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# DECLARATION OF CONDOMINIUM

# FOR

# VANDERBILT PLAZA, A CONDOMINIUM

Karen Johnson Davidson County
Batch# 335637 DEEDMAST
12/27/2019 11:19:27 AM 122 pgs
Fees: $612.00 Taxes: $0.00
20191227-0133829

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# DECLARATION OF CONDOMINIUM

# FOR

# VANDERBILT PLAZA, A CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM FOR VANDERBILT PLAZA, A CONDOMINIUM (the "Declaration") is made the date set forth below by LOEWS NASHVILLE HOTEL CORP., a Delaware corporation (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, upon which is located improvements consisting of (i) an office building containing in the aggregate approximately 129,653 square feet (the "Office Building"); (ii) a hotel containing 339 guest rooms with conference and meeting spaces, restaurants, gift shops, a fitness center and other typical hotel amenities containing in the aggregate approximately 297,962 square feet (the "Hotel Facility"); and (iii) a multi-level parking garage containing approximately 643 parking spaces and approximately 243,244 square feet (the "Garage"); and

**WHEREAS,** it is the intent of Declarant to create a condominium with three (3) units consisting of (i) the Office Building (the "Office Unit"); (ii) the Hotel Facility (the "Hotel Unit"); and (iii) the Garage (the "Garage Unit"); and

**WHEREAS**, a plat of survey for the Condominium prepared by Barge Design Solutions ("Barge") dated December 17, 2019, 2019 is attached hereto as Exhibit "C" and incorporated herein; and

**WHEREAS**, floor plans for the Condominium prepared by Barge, are also attached and made a part of Exhibit "C" 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.

## ARTICLE 1. NAME

The name of the condominium is Vanderbilt Plaza, 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 three (3) members responsible for reviewing applications as provided in this Declaration, with the Owner of each Unit entitled to appoint and remove one (1) member. The voting rights of each member of the ARC shall be in accordance with the number of votes allocated to the Owner represented by such member as set forth Exhibit B of this Declaration.

**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. Association** shall mean Vanderbilt Plaza Condominium Association, Inc., a Tennessee nonprofit corporation, its successors or assigns.

**Section 2.9. Association Appeal Notice** shall have the meaning set forth in Section 13.6(b) below.

**Section 2.10. 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 2.11. Building** shall mean, collectively, that certain thirteen (13) level hotel building, that certain thirteen (13) level office building and that certain five (5) level parking garage, all as located on the Condominium, as more particularly shown on the Floor Plans and Plat.

**Section 2.12. 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 2.13. Bylaws** shall mean the Bylaws of the Association attached hereto as Exhibit "F" and incorporated herein by this reference.

**Section 2.14. Charter** shall mean the Charter of Vanderbilt Plaza Condominium Association, Inc., which has been filed with the Secretary of State of the State of Tennessee.

**Section 2.15. 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 2.16. Common Expenses** shall mean actual or anticipated expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

**Section 2.17. Common Profits** shall mean all income collected or accrued by or on behalf of the Association other than income derived from assessments.

**Section 2.18. Condominium** shall mean the condominium created under and pursuant to this Declaration.

**Section 2.19. 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 2.20. Contractor** shall mean any contractor, subcontractor, electrician, plumber, architect, builder, engineer, or other similar tradesperson.

**Section 2.21. Declarant** shall mean Loews Nashville Hotel Corp., a Delaware corporation, 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 2.22. Effective Date** shall mean the date on which this Declaration is recorded in the Official Records.

**Section 2.23. 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 2.24. 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 2.25. 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 2.26. 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 2.27. Floor Plans** shall mean the floor plans for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein.

**Section 2.28. Garage Driveway** shall mean that area designated as the Garage Driveway on the Plat attached hereto as Exhibit "C".

**Section 2.29. Garage Unit** shall mean the Unit comprised of the parking deck and garage, as reflected on the Plat.

**Section 2.30. Hazardous Substances** shall mean 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 2.31. Hotel Unit** shall mean the Unit comprised of the Hotel Facility, as reflected on the Plat.

**Section 2.32. Inner Sidewalk Area** shall mean any sidewalk area within the Submitted Property, as shown on the Floor Plans.

**Section 2.33. 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 2.34. Legal Requirements** shall mean all applicable federal, state and local laws, orders, rules and regulations.

**Section 2.35. 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 2.36. Limited Common Element** shall mean a portion of the Common Elements reserved for the exclusive use of less than all Units.

