date set forth below by 222 Second Avenue LLC, a Delaware limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

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

WHEREAS, a plat of survey for the Condominium prepared by Barge Design Solutions, dated April 14, 2018 attached hereto as Exhibit "D" and incorporated herein;

WHEREAS, floor plans for the Condominium prepared by Gresham Smith and Partners, attached hereto as Exhibit "D" and incorporated herein;

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

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

DECLARATION OF CONDOMINIUM

FOR

222 2ND AVENUE, A CONDOMINIUM

ARTICLE 1. NAME.

The name of the condominium is 222 2nd Avenue, A Condominium (hereinafter referred to as the "Condominium", as further defined herein), which condominium is hereby submitted to the Tennessee Condominium Act of 2008.

ARTICLE 2. DEFINITIONS.

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

Section 2.1. Act shall mean the Tennessee Condominium Act of 2008, Section 66-27-201, *et seq.*, Tenn. Code Ann., as may be amended from time to time.

Section 2.2. Annual Assessment shall mean the assessment to be uniformly levied by the Board against each Unit as more particularly described in Section 10.3 hereof.

Section 2.3. Appeal Professional shall mean an architect, engineer, or other professional having the appropriate skills and knowledge to review appeals as contemplated in Section 13.6(b)(vii) hereof. The Person entitled to appoint an Appeal Professional shall take into consideration the subject matter and circumstances of the applicable appeal in determining the appropriate type of professional to appoint for such appeal.

Section 2.4. Appeal Professional Appointment Deadline Date shall have the meaning set forth in Section 13.6(b) below.

Section 2.5. ARC or Architectural Review Committee shall mean that certain committee composed of two (2) members responsible for reviewing applications as provided in this Declaration, with the Owner of each Unit entitled to appoint and remove one (1) member.

Section 2.6. ARC Appeal Notice shall have the meaning set forth in Section 13.6(a) below.

Section 2.7. ARC Architect Appointment Deadline Date shall have the meaning set forth in Section 13.6(a) below.

Section 2.8. Art Wall shall mean that certain portion of the exterior façade of the north side of the Parking Deck as may be more specifically designated by the Board from time to time and subject to the terms of Section 14.16 below.

Section 2.9. Assessment Allocation Agreement shall mean that certain Assessment Allocation Agreement between the Owners dated December 30, 2016, as may be amended. The Assessment Allocation Agreement shall be binding on any successor Owner of a Unit.

Section 2.10. Association shall mean 222 2nd Avenue Condominium Association, Inc., a Tennessee nonprofit corporation, its successors or assigns.

Section 2.11. Association Appeal Notice shall have the meaning set forth in Section 13.6(b) below.

Section 2.12. Board or Board of Directors shall mean the board of directors of the Association, which shall be the body responsible for management and operation of the Association.

Section 2.13. Brownfield Agreement shall mean that certain Brownfield Agreement dated November 13, 2015 between the 222 Second Avenue LLC, and the Tennessee Department of Environment and Conservation Division of Remediation.

Section 2.14. Building shall mean that certain twenty-five (25) level building located on the Condominium, as more particularly shown on the Floor Plans and Plat.

Section 2.15. Building Utility and Service Systems shall mean those Utility and Service Systems in the Condominium that are not a Unit Utility and Service System.

Section 2.16. Bylaws shall mean the Bylaws of the Association attached hereto as Exhibit "F" and incorporated herein by this reference.

Section 2.17. Charter shall mean the Charter of 222 2nd Avenue Condominium Association, Inc., which has been filed with the Department of State of the State of Tennessee.

Section 2.18. Common Elements shall mean those portions of the Condominium other than the Units, including specifically those shown on the Floor Plans as "Common Element."

Section 2.19. Common Expenses shall mean actual or anticipated expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

Section 2.20. Common Profits shall mean all income collected or accrued by or on behalf of the Association other than income derived from assessments.

Section 2.21. Condominium shall mean the condominium created under and pursuant to this Declaration.

Section 2.22. Condominium Instruments shall mean this Declaration, all exhibits to this Declaration, and the Plat and Floor Plans, all as may be supplemented or amended from time to time.

Section 2.23. Contractor shall mean any contractor, subcontractor, electrician, plumber, architect, builder, engineer, or other similar tradesperson.

Section 2.24. Declarant shall mean 222 Second Avenue LLC, a Delaware limited liability company, its successors and assigns and any other Person as further set forth in Section 66-27-102(a)(6) of the Act, provided such successors and/or assigns are designated in writing by Declarant as a successor and/or assign of the rights of Declarant set forth herein.

Section 2.25. Effective Date shall mean the date on which this Declaration is recorded in the Official Records.

Section 2.26. Electronic Document shall mean information created, transmitted, received or stored by electronic means and retrievable in human perceivable form, including, but not limited to e-mail, web pages, electronic documents and facsimile transmissions.

Section 2.27. Electronic Signature shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

Section 2.28. Environmental Laws shall mean and include all present and future federal, state or local laws, rules orders ordinances and regulations pertaining to environmental regulation or the use, processing, storage disposal, generation or transportation of Hazardous Substances or any contamination, cleanup or disclosure related thereto, including, but not limited to, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. and such regulations as may be promulgated with respect thereto, including, but not limited to the regulations contained in 40 CFR Part 280.

Section 2.29. External Sidewalk Area shall mean any sidewalk area adjacent to the Submitted Property (and not part of the Submitted Property) upon which an Owner obtains permission from the municipality or other governmental entity owning such sidewalk adjacent to the Submitted Property to utilize such area for outdoor seating, display of merchandise, and/or other commercial purposes.

Section 2.30. Financial Services Institution shall mean any entity which performs one or more of the following activities: (a) operation of a commercial bank, savings bank, savings and loan association, credit union, a mutual or thrift association or any other institution that accepts deposits of money, (b) operation of any sort of automated teller machine or cash dispensing machine, (c) operation of a stock brokerage firm, (d) operation of a mortgage broker, (e) operation of a finance company, mortgage company or any other institution that lends money, (f) investment banking, (g) insurance brokerage; and (h) provision of any other financial services or sale of any financial products Bank of America, National Association (or its successor), is permitted to offer by law.

Section 2.31. Floor Plans shall mean the floor plans for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "D" and incorporated herein.

Section 2.32. Hazardous Substances shall means those substances now or hereafter included within (whether as a result of such substance's inclusion on a list, physical characteristics or otherwise) any of the definitions of "hazardous substances", "hazardous waste", "hazardous materials", "pollutant", "contaminant" or "toxic substance" under or otherwise regulated by, any Environmental Laws; including, but not limited to (a) mixtures containing listed Hazardous Substances and waste generated from the treatment, storage or disposal of Hazardous Substances, (b) asbestos, (c) polychlorinated biphenyls, (d) radioactive materials and (e) petroleum (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas and synthetic gas.

Section 2.33. Inner Sidewalk Area shall mean any sidewalk area within the Submitted Property, as shown on the Floor Plans.

Section 2.34. Insurance Shortfall Payment shall mean the amount of money assessed to one (1) or more of the Owners, as applicable, subsequent to a casualty, which damages and/or destroys all of any portion of the Condominium, as contemplated in Section 12.3 hereof.

Section 2.35. Legal Requirements shall mean all applicable federal, state and local laws, orders, rules and regulations.

Section 2.36. Life-safety Systems shall mean those systems designed to protect the Building and its Occupants from emergencies, including, but not limited to, pumps, control valves, smoke alarms, horns, strobes, emergency lighting, smoke evacuation or exhaust systems, sprinklers (including stand pipes, fire pumps and control valves, foremen's control and enunciator panels and related facilities), call boxes, emergency generators and other related improvements, devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.37. Limited Common Element shall mean a portion of the Common Elements reserved for the exclusive use of less than all Units.

Section 2.38. Majority means more than fifty percent (50%) of the total eligible number.

Section 2.39. Master Project Manual shall mean those certain maintenance criteria, maintenance manuals, inspection requirements, work standards, build-out requirements, Contractor obligations, and warranty requirements for the Building provided by Declarant to the Association. The Association shall update the Master Project Manual on a regular basis.

Section 2.40. Mold shall collectively mean mold, mildew, fungi, mycotoxins, and/or microbiological organisms.

Section 2.41. Mortgage shall mean any deed of trust, deed to secure debt, mortgage or other similar instrument filed in the Official Records that encumbers all or a portion of the Units as reflected in the Official Records.

Section 2.42. Mortgagee or Mortgage Holder shall mean the holder of any Mortgage.

Section 2.43. Notice of Application Completion shall mean that certain written notice to an applicant from the ARC or Association, as applicable, that a complete application and all required information has been received by the ARC or Association, as applicable.

Section 2.44. Occupant shall mean any Person, including any Unit Owner having a right to occupy or use all or any portion of a Unit for any period of time.

Section 2.45. Office Terrace shall mean the outdoor terrace on level 12 of the Building which is part of the Office Unit, as shown on the Floor Plans.

Section 2.46. Office Vapor Barrier shall mean that portion of the Vapor Barrier to be located within the Office Unit.

Section 2.47. Official Records shall mean the official land records of the Register's Office for Davidson County, Tennessee.

Section 2.48. Owner shall mean the record titleholder of a Unit, but shall not include a Person who is only a Mortgagee. A Mortgagee who forecloses or otherwise takes ownership of a Unit shall be deemed an Owner upon the acquisition of such ownership. The term "Owner" shall refer to the owner of a particular Unit and the term "Owners" shall refer collectively to the owners of all of the Units.

Section 2.49. Parking Deck shall mean the parking deck and related facilities located on levels P2 through 11 of the Building, as shown on the Floor Plans.

Section 2.50. Parking Revenue Management and Operating Protocol Agreement shall mean that certain Parking Revenue Management and Operating Protocol Agreement between the Owners dated December 201[illegible] as may be amended. The Parking Revenue Management and Operating Protocol Agreement shall be binding on any successor Owner of a Unit.

Section 2.51. Percentage Interests shall mean the undivided ownership percentage interest in the Common Elements appurtenant to each Unit as set forth in Exhibit "B" to this Declaration.

Section 2.52. Permitted Overnight Delivery shall mean delivery of any notice that satisfies the following:

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

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

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

Section 2.53. Permittee shall mean any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contractor of an Owner, Occupant, or Declarant, as applicable.

Section 2.54. Person shall mean any individual, corporation, limited liability company, firm, association, partnership, trust or other legal entity.

Section 2.55. Plat shall mean the plat for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "D" and incorporated herein.

Section 2.56. Property Monitoring and Access Systems shall mean those systems designed to control access and provide surveillance of the Condominium, including, without limitation, all card readers, closed-circuit televisions cameras, alarm sensors, control panels and related equipment, devices and improvements, and other related improvements, devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.57. Retail Terrace shall mean the outdoor terrace on level 3 of the Building which is part of the Retail Unit, as shown on the Floor Plans.

Section 2.58. Retail Vapor Barrier shall mean that portion of the Vapor Barrier to be located within the Retail Unit.

Section 2.59. Review Standards shall mean the following standards: compliance with the Master Project Manual; consistency with the first class quality, appearance and design of the Building in terms of the materials used, their arrangement in space, their relationship and consistency with the existing Building and their quality; and harmony with the external design of other structures in the vicinity of the Condominium.

Section 2.60. Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

Section 2.61. Signage Band shall mean a signage band or retail projecting sign area serving the Retail Unit as depicted on the Floor Plans.

Section 2.62. Special Assessment shall mean an assessment uniformly levied by the Board against all Units in accordance with their respective Percentage Interests to fund an expense of the Association not included in the annual budget or to otherwise fund a shortfall in the operating account of the Association.

Section 2.63. Specific Assessment shall mean an assessment levied by the Board against a Unit as permitted in Section 66-27-414 of the Act or elsewhere in the Act as provided below:

(a) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be specifically assessed against the Unit(s) to which that Limited Common Element is allocated as provided in the Assessment Allocation Agreement;

(b) Any Common Expense or portion of the Common Expense benefiting fewer than all of the Units may be specifically assessed exclusively against the Unit(s) benefited as provided in the Assessment Allocation Agreement ;

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

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

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

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

Section 2.64. Submitted Property shall mean all that tract or parcel of land located in Nashville, Davidson County, Tennessee and being more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, and any improvements therein.

Section 2.65. Telecommunications Activity shall mean construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of Telecommunications Equipment.

Section 2.66. Telecommunications Equipment shall mean telecommunications equipment, including without limitation, broadcast antennae and related equipment, cell tower equipment, or other wireless communication antennae and related equipment, cable or satellite television equipment and equipment for high-speed internet access.

Section 2.67. Total Association Vote shall mean all of the eligible votes attributed to members of the Association (including votes attributable to Declarant).

Section 2.68. Unit shall mean those portions of the Condominium intended for separate ownership.

Section 2.69. Unit Utility and Service Systems shall mean those Utility and Service Systems exclusively serving one (1) Unit and not connected to any Utility and Service Systems that serves the Common Elements or another Unit.

Section 2.70. Utility and Service Systems shall mean all systems and facilities for water, air, ventilation, smoke evacuation, emergency generator, air conditioning and heating (including, without limitation, refrigerant lines, chilled water lines, electric lines, thermostatic control lines and related facilities), natural gas, steam, electricity, energy, drainage, sewage, grease trap, communications, and other utilities and all chutes, flues, ducts, conduits, pipes, lines, utility meters, wiring and all similar components, or other conduit, raceways and other pathways relating to any of the foregoing (including, without limitation, closed circuit television lines, high speed internet lines and fiber optic cable lines). Property Monitoring and Access Systems and Life-safety Systems shall be deemed Utility and Service Systems.

Section 2.71. Valet Zone # 1 shall mean that certain area intended for Valet Services on level 1 of the Building, as shown on the Floor Plans.

Section 2.72. Valet Zone # 2 shall mean that certain area intended for Valet Services on Molloy Street (not within the Condominium), as shown on the Floor Plans.

Section 2.73. Valet Provider shall mean an entity engaged in the business of providing of Valet Services.

Section 2.74. Valet Services shall mean valet parking services as provided by a Valet Provider.

Section 2.75. Vapor Barrier shall mean that certain vapor barrier, sand protective cover and concrete slab located between the surface of the real property subject to this Declaration and the Building, which is required to be installed and maintained (without breach or penetration) as required by and in accordance with the Brownfield Agreement.

ARTICLE 3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS

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

ARTICLE 4. UNITS AND BOUNDARIES

Section 4.1. Unit Description and Interests. The Condominium shall be divided into two (2) Units and Common Elements, some which may be allocated as Limited Common Elements. Each Unit consists of its defined space together with an undivided Percentage Interest in the Common Elements appurtenant thereto.

Section 4.2. Unit Boundaries. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units shall have the following boundaries and are depicted on the Floor Plans:

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

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

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

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

(iv) Notwithstanding anything to the contrary herein, the perimetrical or vertical boundary of the portion of the Retail Unit adjacent to 2nd Avenue shall be a vertical plane extending to the upper and lower horizontal boundary of the Retail Unit, as shown on Sheet __ of the Floor Plans.

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

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

(ii) With respect to the portions of a Unit located on level 1 of the Building, the lower horizontal boundary of such portions of the Unit shall be the horizontal plane formed by the uppermost surface of the soil or sand surface, with any concrete slab, Vapor Barrier, and flooring constituting part of such Unit.

(iii) With respect to any portion of a Unit located directly below any roof of the Building, the upper horizontal boundary of such portion of the Unit is the uppermost exterior surface of the roof, with all roof materials constituting part of the Unit.

(iv) Notwithstanding anything to the contrary herein, in the event a portion of a Unit is located on a level of the Building directly above another portion of the same Unit located on the level below, there shall not be deemed to be any horizontal boundary between the portions of the same Unit.

(c) Additional Information to Interpret Unit Boundaries.

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

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

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

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

(v) The Unit Utility and Service Systems exclusively serving one (1) Unit shall be deemed part of such Unit.

(vi) The Office Terrace, including any flooring, structures, or architectural features attached thereto, shall be part of the Office Unit.

(vii) The Retail Terrace, including any flooring, structures, or architectural features attached thereto, shall be part of the Retail Unit.

(viii) Structural elements, including but not limited to structural columns, that support more than one (1) Unit shall not be part of any Unit, but shall be Common Elements.

(ix) The Parking Deck is not part of a Unit. Parking spaces within the Parking Deck are allocated as Limited Common Elements as provided in Article 6 below.

(x) In the event that there is a conflict between the boundaries of a Unit as described in this Section 4.2 and as shown on the Floor Plans, the Floor Plans shall control. It is the express intent of Declarant that the property described as being part of a Unit shall for all purposes herein be treated as and constitute a lawfully described "Unit" as that term is defined in the Act. In the event that there is a final judicial determination by a court of competent jurisdiction that the boundaries of a Unit or any portion thereof are so indefinite and vague so as to not create a legally constituted "Unit" within the meaning of the Act, then that portion of the Unit that has not been adequately described shall be severed from the property deemed a part of the Unit (if the remainder of the Unit, excluding the severed portion thereof, constitutes a properly described Unit under the Act) and shall thereafter be deemed to be Limited Common Elements reserved to the exclusive use of said Unit, subject to the rights and obligations of other Unit Owners with respect to said property.

ARTICLE 5. COMMON ELEMENTS

(a) The Common Elements consist of all portions of the Condominium not constituting a part of a Unit. The Common Elements shall include, without limitation: all items identified as Common Elements on the Floor Plans; Building Utility and Service Systems, including, without limitation, the pathway, piping, piping enclosure, and other parts of the system for the emergency generator exhaust; cooling tower located above the roof of the Office Unit; structural elements, including without limitation columns, that support more than one (1) Unit and/or Common Elements; NES vault; Inner Sidewalk Areas; chiller plant; loading dock; dock manager office; main electrical room; recycling room; garage elevator lobby; emergency electrical room; emergency generator room; parking manager office; mail room; gas meter room; fire command room; fire pump room; exterior landscaping; and the Parking Deck. Notwithstanding any provision to the contrary stated herein, any door or doors enclosing any of the above-listed rooms or serving more than one (1) Unit shall be deemed a part of the Common Elements.

(b) Ownership of the Common Elements shall be by the Owners as tenants-in-common. Each Owner shall own an undivided Percentage Interest in and to the Common Elements attributable to the Unit owned by such Owner. Such undivided Percentage Interest ownership may be altered only by the consent of all Owners and their respective Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration, except as provided in Section 13.5 below which shall not require approval of the Owners or Mortgagees.

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

(d) In the event emergency generator exhaust causes any damage to the roof of the Retail Unit (including, but not limited to, soot or other debris), the Association shall promptly repair such damage as a Common Expense to be allocated in the same manner as other Common Expenses related to the operation of the emergency generator exhaust.

ARTICLE 6. LIMITED COMMON ELEMENTS

(a) General.

(i) Certain parking spaces and other portions of the Parking Deck, as shown on the Floor Plans, are allocated exclusively as Limited Common Elements to each Unit;



(ii) Any Inner Sidewalk Area parallel and immediately adjacent to a Unit, as shown on the Floor Plans, is allocated as a Limited Common Element to such Unit;

(iii) Any Building Utility and Service System, or portion thereof, exclusively serving a single Unit is allocated as a Limited Common Element to the Unit so exclusively served;

(iv) Any portions of the Common Elements on which there is initially constructed any portion of the air conditioning, heating, plumbing, ventilating, exhaust, mechanical, electrical, elevator or telecommunication systems exclusively serving a particular Unit are allocated as Limited Common Elements to the Unit so served. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote but subject to the written consent of any affected Unit Owner (which consent shall not be unreasonably withheld), relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical or telecommunication systems serving a particular Unit, provided that after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation; and further provided that if the relocation is to primarily benefit one Owner and not the Condominium as a whole, the cost of the relocation shall be specially assessed against the benefitting Owner;

(v) The Board of Directors is hereby authorized to allocate and to reallocate Limited Common Elements and Common Elements not previously allocated, provided that any such allocation or reallocation shall be made in accordance with the provisions of the Act and this Declaration. A Common Element not previously allocated as a Limited Common Element may be so allocated upon written application to the Association by the Unit Owner or Unit Owners for whose exclusive use such Common Element is requested; provided, however, no such assignment shall be approved by the Board of Directors which would materially impair the rights of the other Unit Owners under this Declaration. A Limited Common Element may only be reallocated by the Board upon written application to the Association and written consent by the Unit Owner or Unit Owners to whose Unit the Limited Common Element appertains and the Unit Owner or Unit Owners to whose Unit the Limited Common Element is being reallocated. Upon such application and such approval by the Board, the Association shall prepare and execute an amendment to this Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be consented to and executed by the Unit Owner or Unit Owners making such application. A Limited Common Element allocated to a Unit may not be reallocated by the Board without the prior written consent of the Owner of the Unit to which such Limited Common Element is allocated.

(b) Limited Common Elements Assignments. The Limited Common Elements and the Units to which they are allocated are described on Exhibit "C" attached hereto and incorporated herein.

ARTICLE 7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

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

ARTICLE 8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

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

ARTICLE 9. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

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

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

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

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

(e) to control, manage, operate, maintain, improve and replace all portions of the Common Elements (except those Limited Common Elements for which this Declaration expressly make the responsibility of the Owners);

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

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

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

(i) to approve Contractors for which approval is required in accordance with Section 13.11 hereof;

(j) to collect from Contractors reasonable non-refundable fees for use of the loading dock and trash receptacles;

(k) to close temporarily any portion of the Common Elements upon with thirty (30) days prior notice to all Unit Owners (except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days after the closing explaining the reason for the closing), provided, however, the Association shall, to the extent reasonably possible, limit the closure of any Limited Common Elements or any closure that would materially interfere with the business operations of a Unit or the use of which is reasonably necessary for access to or from a Unit;



(l) subject to 15.5 below, to maintain, improve, repair, and replace any sidewalks, landscaping, or other improvements located on government owned property adjacent to the Condominium, subject to compliance with applicable Legal Requirements and with a minimum of interference to the businesses using such sidewalks; and

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

ARTICLE 10. ASSESSMENTS.

Section 10.1. Purpose of Assessments. The Association shall have the power to levy assessments as provided herein. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Units as may be more specifically authorized from time to time by the Board.

Section 10.2. Types of Assessments. Each Owner of a Unit, by acceptance of a deed to a Unit whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following types of assessments with such assessments to be established and collected as hereinafter provided:

(a) Annual Assessments;

(b) Special Assessments; and

(c) Specific Assessments.

Section 10.3. Annual Budget and Annual Assessment.

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

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

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

(ii) Undistributed and unreserved Common Profits.

(c) Failure to Establish Annual Budget. In the event the proposed annual budget is not approved or the Board of Directors fails for any reason to determine the annual budget for the succeeding fiscal year, then and until such time as an annual budget shall have been determined as provided herein, the annual budget and Annual Assessments roster in effect for the then current year shall continue for the succeeding year, provided, however the annual budget and Annual Assessments shall be (i) an amount not to exceed one hundred and five percent (105%) of the preceding year's amount as determined by the



Board, or (ii) such higher amount as shall be necessary to include any mandatory, non-controllable expenses (including, but not limited to, the premiums for any insurance the Association is required to obtain, utilities, taxes, and any required governmental registration, filing, permit, or similar fees, and charges).

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

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

(ii) spend more than what has been budgeted;

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

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

(e) Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost for the subsequent ten (10) year period. The Board may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal Annual Assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the annual budget and Annual Assessment as provided above. A copy of the capital reserve budget shall be distributed to each Owner in the same manner as the annual operating budget.

Section 10.4. Special Assessments. The Board shall have authority at any time to levy a Special Assessment against all Owners based on the Percentage Interests. The Board shall send notice of any Special Assessment to all Owners.

Section 10.5. Specific Assessments. Subject to the Assessment Allocation Agreement, the Board may, at any time and in addition to any other rights it may have, levy a Specific Assessment against such Units as, in its discretion, it shall deem appropriate. The Board shall send notice of which shall be sent to the applicable Owner(s). Failure of the Board of Directors to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority to assess as a Specific Assessment under this Section.

Section 10.6. Payment of Assessments.

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

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

(c) Exemptions. No Owner may exempt itself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to perform its obligations required hereunder or an inconvenience or



discomfort arising from the Association's performance of its duties. Notwithstanding anything to the contrary stated herein, Declarant shall have no obligation to fund budgetary deficits of the Association.

Section 10.7. Creation of the Lien and Personal Obligation for Assessments. All assessments, together with charges, interest, costs and reasonable attorneys' fees actually incurred, in the maximum amount permitted by this Declaration or the Act, whichever is less, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. The Association may foreclose the lien by judicial action or in like manner as a deed of trust with power of sale under Sections 35-5-101, et seq., Tenn. Code Ann., provided that the Association shall first give notice of its action to the Owner and to all lienholders of record prior to the first publication of notice as required under said section and the Act. The lien shall have priority to all other liens and encumbrances on a Unit except as to a first Mortgage recorded in the Official Records before the date on which the assessment sought to be enforced became delinquent and as to those other liens described in Section 66-27-415(b)(1)(A), (B), and (C) of the Act and said lien shall also be subject to the other provisions of Section 66-27-415 of the Act.

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

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

Section 10.8. Non-Payment of Assessments. Any assessment and related charges that are due to the Association pursuant to this Declaration, or any portion thereof, that is not paid when due shall be delinquent and the Owner shall be in default. In the event of such default, without limitation, the Board may impose the following:

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

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

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

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



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

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

Section 10.9. Surplus Funds and Common Profits.

(a) Common Profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such Common Profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit or added to the Association's capital reserve account.

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

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

ARTICLE 11. INSURANCE.

Section 11.1. Generally. The Association, acting through the Board of Directors, shall obtain as a Common Expense and maintain at all times, insurance which meets or exceeds the insurance requirements for condominium associations set forth in Section 66-27-413 of the Act as amended. This insurance may consist of one or more stand alone policies obtained by the Association or a master or group insurance policy or program available to a Unit Owner provided that such policy or program meets or exceeds the requirements set forth in this Article 11.

Section 11.2. Property Insurance.

(a) Scope of Property Coverage.

(i) Notwithstanding the minimum insurance requirements of the Act, the Board of Directors shall utilize commercially reasonable efforts to secure a blanket hazard insurance policy providing "special perils" coverage in an amount equal to the full insurable replacement cost, before application of deductibles, of all structures located on the Submitted Property. If "special

perils" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. Subject to the provisions of this Declaration, the Association may additionally obtain such other property insurance as the Association may determine to be necessary or desirable.

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

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

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

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

Section 11.3. Liability Insurance.

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

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

Section 11.4. Annual Review and Allocation of Costs Between Units. The Board of Directors shall, at least once every year, conduct an insurance review to determine if the policy or policies in force are adequate to meet the needs of the Association and to satisfy the minimum requirements of the Act and this Declaration. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent or insurance underwriter to verify that insurance policies in existence meet the needs of the Association and satisfy the minimum requirements of the Act and this Declaration. The property and liability insurance obtained by the Association will disproportionately benefit the different Units due to the scope and nature of: (a) the uses of each of the Units; (b) the differing nature of insurance risk associated with the use of each Unit; (c) the type and cost of the improvements and betterments within each Unit; (d) the size of each Unit; (e) any additional insurance or coverages benefiting less than all of the Units; and (f) any other factors which the agent or underwriter reasonably determines would affect the equitable allocation of the costs of the insurance policies. Therefore, the Association shall hire no less than annually an independent insurance expert familiar with allocating the costs of property and liability insurance in similar communities to equitably allocate the cost of the property and liability insurance policies being obtained by the Association between the different Units based on the factors referenced above. The Board shall then disproportionately assess the cost of this insurance against the different Units as Specific Assessments in accordance with the recommendations of the independent insurance expert.

Section 11.5. Coverage Requirements.

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

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

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

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

(iv) until the expiration of ten (10) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Unit Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;

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

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

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

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



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

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

Section 11.6. Other Required Insurance. In addition to the insurance required hereinabove, the Association shall obtain as a Common Expense (which will be allocated to each Unit in accordance with the Percentage Interests appurtenant to each Unit as set forth on Exhibit "B" hereto) the insurance set forth below:

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

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

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

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

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

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

Section 11.7. Liability Insurance Maintained by Unit Owners.

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

(b) Notwithstanding any provision to the contrary contained herein, any Unit Owner may request in writing that the Association obtain liability insurance for that Unit Owner in accordance with the requirements provided for above. The Association can elect to obtain or not obtain such additional



insurance after evaluating whether it can obtain such insurance at a reasonable cost, the increased risks to the Association, if any, of obtaining the insurance, the extent to which obtaining the requested insurance will create any administrative burdens, if any, for the Association and whether the insurance would be more logically obtained directly by a Unit Owner. Any such coverage shall be specially assessed against the Unit Owner for the Unit Owner for whom such coverage is provided.

(c) In the event that any Unit Owner fails to obtain insurance as required by this Section 11.7, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of Specific Assessments under Article 10 hereof.

Section 11.8. Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies.

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

(b) Restaurants and Establishments Serving Alcoholic Beverages. The Unit Owner or Occupant of any portion of a Unit which operates a business that serves alcoholic beverages for consumption on or off the Submitted Property to members of the public shall keep in force at all times a liquor liability insurance policy issued by responsible insurance companies licensed to do business in the State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss incurring in connection with the operation of such business. Such insurance shall have limits for bodily injury to or personal injury to or death of any person. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Three Million Dollars ($3,000,000) combined single limit per occurrence/aggregate.

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

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

certificate affirming that such insurance is in full force and effect, that the premiums have been paid in full, and that each of the provisions listed herein is included in the policy.

Section 11.9. Insurance Requirements for Contractors. All Contractors shall obtain and maintain such insurance as required by the Master Project Manual.

Section 11.10. Application of Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one (1) Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Unit Owner's portion of the total cost of repair. Notwithstanding the foregoing, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Unit Owner or Unit Owners fail to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Unit Owner or Unit Owners as a Specific Assessment.

ARTICLE 12. REPAIR AND RECONSTRUCTION.

Section 12.1. General. In the event of damage to or destruction of all or any part of the Submitted Property as a result of fire or other casualty, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the Submitted Property. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the damage and nothing in these documents shall be construed to afford a priority to any Unit Owner with respect to the distribution of proceeds to any such Unit.

Section 12.2. Cost Estimates. Promptly after a fire or other casualty causing damage to the Submitted Property, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Submitted Property (including any damaged Unit) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

Section 12.3. Source and Allocation of Proceeds. In the event that the net insurance proceeds (i.e. the remainder obtained by subtracting the property insurance policy insurance proceeds actually and unconditionally received by or on behalf of the Association) from the total amount of the "hard" and "soft" costs required to restore, replace or repair the damage or destruction resulting from an insured loss with respect to all or any portion of the Submitted Property) made available for reconstruction or repair are insufficient to satisfy all of the costs and expenses of reconstruction and repair, each of the Owners, to the extent the Owners have an interest in the Submitted Property affected by casualty, shall pay, and shall be obligated for, its applicable Insurance Shortfall Payment. The Insurance Shortfall Payment shall be calculated as follows:

(a) in the event that the damage and/or destruction from the casualty affects only one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owner of the Unit that is affected exclusively and solely by the casualty damage and/or destruction;

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



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

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

(e) in the event that the damage and/or destruction from the casualty affects the Common Elements (other than Limited Common Elements), the Insurance Shortfall Payment shall be assessed against all the Owners in accordance with the Percentage Interests.

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

Section 12.4. Floor Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the Floor Plans and specifications under which the Building and other improvements on the Submitted Property was originally constructed to standard finish so as to exclude any upgrades made to Units, except where changes are necessary to comply with current applicable building codes or other Legal Requirements or where improvements not in accordance with the original Floor Plans and specifications are approved by the Board of Directors.

Section 12.5. Encroachments. Encroachments upon or in favor of the Units that may be created as a result of such reconstruction or repair (including, but not limited, as a result of requirements to comply with amended building code or other Legal Requirements) shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the Floor Plans and specifications under which the building and other improvements on the Submitted Property was originally constructed or later approved in accordance with this Declaration. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

Section 12.6. Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section to be disbursed by the Association in reasonably appropriate progress payments to such contractor(s), supplier(s) and personnel performing the work or supplying materials or services for the repair and reconstruction of the Submitted Property as are designated by the Board of Directors. No progress payments shall be disbursed until the Association has adopted procedures it deems reasonable and appropriate for the disbursement of such payments.

Section 12.7. Delegation. The Board of Directors shall have authority to delegate to any Unit Owner, subject to such conditions deemed appropriate by the Board, any of its rights and/or responsibilities in this Article 12 related to the repair or reconstruction of a Unit in the event the damage to or destruction as a result of fire or other casualty of all or any part of such Owner's Unit. In the event of such delegation, the Unit Owner shall perform such delegated duties in a manner consistent with this Article 12 and subject to the conditions imposed by the Board.



ARTICLE 13. ARCHITECTURAL CONTROLS.

Section 13.1. Alterations to Retail Unit.

(a) ARC Approval. No Person shall make any alterations, replacements, additions, modifications, or improvements to the appearance of the exterior facade of the Retail Unit without the prior approval of the ARC. Notwithstanding any provision to the contrary contained herein, a temporary storefront consisting of plywood, plastic wrap affixed to the plywood and graphics on the wrap shall be permissible for a storefront prior to its occupancy by an Occupant provided that the temporary storefront has an appearance and is constructed in accordance with a standard approved by the ARC.

(b) Association Approval. No Person shall make any alterations, replacements, additions, modifications, or improvements to the Retail Unit or any Limited Common Element allocated to the Retail Unit without the prior approval of the Association if such requires a building permit from the applicable governmental entity or if such involves:

(i) any material change, improvement, or alteration to the Retail Terrace (including enclosing any portion thereof into the heated and cooled space of the Retail Unit);

(ii) placing an excessive load on any structural or load bearing portions of the Building;

(iii) penetration of any concrete slab, concrete column, or other concrete portion of the structure of the Building;

(iv) any initial build-out or tenant improvement work to the interior of the Retail Unit by any new Occupant;

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

(vi) installing, removing, replacing, or modifying any Building Utility and Service System; or

(vii) connecting to any existing Building Utility and Service System.

(c) Exceptions. Except as otherwise expressly provided in Section 13.1(a) or 13.1(b) above or elsewhere in this Declaration, the Owner of the Retail Unit shall be expressly permitted to make and/or permit changes, alterations, replacements, modifications, or improvements to the interior portions of the Retail Unit (including changes which are visible from the exterior of the Units) and Unit Utility and Service Systems without the prior approval of the ARC or the Association.

Section 13.2. Signs and Flags.

(a) General. Except as may be provided for herein or as may be required by Legal Requirements, no signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies shutters of any kind, or other similar items visible from the exterior of a Unit shall be erected, placed or permitted to remain on the Condominium (except for such items existing as of the Effective Date) without the prior approval of the ARC. The Board shall have the right to erect reasonable and appropriate signs or lighting of any kind on the Common Elements on behalf of the Association. No Owner shall seek any approval from the applicable governmental entity for any signage that will result in reducing or otherwise materially limiting the signage that the other Owner would otherwise be eligible to install or maintain hereunder without the advance written consent of such other Owner. Furthermore, the Owner of the Office Unit shall not seek any approval from the applicable

governmental entity for any signage that will unreasonably block the visibility from any street or sidewalk of the existing signage for the Retail Unit.

(b) Signage Bands. Notwithstanding anything to the contrary, the Owner of the Retail Unit, on behalf of itself or its Permittees, shall be permitted to place signage on a Signage Band allocated to such Retail Unit, subject to the prior approval of the ARC and the following conditions:

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

(ii) All signage affixed on a Signage Band shall pertain to the businesses conducted within the Unit to which such Signage Band is allocated;

(iii) No signage shall contain, consist of, or include flashing lights, neon, moving parts, or audible sounds (other than sounds attendant to the operation of such sign), except that neon signs shall be permitted on the Signage Bands of retail uses located adjacent to First Avenue provided that the same are allowed under all applicable City of Nashville ordinances and other applicable Legal Requirements; and

(iv) The Owner of the Retail Unit shall maintain, repair, and replace all signage or other improvements within such Signage Band.

(c) Office Signage. Notwithstanding anything to the contrary herein, the Owner of the Office Unit, on behalf of itself or its Permittees, shall be permitted to place signage on any exterior portion of the Building (except the exterior façade of the Retail Unit or any Limited Common Element allocated to the Retail Unit), without the prior approval of the ARC or Association, but subject to the following conditions:

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

(ii) No signage shall contain, consist of, or include flashing lights, neon, moving parts, or audible sounds (other than sounds attendant to the operation of such sign); and

(iii) The Owner of the Office Unit shall maintain, repair, and replace all signage or other improvements erected pursuant to this Paragraph (c).

(d) For Lease or For Rent Signs. Notwithstanding anything to the contrary herein except as provided in Section 13.2(c) above, no "for lease" or "for sale" (or similar nomenclature) signs are permitted on the exterior façade of the Building or any interior portion of a Unit that is visible from the exterior of the Building unless such sign is approved in writing by the ARC. The ARC shall permit signage indicating that a portion of the Retail Unit is available to be leased based upon a standard approved by the ARC.

(e) Parking Deck Signage. Signage in the Parking Deck shall be subject to Section 14.10 below.

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

Section 13.3. Encroachments onto Common Elements. The Board of Directors, subject to this Article 13, may permit Owners to make encroachments onto the Common Elements and enclosures of same as it deems acceptable.

Section 13.4. Subdivision of a Unit. An Owner shall not subdivide such Owner's Unit. The total units in the Condominium shall be limited to two (2). Furthermore, no Unit shall be submitted to an additional declaration of condominium to create a new condominium as provided in Section 66-27-322 of the Act or otherwise.

Section 13.5. Relocation of Boundaries.

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

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

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

Section 13.6. Applications and Appeals.

(a) ARC Applications and Appeals.

(i) Applications for approval by the ARC required hereunder shall be in writing and shall include such information as the ARC may reasonably require, which may include, but shall not be limited to, plans for the proposed improvements or modifications.

(ii) Once an application and all required information is received by the ARC, the ARC shall stamp the application as being complete, and shall then forward to the applicant a Notice of Application Completion.

(iii) The ARC shall be authorized to retain an engineer, architect or other consultant to review an application and related documentation and plans. All reasonable third party costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the ARC until such time as all reasonable costs and expenses related to the review of an application have been paid by the applicant.

(iv) The ARC shall be the sole arbiter of the application and may withhold approval for any reasonable reason, including, but not limited to the Review Standards.

(v) The ARC shall use commercially reasonable efforts to timely review each complete application within a reasonable period. If the ARC or its designated representative fails to approve or to disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, its approval will not be required and this Section will be deemed complied with; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to make any alteration, replacement, addition, modification, or improvement that is in violation of the Master Project Manual, this Declaration, Bylaws or rules



and regulations promulgated and adopted by the Association or of any applicable building codes, zoning or other Legal Requirements.

(vi) An application shall be deemed denied unless both members of the ARC agree to approve such application. If the ARC denies approval of an application, the applicant may appeal the decision within thirty (30) days of the receipt of notice of denial in accordance with the following:

(A) The applicant shall deliver written notice of the applicant's election to appeal ("ARC Appeal Notice") to both Owners within said thirty (30) day period. If both Owners do not receive such written notification within said time period, the decision of the ARC shall be deemed final and all rights of appeal shall terminate and thereafter be void.

(B) The appeal shall be initially reviewed by two (2) third party registered architects, with each Owner entitled to appoint one (1) architect. The standard of review for the architects on appeal shall be whether the application is consistent with the Review Standards. The Owners shall each shall deliver written notice of its appointed architect to the other Owner on or before the date being fifteen (15) days of its receipt of the ARC Appeal Notice ("ARC Architect Appointment Deadline Date"). If any Owner does not appoint an architect on or before the Architect Appointment Deadline Date, such Owner shall be deemed to have waived its right to appoint an architect hereunder and the decision of the architect appointed by the other Owner shall prevail. If the two (2) architects are unable to reach a unanimous decision as to the matter on appeal within twenty (20) days of the Architect Appointment Deadline Date, a third registered architect shall be jointly appointed by the two (2) architects, and said third architect unaffiliated with the applicant, either Owner, the Association, or the ARC shall render a final decision. All architects appointed under this Section 13.6(a)(vi) shall be licensed architects in the State of Tennessee in good standing and have a minimum of five (5) years experience involving retail real estate.

(C) The decision of the architects in accordance with this Section 13.6(a)(vi) shall be deemed final and binding upon the applicant, Association, Board, Owners and the ARC and no further appeals process shall be available to the applicant. The Owners shall each bear the fees of their respective architect appointed, and, if in the event a third architect is appointed, the Owners shall each pay one-half of the fees for the third architect. The third architect shall have the right (but not obligation) to reallocate the costs of the architects in the event the third architect determines that either party has acted unreasonably.

(b) Association Applications and Appeals.

(i) The Board of Directors, or its designee (which may include, without limitation, the property manager or building engineer), shall review and render a decision on any application required to be submitted to the Association.

(ii) Applications for approval by the Association required hereunder shall be in writing and shall include such information as the Association may reasonably require, which may include, but shall not be limited to, the following documentation: (i) if the proposed work potentially affect or impairs the structural soundness or integrity of the Building or any of the Units, a report or drawing prepared and certified by a structural engineer licensed in the State of Tennessee, which report or drawing shall demonstrate that such proposed work will not in any way affect or impair the structural soundness or integrity of the Building or any of the Units; (ii) plans for the proposed improvements or modifications; (iii) if alterations to the Retail Unit require the penetration of the concrete floor or ceiling slab, a report prepared and certified by a structural engineer licensed in the State of Tennessee confirming that an x-ray analysis or other analysis acceptable to the Association has been performed for the purposes of verifying that such

penetration of the concrete floor or ceiling slab will not impair the structural integrity of such concrete floor or ceiling slab or result in the severing of any structural post-tension system; and (iv) evidence that all building code requirements and other Legal Requirements will be complied with and all necessary permits and approvals secured.

(iii) Once an application and all required information is received by the Association, the Association shall stamp the application as being complete, and shall then forward to the applicant a Notice of Application Completion

(iv) The Association shall be authorized to retain an engineer, architect or other consultant to review an application and related documentation and plans. All reasonable third party costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the Association until such time as all reasonable costs and expenses related to the review of an application have been paid by the applicant.

(v) The Association shall be the sole arbiter of the application and may withhold approval for any reasonable reason, including, but not limited to the Review Standards. Any disapproval shall describe the reasons for disapproval in reasonable detail.

(vi) The Association shall use commercially reasonable efforts to timely review each complete application within a reasonable period. If the Association or its designated representative fails to approve or to disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, its approval will not be required and this Section will be deemed complied with; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to make any alteration, replacement, addition, modification, or improvement that is in violation of the Master Project Manual, this Declaration, Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable building codes, zoning or other Legal Requirements.

(vii) If the Association denies approval of an application, the applicant may appeal the decision within thirty (30) days of the receipt of notice of denial in accordance with the following:

(A) The applicant shall deliver written notice of the applicant's election to appeal ("Association Appeal Notice") to the Association within said thirty (30) day period. If the Association does not receive such written notification within said time period, the decision of the Association shall be deemed final and all rights of appeal shall terminate and thereafter be void.

(B) The appeal shall be initially reviewed by two (2) third party Appeal Professionals, with the applicant entitled to appoint one (1) Appeal Professional and the Association entitled to appoint one (1) Appeal Professional. The standard of review for the Appeal Professionals on appeal shall be whether the application is consistent with the Review Standards. The Association and applicant shall each shall deliver written notice of its appointed Appeal Professional to the other on or before the date being fifteen (15) days of the Association's receipt of the Association Appeal Notice ("Appeal Professional Appointment Deadline Date"). If the applicant or Association does not appoint an Appeal Professional on or before the Appeal Professional Appointment Deadline Date, the applicant or Association, as applicable, shall be deemed to have waived its right to appoint an Appeal Professional hereunder and the decision of the Appeal Professional appointed by the other shall prevail. If the two (2) Appeal Professionals are unable to reach a unanimous decision as to the matter on appeal within twenty (20) days of the Appeal Professional Appointment Deadline Date, a third registered Appeal Professional shall be jointly appointed by the two (2) Appeal Professional, and said third Appeal Professional unaffiliated with the applicant, either Owner, the Association, or the ARC shall render a final decision. All Appeal Professionals appointed under this Section



13.6(b)(vii) shall be licensed for their respective qualified trade in the State of Tennessee in good standing and have a minimum of five (5) years experience.

(C) The decision of the Appeal Professionals in accordance with this Section 13.6(b)(vii) shall be deemed final and binding upon the applicant, Association, Board, and Owners and no further appeals process shall be available to the applicant. The applicant and the Association shall each bear the fees of their respective Appeal Professional appointed, and, if in the event a third Appeal Professional is appointed, the applicant and the Association shall each pay one-half of the fees for the third Appeal Professional. The third Appeal Professional shall have the right (but not obligation) to reallocate the costs of the Appeal Professionals in the event the third Appeal Professional determines that either party has acted unreasonably.

(c) Pre-Application Meetings.

(i) Before submitting a complete application to the ARC or the Association as required in Section 13.6(a) or 13.6(b) above, the applicant may (but shall not be obligated to) request meetings with the ARC or Association. The purpose of such meetings shall be to provide preliminary feedback to facilitate the submission of a complete application that will garner approval from the ARC or Association, as applicable.

(ii) The applicant may request up to four (4) meetings with either the Association and/or the Owner of the Office Unit's appointed member of the ARC, as applicable, that correspond to the following stages of the planning and design process: (A) concept design; (B) schematic design; (C) design development; and (D) preliminary engineering drawings.

(iii) The Association shall make reasonable efforts to schedule any meeting requested hereunder during regular business hours within fourteen (14) days of the Association's receipt of written request for such a meeting from the applicant. If the Association fails to schedule or attend any such meeting, the applicant may provide an additional written request for such a meeting and the Association shall thereafter make reasonable efforts to schedule the meeting within fourteen (14) days of the Association's receipt of such subsequent written request for such a meeting. The Association may schedule any meeting contemplated herein in person at a location in the City of Nashville or via telephone or electronic communication.

(iv) The Owner of the Office Unit's appointed member of the ARC shall make reasonable efforts to schedule any meeting requested hereunder during regular business hours within fourteen (14) days of such person's receipt of written request for such a meeting. If the Owner of the Office Unit's appointed member of the ARC fails to schedule or attend any such meeting, the applicant may provide an additional written request for such a meeting and the Owner of the Office Unit's appointed member of the ARC shall thereafter make reasonable efforts to schedule the meeting within fourteen (14) days of his or her receipt of such subsequent written request for such a meeting. The Owner of the Office Unit's appointed member of the ARC may schedule any meeting contemplated herein in person at a location in the City of Nashville or via telephone or electronic communication.

(v) The meetings contemplated in this Section 13.6(c) hereof are intended to foster a timely and efficient process for the review and submission of applications to the ARC or the Association. However, notwithstanding anything to the contrary herein, the failure of the Owner of the Office Unit's appointed member of the ARC or the Association to attend or schedule the meetings contemplated in this Section 13.6(c) shall not entitle the applicant, Owner of the Retail Unit or any other Person to any legal remedy and shall not waive or otherwise modify in any way the obligations for the submission and approval of applications otherwise set forth in this Declaration.



Section 13.7. Condition of Approval. As a condition of approval of an application, the ARC or Association, as applicable, may require a Unit Owner, on behalf of itself and its successors-in-interest, assume all responsibilities for maintenance, repair, replacement and insurance of such modification. In the discretion of the ARC or Association, as applicable, a Unit Owner may be required to verify such condition of approval by written instrument in recordable form acknowledged by such Unit Owner. The ARC and Association also may establish such other reasonable conditions of approval as the ARC and Association determine necessary or appropriate.

Section 13.8. Limitation of Liability. Neither the ARC, Association, nor the Board shall bear any responsibility for ensuring the design quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other Legal Requirements. The Association, the Board of Directors, the ARC, or members of the foregoing shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications.

Section 13.9. No Waiver of Future Approvals. The members of the ARC, Association, and Board of Directors will change from time to time and therefore the interpretation, application and enforcement of the Review Standards may vary accordingly. Approval hereunder shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whenever subsequently or additionally submitted for approval or consent.

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

Section 13.11. Approval of Contractors. Prior to performing any work in a Unit or any other portion of the Condominium that requires the submission of an application and approval from the ARC or Association hereunder, the applicable Contractor must first be approved in writing by the Board or its designee. The requirements and procedures for approval shall be set forth in the Master Project Manual, which may include, without limitation: financial stability of the Contractor; history of compliance with the Condominium Instruments and rules and regulations promulgated and adopted by the Association; and familiarity and experience with the Utility and Service Systems. Moreover, the Board shall not approve any Contractor unless the Contractor has provided to the Board evidence of insurance as required by the Master Project Manual.

Section 13.12. Standards of Work, Reconstruction and Maintenance. Any construction (which construction work, as used in this Section shall include, without limitation, the reconstruction of the improvements on the Submitted Property and any alterations, restoration, maintenance, repair, modernization, expansion, demolition, razing of existing improvements on the Submitted Property) which shall or may be performed by the Owner of any Unit shall be subject to and performed in accordance with the Master Project Manual and the following requirements and standards:

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

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

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

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

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

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

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

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

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

(i) take any and all safety measures reasonably required (including, without limitation, those specified in the Master Project Manual) to protect those using the easements established by this Declaration from injury or damage caused by or resulting from the performance of its construction;

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

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

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

ARTICLE 14. USE RESTRICTIONS

Section 14.1. Use of the Units.

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

(b) Notwithstanding anything to the contrary in this Declaration, no provision in this Declaration, as may be amended, shall prohibit or limit any tenant of the Office Unit from operating as a Financial Services Institution. The foregoing shall supersede any such provision and such provision shall be deemed void.

(c) Notwithstanding anything to the contrary in this Declaration, no provision in this Declaration, as may be amended, shall prohibit or limit any Occupant of the Retail Unit from operating any sort of automated teller machine or cash dispensing machine in the Retail Unit. The foregoing shall supersede any such provision and such provision shall be deemed void.

Section 14.2. Prohibited Uses. Notwithstanding anything to the contrary in this Declaration, no part of the Retail Unit may be used for any of the following purposes:

(a) bowling alley;

(b) commercial office space (except for commercial office space that is located on the 2nd or 3rd level of the Building and except for such office space that is otherwise incidental to a permissible use or part of the management and/or leasing of the Retail Unit or);

(c) skating rink;

(d) video game room, amusement gallery, shooting gallery, carnival, or amusement arcade;

(e) pool hall;

(f) massage parlor, except for day spas that are approved by the Board of Directors;

(g) facility that hosts nude, semi-nude or other erotic performances;

(h) establishment where sexually explicit, obscene, pornographic or "adult" materials or paraphernalia, including, but not limited to, movies, videotapes, DVDs, devices, novelties, attire, books, magazines, or other related items are sold or displayed;

(i) "head shops" or other facilities used for the sale, display or advertisement of any paraphernalia used in the preparation or consumption of controlled substances or marijuana;

(j) facilities used for the operation of any liquor store, package store, or other store primarily selling and/or manufacturing alcoholic beverages (except this restriction shall not apply to the following establishments provided such establishments are not located on the portions of the Retail Unit adjacent to 2nd Avenue: wine bars; brewpubs; or stores primarily selling wine, craft beers, and/or premium distilled spirits);

(k) tattoo parlor;

(l) funeral home or store selling caskets;

(m) mortuary;

(n) automotive supplies and parts;

(o) warehouse operation (not including storage incidental to the operation of any otherwise permissible business);

(p) manufacturing operation (except for such manufacturing that is otherwise incidental to a permissible use);

(q) industrial operation;

(r) processing or rendering plant;

(s) lumber yard;

(t) central laundry, dry cleaning plant, or laundromat (except this prohibition shall not include any dry cleaning service only providing for pick-up and drop-off and not performing any cleaning on premises);

(u) any service station, car wash, or automotive repair facility, including without limitation any tire, battery and accessory facility (providing the foregoing shall not be deemed to prohibit the foregoing in the Parking Deck to the extent provided as an ancillary service or amenity to persons parking vehicles in the Parking Deck);

(v) veterinary office, animal hospital or animal raising or boarding facilities;

(w) thrift store, pawn shop, consignment shop, liquidation outlet, flea market, or similar establishment (except this prohibition shall not apply to any establishments selling or trading artwork);

(x) betting or other gaming establishment, facility or operation, including, but not limited to, off-track or sports betting parlor, table games such as black-jack or poker, slot machines, video poker/black-jack/keno machines or similar devices (this prohibition shall not apply to governmental sponsored gambling activities, or charitable gambling activities so long as such governmental and/or charitable activities are incidental (i.e., less than ten percent (10%) of gross sales) to a permitted business operation being conducted in the Unit);

(y) auditorium, meeting hall, church, or other house of worship;

(z) dance or music hall, "disco", nightclub, or discotheque;

(aa) any campaign office, political party or other electioneering or campaigning activity;

(bb) any union hall or other organized labor activity;

(cc) any employment office, day labor service, or other enterprise or organization that offers laborers for hire, provided, however, the foregoing shall not be applicable to any executive, technical, professional or administrative search or placement firm;

(dd) fortunetelling, psychic, or similar activity related to the art of professing to reveal future events (except this prohibition shall not include any economic, business, or financial forecasting activity); or



(ee) any bail bonds business or similar service that acts as a surety and pledges money or property as bail for the appearance of criminal defendants.

Section 14.3. Rubbish, Trash, and Garbage. Each Owner shall regularly remove all rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for removal from such Limited Common Elements) and no Owner shall allow rubbish, trash, and garbage to accumulate therein. No garbage or trash shall be placed on the Common Elements, temporarily or otherwise, except in trash chutes, trash compactors, or trash facilities designated by the Association. Each Owner shall dispose of rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for such disposal from such Limited Common Elements) in sealed bags and either place such in the trash chutes, trash compactors, or other designated trash facilities designed for collection or remove such from the Submitted Property.

Section 14.4. Ventilation of Cooking Apparatus. Unless otherwise approved in writing by the Board of Directors, cooking exhaust from cooking apparatus located within the Retail Unit must be filtered through a commercially designed exhaust system and vented through vents that exit through (a) the exterior walls of the Retail Unit, or (b) roof of the Building.

Section 14.5. Use of the Roofs.

(a) Except for the uses as shown on the Floor Plans and except to the extent expressly provided in this Declaration, there shall be no use of the roof of the Building by the Owners or their Permittees without the written consent of the Board. The Association, and its designated agents and Contractors, shall have access to the roof for performing its maintenance and repair responsibility, if any.

(b) The Owner of the Office Unit shall have the right to install, remove, modify, maintain, repair, replace and use Telecommunications Equipment for Telecommunications Activity on the roofs of the Office Unit.

Section 14.6. Limitation of Damage, Nuisance, Noise, and Vibration.

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

(b) Furthermore, except to the extent permitted above in this Section and except for the prior written consent of the Board of Directors: (i) noxious, destructive or offensive activity shall not be carried on within any portion of the Submitted Property; and (ii) no Owner or its Permittees may use or allow the use of the Unit or any portion of the Submitted Property at any time, in any way or for any purpose which may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the reasonable discretion of the Board of Directors, a public or private nuisance.

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

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

(e) No sound shall emanate from the Retail Unit, including, but not limited to sounds from music (live or recorded) or any other equipment, speakers, microphones, or television that exceeds eighty-five (85) decibels when measured from a distance of 100 feet from the exterior boundary of any portion of the Retail Unit.

(f) A portion of the Retail Unit is located adjacent to the main lobby of the Office Unit on level 1 of the Building. No unreasonable odors, disturbances or activities not commensurate with first class office facilities shall occur in any such portion of the Retail Unit if such odors, disturbances or activities are detectable, visible or audible in such main lobby of the Office Unit. In the event of any violation of this Section 14.6(f), prior to pursuing any enforcement action, the Association shall first provide written notice to the Owner of the Retail Unit and thereafter provide the Owner of the Retail Unit a reasonable period to utilize diligent efforts to cure the violation. The Association and Owner of the Office Unit shall reasonably cooperate with any such efforts by the Owner of the Retail Unit to cure the violation.

Section 14.7. Use of Limited Common Elements. Except as otherwise provided herein, the use of the Limited Common Elements allocated to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are allocated, and said Unit Owner's Permittees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, except as expressly stated otherwise.

Section 14.8. Abandoned Personal Property. Personal property, other than vehicles as permitted herein, shall not be kept, or allowed to remain upon any portion of the Common Elements, other than on a Limited Common Element, without prior written permission of the Board of Directors. If the Board determines that a violation exists, then, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The Board shall send the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed. Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 14.9. Loading Dock. The Association shall be responsible for managing the use of the loading dock. The Association may designate certain time periods primarily for the use of one (1) or more Units. In allocating the use of the loading dock, the Association shall take into account safety, order, and such other relevant factors as it determines appropriate. The Unit Owners and their Permittees shall reasonably cooperate with the Association in scheduling deliveries and pick-ups from the loading dock to facilitate the cooperative use of the loading dock. The Association may close and shall not be obligated to operate the loading dock during hours set by the Association, provided, however, the Association shall reasonably accommodate requests to operate the loading dock during other hours for pre-scheduled deliveries or uses (including, without limitation, scheduled grease trap cleaning). The initial hours during which the loading dock shall be closed shall be between 6:00 pm and 8:00 am on weekdays, all weekends, and all federal holidays.

Section 14.10. Parking Deck. The Association shall maintain, operate, and manage the Parking Deck, subject to the following below, and shall have the right to adopt such rules and regulations as it deems appropriate to maintain, operate, and manage the Parking Deck:

(a) Speed Limit. The speed limit in the Parking Deck shall be no greater than ten (10) miles per hour, and the speed limit shall be conspicuously posted on the interior walls of the Parking Deck. The Association shall have the right (but not the obligation) to install speed bumps on the driveways. The Association and Owners shall have no responsibility for any damage to any vehicle caused by the placement of such speed bumps.



(b) Lighting. The lighting features that serve the Parking Deck shall be properly maintained by the Association to ensure that the illumination of their respective levels of the Parking Deck complies with all Legal Requirements.

(c) Access Control.

(i) The Association shall regulate and control access to, over, across and through the Parking Deck and the Association shall have the right (but not the obligation) to require Persons desiring to enter or exit the Parking Deck, or portions thereof, to: (1) post an identifying decal at a particular location on their vehicles; (2) show identification to an attendant; and/or (3) enter a code, depress an automatic gate opener, utilize a toll, swipe card, or other device to raise a gate, mechanical arm, or other device which controls or restricts access to, over, across and through the Parking Deck. The Association shall also have the right (but not the obligation) to install limited access control gates, mechanical arms, or other devices and equipment intended to limit access to the Parking Deck, or portions thereof, provided, however, the Association shall not block or limit access to the parking spaces assigned to an Owner's Unit without such Owner's written consent except as provided in Article 9(k) above.

(ii) The Association shall have the right to charge the Owner of a Unit with the actual costs, if any, of the decals, swipe cards, identification cards, automatic gate openers and similar equipment kept in a vehicle or by such Owner or its Permittees to obtain access, to, over, across and through the Parking Deck or portions thereof.

(iii) Upon the request of the Association, the Owner of each Unit shall provide to and maintain with the Association a current list of all of the Owners and Occupants of such Owner's Unit and other Persons having a right to park in the parking spaces allocated as Limited Common Elements to such Owner (hereinafter referred to as the "Parking List"). The Association shall have the right to rely on the Parking List, and the changes thereto, to control access to, over, across and through the Parking Deck, or portions thereof. The Owner of each Unit shall indemnify, defend, and hold harmless the Association from and against any and all loss, damage, liability, cost or expense arising out of or relating to any inaccuracies on the Parking List or in the event that the Parking List is not kept current by such Owner.

(d) Exclusive Parking Areas.

(i) Unless provided otherwise in the Parking Revenue Management and Operating Protocol Agreement, the Association shall not charge a fee to the users of parking spaces allocated as Limited Common Elements without the advance consent of the Owner of the Unit to which the parking spaces therein are allocated.

(ii) Unless provided otherwise in the Parking Revenue Management and Operating Protocol Agreement, each Owner shall have the right, in its sole discretion, to authorize Persons (who need not be Occupants of a Unit) to use parking spaces in such Owner's Limited Common Element parking spaces and such Owner shall determine the terms and conditions of such use (which shall otherwise comply with this Declaration), including entering into periodic or long term agreements for the use of a parking space allocated as a Limited Common Element.

(iii) Unless provided otherwise in the Parking Revenue Management and Operating Protocol Agreement, each Owner shall have the right to charge a fee to the user of any parking space in such Owner's Limited Common Element parking spaces and to retain the revenue therefrom.

(e) Labeling and Signage.



(i) Each Unit Owner's Limited Common Element parking spaces will be labeled appropriately for their intended uses.

(ii) Any new or updated uniform signage for the Parking Deck shall be reasonably agreed to by both Unit Owners, with the Board making a final determination if the Unit Owners cannot agree. The Association will install and maintain signage for the first four parking levels of the Parking Deck (building levels 2-5) to direct traffic to their respective parking areas in locations as mutually approved between the Owners. The Association will install and maintain signage along 1st Avenue and 2nd Avenue that advertises available parking within the Parking Deck.

(f) Costs. Except as otherwise provided in the Assessment Allocation Agreement, the costs incurred by the Association to maintain, operate, and manage the Parking Deck shall be assessed against each Owner as Specific Assessments based upon the proportionate number of parking spaces allocated as Limited Common Elements to such Owner's Unit. Costs associated with signage will be assessed as Specific Assessments to the beneficiary Owner of that signage or in accordance with the prior sentence if serving the general needs of the Parking Deck.

(g) Self-Help Rights. Notwithstanding anything to the contrary herein contained, in the event the Association does not comply with its obligation to maintain, repair or replace the Parking Deck, an aggrieved Owner may elect to utilize self-help and perform such maintenance, repair or replacement subject to the following conditions:

(i) If self-help is going to be undertaken, the aggrieved Owner shall send a written notice to the Association giving the Association not less than ten (10) days within which to commence to cure such violation (except in the event of an emergency in which case the requirement of ten (10) days written notice shall not apply and shall be waived). Such notice shall describe the violation and the Association's obligations under this Declaration in reasonable detail. The aggrieved Owner shall not thereafter perform the self-help if the Association commences to cure the violation within such ten (10) day period and thereafter diligently continues the actions necessary to cure such violation.

(ii) After such ten (10) day period, not less than five (5) days prior written notice shall be given to the Association (except in the event of an emergency in which case the requirement of notice shall not apply and shall be waived) that the Owner or its duly authorized agent anticipates performing such work, together with notification of the proposed scope and location of such work and the anticipated date of start and completion of such work.

(iii) Such work shall be performed in such a manner as not to cause any unnecessary interruption of or undue interference with the operation of the Parking Deck.

(iv) Such work shall be diligently pursued to completion.

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

(h) Towing and Booting. If any vehicle is parked on any portion of the Parking Deck in violation of this Section or in violation of the Association's rules and regulations ("Parking Violation"), the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the Person that will do the towing or booting and the name and

telephone number of a Person to contact regarding the alleged violation. If twenty four (24) hours after such notice is placed on the vehicle the violation continues, the Board or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the owner or user of the vehicle. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another parking space, is obstructing the flow of traffic, is parked in a parking space that has been allocated as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed or booted immediately. If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage as a result of the towing or booting activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot. All towing and booting shall be conducted in accordance with applicable Legal Requirements.

(i) Violations. If a Permittee of a Unit commits a Parking Violation, the Board of Directors shall be permitted to fine the Owner of such Unit and the violating Permittee as provided in Article 17 below.

Section 14.11. Valet Parking.

(a) Valet Zone # 1.

(i) One (1) Valet Provider (together with any representatives, agents or employees of the Valet Provider) designated by the Owner of the Retail Unit from time to time shall have the right to utilize Valet Zone # 1 to the extent reasonably necessary to carry out and provide Valet Services, which includes the Valet Provider's placement of one (1) or more valet stands and associated apparatus within Valet Zone # 1.

(ii) The use of Valet Zone # 1 shall not interfere with the flow of traffic in the driveways, adversely affect ingress and egress to the Parking Deck, or interfere with the operations of the Building.

(iii) The Valet Provider shall operate and provide Valet Services commensurate in a first class manner similar to the Valet Services provided at buildings in Nashville similar to the Building.

(iv) Either Owner may install or modify signage in the Valet Zone # 1 at such Owner's sole expense, provided such Owner first obtains written approval from the ARC for such signage as provided in Section 13.6 hereunder. Neither Owner shall request approval for signage to the Valet Zone # 1 that materially impairs the use of Valet Zone # 1 for Valet Services.