**Section 2.37. Major Decision** means any action with respect to any matter coming before the Association, or initiated by the Association or an Owner relating to: (a) architectural or aesthetic changes to the exterior of the Building that could have a Material Adverse Effect on another Owner or another Owner's Unit; (b) structural changes to the Building that could have a Material Adverse Effect on another Owner or another Owner's Unit; (c) changes to the Condominium Instruments that could have a Material Adverse Effect on another Owner or another Owner's Unit; and (d) any other matter that could have a Material Adverse Effect on another Owner or another Owner's Unit. **Majority** means more than fifty percent (50%) of the total eligible number.

**Section 2.39. Material Adverse Effect** means any act, event, condition or circumstance that could materially or adversely affect the business, operations, condition (financial or otherwise), or value of a Unit.

**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 (or Occupants, in the plural)** 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 Unit** shall mean the Unit comprised of the Office Building, as shown on the Plat.

**Section 2.46. Official Records** shall mean the official land records of the Register's Office for Davidson County, Tennessee.

**Section 2.47. 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 2.48. Parking Deck** shall mean the Garage Unit and related facilities as shown on the Floor Plans.

**Section 2.49. 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 2.50. 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 2.51. Permittee (or Permittees in the plural)**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 2.52. Person** shall mean any individual, corporation, limited liability company, firm, association, partnership, trust or other legal entity.

**Section 2.53. Plat** shall mean the plat for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein.

**Section 2.54. 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 2.55. Review Standards** shall mean the following standards: 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 2.56. 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 2.57. Signage Band** shall mean and refer to any areas that are, as of the date of recording of this Declaration, utilized for signage on the exterior of the Building, together with any areas that are specifically reserved for signage as shown on the Floor Plans.

**Section 2.58. 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 2.59. 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;

(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 in accordance with such Unit(s) Percentage Interest (as recalculated in proportion to the Percentage Interests of the applicable Unit(s) so that one hundred percent (100%) of the applicable Common Expense is assessed to the applicable Unit(s);

(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 2.60. 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 2.61. Telecommunications Activity** shall mean construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of Telecommunications Equipment.

**Section 2.62. 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 2.63. Unit** shall mean those portions of the Condominium intended for separate ownership.

**Section 2.64. 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 2.65. 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 2.66. Valet Easement Areas** shall mean those areas so designated on the Plat attached hereto as Exhibit C.

**Section 2.67. Valet Provider** shall mean an entity engaged in the business of providing of Valet Services.

**Section 2.68. Valet Services** shall mean valet parking services as provided by a Valet Provider.

## 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 three (3) 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 Plat and 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 located on each side (the outermost line or boundary) of the applicable Unit as shown on the Plat perpendicular to the lower and upper horizontal planes, from the lower boundary of the applicable Unit to the upper boundary of the applicable Unit, as described below.

(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.

(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 seventy-five (75) feet above the lowermost surface of the uppermost horizontal concrete slab on the level on which the Unit is located. 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 surface, with any concrete slab 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) 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.

(vii) 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 Plat and the Floor Plans, the Plat and 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 towers; structural elements, including without limitation columns, that support more than one (1) Unit and/or Common Elements; 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; and exterior landscaping. 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 any 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) 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;

(ii) 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;

(iii) 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;

(iv) The Board of Directors is hereby authorized to allocate and to reallocate Limited Common Elements and Common Elements not previously allocated, provided that any such allocation or reallocation shall be made in accordance with the provisions of the Act and this Declaration. A Common Element not previously allocated as a Limited Common Element may be so allocated upon written application to the Association by the Unit Owner or Unit Owners for whose exclusive use such Common Element is requested; provided, however, no such assignment shall be approved by the Board of Directors which would materially impair the rights of the other Unit Owners under this Declaration. A Limited Common Element may 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, if any, are shown on the Floor Plans.

## ARTICLE 7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES; MAJOR DECISIONS.

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. Notwithstanding anything to the contrary contained in the Condominium Instruments, the rights of each Owner with respect to Major Decisions shall be identical and each Owner shall be entitled to consent to all Major Decisions, and neither the Association, the Declarant, or an Owner shall have the right or authority to act on any matter constituting a Major Decision, without the prior written approval of all Owners.

## 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 docks 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: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. To the extent that capital expenditures are anticipated, the Board of Directors may 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 three (3) to five (5) 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**. 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 Association, acting by and through 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. Any insurance policies obtained by the Association pursuant to this Section shall be a Common Expense.

(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 five (5) years, 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. Insurance Maintained by Unit Owners.**

(a) Liability Insurance.