(b) Valet Zone # 2. Subject to complying with all applicable Legal Requirements and obtaining and maintaining all necessary permits, the Owner of the Retail Unit may designate one (1) Valet Provider (together with any representatives, agents or employees of the Valet Provider) to utilize Valet Zone # 2. The use of Valet Zone # 2 shall also not interfere with the flow of traffic into the loading dock or interfere with the operations of the Building.

Section 14.12. Pest Control. Each Owner shall have regular extermination of insects, pests, and vermin performed in the Owner's Unit.

Section 14.13. Sidewalk Areas. The use of any Inner Sidewalk Area and External Sidewalk Area shall be subject to the following:

(a) Compliance with all applicable Legal Requirements and obtaining and maintaining all necessary permits.



(b) No Owner may use an Inner Sidewalk Area or External Sidewalk Area for outdoor seating, the sale or display of merchandise, or any similar purpose except such portion of an Inner Sidewalk Area or External Sidewalk Area that is parallel and adjacent to the exterior façade of such Owner's Unit. An Owner shall obtain the prior written consent of the other Owner (which approval, except for Limited Common Elements assigned to the other Owner's Unit, shall not be unreasonably withheld or delayed) if such Owner desires to utilize any other portion of an Inner Sidewalk Area or External Sidewalk Area for outdoor seating, the sale or display of merchandise, or any similar purpose.

(c) No Inner Sidewalk Area or External Sidewalk Area may be used as a bar or exclusively for alcoholic beverage service.

(d) Alcohol may only be served in an Inner Sidewalk Area or External Sidewalk Area if meals are also served.

(e) No grills or cooking equipment are permitted in any Inner Sidewalk Area or External Sidewalk Area.

(f) Intercom, microphone and other forms of voice amplification systems used for any purpose, including, but not limited, to paging customers, guests, patrons or invitees, shall be prohibited from outdoor use at all times unless approved in writing by the Association.

(g) Music, live or recorded, is prohibited on any Inner Sidewalk Area or External Sidewalk Area adjacent to 2nd Avenue.

(h) Music, live or recorded, is permitted on any Inner Sidewalk Area or External Sidewalk Area adjacent to Molloy Street, 1st Avenue, or Demonbreun Street, provided the sound does not exceed eighty-five (85) decibels when measured from a distance of 100 feet from the applicable Inner Sidewalk Area or External Sidewalk Area.

(i) No improvements shall be erected or installed in any Inner Sidewalk Area or External Sidewalk Area without the written consent of the Owner of the Office Unit except umbrellas, patio tables and chairs, and temporary enclosures consistent with first class retail establishments and providing cover during rainfall or cold weather.

(j) No portion of any Inner Sidewalk Area or External Sidewalk Area shall be enclosed into the heated and cooled space of the Retail Unit without the prior written consent of the Owner of the Office Unit.

(k) No outdoor furniture is permitted in any Inner Sidewalk Area or External Sidewalk Area unless the outdoor furniture is consistent with outdoor furniture located in first class retail establishments.

Section 14.14. Office Terrace. The use of the Office Terrace shall be subject to the following:

(a) Notwithstanding anything to the contrary in Article 13 hereof or elsewhere in this Declaration, the Owner of the Office Unit may make any changes, improvements, or alterations to the Office Terrace (including enclosing any portion thereof into the heated and cooled space of the Office Unit) as it deems appropriate in its sole discretion, provided such does not:

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

(ii) adversely affect the Building Utility and Service Systems; or

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

(b) The Owner of the Office Unit may place patio tables, outdoor furniture, potted plants, umbrellas, and any other objects it determines are appropriate on the Office Terrace.

(c) The Occupant of the Office Terrace, or applicable portion thereof, shall temporarily remove permitted objects from the Office Terrace when any such permitted objects would reasonably be expected to be blown from the Office Terrace based on forecast weather conditions. The Occupant of the Office Terrace, or applicable portion thereof, shall refrain from engaging in any activity on the Office Terrace that may cause any object to fall or be ejected from the Office Terrace.

Section 14.15. Retail Terrace. The use of the Retail Terrace shall be subject to the following:

(a) The Owner of the Retail Unit may place patio tables, outdoor furniture, potted plants, umbrellas, and any other objects it determines are appropriate on the Retail Terrace.

(b) The Occupant of the Retail Terrace, or applicable portion thereof, shall temporarily remove permitted objects from the Retail Terrace when any such permitted objects would reasonably be expected to be blown from the Retail Terrace based on forecast weather conditions. The Occupant of the Retail Terrace, or applicable portion thereof, shall refrain from engaging in any activity on the Retail Terrace that may cause any object to fall or be ejected from the Retail Terrace.

(c) No sound (including, without limitation music, live or recorded) shall emanate from the Retail Terrace that exceeds sixty-five (65) decibels when measured from a distance of 100 feet from the Retail Terrace between 5:00 am and 8:00 pm on weekdays (excluding New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). .

(d) Between 8:00 pm and 5:00 am on weekdays, anytime on holidays (New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day), and anytime on weekends, no sound (including, without limitation music, live or recorded) shall emanate from the Retail Terrace that exceeds eighty-five (85) decibels when measured from a distance of 100 feet from the Retail Terrace.

(e) No grilling is permitted on the Retail Terrace.

Section 14.16. Art Wall.

(a) No signage, artwork, mural, advertising, lighting, or similar items shall be erected or installed on the Art Wall without the advance written consent of both Owners, which consent shall not be unreasonably withheld.

(b) Any items erected or installed on the Art Wall shall comply with applicable Legal Requirements.

(c) Any revenue received by the Association from the use of the Art Wall shall be allocated as follows: (i) 81.85% to the Office Unit Owner; and (ii) 18.15% of the Retail Unit Owner.

Section 14.17. Limitations on Use of Certain Shared Rooms. There are certain Common Element rooms such as the mechanical and electrical rooms, designed to be locked at all times when a natural person is not physically in the room. Neither Owner shall disturb the other Owner's equipment in such shared rooms. Each Owner may replace or add to its equipment in such rooms provided that it does not impair access to such room, materially and adversely affect the equipment of the other Owner or prevent the other Owner from expanding in a similar manner.

Section 14.18. No Smoking. No smoking (including the use of any form of e-cigarette, electronic cigarette, personal vaporizer or electronic nicotine delivery system) shall be permitted in the Condominium (including the interior of a Unit) except in the areas, if any, designated by the Association.



An Owner or Occupant shall not be deemed to be in breach of this Declaration if any Permittee of such Owner or Occupant smokes if the Owner or Occupant has made and consistently makes commercially reasonable efforts to prohibit smoking in the Unit, or portion thereof, of such Owner or Occupant.

ARTICLE 15. MAINTENANCE AND SERVICE RESPONSIBILITY

Section 15.1. Maintenance By Unit Owner. Except in the event of casualty or condemnation or as otherwise expressly provided in this Declaration, the Owners shall each operate and fully maintain, repair and, when necessary, replace, at each Owner's respective cost and expense, the following items in compliance with the applicable provisions of the Master Project Manual and so that the same are at all times in good order, condition and repair, consistent with property of similar stature to that of the Unit in the Nashville, Tennessee metropolitan area:

(a) Each Owner shall be responsible for all portions of each Owner's Unit;

(b) Each Owner shall be responsible for the Unit Utility and Service Systems (including, the obligation to utilize approved Contractors if required by Section 13.11 hereof);

(c) The Owner of the Office Unit shall be responsible for the Office Terrace;

(d) The Owner of the Retail Unit shall be responsible for the Retail Terrace;

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

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

(g) Each Owner shall be responsible for any and all decorative fascia, canopies, awnings, signage, flags, banners and similar items that are located on or attached to such Owner's Unit

(h) Each Owner shall be responsible for any External Sidewalk Area serving such Owner's Unit to the extent provided in Section 15.5 below;

(i) Each Owner shall be responsible for any Inner Sidewalk Area allocated as a Limited Common Element to such Owner's Unit to the extent provided in Section 15.5 below; and

(j) Each Owner shall also be responsible for any item which the Owner is expressly obligated to operate, maintain, repair and replace as provided elsewhere in this Declaration.

The foregoing obligation by each Owner to operate, maintain, repair and, when necessary, replace, shall include, without limitation: (i) keeping all portions of the Unit and any other item for which the Owner is expressly obligated to operate, maintain, repair and replace in a clean, unlittered orderly and sanitary condition; (ii) removing, to the extent practicable, snow, ice and surface waters; and (iii) keeping all marking and directional signs, if any, within the Unit clear, distinct and legible. Notwithstanding anything to the contrary stated herein, the Owners shall be permitted to enter into an agreement separate from this Declaration to provide for the sharing of all or part of the responsibility and costs of operation, administration, and maintenance of the Owners' Units and Limited Common Elements allocated to such Units.



Section 15.2. Maintenance By Association. The Association shall operate and fully maintain, repair and, when necessary, replace, the following, the costs of which shall be assessed to the Owners as provided in the Assessment Allocation Agreement:

(a) all Common Elements, including all Limited Common Elements (except as provided otherwise in this Article 15);

(b) the Parking Deck; and

(c) all Building Utility and Service Systems.

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

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

Section 15.3. Utility and Service Systems. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote or consent of any affected Owner, relocate any portion of any Utility and Service System serving a particular Unit or Units, provided that after such relocation, the Utility and Service System serving the Unit or Units functions at least as well and at no greater cost to the Owner as existed prior to the relocation. In performing any such relocation work, the Association shall provide reasonable prior notice to any affected Owner and shall not materially interfere with the business operations of a Unit or reasonable access to or from a Unit.

Section 15.4. Life-safety Systems. The Association shall, as frequently as reasonably appropriate for similar facilities (but in no event less frequently than annually) and at its cost (but subject to reimbursement as a Common Expense), engage a firm to thoroughly test the Life-safety Systems and issue reports respecting same, copies of which shall be promptly furnished to all Owners. The Owners agree to cooperate and communicate with each other in respect of the testing, reconfiguration, disengagement (while repairs or reconfiguration are on-going) and alarms of the Life-safety Systems, with a view toward minimizing interruption and disruption to the Occupants of the Condominium, and maximizing the prompt dissemination of information regarding emergency situations.

Section 15.5. Sidewalk Areas.



(a) Except as provided in Section 15.5(b) below, the Association shall maintain, improve, repair, and/or replace all External Sidewalk Areas and Inner Sidewalk Areas (including without limitation providing snow and ice removal) subject to compliance with applicable Legal Requirements and with a minimum of interference to the businesses using such sidewalks. The costs of such shall be allocated as provided in the Assessment Allocation Agreement.

(b) In the event an Owner obtains permission from the municipality or other applicable governmental entity to utilize any External Sidewalk Area or Inner Sidewalk Area assigned as a Limited Common Element to such Owner's Unit for outdoor seating, display of merchandise and/or other commercial purposes, the Owner may by providing writing notice to the Association thereafter assume the right and obligation to maintain, improve, repair, and/or replace such External Sidewalk Areas and Inner Sidewalk Areas (including without limitation providing snow and ice removal). In the event the Owner subsequently ceases using any External Sidewalk Area or Inner Sidewalk Area for outdoor seating, display of merchandise and/or other commercial purposes, the Owner may relinquish the foregoing obligation to maintain, improve, repair, and/or replace by providing written notice to the Association and thereafter the Association shall assume such obligation as provided in Section 15.5(a) above.

Section 15.6. Failure to Maintain. Notwithstanding the foregoing obligations to maintain, repair and replace, if any Owner or those claiming by, through or under it, abuses, misuses or fails to operate, maintain, repair or replace in the manner provided in this Declaration any item for which it is responsible hereunder or otherwise creates a situation in any portion of the Submitted Property with respect to which non-exclusive easements and licenses have been granted by this Declaration such that said areas require maintenance, repair or replacement in excess of what would be required by normal use of said areas for their intended purposes, the Owner causing the excess use shall be responsible for the excess costs of operating, maintaining, repairing and replacing said areas. Without limiting the foregoing, the Association shall also have the right to exercise self-help as provided in Section 17.4 below. Each Owner shall maintain and promptly upon request, from time to time, make available to any other Owner maintenance records for its Unit with respect to which easement rights exist under this Declaration. As to any items (such as exterior painting) that require coordination or cooperation as to timing, materials, payment or the like, the parties shall be reasonable in so cooperating and coordinating.

Section 15.7. Mold Disclosure and Waiver.

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

(b) WHEN EXCESSIVE MOISTURE OR WATER ACCUMULATES INDOORS, MOLD GROWTH CAN AND WILL OCCUR, PARTICULARLY IF THE MOISTURE PROBLEM REMAINS UNADDRESSED. THERE IS NO PRACTICAL WAY TO ELIMINATE ALL MOLD IN AN INDOOR ENVIRONMENT. THE KEY TO CONTROLLING INDOOR MOLD GROWTH IS TO CONTROL MOISTURE. EACH OWNER SHALL MAINTAIN THEIR RESPECTIVE UNITS IN SUCH A MANNER AS TO REDUCE THE POTENTIAL FOR INCREASED MOLD FORMATION OR GROWTH, INCLUDING, WITHOUT LIMITATION, MAINTAINING AND REPAIRING ALL HEAT, VENTILATION, AND AIR CONDITIONING SYSTEMS SERVING SUCH OWNER'S UNIT IN GOOD CONDITION AND USING AND OPERATING SUCH SYSTEMS AT REASONABLE LEVELS, KEEPING VENTS AND/OR FANS CLEAR AND FUNCTIONING AND PREVENTING AND REPAIRING PLUMBING, WINDOW AND OTHER LEAKS AND SOURCES OF MOISTURE. EACH OWNER SHALL CONDUCT PERIODIC INSPECTIONS OF THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, FOR THE PRESENCE OF MOLD OR CONDITIONS WHICH MAY INCREASE THE ABILITY OF MOLD TO PROPAGATE WITHIN THE UNIT OR OTHER PORTIONS OF THE CONDOMINIUM. FURTHERMORE, EACH OWNER SHALL MONITOR THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, ON A CONTINUAL BASIS FOR EXCESSIVE MOISTURE, WATER OR MOLD ACCUMULATION. IF WATER OR MOISTURE IS DISCOVERED IN OR AROUND SUCH AREAS, THE OWNER SHALL IMMEDIATELY SEEK TO ELIMINATE THE SOURCE OF THE WATER OR MOISTURE. FAILURE TO ELIMINATE THE SOURCE OF MOISTURE CAN RESULT IN ADDITIONAL DAMAGE AND THE GROWTH OF MOLD, AND DECLARANT SHALL NOT BE RESPONSIBLE FOR SUCH DAMAGES. EACH OWNER, BY TAKING TITLE TO A UNIT, HEREBY WAIVES ALL RIGHTS TO DAMAGES AND SUBROGATION OF DAMAGES RESULTING FROM MOLD IN THE UNIT. EACH OWNER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT AND THE ASSOCIATION FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, COSTS, EXPENSES AND LIABILITIES, INCLUDING ALL CASES OF PERSONAL INJURY OR PROPERTY DAMAGE, CAUSED BY THE PRESENCE OF MOLD AND/OR WATER OR MOISTURE IN THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, TO THE EXTENT THAT THE DAMAGES ARE CAUSED BY: (I) THE OWNER'S NEGLIGENCE OR FAILURE TO PROPERLY MAINTAIN AND MONITOR SUCH AREAS; OR (II) THE OWNER'S FAILURE TO PROMPTLY TAKE APPROPRIATE CORRECTIVE MEASURES AND MINIMIZE ANY DAMAGE CAUSED BY WATER OR MOISTURE (INCLUDING, WITHOUT LIMITATION, FAILURE TO PROMPTLY NOTIFY AND ENGAGE THE HELP OF APPROPRIATE PROFESSIONALS OR EXPERTS).

Section 15.8. Association Inspection Obligations.

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

(b) Inspection Responsibilities. The inspectors shall inspect component parts of the Condominium in accordance with the Master Project Manual. The Association shall be responsible for meeting all of its inspection requirements under the Master Project Manual.

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

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

Section 15.9. Unit Owner Inspection Rights. Each Owner shall have the right, but not the obligation, to inspect the physical condition and operation of the Utility and Service Systems serving such Owner's Unit. In conjunction with such right, each Unit Owner shall have a non-exclusive easement to enter any portion of the Submitted Property necessary to facilitate such inspection, provided, however, a Unit Owner desiring to access another Unit shall provide written notice to the applicable Unit Owner (with respect to its Unit) or the Association (with respect to the Common Elements) at least three (3) business days before desiring entry to another Unit or the Common Elements (except in the event of an emergency in which case no advance notice shall be required).

Section 15.10. Vapor Barrier.

(a) The Owner of the Retail Unit shall defend and indemnify the Owner of the Office Unit and the Association against, and shall hold the Owner of the Office Unit and the Association harmless from, any damage, loss liability or expense, including reasonable attorneys' fees, as and when incurred by the Owner of the Office Unit or the Association, as applicable, in connection with or resulting from the Owner of the Retail Unit (or any Permittee of a Retail Unit) puncturing, penetrating, damaging or otherwise breaching the Retail Vapor Barrier or Retail Unit Owner's (or any Permittee of a Retail Unit) failure to properly maintain and repair the Retail Vapor Barrier.

(b) The Owner of the Office Unit shall defend and indemnify the Owner of the Retail Unit and the Association against, and shall hold the Owner of the Retail Unit and the Association harmless from, any damage, loss liability or expense, including reasonable attorneys' fees, as and when incurred by the Owner of the Retail Unit or the Association, as applicable, in connection with or resulting from the Owner of the Office Unit (or any Permittee of a Office Unit) puncturing, penetrating, damaging or otherwise breaching the Vapor Barrier or Office Unit Owner's (or any Permittee of a Office Unit) failure to properly maintain and repair the Office Vapor Barrier.

ARTICLE 16. MORTGAGEE RIGHTS

Section 16.1. Consent Required. Unless both Owners and their respective first Mortgagees give their consent, the Association or the membership shall not:

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

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

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

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

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

Section 16.2. Assessments. Where a Mortgage Holder obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit that became due prior to such acquisition of title unless provided otherwise in the Act. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such Mortgage Holder, its successors and assigns. Additionally, such Mortgage Holder shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all pro-rata charges for the days in the month in which title is passed.

Section 16.3. Notices. Upon written request to the Association, identifying the name and address of the holder and the Unit, any Mortgage Holder will be entitled to timely written notice of the following:

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

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Mortgage Holder which remains unsatisfied for a period of ten (10) days and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within ten (10) days;

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

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

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

(f) any proposed termination of the Condominium.

Section 16.4. Duplicative Notices. Upon written request to the Association, identifying the name and address of the holder and the Unit, a Mortgage Holder shall be entitled to simultaneously receive any and all written notices that are sent by the Association to the Owner of the Unit to which the Mortgage Holder has a secured interest.

Section 16.5. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Unit Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

Section 16.6. Notice to Association. Upon request, each Unit Owner shall be obligated to furnish to the secretary of the Association the name and address of any Mortgagee encumbering such Owner's Unit.

Section 16.7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the



Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided that all written requests by the Board are delivered to the Mortgagee by certified or registered mail, return receipt requested or by Permitted Overnight Delivery.

Section 16.8. Cure Rights. Any Mortgagee shall have the right, but not the obligation, at any time prior to the termination of the Condominiums Instruments, and without payment of any penalty, to do any act or thing required by the Condominium Instruments of any Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee. All payments so made and all things so done and performed by any Mortgagee shall be deemed the same as if would have been made, done and performed by any Unit Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee hereto instead of by said Mortgagee.

Section 16.9. No Invalidity of Mortgage Lien. No violation of the Condominium Instruments, by, or enforcement of the Condominium Instruments against, any party shall impair, defeat or render invalid the lien of any Mortgage.

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

ARTICLE 17. DEFAULT AND REMEDIES

Section 17.1. Remedies Cumulative. The remedies set forth in this Article 17 for breach of the provisions set forth in the Condominium Instruments shall be in addition to and not in substitution for any other remedies available to any Unit Owner or the Association for breach of the Condominium Instruments set forth in this Declaration or available at law, in equity or otherwise, all of which are intended to be cumulative.

Section 17.2. Authority and Enforcement. The Submitted Property shall be used only for those uses and purposes set out in this Declaration. Every Owner and its Permittees shall comply with this Declaration, Bylaws and rules and regulations promulgated and adopted by the Association and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one (1) or more aggrieved Owners, to take action to enforce the terms of this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association. The Board of Directors shall have the power to impose reasonable fines, which fines shall constitute a lien upon the Owner's Unit for violation of any duty imposed under this Declaration, the Bylaws or any rules and regulations promulgated and adopted by the Association; provided, however, nothing herein shall authorize the Association or the Board to limit the use of Common Elements or voting rights and the Association and Board shall not be permitted to do so. In the event that any Owner of a Unit violates this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association and a fine is imposed, notice of such violation shall be sent to such Owner and the fine shall be an assessment and a lien against the Unit until paid. The failure of the Board to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association shall not be deemed a waiver of the right of the Board to do so thereafter.

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

(a) Notice to Cure. If any provision of this Declaration or the Bylaws or any rule or regulation of the Association is violated, the Board shall send the violating Unit Owner a written notice to cure

identifying the violation(s) and fine(s) to be imposed in the event that the violation(s) is not fully cured by the end of the "Cure Period." The "Cure Period" shall be: (a) five (5) business days, if the violation can be cured or remedied solely by the payment of money or cessation of an activity; or (b) thirty (30) days, as to any other violation; provided, however, that (1) in the case of an emergency involving either imminent danger of personal injury or imminent danger of material damage to property or the interruption of utility services or other critical services to any Unit, the Cure Period shall be such time as is reasonably necessary in light of the circumstances if curative action is promptly commenced and (2) except in the case of such an emergency, if the nature of the failure is such that it is not subject to cure or remedy solely by the payment of money and if the failing Unit Owner has commenced appropriate curative action prior to the expiration of the Cure Period and thereafter has diligently pursued the completion of such cure and is continuing to do so, then the Cure Period shall be extended for such additional period of time, but not more than sixty (60) days, as shall be required to cure such failure with appropriate, diligent and continuous action. Nothing contained in this Section 17.3(a) shall be construed to give rise to any default on the part of any Owner under this Declaration based on any interruption of utility services or other critical services if the cause or cure of such interruption is not within the reasonable control of such Unit Owner.

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

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

(d) Maximum Fine. The Board of Directors on behalf of the Association may impose a fine in an amount not to exceed Five Hundred Dollars ($500.00) per day for any one violation of this Declaration or the Bylaws or any rule or regulation of the Association, up to a maximum amount of Seven Thousand Five Hundred Dollars ($7,500) for any one (1) continuing violation of this Declaration or the Bylaws or any rule or regulation of the Association. Under no circumstance shall this maximum fine provision limit or prevent the Association from pursuing all other legal and equitable remedies available to enforce the provisions of this Declaration.

Section 17.4. Self-Help Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 17.3 above, but with the obligation to comply with the procedures set forth in this Section and in Section 17.5 below. In any such action, to the maximum extent permissible, the violating Unit Owner shall pay all costs, including reasonable attorney's fees actually incurred. If self-help is going to be undertaken, the Association or its duly authorized agent shall send a written notice to the violating Unit Owner giving such violating Unit Owner not less than ten (10) days within which to cure such violation (except in the event of an emergency in which case the requirement of ten (10) days written notice shall not apply and shall be waived). Such notice shall describe the violation and the violating Unit Owner's obligations under this Declaration in reasonable detail and request that the violating Owner thereafter diligently commence and continue the actions necessary to cure such violation.



Section 17.5. Conditions of Self-Help Rights. The right of the Association or its duly authorized agent to perform any work under the foregoing Section 17.4 shall be subject to the following conditions and requirements:

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

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

(c) Such work shall be diligently pursued to completion and, upon completion, the Association or its duly authorized agent shall restore the relevant portion of the violating Owner's Unit as closely as is practicable to the condition that existed immediately before the commencement of such work (except for changes to remedy the condition necessitating the self-help work).

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

(e) If the Association or its duly authorized agent is performing this self-help work, the Association shall pay for all costs and expenses as and when it incurs them in connection with any such work performed, but shall be permitted to collect all such amounts, including reasonable attorney's fees actually incurred, as a Specific Assessment from the violating Owner.

ARTICLE 18. COMPLIANCE WITH LAWS AND ZONING

Section 18.1. Compliance with Laws and Covenants. Each Unit Owner and its Permittees shall each be responsible for complying with all Legal Requirements now or hereafter enacted or promulgated by the United States of America, State of Tennessee, County of Davidson, City of Nashville and any other governmental entity or agency now or hereafter having jurisdiction over the Condominium or any portion thereof.

Section 18.2. Environmental.

(a) No Owner, Occupant or other Permittee shall generate, treat, reclaim, transport, handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its agents, employees, contractors or invitees to generate, treat, reclaim, transport, handle, store, deposit, use, process, manufacture, dispose of or release any Hazardous Substance of any kind at, from, on, in, under or in the air above any part of a Unit or the Condominium, including, but not limited to, any surface waters or groundwater located thereon or into public sanitary or storm sewer systems or any sump pumps serving the Unit or Condominium. Notwithstanding the above, this prohibition shall not apply to the presence, use, or storage on the Condominium in compliance with Environmental Laws of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal office, residential, retail, restaurant, and parking uses and to maintenance and operation of the Condominium (including, but not limited to, Hazardous Substances in consumer products), including air emissions and discharges to sewer systems made in compliance with all Environmental Laws of such permitted Hazardous Substances.



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

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

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

Section 18.3. Unit Owner's Indemnity. Each Owner (hereinafter referred to as the "Indemnifying Unit Owner") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other Unit Owners and the Association (hereinafter referred to as the "Indemnitee") from and against any and all actions or proceedings arising therefrom, by or on behalf of any Person other than the Indemnitee, arising from the Indemnifying Unit Owner's use, possession or management of the Indemnifying Unit Owner's Unit or activities therein or arising out of the Indemnifying Unit Owner's use, exercise or enjoyment of the easements and licenses granted hereunder and from and against all costs, reasonable attorney's fees actually incurred, expenses and liabilities incurred with respect to any such claim, action or proceeding arising therefrom. In case any action or proceeding is brought against the Indemnitee by reason of any such claim, Indemnifying Unit Owner, upon notice from Indemnitee, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to Indemnitee. Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitee.

Section 18.4. Zoning Compliance. Without limiting the provisions of this Section 18.4, and except to change a permitted zoning non-conformity to a zoning conformity, no Owner shall: (a) alter, modify or limit the maximum density allowed for another Unit or the permitted land uses of the Submitted Property; (b) use the Submitted Property for any use other than those permitted under the zoning classification for the Submitted Property in effect on the Effective Date, (c) seek a special use permit; or (d) make any alterations or allow any use of its respective Unit or take or fail to take any action that would violate the provisions of the City of Nashville Zoning Ordinance (hereinafter collectively referred to as "Zoning Change"). In the event any Owner desires to seek a Zoning Change, such Owner must receive the prior written consent of all Owners. Such consent by the other Owners shall be deemed proper authorization for the Owner seeking the Zoning Change to act on behalf and as the limited lawful agent of the other Owner to seek and obtain said Zoning Change, whereupon the other Owner shall do all things as may be reasonably requested to obtain approval of the Zoning Change, at no cost or expense to the Owner not seeking the change. The aforementioned authorization to act as the limited lawful agent shall be limited to the purposes expressly contemplated herein and any attempt to use the authorization in violation of this Declaration shall be deemed null and void.

ARTICLE 19. GENERAL PROVISIONS

Section 19.1. Dispute Resolution.

(a) Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner must request and attend a hearing with the Board of



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

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

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

Section 19.2. Declarant Services.

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

(b) A company affiliated with Declarant may enter into management or other service agreements with the Association and the Owner of a Unit (which may be Declarant). In such circumstances, the company affiliated with Declarant may reasonably allocate related costs between the Association and the other Owner or applicable party.

Section 19.3. Enforcement. A breach by a Unit Owner of the agreements set forth herein would cause irreparable and continuing injury to the other Unit Owners and, in the event of such breach, monetary damages may be insufficient to compensate such other Unit Owners for its injury. Accordingly, in the event of any breach or threatened breach of this Declaration by a Unit Owner, each affected other Unit Owner shall have the right (without the necessity of posting bond except as otherwise required under Tennessee law) to injunctive relief or to the issuance of an order to compel performance to enforce the provisions set forth herein; provided, however, such right shall be cumulative of any other rights and remedies under this Declaration, at law or in equity.

Section 19.4. Parking Spaces and Vehicles. Neither Association nor Declarant shall be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or otherwise, including, but not limited to, any loss or damage from calcium deposits, water or acid damage, to any property placed or kept in any parking space in the Condominium. Each Unit Owner or Occupant, and their Permittees, with use of a parking space who places or keeps a vehicle and/or any personal property in the vehicle, parking space does so at his or her own risk.

Section 19.5. Sustainability Certification. The U.S. Green Building Council ("USGBC") issued a silver LEED Core & Shell precertification ("Initial Sustainability Certification") for the Building. All Owners and their Permittees shall comply with the Initial Sustainability Certification to extent applicable as set forth in the Master Project Manual. The Association, through its Board of Directors, shall have authority to seek subsequent sustainability certifications for the Building from USGBC, or other organizations providing sustainability certifications, and all Owners and their Permittees shall reasonably cooperate with such efforts to seek and maintain any such certifications so long as no additional operating costs or expenses are imposed or incurred by an Owner without such Owner's written consent.



Section 19.6. No Third Party Beneficiaries. Except as expressly provided herein, nothing contained in this Declaration shall be deemed to create any rights or benefit in favor of any Person other than the Unit Owners, their successors, successors-in-title and assigns.

Section 19.7. Successor-in-Title. The provisions of this Declaration shall apply to, inure to the benefit of and be binding upon the entirety of the Submitted Property, as applicable, and the Unit Owner from time to time of any portion of the Submitted Property including, without limitation, any Mortgagee acquiring an interest in any portion of the Submitted Property or any improvements thereon by reason of foreclosure, deed or assignment in lieu of foreclosure or purchase at foreclosure sale; provided, however, Mortgagee shall not incur or be required to assume any obligation under this Declaration unless and until such Mortgagee has so acquired an interest in any portion of the Submitted Property or any improvements thereon. The failure or default by a Unit Owner to comply with any provision hereof shall not affect the validity of any Mortgage, lien or other similar security instrument that may then be existing on such Owner's Unit. Whenever in this Declaration a reference to a Unit Owner is made, such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of such owner or party.

Section 19.8. Notices.

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

(b) Upon the occurrence of any of the following with respect to an Owner's Unit, such Owner ("Notifying Owner") shall provide prompt written notice to the Association:

(i) The commencement of any eminent domain or condemnation proceedings affecting the Notifying Owner's Unit; or

(ii) The receipt by the Notifying Owner of any written notice from a governmental entity: (A) alleging any violation of Environmental Laws by the Notifying Owner or its Permittees related to a condition on the Condominium; or (B) requiring the remediation or clean-up of any environmental condition on the Condominium.

Section 19.9. Security. THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE SECURITY ON THE PROPERTY; HOWEVER, EACH OWNER AND OCCUPANT, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, INVITEES, AND OTHER PERMITTEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE PROPERTY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE PROPERTY AND COMMIT CRIMINAL ACTS ON THE PROPERTY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE PROPERTY WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF

EACH OWNER AND OCCUPANT TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER AND OCCUPANT. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF MEASURES UNDERTAKEN.

Section 19.10. Disclosures. Each Owner and Occupant acknowledges and understands the disclosures set forth in Exhibit "E" hereto.

Section 19.11. Conflict.

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

(b) In the event of a conflict between the provisions of this Declaration, the Bylaws, the Charter, or any rules and regulations, then the provisions of this Declaration, the Charter, the Bylaws, and the rules and regulations in that order, shall prevail.

ARTICLE 20. EMINENT DOMAIN

Section 20.1. Common Elements Taken. If any portion of the Common Elements is taken by eminent domain, the award therefor shall be allocated to the Owners in proportion to their respective Percentage Interests or deposited into the Association's operating account or reserve account to be applied to Common Expenses, at the option of the Board; provided, however, that the portion of the award attributable to the taking of any Limited Common Element permanently allocated to one (1) Owner shall be allocated to the Owner of the Unit to which such Limited Common Element was so allocated at the time of the taking. If any Limited Common Element is permanently allocated to more than one Unit at the time of the taking, the portion of the award attributable to the taking thereof shall be allocated in equal shares to the Owners of the Units to which it was so allocated.

Section 20.2. Unit Taken.