(i) Each Owner shall insure against public liability claims and losses on a commercial general liability form of insurance, with broad form coverage endorsements covering claims for personal or bodily injury or death, or property damage occurring in, on, under, within, upon or about the Submitted Property owned by such Owner, or as a result of operations thereon (including contractual liability covering insurable obligations created by this Declaration including, but not limited to, indemnity obligations contained herein), but in all events for limits, as to each Owner and its portion of not less than $100,000,000 with such limit applying separately to the Owner's Unit, combined single limit for personal and bodily injury and death and property damage.

(ii) Limits of insurance may be reached in combination with an Umbrella coverage form.

(iii) Each Owner shall also obtain auto liability insurance for owned, non-owned and hired vehicles with minimum coverage limits of $1,000,000. Such coverage shall be scheduled under each Owner's respective Umbrella liability policy.

(iv) 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.

(b) Other Insurance Maintained by Owners.

(i) Real and Personal Property. Each Owner shall separately insure on an "all risk" basis its loss of rental income (if applicable) or use caused by business interruption or extra expense incurred to reduce such loss of income covering a minimum period of one (1) year resulting from interruption of business caused by the occurrence of any of the risks insured against under the "all risk" property insurance, and shall pay all premiums for such coverage.

(ii) Builder's Risk. Unless the Association agrees to the contrary, during any period of construction, renovation, alterations or work on a Unit which has an estimated cost of $1,000,000 or more, the Owner performing such construction, renovation, alteration or work shall carry (or cause its contractors to carry) "all risk" builder's risk insurance for not less than the completed value of the construction, renovation, alteration or work then being performed by such Owner or Owners or for any alterations which require the consent of the Assocition or another Owner.

(iii) Worker's Compensation. Each Owner shall or cause its contractors to carry worker's compensation insurance in amounts as required by applicable law and employer's liability, insurance in not less than the following amounts: (A) bodily injury by accident, $1,000,000 each accident; and (B) bodily injury by disease, $1,000,000 each employee.

(iv) All above policies shall be issued by insurance company or companies which are authorized to do business in the state in which the Submitted Property is located and have a minimum A.M. Best & Co. rating of "A", "X" and as reasonably acceptable to the Association. All such insurance shall be issued on a primary and non-contributory basis, contain a Waiver of Subrogation in favor of the Association and other Owners as additional insureds and not be cancelable, terminable or subject to material change without thirty (30) days' prior written notice to the Association. All such insurance, with the exception of Worker's Compensation, shall name the other Owners and the Association and their respective parents, subsidiaries and affiliates as additional insureds. A Certificate of Insurance, in form and substance satisfactory to the Association and evidencing the required coverages, shall be provided to the Association upon the Owner's acquisition of its Unit and renewal certificates shall be provided prior to each subsequent policy renewal date.

(c) Supplemental Insurance Coverage. Notwithstanding anything to the contrary contained herein, each Owner shall be permitted to obtain at its sole cost and expense supplemental or additional insurance coverage above and beyond the limits specified in this Declaration. Any insurance so purchased shall be in excess over any other collectible insurance and not contributory with other valid collectible insurance.

(d) 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 Board.

**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.** Subject to the terms of Section 12.7 hereof, 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**. In the event that any damage to or destruction as a result of fire or other casualty relates exclusively to all or any part of a single Unit, the Board of Directors shall delegate to the affected Unit Owner, subject to such conditions deemed appropriate by the Board, the rights and/or responsibilities in this Article 12 related to the repair or reconstruction of such 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. Notwithstanding the foregoing, anything to the contrary herein contained, in the event that the affected Unit Owner fails to promptly repair or restore such damage or destruction or otherwise comply with the requirements of any conditions imposed by the Board pursuant to this Article 12, the Board may elect to utilize self-help and perform such repair or restoration in accordance with the self-help terms and conditions set forth in Section 17.4 and Section 17.5 of this Declaration.

## ARTICLE 13. ARCHITECTURAL CONTROLS.

**Section 13.1. Alterations to a Unit**.

(a) ARC Approval. No Person shall make any alterations, replacements, additions, modifications, or improvements to the appearance of the exterior facade of any Unit without the prior approval of the ARC.

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

(i) reduction in the number of parking spaces in the Garage Unit;

(ii) the modification of any access, ingress or egress points into the Garage Unit;

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

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

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

(vi) 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);

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

(viii) 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 Office Unit, the Hotel Unit and the Garage Unit shall be expressly permitted to make and/or permit changes, alterations, replacements, modifications, or improvements to the interior portions of their respective Units (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 Hotel Unit.