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

(b) If a portion of any Unit is taken by eminent domain, the Board shall determine the fair market value of the portion of such Unit not taken (based on a determination by a court having jurisdiction over such eminent domain proceeding, or otherwise based on a report prepared by an independent appraiser); and the Percentage Interests pertaining to any such Unit shall be reduced, in the case of each such Unit, in proportion to the diminution in the fair market value of such Unit resulting from the taking. The portion of Percentage Interests thereby divested from the Owner of any such Unit shall be reallocated among that Unit and the other Units in the Condominium in proportion to their respective Percentage Interests. Any Units partially taken shall participate in such reallocation on the basis of their Percentage Interests as reduced in accordance with the preceding sentence. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

(c) If the taking of a portion of any Unit makes it impractical to use the remaining portion of that Unit for the primary purpose permitted by the Condominium Instruments, the entire Percentage Interests pertaining to that Unit shall then pertain to the remaining Units, to be allocated to them in

proportion to their respective Percentage Interests, and the remaining portion of that Unit shall thenceforth be a part of the Common Elements. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

Section 20.3. Mortgagee Notice. Each Eligible Mortgage Holder shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Owner in the distribution of proceeds to such Unit.

ARTICLE 21. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS

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

Section 21.1. Utilities - Blanket Easement. Subject to the other provisions of this Declaration relating to specific existing or future utilities and the general conditions established in this Article 21, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement for access, ingress, egress to, from, under, through, over and across any portion of such other Units and the Common Elements upon which any existing or future utilities and related improvements are located and the portion of such other Units and the Common Elements reasonably necessary to access those areas where existing or future utilities and related improvements are located, including, but not limited to, electric power, water, fuel, storm drainage, sewer, natural gas, telephone, HVAC refrigerant lines, property monitoring and other telecommunications systems such as closed-circuit cable television and high-speed internet, and controlled access systems and all conduit, raceways and other pathways relating to any of the foregoing which benefit another Unit as of the Effective Date, for the purpose of maintaining, repairing, replacing and using such utilities, subject to the right of the Owner of the Unit (or, in the case of the Common Elements, the Association) upon which such utilities may be located to relocate such utilities at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time.

Section 21.2. Surface Water Drainage and Runoff. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) upon which any surface water drainage and runoff flow, which benefits another Unit as of the Effective Date, subject to the right of the Owner of the Unit on which such surface water drainage and runoff flow to collect and discharge same at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time; and provided that no Unit Owner benefited by such drainage may construct any new improvements or alter any existing or future improvements upon such Unit Owner's property or otherwise divert the flow of water from such Unit Owner's property onto another Unit such that the rate of flow of such drainage or runoff would materially adversely increase over the rate of flow presently existing as of the date hereof, without the prior consent of the affected Unit Owner which consent shall not be unreasonably withheld, conditioned or delayed.

Section 21.3. Utility and Service Systems - Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and each Unit a perpetual, non-exclusive easement over and across any portion of the Submitted Property upon which any Utility and Service Systems are located for the purpose of maintaining, repairing, replacing, inspecting and using the Utility and Service Systems, subject to: (i) the specific maintenance, repair, replacement, and inspection obligations and assessment provisions set forth elsewhere in this Declaration; (ii) the right of the Owner of the Unit on which such systems may be located to relocate the same at its own cost and expense in a manner reasonably satisfactory to the benefited Owner and Association at any time; and (iii)



the right of the Owner of the Unit upon which a Utility and Service Systems is located to modify or relocate the systems to meet with applicable Legal Requirements in a manner reasonably satisfactory to the Association at any time.

Section 21.4. Blanket Easement for Lateral and Subjacent Support; Utility and Service Systems; Party Walls and Encroachments. Subject to the other provisions of this Declaration relating to specific, existing or future utilities and the general conditions established in this Article 21, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) as follows:

(a) All portions of the Submitted Property that are presently utilized for lateral and subjacent support of any portion of Units (including, without limitation, footings, foundations, and the parking structure), to the extent located within any such Units and benefiting the other Units, as same may from time to time be relocated, constructed or reconstructed in accordance with the terms of this Declaration.

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

(c) The Unity Utility and Service Systems located within one (1) Unit and benefiting another Unit.

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

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

Section 21.5. Emergency - Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) that is needed for emergency egress from the Building. This easement shall include, without limitation, the easement and right of the Unit Owners and Permittees to use such portions of the stairwells as is necessary to affect such emergency egress.

Section 21.6. Access Easements Benefiting the Association. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and its Permittees a perpetual,

non-exclusive easement for access, ingress and egress to, from, over, under and through the entire Submitted Property for the performance of its obligations and duties hereunder.

Section 21.7. Easements Benefiting Declarant. Declarant hereby reserves a perpetual, non-exclusive easement for the purpose of access for ingress and egress over the Condominium, including the Units, the Common Elements, and Limited Common Elements, to inspect, examine, survey, photograph, and perform such tests, inspections, studies or other evaluations of the Condominium as Declarant and its agents, employees or contractors, or others may deem necessary in conjunction with Declarant's review of construction conditions on the Condominium. The foregoing easement shall expire upon the occurrence of the later of the following events: (a) the date upon which Declarant no longer owns a Unit or any portion thereof; or (b) ten (10) years after the Effective Date. To the extent that damage is inflicted on the Common Elements, Limited Common Elements, or on any Unit through which access is taken, Declarant, whether by itself or through agents, employees, contractors, or others, shall be liable for the prompt repair thereof.

Section 21.8. Commonly Metered-Used Items. The Unit Owners acknowledge that some utility services on the Submitted Property may be metered to one (1) Unit Owner and may benefit another Unit Owner. Except where expressly provided to the contrary herein, the Unit Owner being metered shall have the right, at any time, at its cost, to have an engineer or other consultant reasonably acceptable to the other Unit Owner analyze the typical amount of usage allocable to the other Unit Owner. The Unit Owner being metered may invoice the other Unit Owner for the costs of utility service allocable to the other Unit Owner (based on such typical amount of usage and the rates being charged by the applicable utility companies to the metered Unit Owner). Either Unit Owner shall have the right to install sub-meters, at its cost and shall also have the right to at any time, at its cost, to take such steps as may be required to connect the items served by the other Unit Owner's utility meters to its own utility meters or to install separate components that serve solely its Unit and disconnect its Unit from components operated, maintained, repaired and replaced by the other Unit Owner. In the absence of any of the foregoing, each Unit Owner shall pay for all utility service metered to it and for the costs of operating, maintaining, repairing and replacing such components in a manner so that there will be no disruption of service to the other Unit Owner.

Section 21.9. Cooperation. All easements and licenses granted in this Declaration and the use thereof, shall be deemed to be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted. Each Unit Owner agrees to cooperate with the reasonable requests of the other Unit Owner in furtherance of the spirit and intent of the matters addressed in this Declaration. To this end, in the event that an Owner of a Unit limits access to its respective Unit and/or the Limited Common Elements serving such Unit, such Unit Owner shall provide the other Unit Owner having easement rights over such areas a reasonable means of access over the areas to which such easement rights appertain.

Section 21.10. Damages Resulting From the Exercise of Easement Rights. Notwithstanding anything to the contrary stated herein, damages caused by the exercise of the easement rights granted in this Article 21, including, but not limited, to reasonable attorneys' fees actually incurred, shall be paid by the responsible Unit Owner, provided that the Permittee of a Unit Owner causing such expense shall be jointly and severally liable.

ARTICLE 22. AMENDMENT

Except where a different vote is expressly required for action under any other provisions of this Declaration or by the Act, in which case such different vote shall be necessary to amend such provision, the Condominium Instruments may be amended by the affirmative vote, written consent or any combination of affirmative vote and written consent of all Owners, and such amendment shall otherwise comply with the provisions of Section 66-27-317 of the Act. Notwithstanding the above, no amendment shall modify, alter or delete any provision of the Condominium Instruments that benefits Declarant or any license, easement or other use rights of Declarant without the written consent of Declarant attached to

and recorded with such amendment. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the president and recorded in the Official Records.

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

ARTICLE 23. SEVERABILITY

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

[SIGNATURE CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration on this 17th day of December 2018.

DECLARANT:

222 SECOND AVENUE HOLDINGS LLC,
a Delaware limited liability company

By: 222 SECOND AVENUE HOLDINGS LLC,
a Delaware limited liability company, its sole member

By: Hines Second Avenue LLC,
a Delaware limited liability company,
its manager

By: Hines Second Avenue Associates Limited Partnership,
a Texas limited partnership,
its sole member

By: Hines Investment Management Holdings Limited Partnership,
a Texas limited liability company,
its general partner

By: HIMH GP LLC,
a Delaware limited liability company,
its sole general partner

By Hines Real Estate Holdings Limited Partnership,
a Texas limited partnership,
its sole member

By: JCH Investments, Inc.,
a Texas corporation,
its sole general partner

By: _____ (SEAL)
Name: C. Kevin Shannahan
Title: Senior Managing Director/CEO

[Notary Acknowledgment on Next Page]

STATE OF ILLINOIS

COUNTY OF COOK

Before me, the undersigned Notary Public in the State and County aforesaid, certify C. Kevin Shannahan, personally came before me this 17TH day of December, 2018, and acknowledged that s/he is the Senior Managing Director/CEO of JCH Investments; Inc., a Texas corporation and sole general partner of Hines Real Estate Holdings Limited Partnership, a Texas limited partnership and sole member of HIMH GP LLC, a Delaware limited liability company and sole general partner of Hines Investment Management Holdings Limited Partnership, a Texas limited partnership and general partner of Hines Second Avenue Associates Limited Partnership, a Texas limited partnership and sole member of Hines Second Avenue LLC, a Delaware limited liability company and manager of 222 Second Avenue Holdings LLC, a Delaware limited liability company and sole member of 222 SECOND AVENUE LLC, a Delaware limited liability company, the within named bargainor, and that he, as Senior Managing Director/CEO being authorized to do so, executed the foregoing, on behalf of 222 SECOND AVENUE LLC, a Delaware limited liability company, and the said Senior Managing Director/CEO acknowledged the said writing to be the act and deed of said companies.

Notary Public

Printed Name: MARIAN KEREKGYARTO

My commission expires:

3/31/22

[Notary Seal]

MARIAN KEREKGYARTO
Official Seal
Notary Public – State of Illinois
My Commission Expires Mar 31, 2022

EXHIBIT "A"

DESCRIPTION OF SUBMITTED PROPERTY

Being Lot 1 on the plat of Consolidation of 222 Second Avenue, formerly Lot Nos. 1 & 2 as shown on the Resubdivision of a portion of Lot 14, Second Plan of Davidson County Academy Lots as of record in Instrument No. 20110330-0024442, R.O.D.C. and a portion of Lot No. 14 Davidson County Academy Lots not of record - 222 Second Avenue South, which plat is of record as Instrument No. 20151221-0128206, in said Register's Office.

The foregoing being the same property conveyed to 222 Second Avenue LLC, a Delaware limited liability company, by deed of record at Instrument No. 20151119-0117328 in the Register's Office for Davidson County, Tennessee.

EXHIBIT "B"

PERCENTAGE INTERESTS

Unit	Approximate Square Footage	Percentage Interest	Number of Votes
Retail Unit	27,896	7.15%	7
Office Unit	362,475	92.85%	93
TOTAL	**390,072**	**100.00%**	**100**

EXHIBIT "C"

EXHIBIT "C"

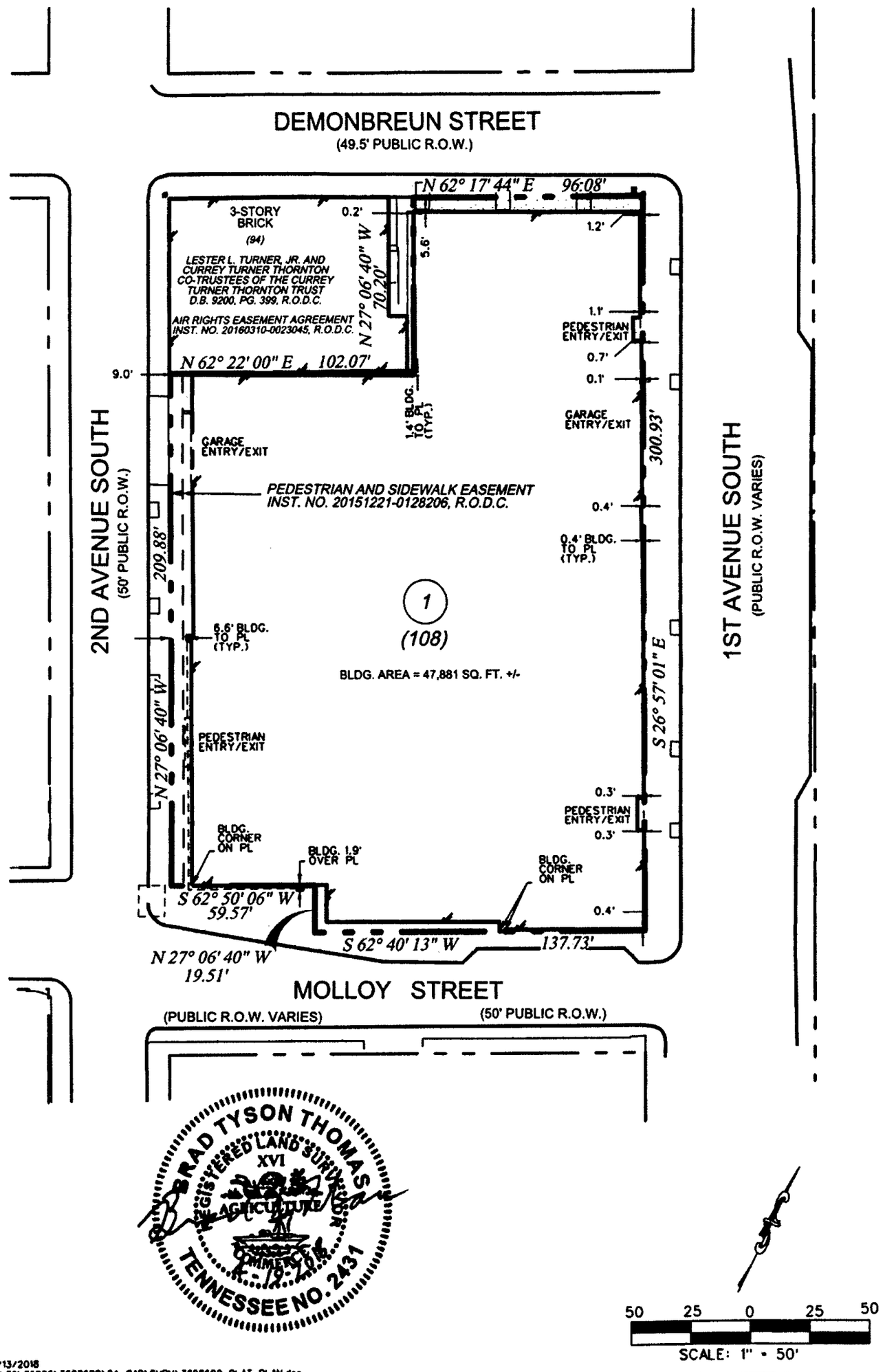
Item	Common Element	Limited Common Element Allocated	Office Unit	Retail Unit
Bike storage (level 1)			X	
Building Utility and Service System, or portion thereof, exclusively serving Office Unit		Office Unit		
Building Utility and Service System, or portion thereof, exclusively serving Retail Unit		Retail Unit		
Building Utility and Service Systems (not exclusively serving a single Unit)	X			
Bus duct enclosure (level 1)	X			
Chiller plant (level 1)	X			
Cooling tower (above the roof of the Office Unit)	X			
DAS (level 1)			X	
Dock manager office (level 1)	X			
Elevator #'s 1-6			X	
Elevator #'s 7- 9	X			
Elevator # 10				X
Emergency electrical room (level 1)	X			
Emergency electrical room (lower penthouse level)			X	
Emergency generator exhaust (levels 1-4)	X			
Fan rooms (lower penthouse level)			X	
Filter room (lower penthouse level)			X	
Fire command room (level 1)	X			
Fire pump room (level 1)	X			
Future fuel storage room (level 1)			X	
Future generator (levels 6-10)			X	
Future Retail Condenser (level 2)		Retail Unit		
Future storage (level 2)		Office Unit		
Garage elevator lobby (levels 1-5)	X			
Garage elevator lobby (levels 6-11)			X	
Gas meter room (level 1)	X			
Generator room (level 1)	X			
Grease interceptor (level 1)				X
Inner Sidewalk Area not parallel and immediately adjacent to a single Unit	X			
Inner Sidewalk Area parallel and immediately adjacent to Office Unit		Office Unit		

Inner Sidewalk Area parallel and immediately adjacent to Retail Unit		Retail Unit		
Loading Dock	X			
Machine room (upper penthouse level)			X	
Mail room (level 1)	X			
Main electrical room (level 1)	X			
Mechanical room (lower penthouse level)			X	
Mechanical room # 1 (mezz level)	X			
Mechanical room # 2 (mezz level)				X
NES vault (level 1)	X			
Office lobby (level 1)			X	
Office Terrace			X	
Parking Deck drive aisles	X			
Parking spaces exclusively for Office Unit		Office Unit		
Parking spaces exclusively for Retail Unit		Retail Unit		
Recycling room (level 1)	X			
Roofs (above Common Elements)	X			
Roofs (above Office Unit)			X	
Roofs (above Retail Unit)				X
Security room (level 1)	X			
Signage Bands		Retail Unit		
Stairwell # 1 (levels 1-6)	X			
Stairwell # 1 (levels 7 and above)			X	
Stairwell #'s 2 and 3 (levels 1-5)	X			
Stairwell #'s 2 and 3 (levels 6 and above)			X	
Stairwell # 4				X
Structural elements	X			
Unit Utility and Service Systems			X	X
Terrace (level 12)			X	
Valet zone # 1 (level 1)	X			
Water SVC (level 1)	X			
Wet trash room		Retail Unit		
Wet trash room (level 1)		Retail Unit		

EXHIBIT "D"

FLOOR PLANS AND PLAT

[attached]



4/13/2018
F:\36\36086\3608602\04_CAD\SURV\3608602_PLAT_PLAN.dgn

BARGE DESIGN SOLUTIONS
615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)254-1500 FAX (615) 255-8572

CONDOMINIUM PLAT

222 2ND AVENUE SOUTH
222 2ND AVENUE, A CONDOMINIUM
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

DRAWN BY	CHECKED BY
MFS	JLJ

DRAWING NO: 1

PROJECT NO	DATE
3608602	04/13/18

© Copyright 2018 Barge Design Solutions, Inc. ALL RIGHTS RESERVED

DEED REFERENCE

BEING PROPERTY CONVEYED TO 222 SECOND AVENUE LLC BY DEED OF RECORD IN INST. NO. 20151119-0117628, R.O.D.C.

PROPERTY MAP REFERENCE

BEING PARCEL 108 AS SHOWN ON DAVIDSON COUNTY PROPERTY MAP NO. 93-06-4.

PLAT REFERENCE

BEING LOT NO. 1 AS SHOWN ON THE SUBDIVISION PLAT OF CONSOLIDATION OF 222 SECOND AVENUE, OF RECORD IN PLAT INST. NO. 20151221-0128206, R.O.D.C.

SURVEYOR'S DESCRIPTION

LAND IN DAVIDSON COUNTY, TENNESSEE, BEING LOT NO. 1 AS SHOWN ON THE CONSOLIDATION PLAT OF 222 SECOND AVENUE SOUTH, OF RECORD IN PLAT INST. NO. 20151221-0128206, IN THE REGISTER'S OFFICE FOR DAVIDSON COUNTY, TENNESSEE, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAID PROPERTY.

CERTIFICATION:

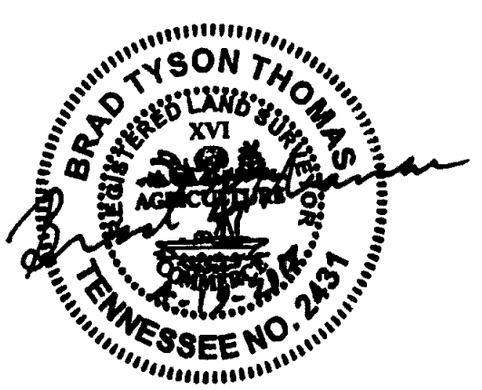
I CERTIFY THIS SURVEY AND SITE PLAN OF 222 2ND AVENUE SOUTH, A CONDOMINIUM CONTAINS ALL INFORMATION REQUIRED BY T.C.A. SECTION 66-27-309.

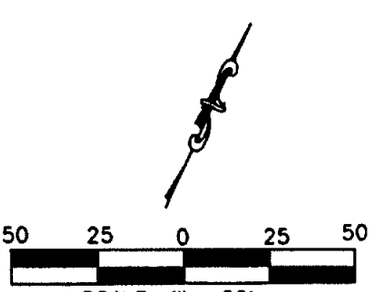
Brad T. Thomas DATE: April 19, 2018

NAME

2431

LICENSE NUMBER





4/13/2018
F:\36\36086\3608602\04_CAD\SURV\3608602_PLAT_PLAN.dgn

BARGE DESIGN SOLUTIONS

615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)254-1500 FAX (615) 255-6672

CONDOMINIUM PLAT

222 2ND AVENUE SOUTH
222 2ND AVENUE, A CONDOMINIUM
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

DRAWN BY	CHECKED BY
MFS	JLJ
DRAWING NO	
1	
PROJECT NO	DATE
3608602	04-13-18

© Copyright 2018 Barge Design Solutions, Inc. ALL RIGHTS RESERVED

I, Eric D. Bearden, a Tennessee registered architect do hereby certify that to the best of my knowledge, information and belief and in accordance with the applicable standard of care the following specific TCA subsections, as referenced in Section 66-27-309 of the Tennessee Condominium Act of 2008, are individually and accurately addressed with GS&P design documents as noted below:

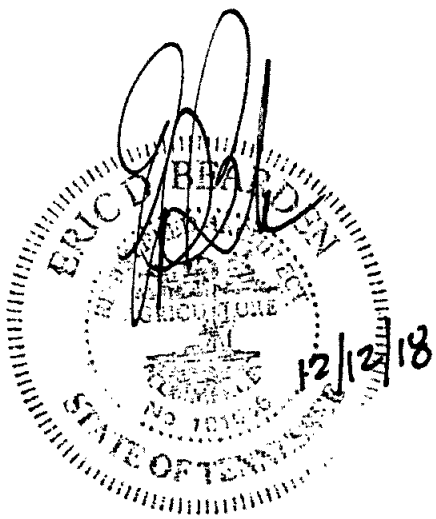
TCA section 66-27-309 subsection (b) item number (1): GS&P plan *Sheet 01*, dated *4/11/2018*

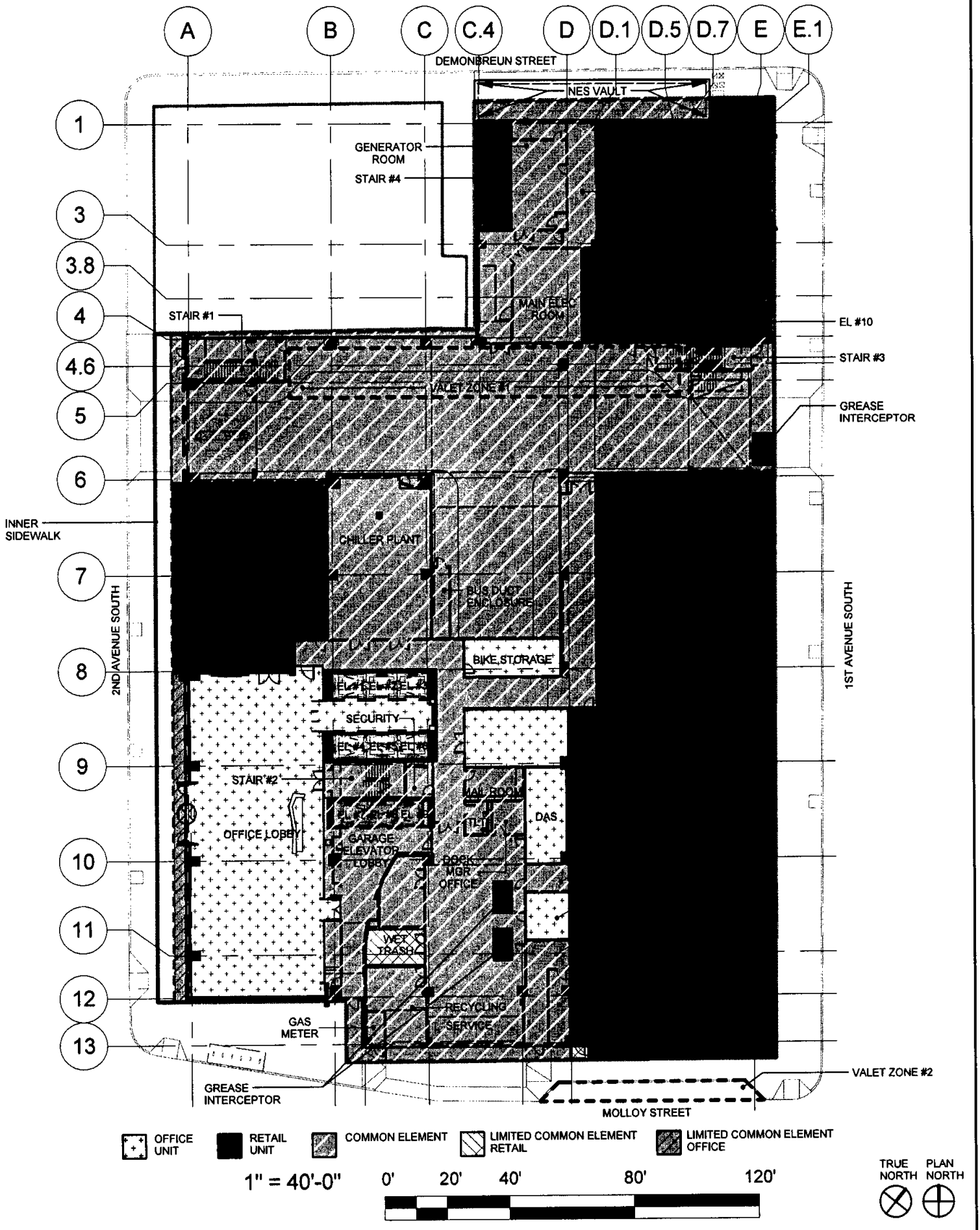
TCA section 66-27-309 subsection (b) item number (6): GS&P elevations *Sheet 28 through Sheet 31*, dated *4/11/2018*

TCA section 66-27-309 subsection (d) item number (1): GS&P elevations *Sheet 28 through Sheet 31*, dated *4/11/2018*

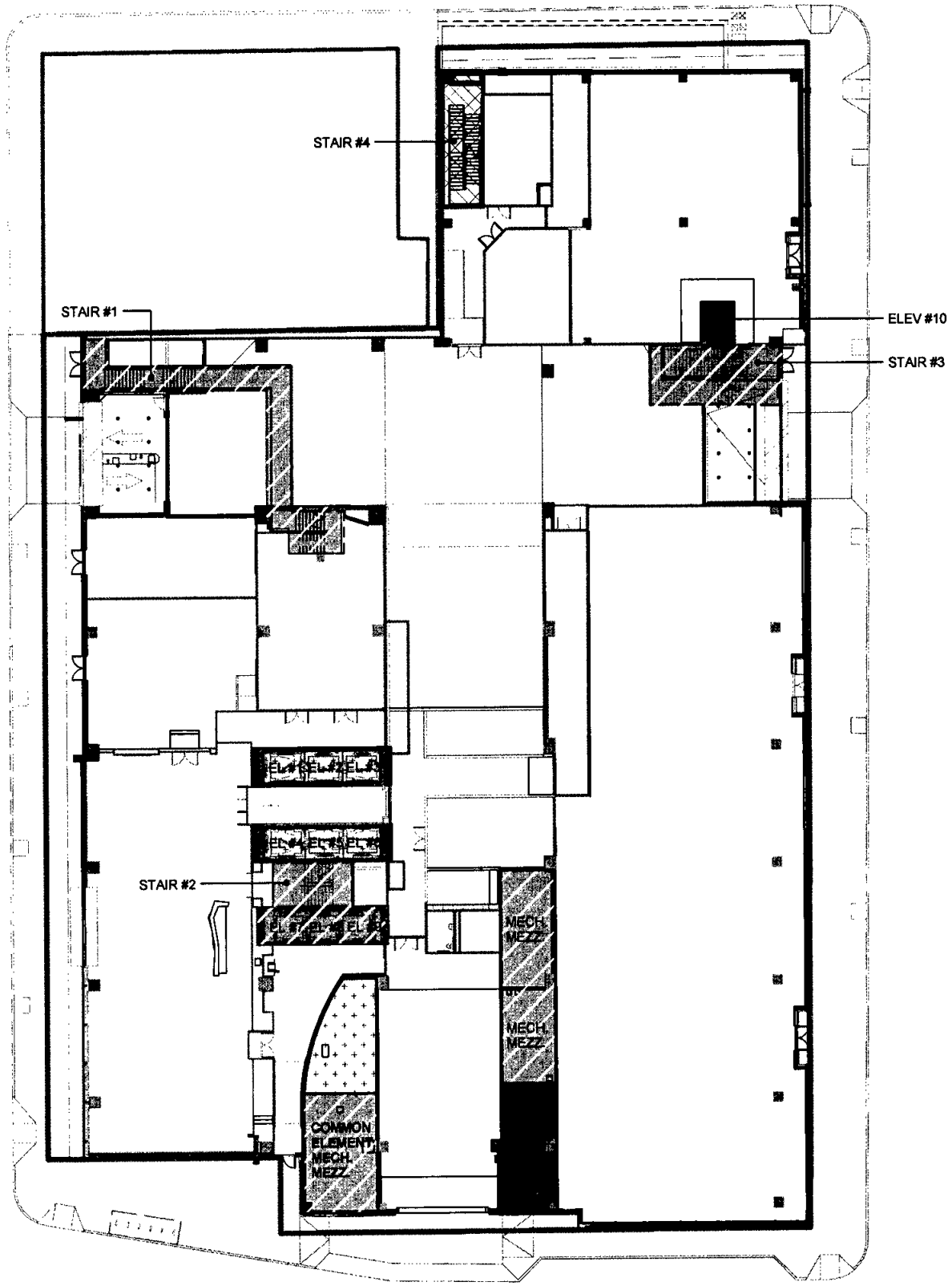
TCA section 66-27-309 subsection (d) item number (2): GS&P plans and elevations *Sheet 01 through Sheet 31*, dated *4/11/2018*

TCA section 66-27-309 subsection (e): GS&P plans and elevations *Sheet 01 through Sheet 31*, dated *4/11/2018*

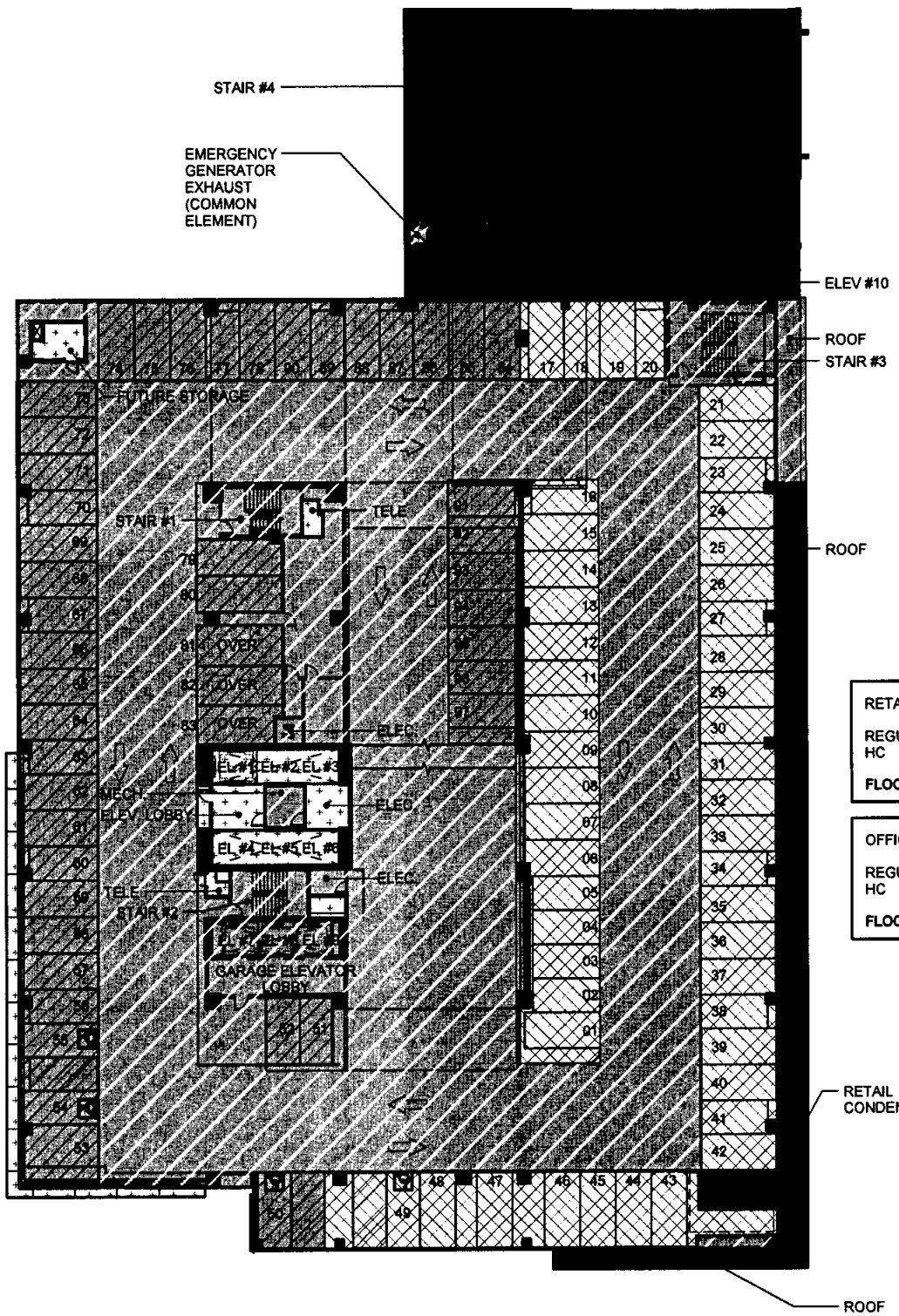




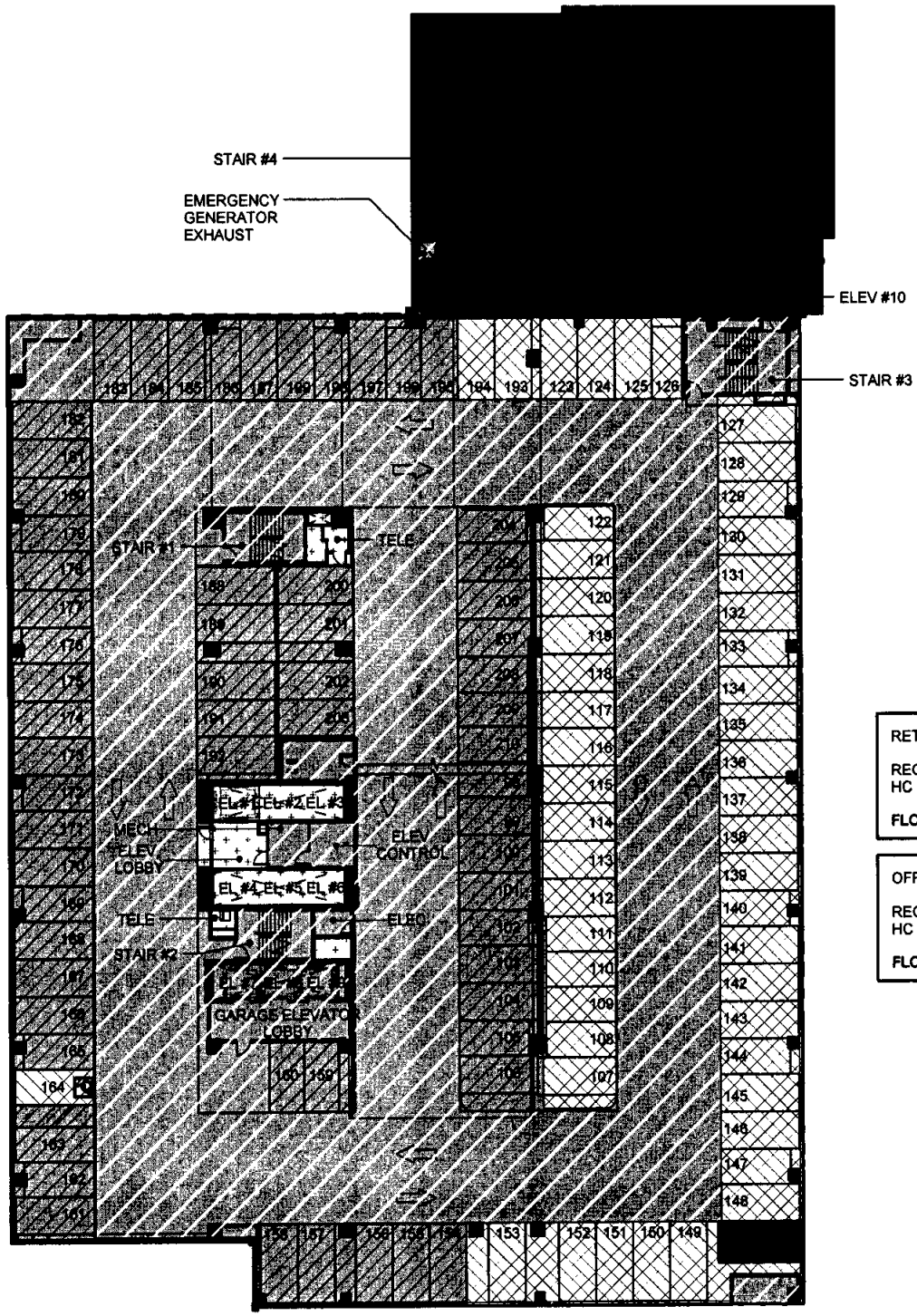
GS&P GRESHAM SMITH AND PARTNERS	01 - LEVEL 1 - PLAN EXHIBIT HINES 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 01 40502.00 04/11/18



GRESHAM SMITH AND PARTNERS	01M - MEZZANINE LEVEL HINES 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 01M 40502.00 04/11/18



GRESHAM SMITH AND PARTNERS	02 - LEVEL 2 - PLAN EXHIBIT HINES 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 02 40502.00 04/11/18



RETAIL SPACES:	
REGULAR	49
HC	1
FLOOR TOTAL	50

OFFICE SPACES:	
REGULAR	63
HC	0
FLOOR TOTAL	63

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

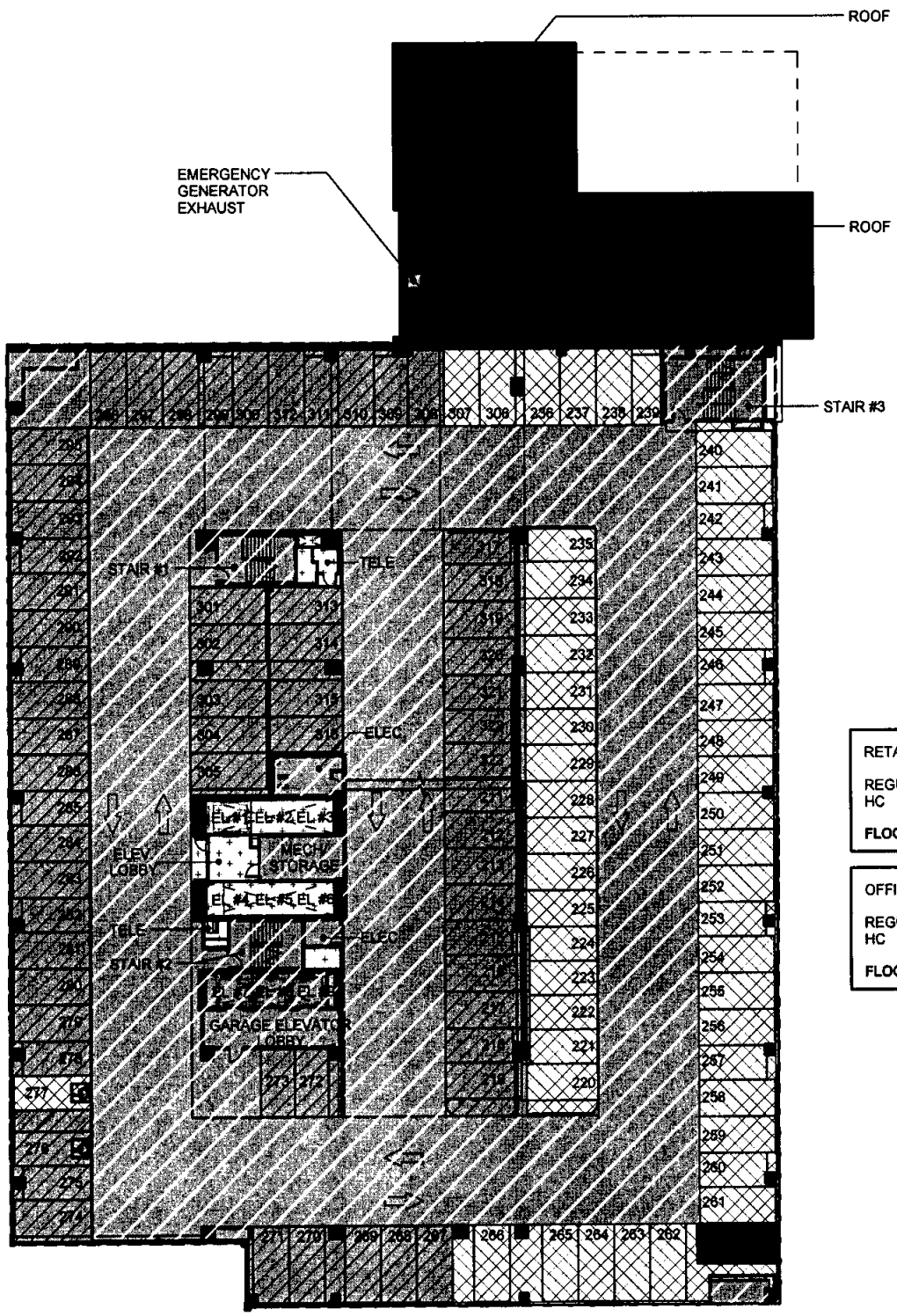
1" = 40'-0" 0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GS&P GRESHAM SMITH AND PARTNERS

03 - LEVEL 3 - PLAN EXHIBIT
HINES
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 03
40502.00
04/11/18



RETAIL SPACES:	
REGULAR	49
HC	1
FLOOR TOTAL	50

OFFICE SPACES:	
REGULAR	62
HC	1
FLOOR TOTAL	63

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

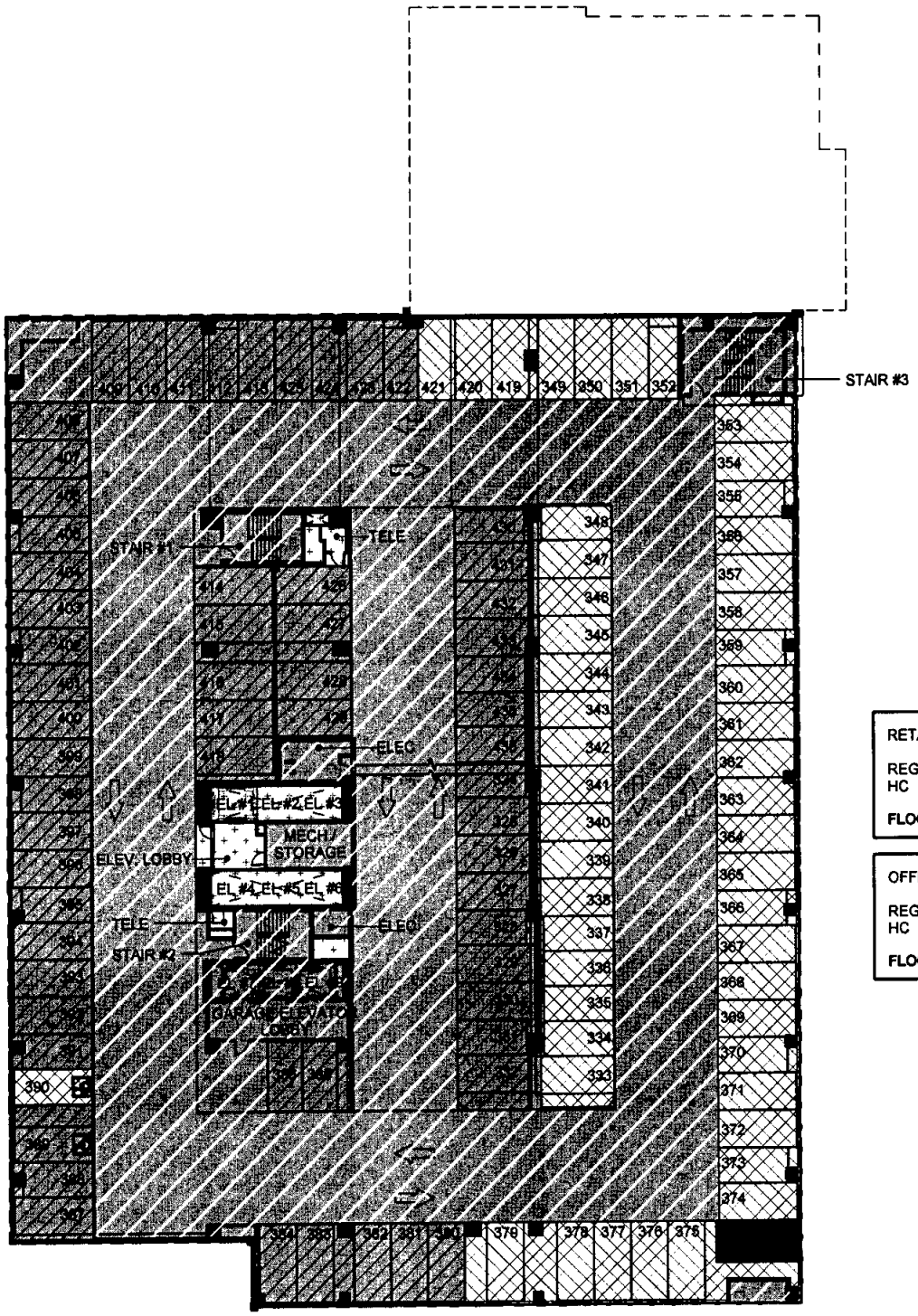
1" = 40'-0" 0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

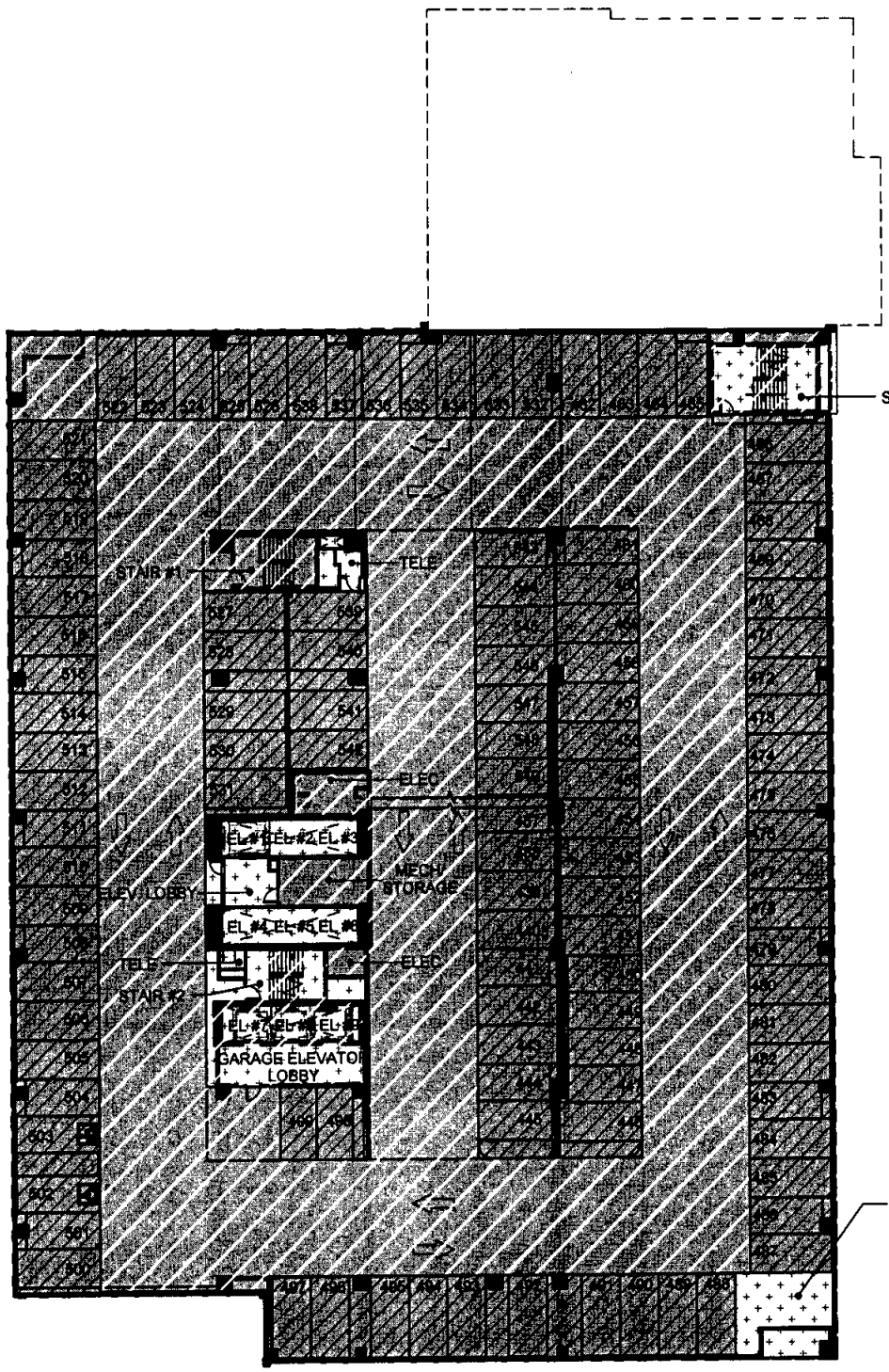
GRESHAM SMITH AND PARTNERS

04 - LEVEL 4 - PLAN EXHIBIT
HINES
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 04
40502.00
04/11/18



GS&P GRESHAM SMITH AND PARTNERS	05 - LEVEL 5 - PLAN EXHIBIT HINES 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 05 40502.00 04/11/18



RETAIL SPACES:	
REGULAR	0
HC	0
FLOOR TOTAL	0

OFFICE SPACES:	
REGULAR	111
HC	2
FLOOR TOTAL	113

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

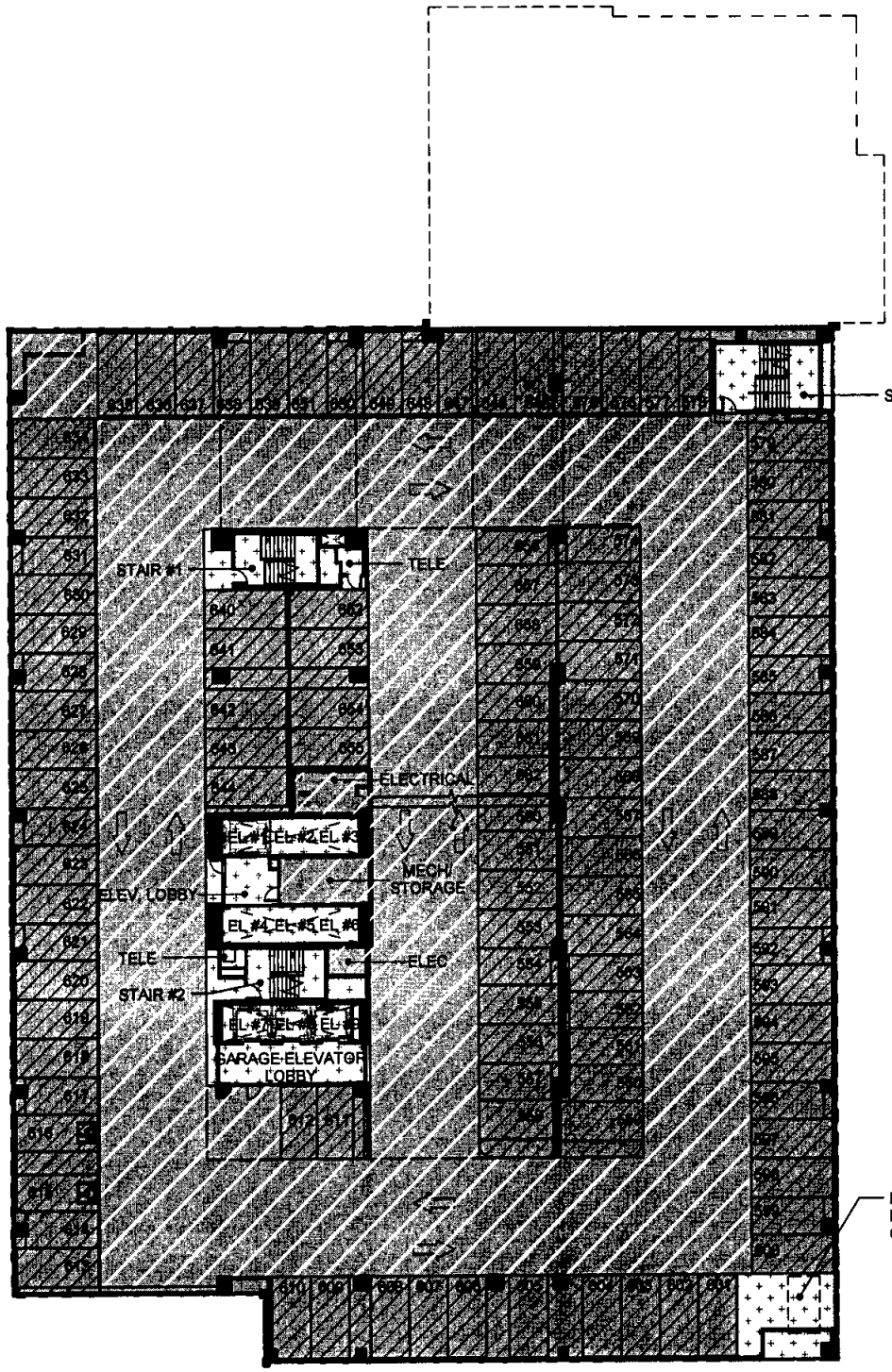
1" = 40'-0" 0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS

06 - LEVEL 6 - PLAN EXHIBIT
HINES
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 06
40502.00
04/11/18



RETAIL SPACES:	
REGULAR	0
HC	0
FLOOR TOTAL	0

OFFICE SPACES:	
REGULAR	111
HC	2
FLOOR TOTAL	113

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

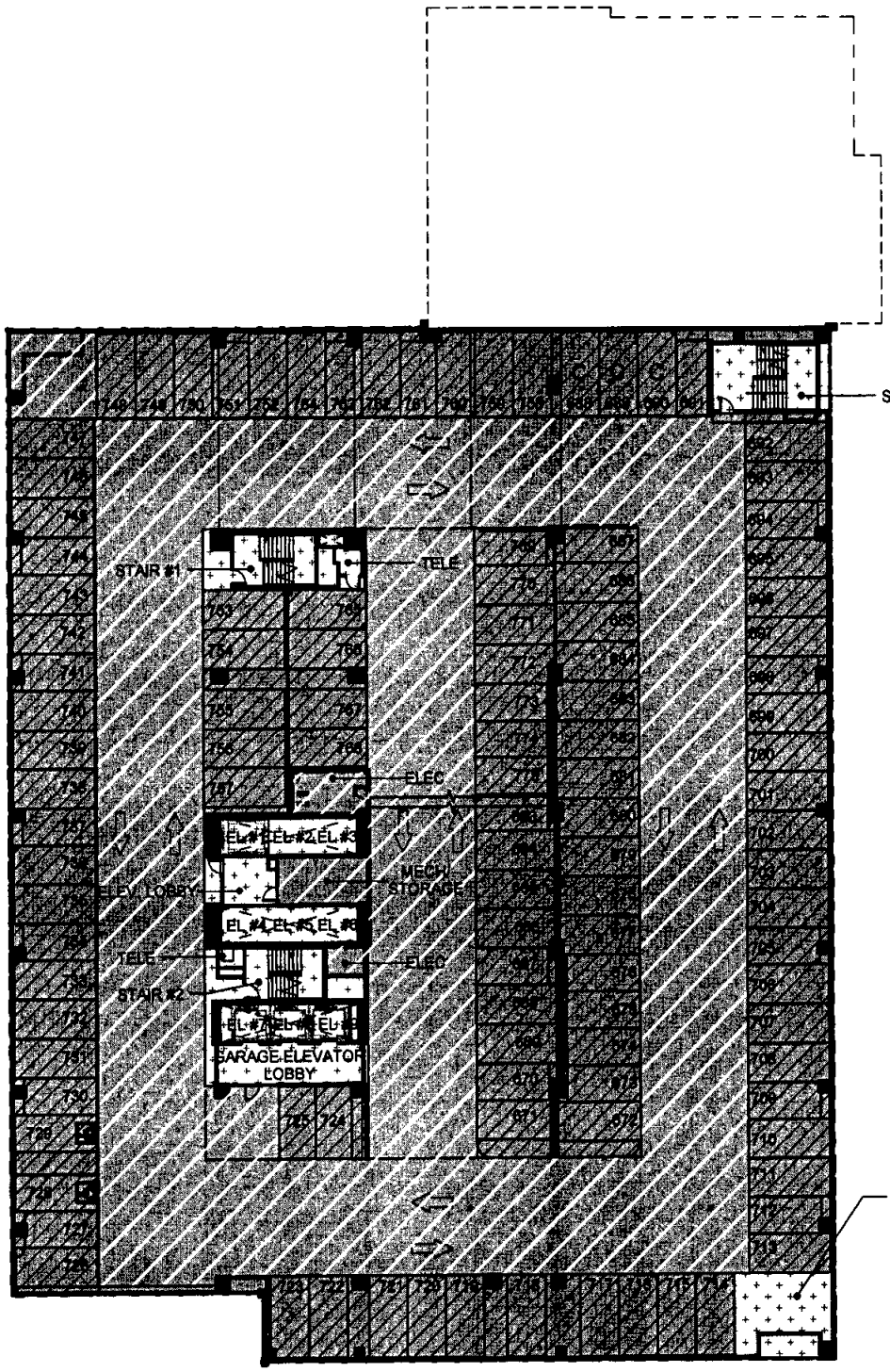
0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GS&P GRESHAM SMITH AND PARTNERS

07 - LEVEL 7 - PLAN EXHIBIT
HINES
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 07
40502.00
04/11/18



RETAIL SPACES:	
REGULAR	0
HC	0
FLOOR TOTAL	0

OFFICE SPACES:	
REGULAR	111
HC	2
FLOOR TOTAL	113

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

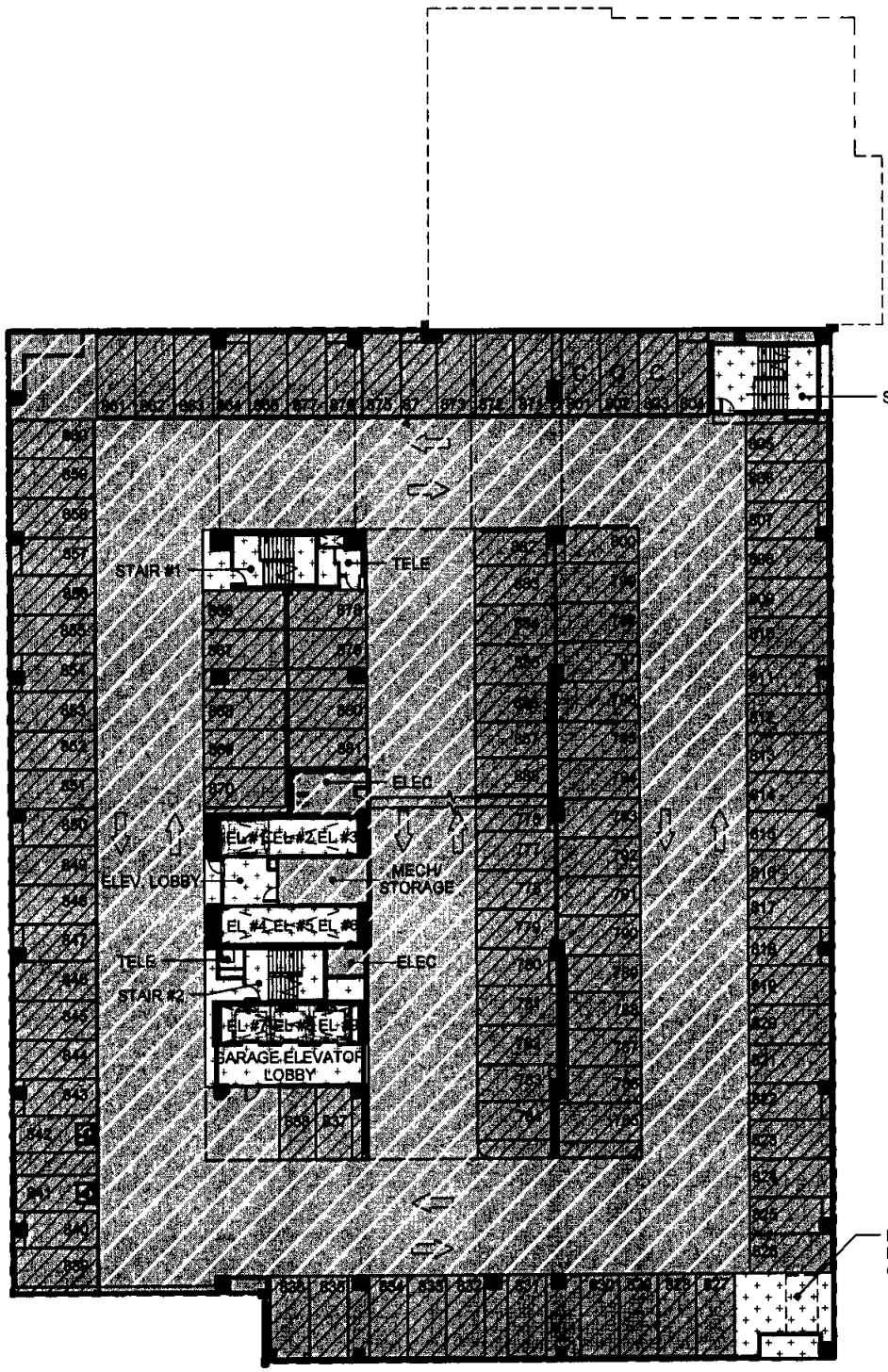
1" = 40'-0" 0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GS&P GRESHAM SMITH AND PARTNERS

08 - LEVEL 8 - PLAN EXHIBIT
HINES
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 08
40502.00
04/11/18



RETAIL SPACES:	
REGULAR	0
HC	0
FLOOR TOTAL	0

OFFICE SPACES:	
REGULAR	111
HC	2
FLOOR TOTAL	113

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

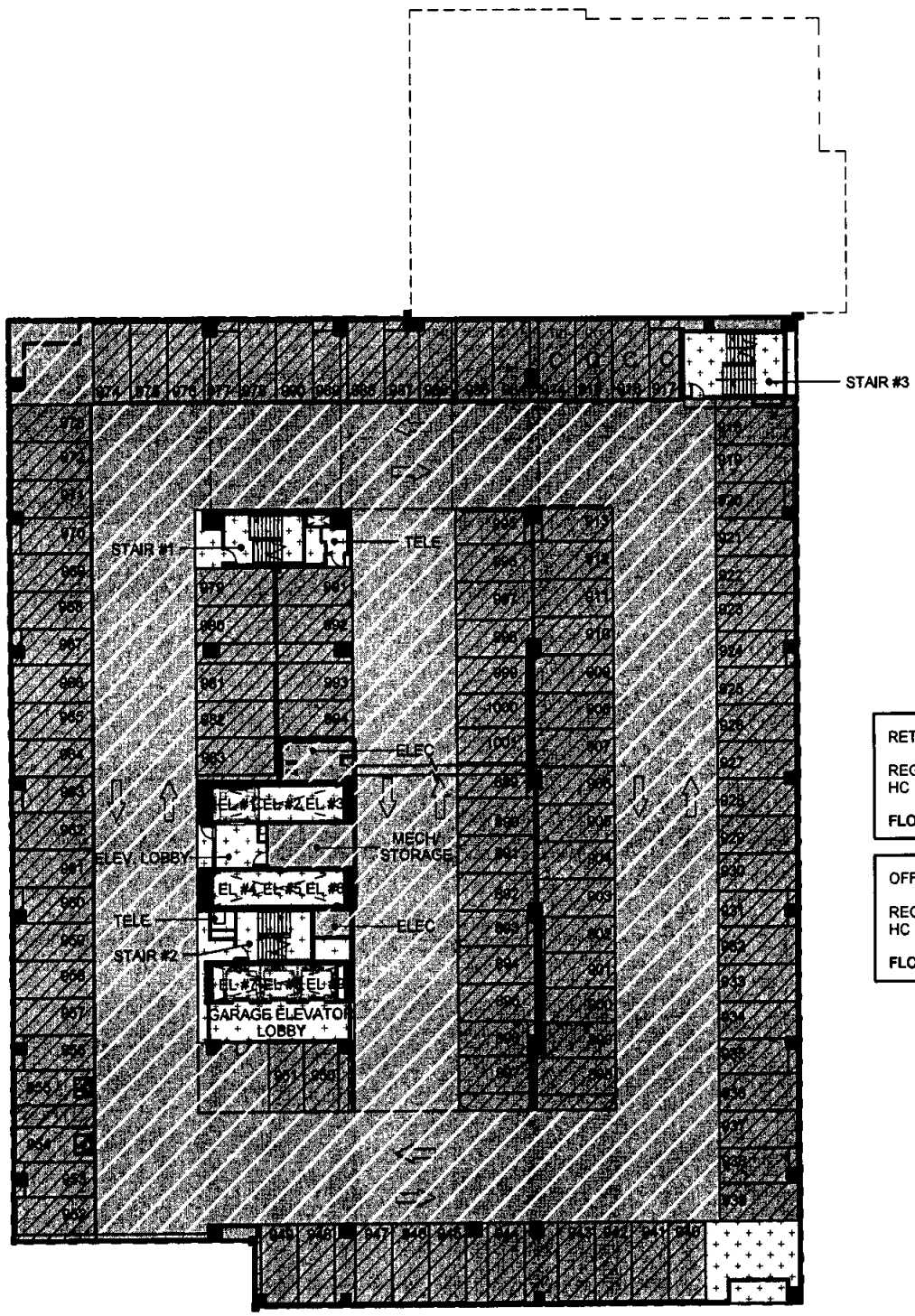
0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GS&P GRESHAM SMITH AND PARTNERS

09 - LEVEL 9 - PLAN EXHIBIT
HINES
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 09
40502.00
04/11/18



RETAIL SPACES:	
REGULAR	0
HC	0
FLOOR TOTAL	0

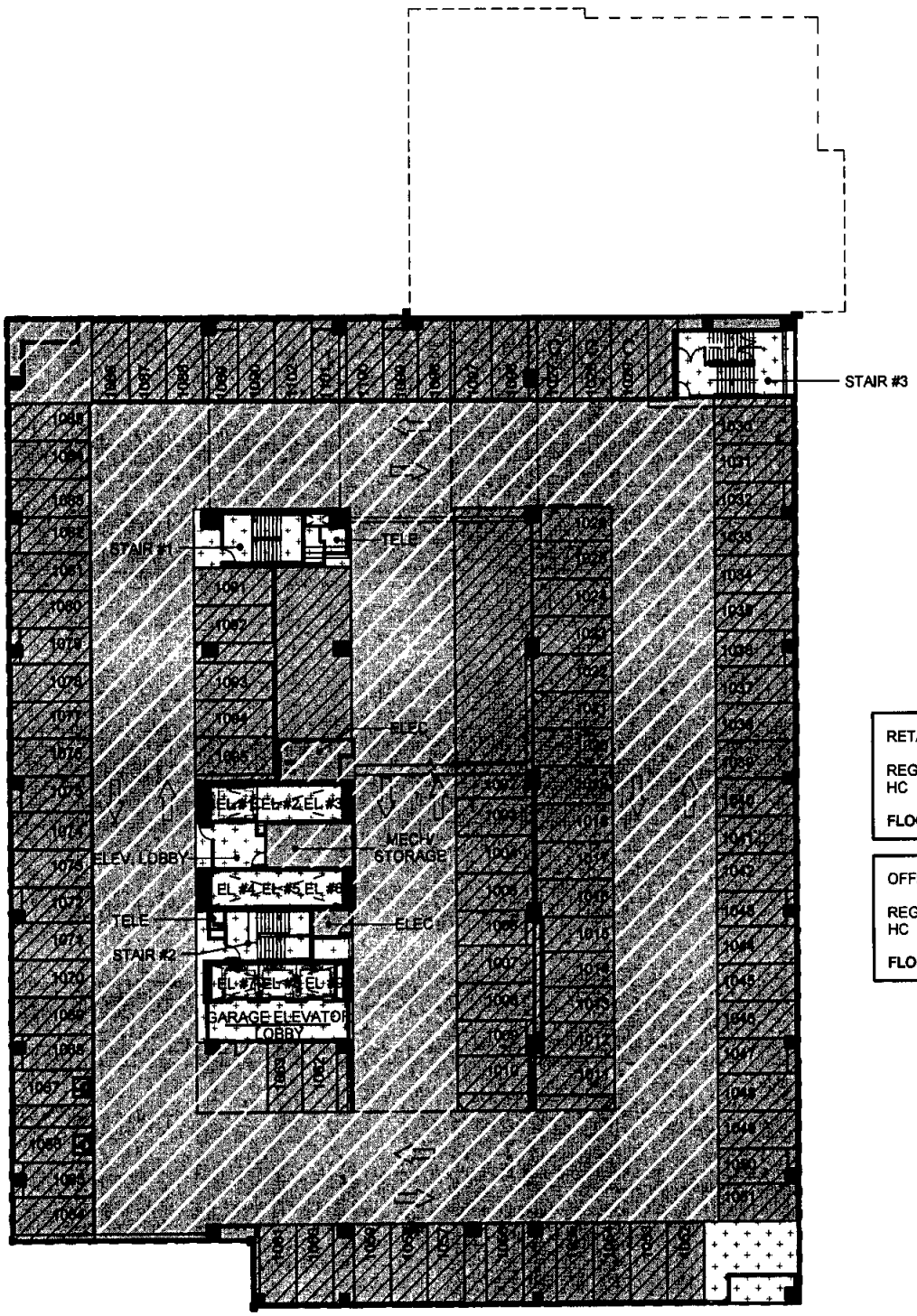
OFFICE SPACES:	
REGULAR	111
HC	2
FLOOR TOTAL	113

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0" 0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	10 - LEVEL 10 - PLAN EXHIBIT HINES 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 10 40502.00 04/11/18



RETAIL SPACES:	
REGULAR	0
HC	0
FLOOR TOTAL	0

OFFICE SPACES:	
REGULAR	99
HC	2
FLOOR TOTAL	101

OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

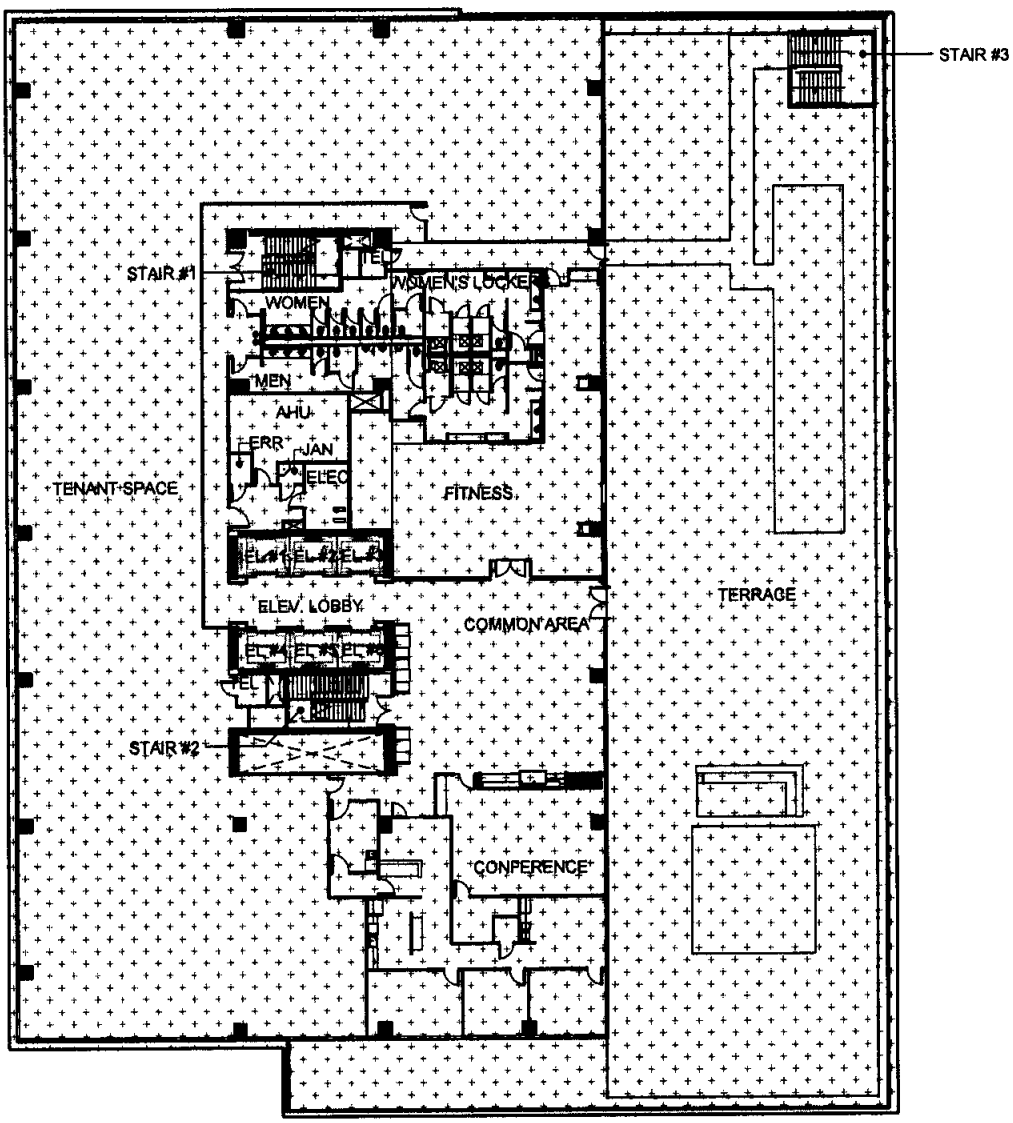
0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS

11 - LEVEL 11 - PLAN EXHIBIT
HINES
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 11
40502.00
04/11/18

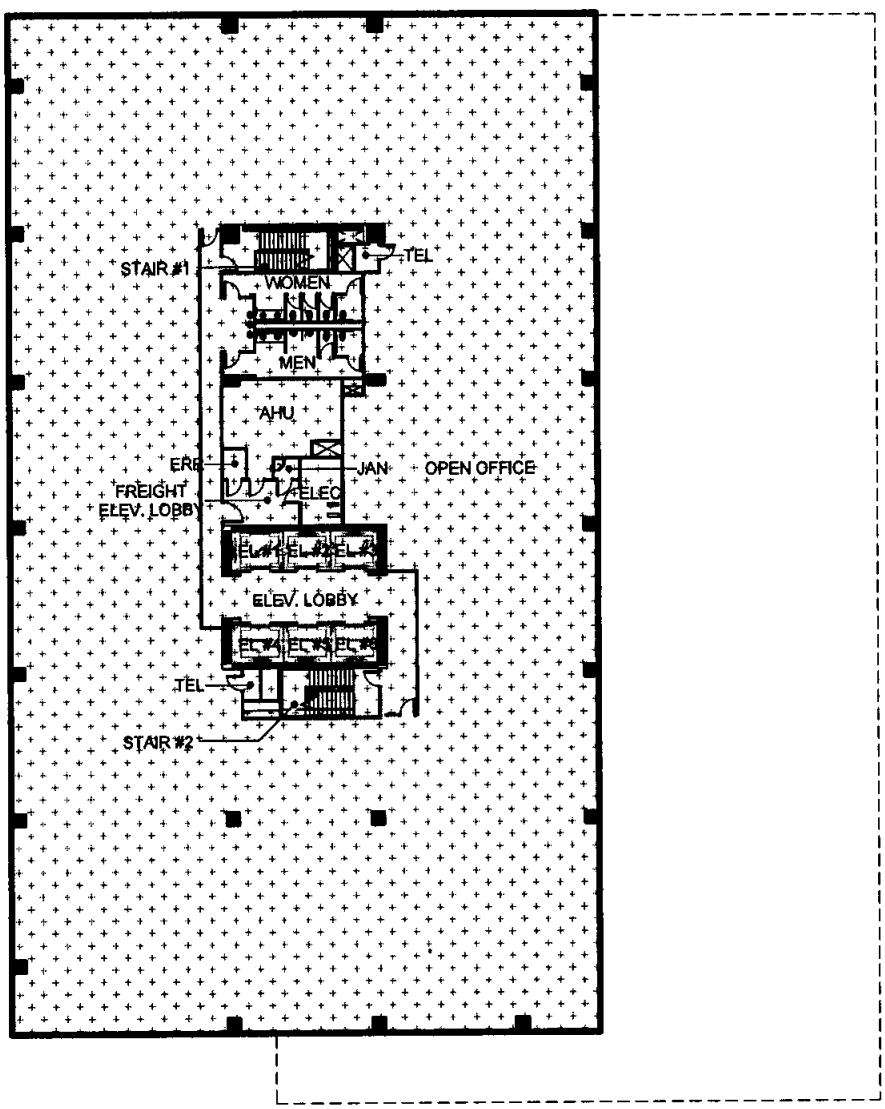


OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0" 0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	12 - LEVEL 12 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 12 40502.00 04/11/18



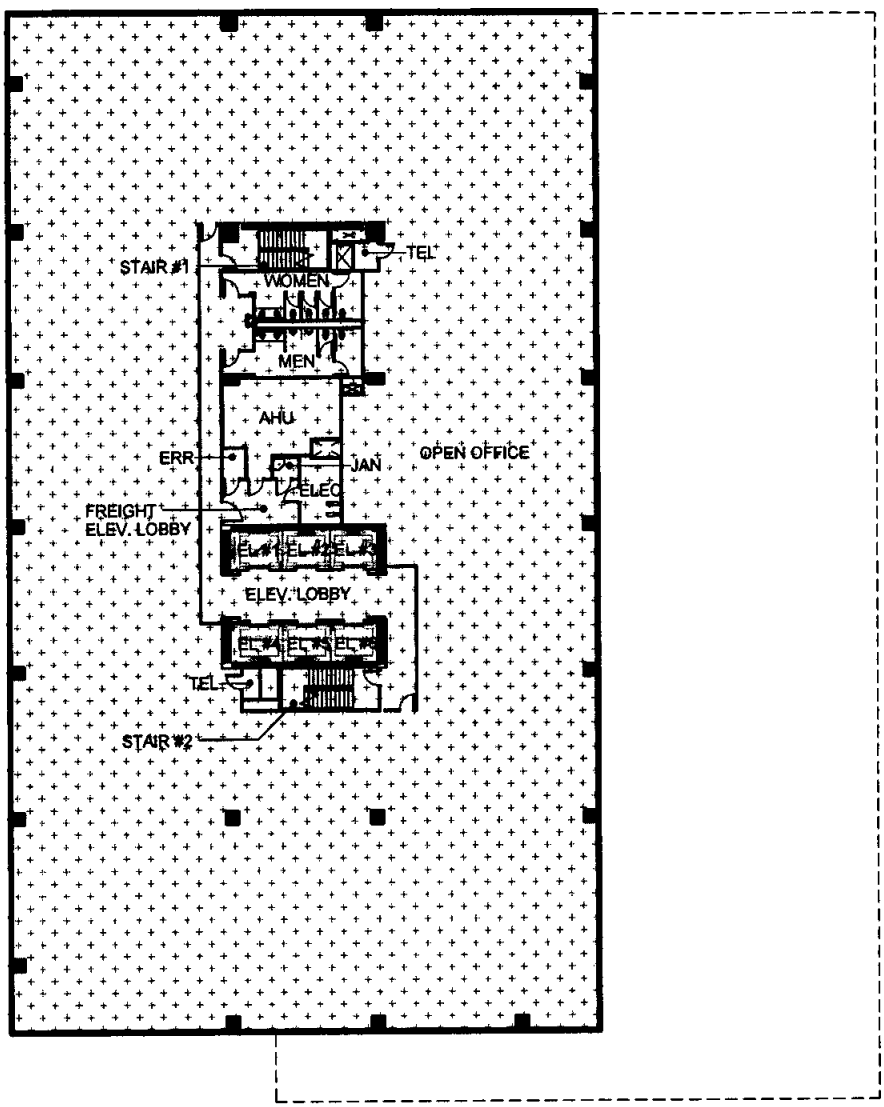
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	13 - LEVEL 13 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 13 40502.00 04/11/18



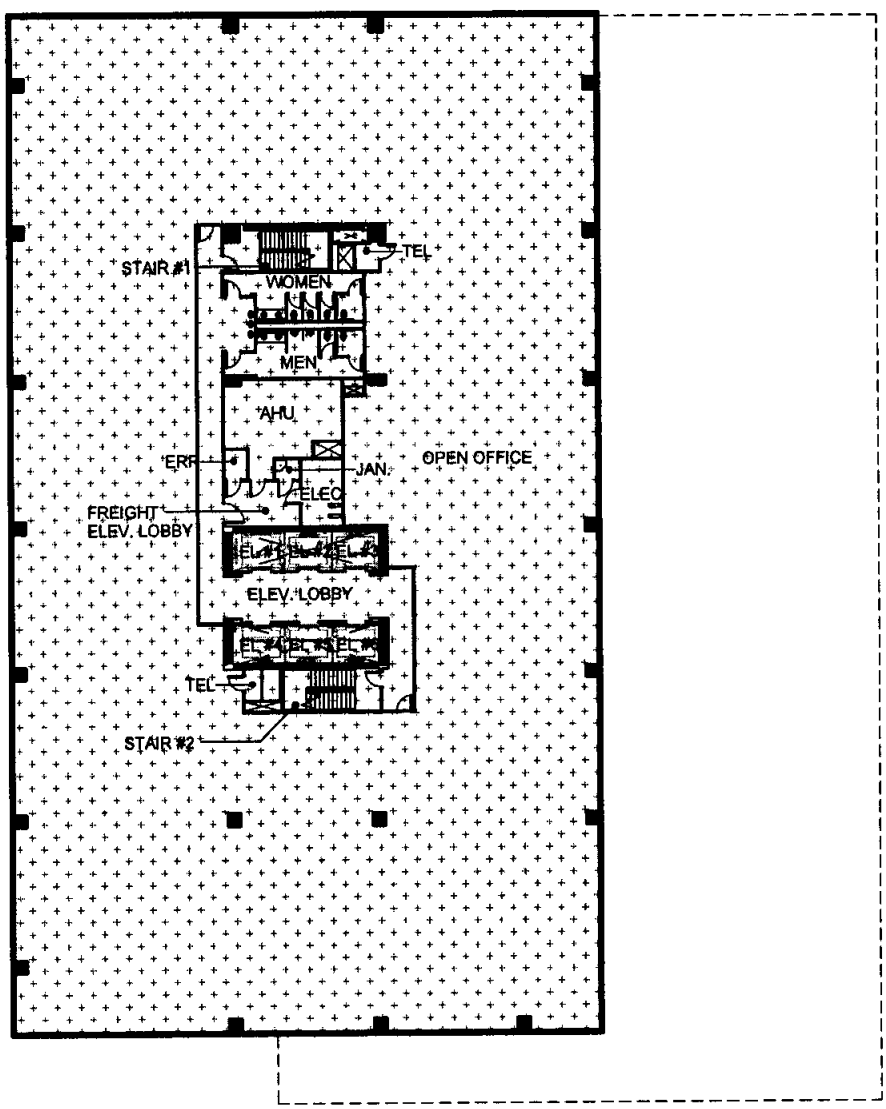
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	14 - LEVEL 14 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 14 40502.00 04/11/18



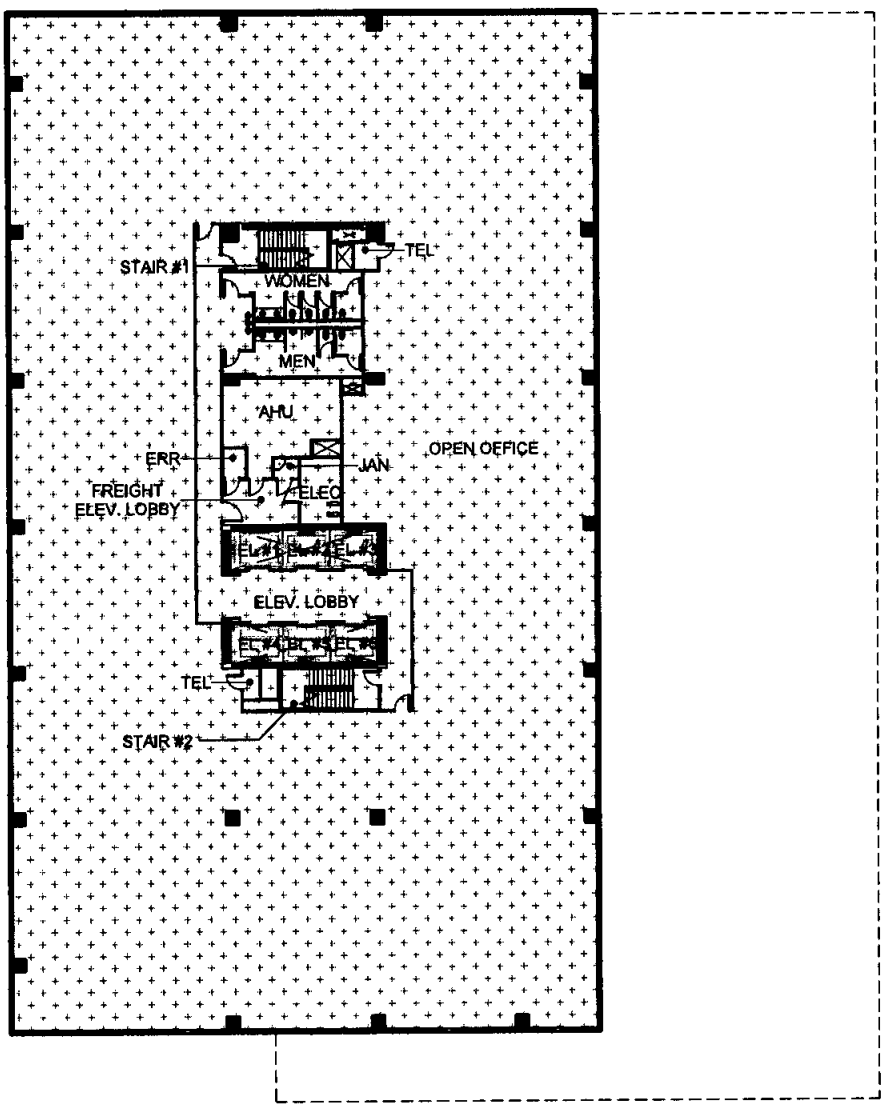
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GS&P GRESHAM SMITH AND PARTNERS	15 - LEVEL 15 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 15 40502.00 04/11/18



OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

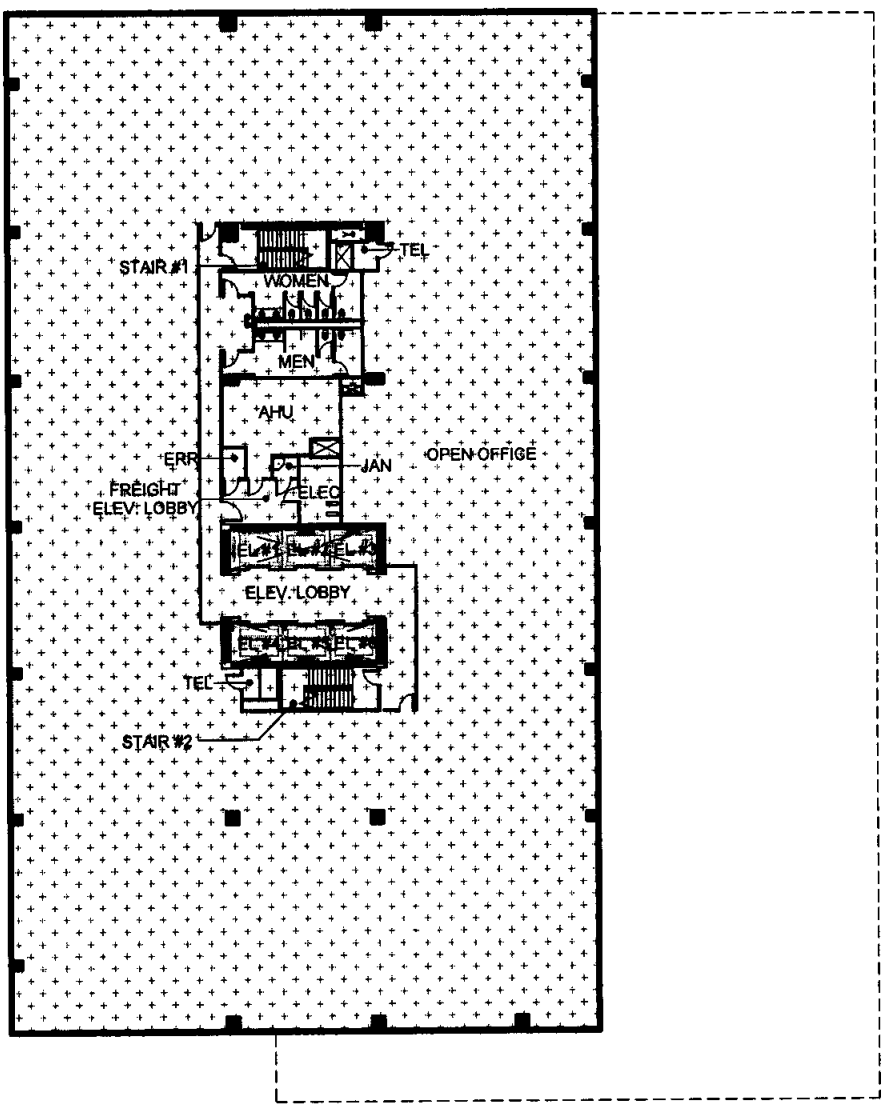
0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS

16 - LEVEL 16 - PLAN EXHIBIT
222 2ND AVENUE, A CONDOMINIUM
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 16
40502.00
04/11/18



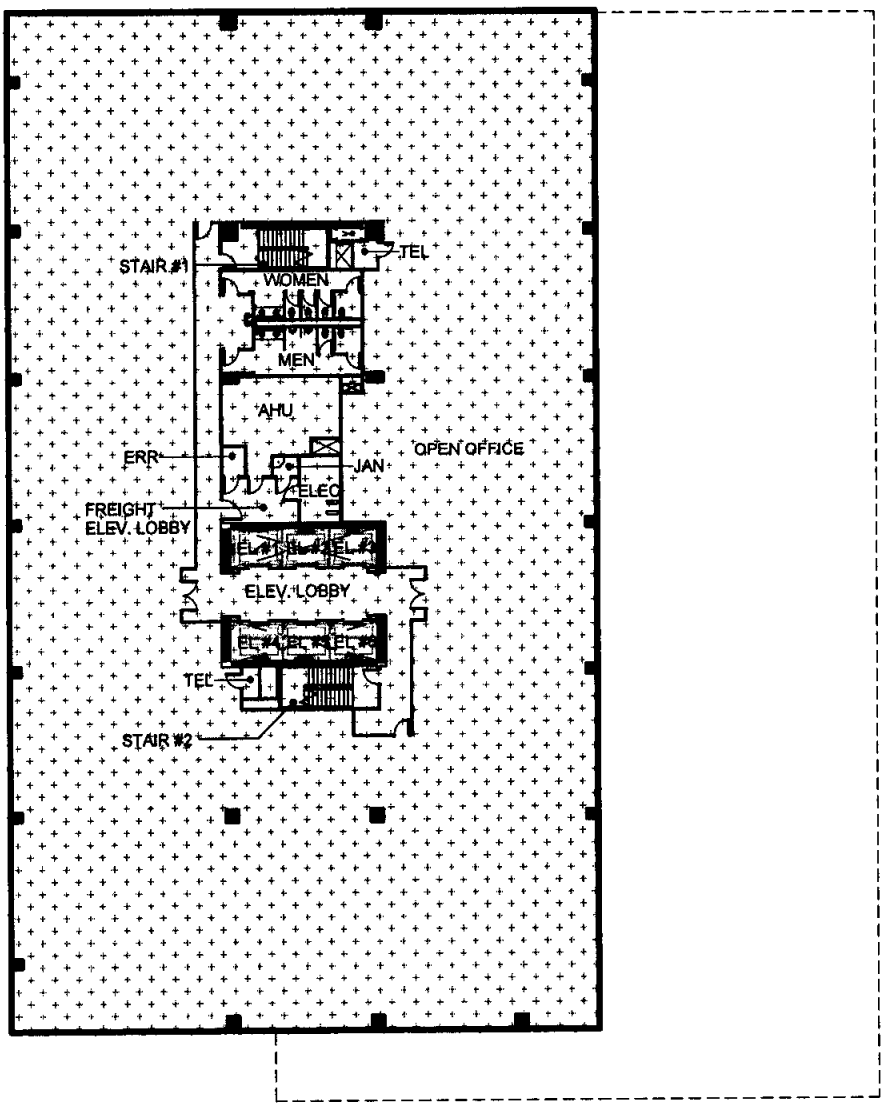
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	17 - LEVEL 17 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 17 40502.00 04/11/18



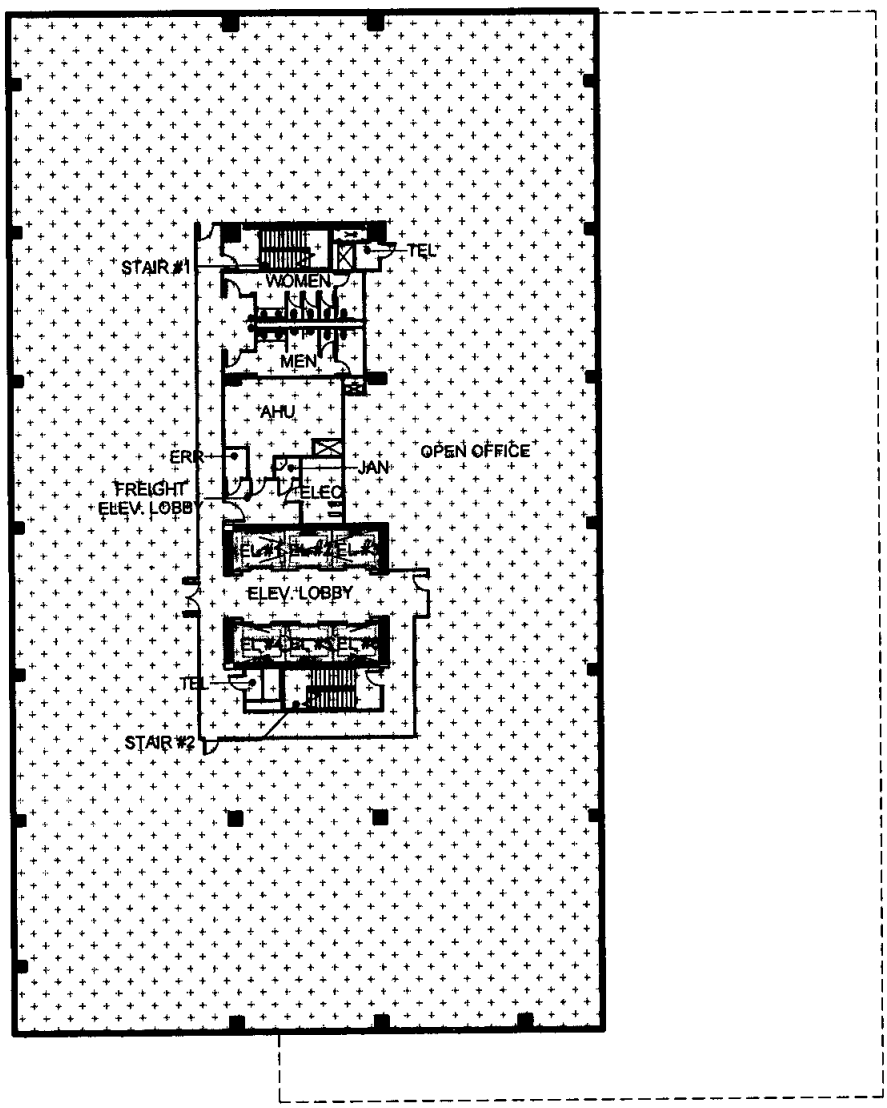
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	18 - LEVEL 18 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 18 40502.00 04/11/18



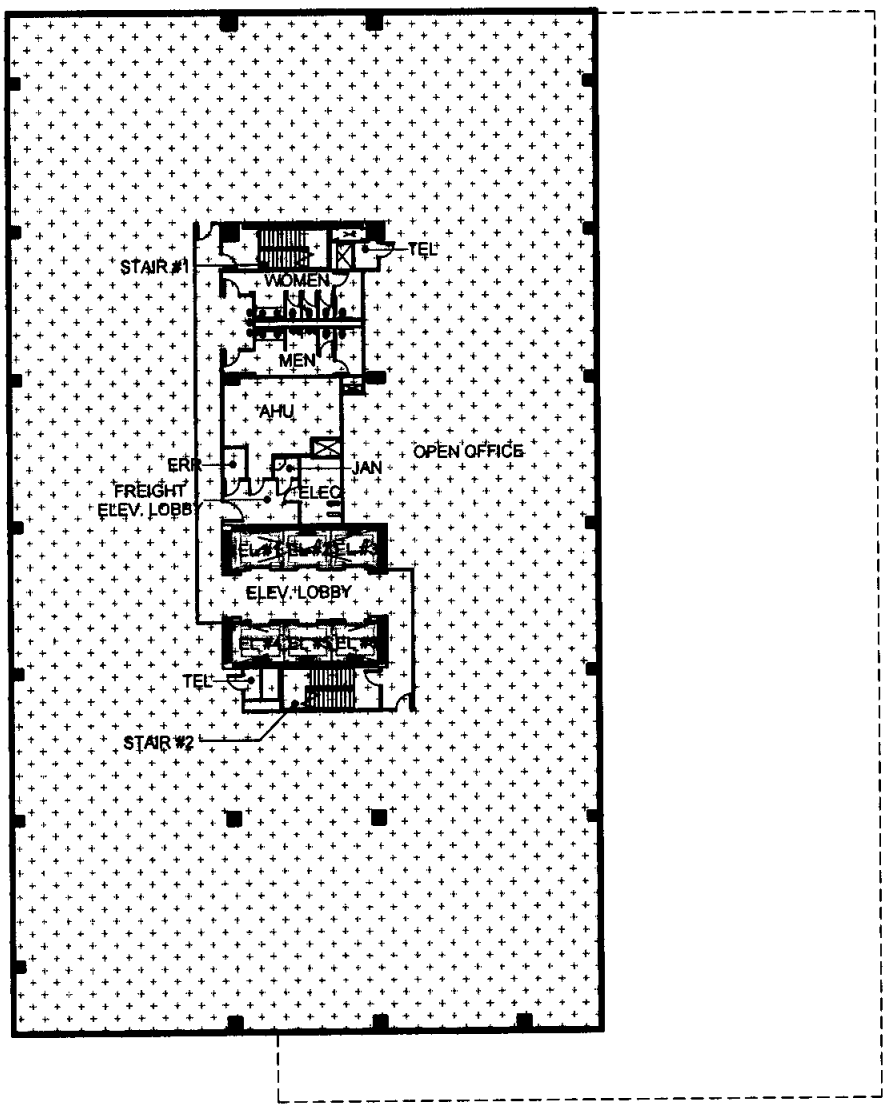
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	19 - LEVEL 19 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 19 40502.00 04/11/18



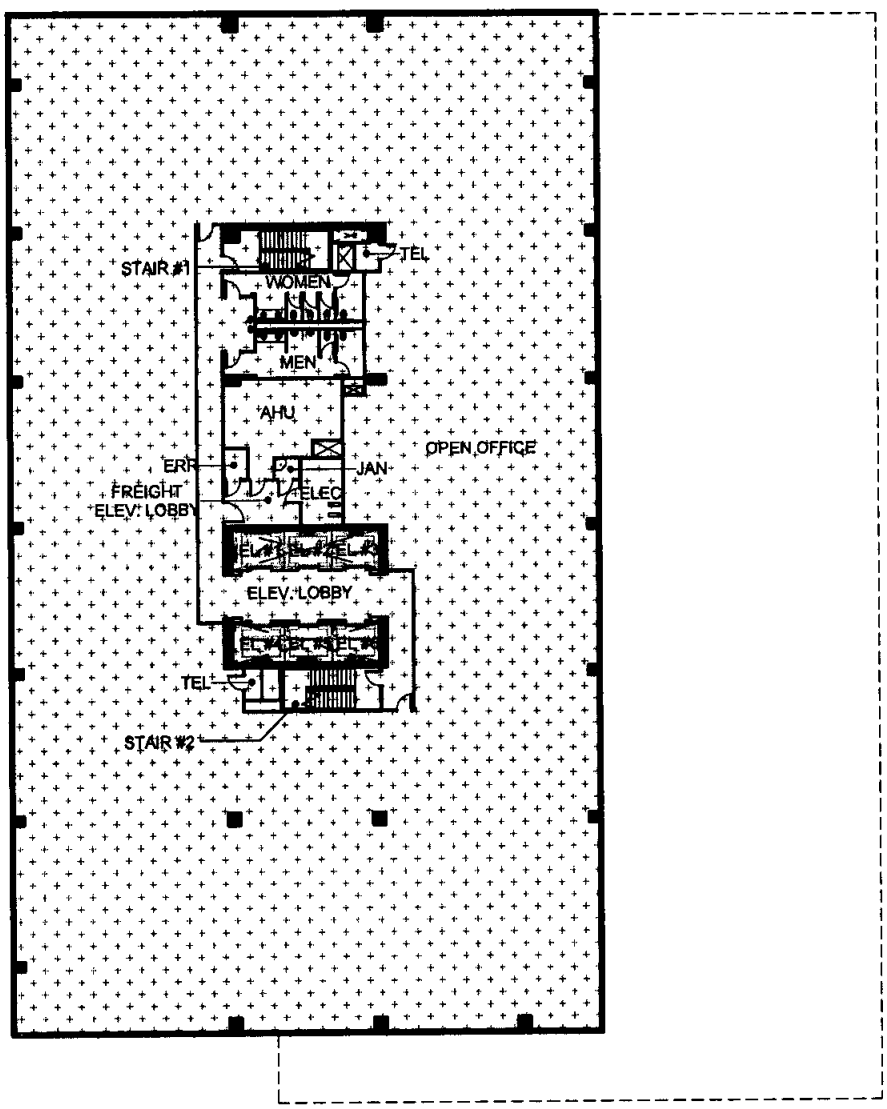
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	20 - LEVEL 20 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 20 40502.00 04/11/18



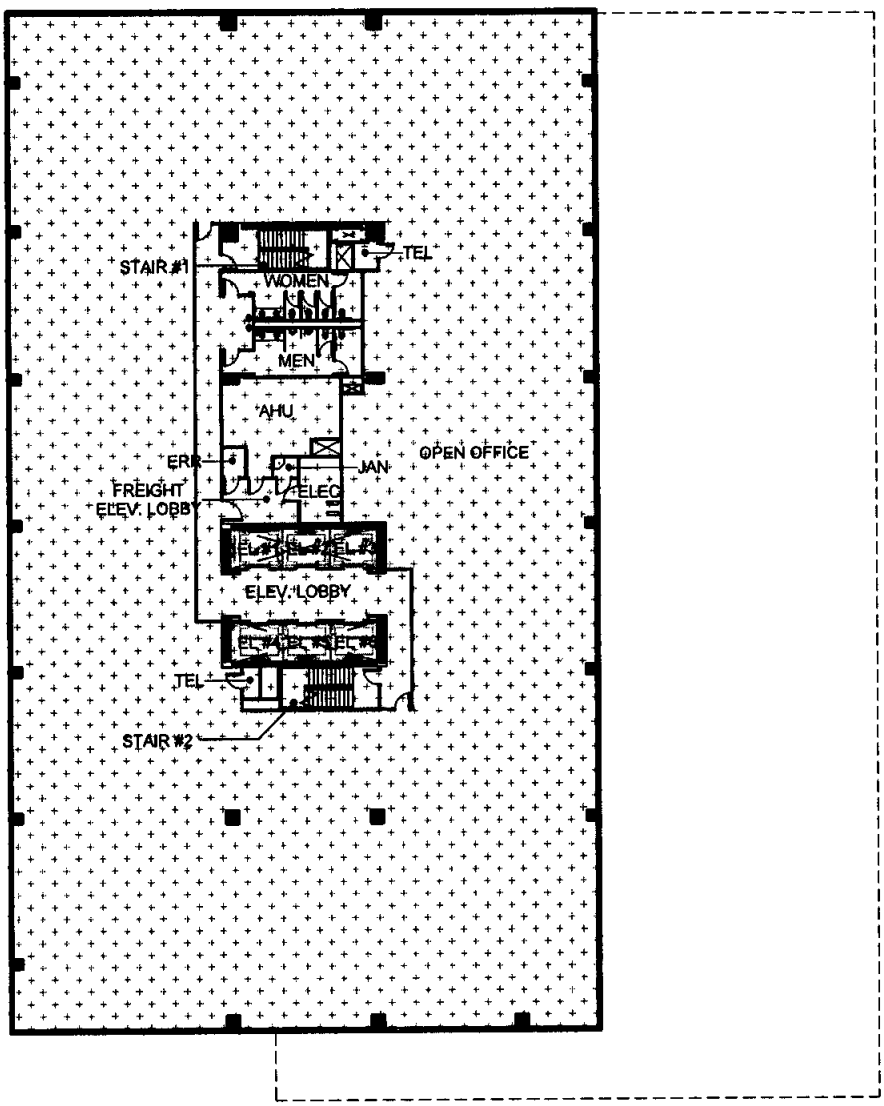
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	21 - LEVEL 21 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 21 40502.00 04/11/18



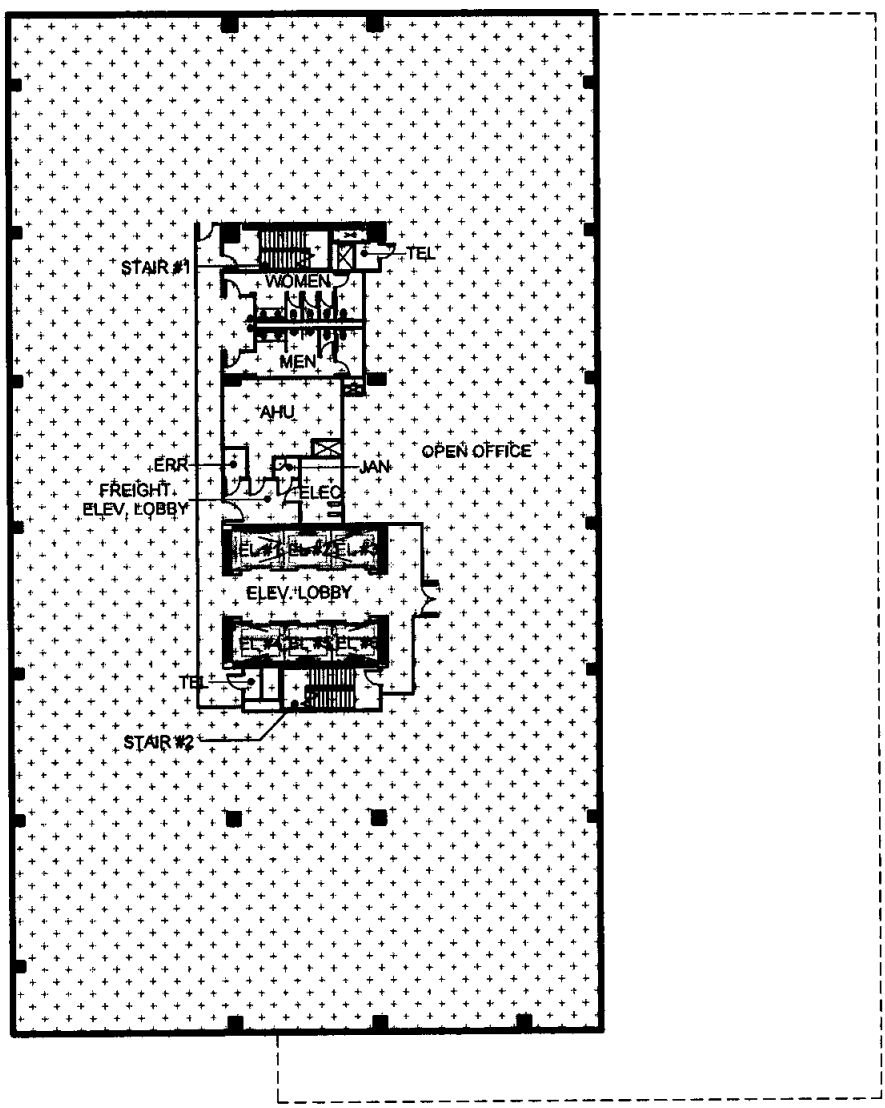
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GS&P GRESHAM SMITH AND PARTNERS	22 - LEVEL 22 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 22 40502.00 04/11/18



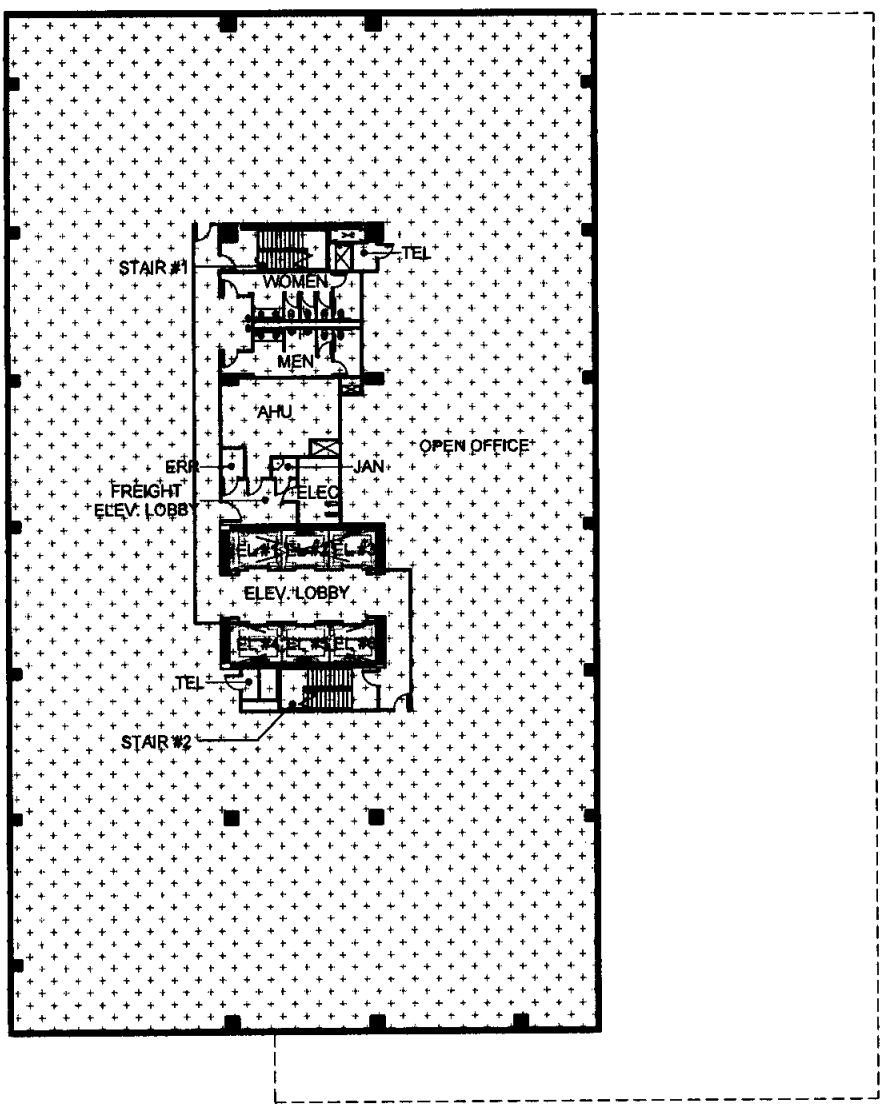
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	23 - LEVEL 23 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 23 40502.00 04/11/18



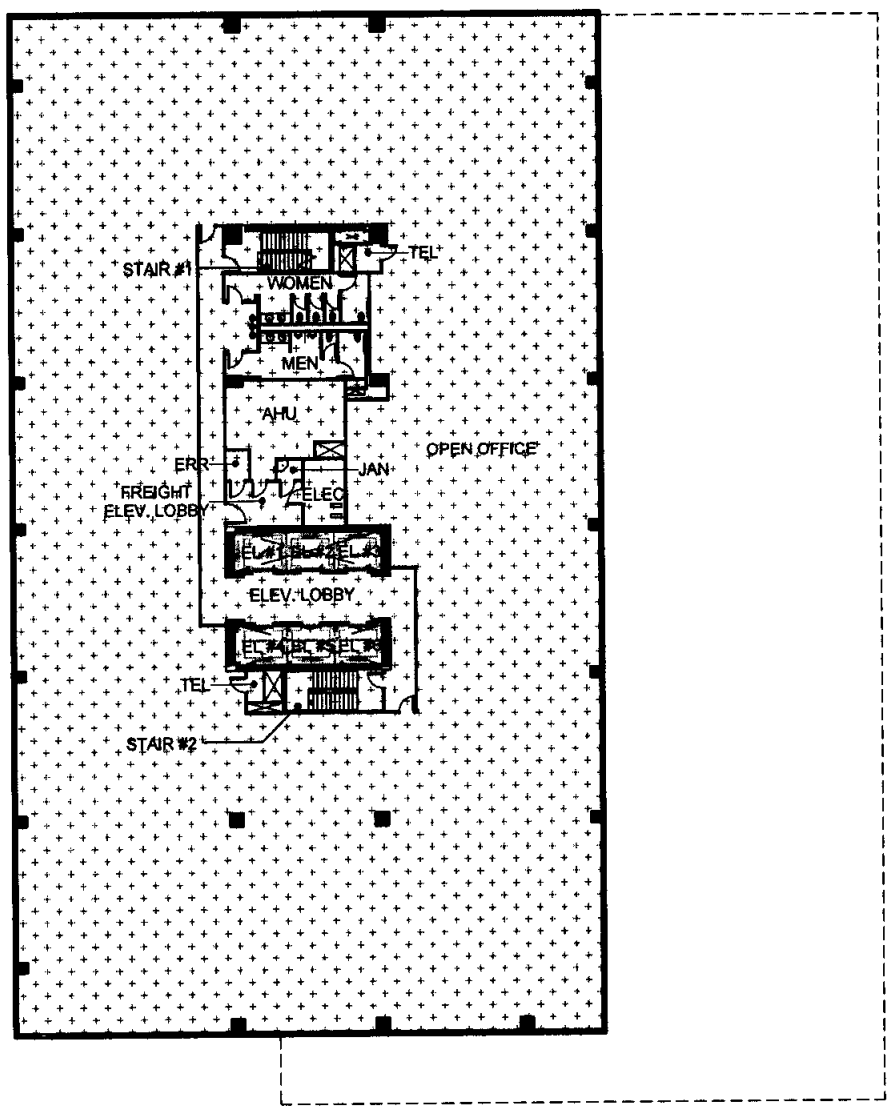
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	24 - LEVEL 24 - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 24 40502.00 04/11/18



OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

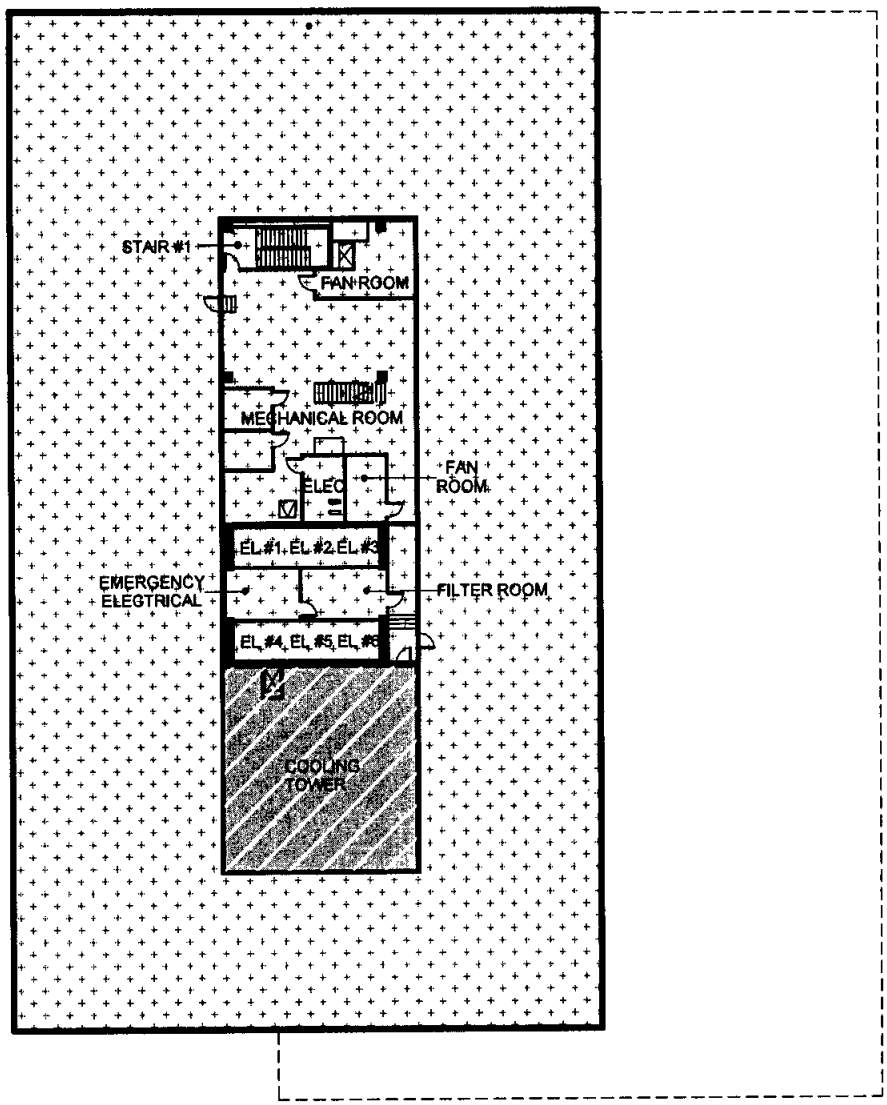
0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS

25 - LEVEL 25 - PLAN EXHIBIT
222 2ND AVENUE, A CONDOMINIUM
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 25
40502.00
04/11/18



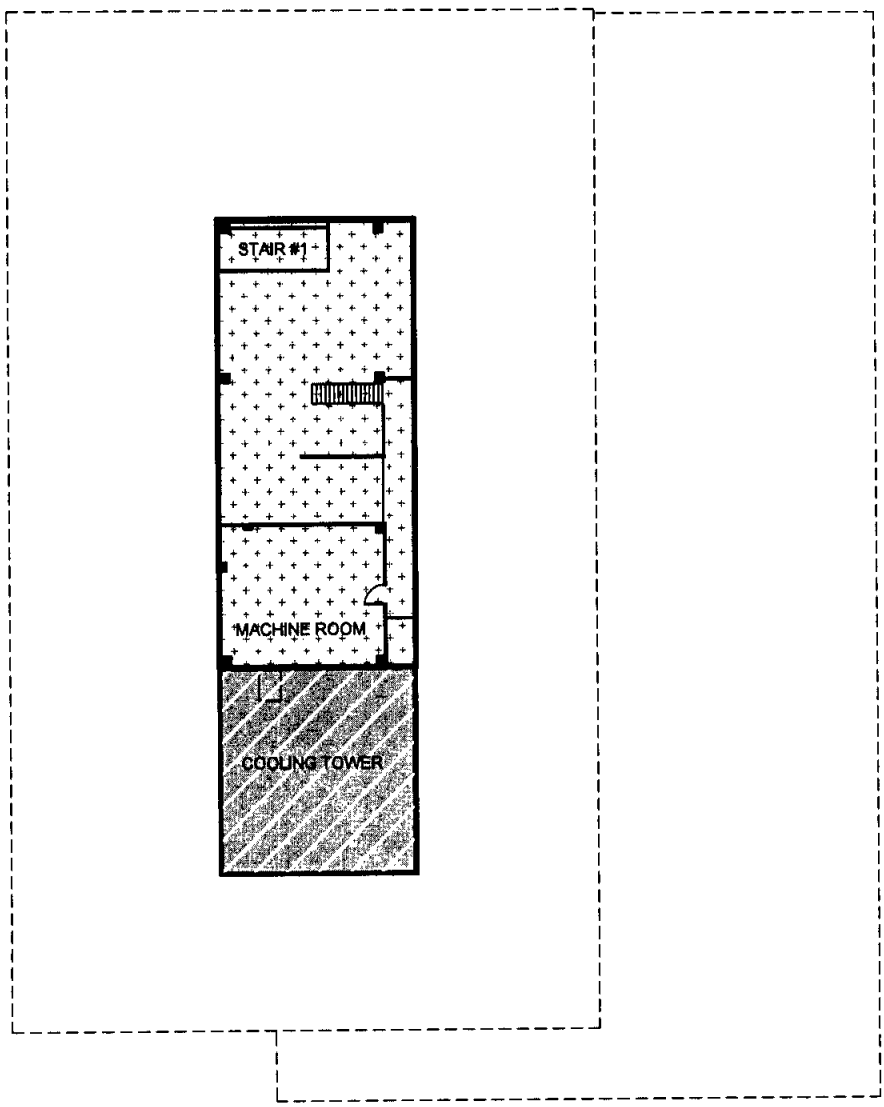
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS	26 - LOWER PENTHOUSE - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 26 40502.00 04/11/18



OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

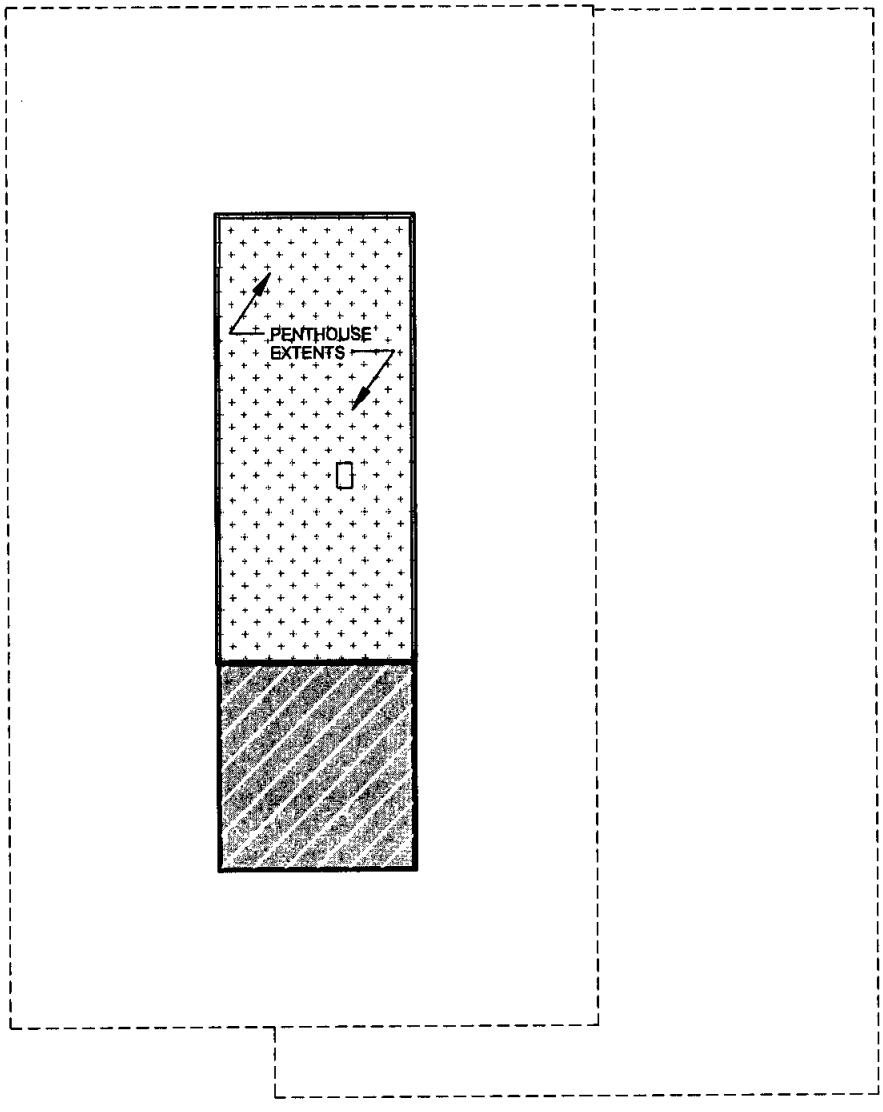
0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

GRESHAM SMITH AND PARTNERS

26M - UPPER PENTHOUSE - PLAN EXHIBIT
222 2ND AVENUE, A CONDOMINIUM
222 2ND AVENUE SOUTH, NASHVILLE, TN 37201

SHEET 26M
40502.00
04/11/18



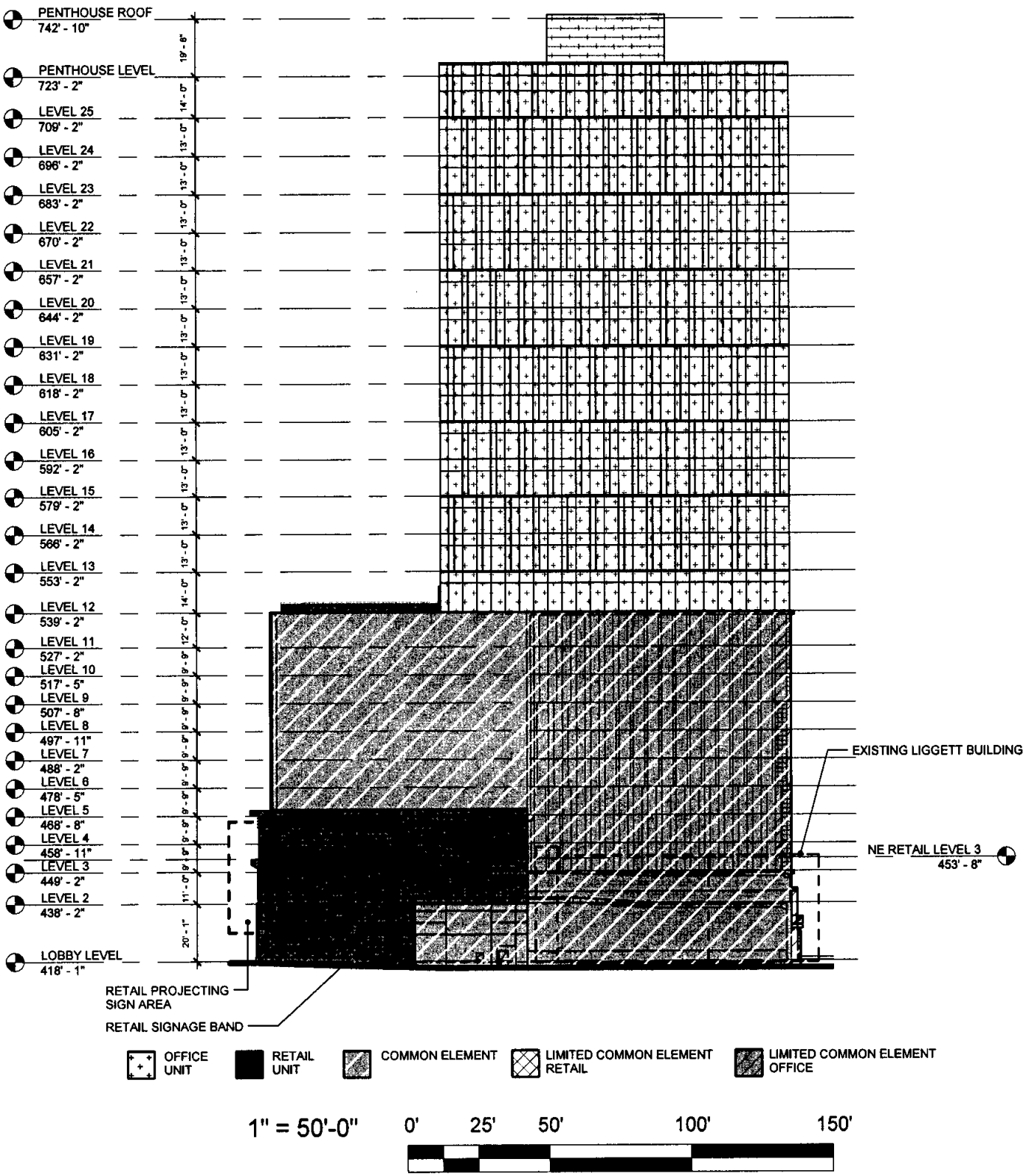
OFFICE UNIT | RETAIL UNIT | COMMON ELEMENT | LIMITED COMMON ELEMENT RETAIL | LIMITED COMMON ELEMENT OFFICE

1" = 40'-0"

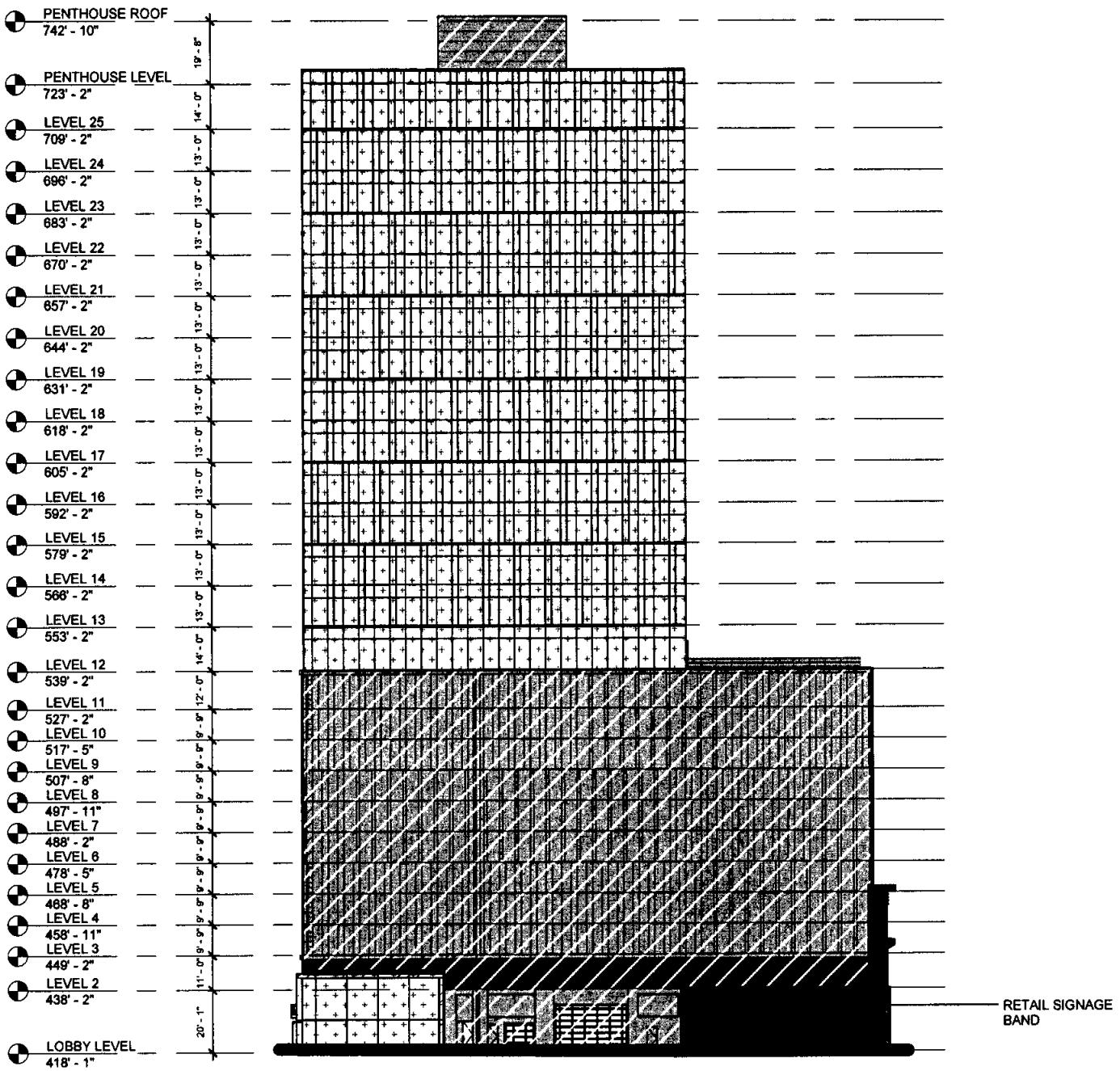
0' 20' 40' 80' 120'

TRUE NORTH PLAN NORTH

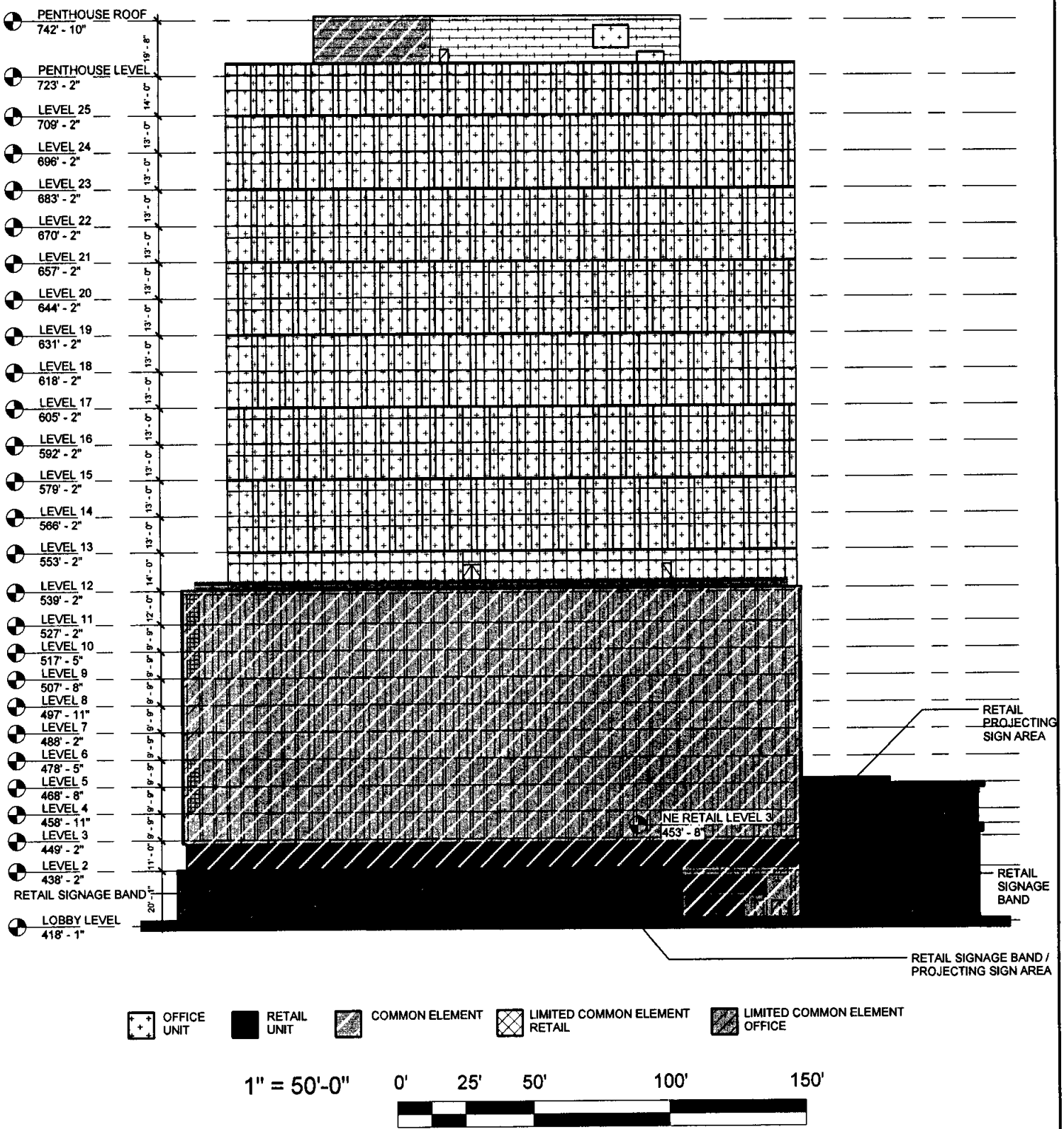
GRESHAM SMITH AND PARTNERS	ROOF - PLAN EXHIBIT 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 27 40502.00 04/11/18



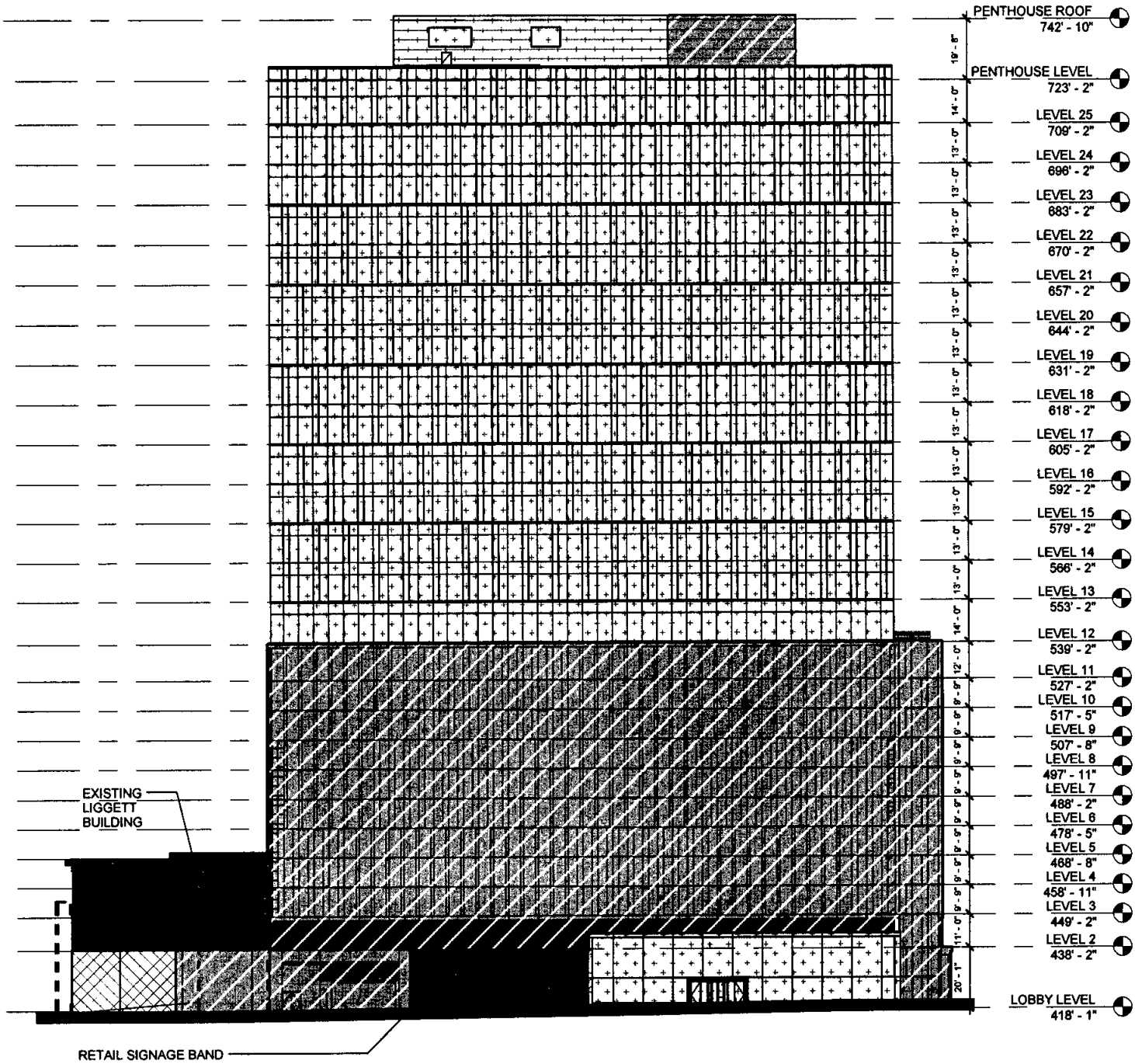
GS&P GRESHAM SMITH AND PARTNERS	NORTH ELEVATION 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 28 40502.00 04/11/18



GRESHAM SMITH AND PARTNERS	SOUTH ELEVATION 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 29 40502.00 04/11/18



GS&P GRESHAM SMITH AND PARTNERS	EAST ELEVATION HINES 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 30 40502.00 04/11/18



GS&P GRESHAM SMITH AND PARTNERS	WEST ELEVATION 222 2ND AVENUE, A CONDOMINIUM 222 2ND AVENUE SOUTH, NASHVILLE, TN 37201	SHEET 31 40502.00 04/11/18

PARKING COUNT SUMMARY

LEVEL	TOTAL	OFFICE	RETAIL
P2	97	48	49
P3	113	63	50
P4	113	63	50
P5	113	62	51
P6	113	113	0
P7	113	113	0
P8	113	113	0
P9	113	113	0
P10	113	113	0
P11	101	101	0
TOTAL	**1,102**	**902**	**200**
PERCENT OF TOTAL		**81.85%**	**18.15%**

RENTABLE SQUARE FEET SUMMARY

	OFFICE	RETAIL	TOTAL
SQUARE FEET	362,475	27,896	390,371
PERCENT OF TOTAL	92.85%	7.15%	100%



EXHIBIT "E"

DISCLOSURES

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

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

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

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

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

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

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

(h) The Floor Plans and the dimensions and square footage calculations shown thereon are only approximations. Any Person that is concerned about any representations regarding the Floor Plans should do his/her own investigation as to the dimensions, measurements and square footage shown thereon.

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

a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

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

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

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

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

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

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

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

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

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

(s) Light may emit from structures located on adjacent properties.

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

(u) The grading of the soil and other natural elements as well as man-made building materials creates unwanted and undesired gases and other contaminates in homes and buildings (both new and existing construction). Also, since energy conservation has become a concern, there is a need to build homes and buildings that are more airtight. As a result, these homes and buildings trap

unwanted gases in different degrees depending on how each person lives within their home or such building. To date measurements of such unwanted gases (such as the radon gas described below and carbon dioxide) are reported as parts of the air they occupy.

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

EXHIBIT "F"

BYLAWS

OF

222 2ND AVENUE CONDOMINIUM ASSOCIATION, INC.

COPYRIGHT © 2018. All rights reserved. These Bylaws may be used only in connection with the property at 222 2nd Avenue, A Condominium and the operation of the 222 2nd Avenue Condominium Association, Inc.



TABLE OF CONTENTS

ARTICLE 1. GENERAL 1

Section 1.1. Applicability 1
Section 1.2. Name 1
Section 1.3. Definitions 1
Section 1.4. Membership 1
Section 1.5. Entity Members 1
Section 1.6. Voting 1
Section 1.7. Majority 1
Section 1.8. Purpose 2
Section 1.9. Electronic Documents and Electronic Signatures 2

ARTICLE 2. MEETINGS OF MEMBERS 2

Section 2.1. Annual Meetings 2
Section 2.2. Special Meetings 2
Section 2.3. Notice of Meetings 2
Section 2.4. Waiver of Notice 3
Section 2.5. Quorum 3
Section 2.6. Adjournment 3
Section 2.7. Proxy 3
Section 2.8. Action Taken Without a Meeting 3
Section 2.9. Order of Business 4

ARTICLE 3. BOARD OF DIRECTORS 4

Section 3.1. *Number of Directors and Term of Office* 4
Section 3.2. Compensation 4
Section 3.3. Director Conflicts of Interest 4
Section 3.4. Regular Meetings 4
Section 3.5. Special Meetings 4
Section 3.6. Waiver of Notice 4
Section 3.7. Conduct of Meetings 4
Section 3.8. Action Without a Meeting 5
Section 3.9. Decision Making and Implementation 5
Section 3.10. Duties of the Association 5
Section 3.11. Management Agent 6
Section 3.12. Borrowing 6
Section 3.13. Liability and Indemnification of Officers, Directors and Committee Members 6
Section 3.14. Creation of Committees 6
Section 3.15. Service on Committees 6

ARTICLE 4. OFFICERS 6

Section 4.1. Designation 6
Section 4.2. Election of Officers 7
Section 4.3. Removal of Officers 7
Section 4.4. Vacancies 7
Section 4.5. President 7
Section 4.6. Vice President 7
Section 4.7. Secretary 7
Section 4.8. Treasurer 7
Section 4.9. Other Officers 7
Section 4.10. Agreements, Contracts, Deeds, Leases, Etc. 7

ARTICLE 5. RULE MAKING AND ENFORCEMENT 7

ARTICLE 6. MISCELLANEOUS 8



Section 6.1. Notices. 8
Section 6.2. Severability. 8
Section 6.3. Captions. 9
Section 6.4. Gender and Grammar. 9
Section 6.5. Fiscal Year. 9
Section 6.6. Financial Review. 9
Section 6.7. Conflicts. 9
Section 6.8. Amendment. 9
Section 6.9. Books and Records. 9



BYLAWS

OF

222 2ND AVENUE CONDOMINIUM ASSOCIATION, INC.

ARTICLE 1. GENERAL

Section 1.1. Applicability. These Bylaws provide for the self government of 222 2nd Avenue Condominium Association, Inc., in accordance with the Tennessee Condominium Act of 2008, Section 66-27-201, *et seq.*, Tenn. Code Ann., the Charter filed with the Secretary of State and the Declaration of Condominium for 222 2nd Avenue, a Condominium, recorded in the Davidson County, Tennessee land records ("Declaration").

Section 1.2. Name. The name of the corporation is 222 2nd Avenue Condominium Association, Inc. ("Association").

Section 1.3. Definitions. The terms used herein shall have their generally accepted meanings or such meanings as are specified in Article 2 of the Declaration.

Section 1.4. Membership. Every Owner shall be a member of the Association. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to the Unit and shall be transferred automatically by conveyance of that Unit and may be transferred only in connection with the transfer of title.

Section 1.5. Entity Members. In the event an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such entity shall be eligible to represent such entity in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Owner, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

Section 1.6. Voting. Each Unit shall be entitled to the number of votes set forth in the Declaration. When more than one (1) Person owns a Unit, the vote(s) for such Unit shall be exercised as they determine between or among themselves. If one (1) co-Owner attempts to cast the vote(s) for a Unit, it shall be conclusively presumed that such co-Owner is authorized on behalf of all co-Owners to cast the vote(s) for such Unit. In the event of disagreement between or among co-Owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, or to act as a proxy for any other member if that Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Declaration, these Bylaws, or any rule of the Association. If the voting rights of an Owner have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum.

Section 1.7. Majority. Except as otherwise specifically provided in the Declaration or

these Bylaws, all decisions shall be by a Majority vote.

Section 1.8. Purpose. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Condominium and performing all of the other acts that may be required to be performed by the Association pursuant to the Act, the Tennessee Nonprofit Corporation Act and the Declaration. Except as to those matters which the Act, the Declaration or the Tennessee Nonprofit Corporation Act specifically require to be performed by the vote of the Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

Section 1.9. Electronic Documents and Electronic Signatures

(a) Electronic Documents. Whenever these Bylaws require that a document, record or instrument be "written" or "in writing," the requirement is deemed satisfied by an Electronic Document.

(b) Electronic Signatures. Whenever these Bylaws require a signature, an Electronic Signature satisfies that requirement only if: (i) the signature is easily recognizable as a Secure Electronic Signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (ii) the Board reasonably believes that the signatory affixed the signature with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) Verification and Liability for Falsification. The Board may require reasonable verification of any Electronic Signature or Electronic Document. Pending verification, the Board may refuse to accept any Electronic Signature or Electronic Document that, in the Board's sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any Member or any other Person for accepting or acting in reliance upon an Electronic Signature or Electronic Document that the Board reasonably believes to be authentic. Any Member or Person who negligently, recklessly or intentionally submits any falsified Electronic Document or an unauthorized Electronic Signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees and expenses incurred as a result of such acts.

ARTICLE 2. MEETINGS OF MEMBERS

Section 2.1. Annual Meetings. The regular annual meeting of the members shall be held during the fourth quarter of each year with the date, hour, and place to be set by the Board of Directors. No annual meeting of the Association shall be set on a legal holiday.

Section 2.2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President or Secretary, or by the request of any member of the Board of Directors. The Secretary shall send notice of such special meeting in accordance with these Bylaws.

Section 2.3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to the record Owner of each Unit or to the Units a notice of each annual or special meeting of the Association at least at least ten (10) days but not more than sixty (60) days prior to each meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state any matters required by Section 48-57-105, Tenn. Code. Ann, and the time and place of the meeting. If any Owner wishes notice to be given at an address other than his or her Unit, the Owner shall have designated by notice in writing to the Secretary such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered



proper service of notice.

Section 2.4. Waiver of Notice. Waiver of notice of meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 2.5. Quorum. Except as may be provided elsewhere, the presence of Owners, in person or by proxy, entitled to cast a Majority of the eligible votes of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be re-established.

Section 2.6. Adjournment. Any meeting of the Owners may be adjourned from time to time for periods not exceeding ten (10) days by vote of the Owners holding the Majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business that could be transacted properly at the original session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

Section 2.7. Proxy. Any Owner entitled to vote may do so by written proxy duly executed by the Owner setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Board by personal delivery, Permitted Overnight Delivery, electronic mail, or facsimile transmission to any Board member or the property manager. Proxies may be revoked only by written notice delivered to the Association, except that: (a) the presence in person by the giver of a proxy at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting; and (b) a later dated proxy shall automatically be deemed to invalidate any previously given proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 2.8. Action Taken Without a Meeting. In the Board's discretion, any action that may be taken by the Association members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written consent form or written ballot to every Owner entitled to vote on the matter in the manner provided below.

(a) Ballot. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and (iii) specify the time by which a ballot must be received by the Board in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by written consent shall be valid only when the number of written consents setting forth the actions taken is received and equals or exceeds the requisite voting power required to pass such action at a meeting held on the date that the last consent is executed.



Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective five (5) days after written notice of approval is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

Section 2.9. Order of Business. At all meetings of the Association, Roberts Rules of Order (latest edition) shall govern when not in conflict with the Declaration, these Bylaws the Charter, or applicable law, unless the Owners present at a particular meeting vote to suspend Robert's Rules at that meeting.

ARTICLE 3. BOARD OF DIRECTORS

Section 3.1. Number of Directors and Term of Office. The affairs of the Association shall be governed by a Board of Directors composed of three (3) directors, with the Owner of the Office Unit electing two (2) directors and the Owner of the Retail Unit electing one (1) director. The subdivision of a Unit of the Condominium shall not cause an expansion of the number of directors of the Board. The Owner of a Unit shall be entitled to elect and remove its director(s) in its sole and absolute discretion.

Section 3.2. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a vote of a Majority of the Board of Directors. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors.

Section 3.3. Director Conflicts of Interest. Nothing herein shall prohibit a director, or an entity in which the director has an interest, from entering into a contract or transaction and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract or transaction is fair to the Association according to the circumstances at the relevant time and commensurate with relevant market terms for comparable services or supplies . Subject to the foregoing, the interested director shall be entitled to be present at any meeting at which the proposed contract or transaction is discussed, count toward the quorum requirements, and vote.

Section 3.4. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every twelve (12) months.

Section 3.5. Special Meetings. Special meetings of the Board may be called by any director upon ten (10) days notice to the other directors given by regular first class, in person, by telephone, by courier or hand delivery, or by facsimile or electronic mail (provided that such notice shall also be delivered by one of the foregoing methods), which notice shall state the time, place, and purpose of the meeting.

Section 3.6. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

Section 3.7. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions



adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. At all meetings of the Board, a Majority of the directors must be present in order to constitute a quorum for the transaction of business. One (1) or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 3.8. Action Without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if a Majority of the directors consent in writing to such action. Such written consents must describe the action taken and be signed by no fewer than a Majority of the directors and such written consent or consents shall be filed with the minutes of the Board of Directors.

Section 3.9. Decision Making and Implementation. Except to the extent otherwise specifically and expressly required by the Tennessee Nonprofit Corporation Act, the Charter, the Declaration, or the Bylaws, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors acting through the officers of the Association, without any further consent or action on the part of the members; and all agreements and determinations lawfully authorized by the Board of Directors shall be binding on the Association.

Section 3.10. Duties of the Association. The Board of Directors shall manage the affairs of the Association and shall have all of the powers conferred upon nonprofit corporations by common law, the statutes of the State of Tennessee in effect from time to time, and all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in the Charter, these Bylaws, the Declaration, or the Act. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and shall be responsible for the following, in the way of explanation, but not limitation:

(a) preparing an annual budget in which there shall be established the contribution of each Owner to the Common Expenses as provided in Article 10 of the Declaration;

(b) collecting assessments, depositing the proceeds thereof in a bank depository that the Board shall approve;

(c) opening of bank accounts for the Common Expenses on behalf of the Owners and designating the signatories required;

(d) controlling, managing, operating, maintaining, improving, and replacing all portions of the Common Elements;

(e) subject to Section 3.3 hereof, designating, hiring, and dismissing the personnel necessary for the operation of Common Elements and, where appropriate, providing for the compensation for such personnel at relevant market rates and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(f) making, amending and enforcing reasonable rules and regulations governing the use and enjoyment of the Submitted Property;

(g) enforcing restrictions of the Declaration, the Bylaws, the Charter, and any other agreement to which the Association is a party and which affects the development or maintenance of the Submitted Property, including, but not limited to assessing and collecting reasonable fines, taking self-help actions, and filing suit against a violating Owner, Occupant or Permittee;

(h) obtaining and carrying insurance as provided in the Declaration; and

(i) acquiring, leasing, holding, and disposing of tangible and intangible personal property and real property.

Section 3.11. Management Agent. The Board of Directors may employ a professional management agent whose compensation shall be established by the Board to perform such duties and services as the Board shall authorize.

Section 3.12. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the Common Elements and facilities, if any, and for other purposes, with the approval of both Owners.

Section 3.13. Liability and Indemnification of Officers, Directors and Committee Members. The Association shall indemnify every officer, director and committee member against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Association, in determining whether or not to indemnify a director, officer or committee member shall not impute knowledge to said director, officer or committee member from any source whatsoever. Rather, any such determination shall be based on the actual knowledge of the director, officer or committee member. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors and committee members may also be members of the Association), and the Association shall indemnify and forever hold each such officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member or former officer or director may be entitled. The Association shall maintain, as a Common Expense, adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

Section 3.14. Creation of Committees. There shall be an Architectural Review Committee as provided in the Declaration. There also may be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 3.15. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed by the Board of Directors with or without cause at any time and with or without a successor being named.

ARTICLE 4. OFFICERS

Section 4.1. Designation. The principal officers of the Association shall be the President, the Secretary and the Treasurer, all or any of which may be the same person. A Vice



President may be elected at the discretion of the Board.

Section 4.2. Election of Officers. The Association officers shall be elected annually by the Board at the first Board meeting following each annual meeting of the members and shall hold office at the pleasure of the Board and until a successor is elected. Notwithstanding the foregoing, at least one (1) officer at all times shall be the director appointed by the Owner of the Retail Unit to the Board. Such person shall initially be the Vice President.

Section 4.3. Removal of Officers. Upon the affirmative vote of a Majority of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4.4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 4.5. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and of the Board. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Tennessee Nonprofit Corporation Act, including, but not limited to, the power to appoint committees from among the members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.6. Vice President. The Vice President, if any, shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 4.7. Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all duties incident to the office of the secretary of a corporation organized under Tennessee law.

Section 4.8. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall be responsible for the preparation of the budget as provided in the Declaration. The Treasurer may delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

Section 4.9. Other Officers. Other offices may be created by the Board, and the Board members that hold such offices shall have such titles and duties as are defined by the Board.

Section 4.10. Agreements, Contracts, Deeds, Leases, Etc. All agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE 5. RULE MAKING AND ENFORCEMENT

The Condominium shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Units and the Common Elements, if

any; provided, however, copies of all such rules and regulations shall be furnished to all Owners. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the Total Association Vote at an annual or special meeting of the membership. Every Owner and Occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one (1) or more aggrieved Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations.

Notwithstanding anything to the contrary, in no event shall the Board make any rules or regulations that interfere in any unreasonable manner with the use of the Retail Unit to the extent otherwise permitted in the Declaration. Furthermore, no rules and regulations shall restrict the business uses or hours of operation of the Retail Unit.

ARTICLE 6. MISCELLANEOUS

Section 6.1. Notices.

(a) Method of Giving Notice. Unless otherwise prohibited in these Bylaws, all notices, demands, bills, statements, or other communications shall be in writing and shall be given via:

(i) Personal delivery to the addressee;

(ii) United States mail, postage prepaid, certified mail, return receipt requested;

(iii) Permitted Overnight Delivery; or

(iv) Facsimile or electronic mail with confirmed receipt, provided that such communication is also sent by one (1) of the methods set forth in clauses (i), (ii) and (iii).

(b) Addressee. Notice sent by one of the methods described in subparagraph (a) above shall be deemed to have been duly given:

(i) If to an Owner, at the address which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Owner;

(ii) If to an Occupant, at the address which the Occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Unit occupied; or

(iii) If to the Association, the Board or the managing agent, at the postal address of the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Owners of any such change in address.

Refusal to accept a notice or communication or the inability to deliver a notice or communication hereunder due to a changed address of which a party has not been notified shall be deemed actual receipt of such notice or communication.

Section 6.2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the



Declaration.

Section 6.3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

Section 6.4. Gender and Grammar. The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 6.5. Fiscal Year. The fiscal year of the Association may be set by Board resolution, and, in the absence thereof, shall be the calendar year.

Section 6.6. Financial Review. A financial review of the accounts of the Association shall be performed and a financial statement prepared annually in the manner provided by the Board. However, after having received the Board's financial statement review at the annual meeting, the Owners may, by a Majority of the eligible votes of the Association, require that the accounts of the Association be audited as a Common Expense by an independent accountant. Such statement shall be made available to the holder, insurer, or guarantor of any Mortgage on a Unit upon submission of a written request and must be available within one hundred twenty (120) days of the Association's fiscal year end. If an audited financial statement by an independent accountant is not required, a Mortgage Holder may have an audited statement prepared at its own expense.

Section 6.7. Conflicts. The duties and powers of the Association shall be those set forth in the Act, the Tennessee Nonprofit Corporation Act, the Declaration, these Bylaws, and the Charter, together with those reasonably implied to affect the purposes of the Association; provided, however, if there are conflicts or inconsistencies between the Act, the Tennessee Nonprofit Corporation Act, the Declaration, these Bylaws, the Charter, or any rules and regulations, then the provisions of the Act, the Tennessee Nonprofit Corporation Act, as may be applicable, the Declaration, the Charter, these Bylaws, and the rules and regulations in that order, shall prevail, and each Owner, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 6.8. Amendment. These Bylaws may be amended as provided in the Declaration.

Section 6.9. Books and Records.

(a) Any Mortgage Holder shall be entitled to inspect the following records at a reasonable time and location specified by the Association, upon written request at least five (5) days before the date on which the Mortgage Holder wishes to inspect and copy:

(i) its Charter or restated Charter and all amendments to them currently in effect;

(ii) its Bylaws or restated Bylaws and all amendments to them currently in effect;

(iii) resolutions adopted by either its members or Board of Directors increasing or decreasing the number of directors or the classification of directors, or relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;

(iv) resolutions adopted by either its members or Board of Directors relating to the characteristics, qualification, rights, limitations, and obligations of members or any class or



category of members;

(v) the minutes of all meetings of members and records of all actions approved by the members for the past three (3) years;

(vi) all written communications to members generally within the past three (3) years, including the financial statements furnished for the past three (3) years;

(vii) a list of the names and business or home addresses of its current directors and officers; and

(viii) its most recent annual report delivered to the Secretary of State.

(b) An Owner may inspect and copy the books, contracts, and records of the Association upon written notice to the Association's manager at least three (3) business days before the date on which the Owner wishes to inspect and copy. Notwithstanding anything to the contrary, the Board shall provide all Owners with access to all books, contracts, and records of the Association except the Board may reasonably limit or preclude inspection of confidential or privileged documents, including attorney/client privileged communications, related to any litigation involving the Owner requesting such items (unless otherwise compelled by court order).

(c) The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the Owner.

(d) Minutes for any Board or Association meetings do not become effective and an official Association record until approved by the Board or Association membership, as applicable, at a subsequent meeting.