(b) Hotel Signage. Notwithstanding anything to the contrary herein, the Owner of the Hotel Unit, on behalf of itself or its Permittees, shall be permitted to place signage on any exterior portion of the Hotel Unit and on any Signage Band allocated to the Hotel Unit, without the prior approval of the ARC or the Association, but subject to the following conditions:

(i) All signage shall comply with all applicable local and municipal 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 West End Avenue provided that the same are allowed under all applicable City of Nashville ordinances and other applicable Legal Requirements; and

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

(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 Office Unit and on any Signage Band allocated to the Office Unit, without the prior approval of the ARC or Association, but subject to the following conditions:

(i) All signage shall comply with all applicable local and municipal 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); and

(iv) 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 Office Unit is available to be leased based upon a standard approved by the ARC.

(e) 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 in existence as of the date of the recording of this Declaration 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 three (3). 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 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 approved by a Majority vote of the members of the ARC. 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 commercial 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 any 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 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 other Units' appointed members 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 any 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 applicable 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 such 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 any 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 any 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, any Owner 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.**

(a) 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 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 acceptable to the Board.

**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 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 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.

(f) The Association may adopt and modify, from time to time, master maintenance and inspection standards and procedures applicable to the Submitted Property, which

standards and procedures may be amended by a Majority of the votes held by the members of the Board of the Association.

## ARTICLE 14. USE RESTRICTIONS

**Section 14.1. Use of the Units**. All portions of the Units shall be used only for such purposes that are lawful and permitted by applicable zoning ordinances and 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.

**Section 14.2. Prohibited Uses**. Except as otherwise provided in this Declaration and subject to the rights in favor of the Hotel Unit as set forth below, no part of any Unit may be used for any of the following purposes (the "Prohibited Uses"):

(a) bowling alley;

(b) skating rink;

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

(d) pool hall;

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

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

(g) 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;

(h) "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;

(i) 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 any restaurant, food service, bar or other similar use located in and ancillary to the operations of the Hotel Facility);

(j) tattoo parlor;

(k) funeral home or store selling caskets;

(l) mortuary;

(m) automotive supplies and parts;

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

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

(p) industrial operation;

(q) processing or rendering plant;

(r) lumber yard;

(s) central laundry, dry cleaning plant, or laundromat (except this prohibition shall not include (1) any dry-cleaning service only providing for pick-up and drop-off and not performing any cleaning on premises and (2) any laundry or cleaning services that are ancillary to and a part of the operations of the Hotel Facility);

(t) 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 Garage to the extent provided as an ancillary service or amenity to persons parking vehicles in the Garage);

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

(v) 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);

(w) 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);

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

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

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

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

(bb) 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;

(cc) fortune-telling, 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

(dd) 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.

Notwithstanding the foregoing, the Prohibited Uses set forth above in this Section 14.2 shall be permissible uses in and with respect to the Hotel Unit to the extent that such uses are ancillary to the operations of the Hotel Facility, as solely determined by the Owner of the Hotel Unit.

In addition to the foregoing restrictions applicable to the Units, no portion of the Office Unit shall be used for any of the following purposes: (1) any restaurant, food service or food preparation operation; (2) any retail establishment, including, without limitation, any gift shop, convenience store or shop or similar use.

**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 any Unit must be filtered through a commercially designed exhaust system and vented through vents that exit through (a) the exterior walls of the applicable 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 Hotel Unit shall have the right to install, remove, modify, maintain, repair, replace and use Telecommunications Equipment for Telecommunications Activity on the roof of the Building.

**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) Except for performances that are ancillary to the operations of the Hotel Facility, no sound shall emanate from any 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 such Unit.

(f) A portion of the Office Unit is located adjacent to the main lobby of the Hotel 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 Office Unit if such odors, disturbances or activities are detectable, visible or audible in such main lobby of the Hotel 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 Office Unit and thereafter provide the Owner of the Office 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 Office 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 docks. The Association may designate certain docks primarily for the use of one (1) or more Units. In allocating the use of such docks, the Association shall take into account safety, order, and such other relevant factors as it determines appropriate. The Unit Owners and their Permittees shall reasonably cooperate with the Association in scheduling deliveries and pick-ups from the loading dock to facilitate the cooperative use of the loading docks. 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 accomodate requests to operate the loading dock during other hours for pre-scheduled deliveries or uses (including, without limitation, scheduled grease trap cleaning).

**Section 14.10. Garage**.

(a) Operation and Administration.

(i) The Owner of the Garage Unit shall be required to open and operate the Garage Unit seven (7) days a week and twenty-four (24) hours a day; provided, however, the Owner of the Garage Unit may temporarily close any portion of the Garage Unit to perform maintenance and repair with thirty (30) days' prior notice to the Owners of the Hotel Unit and the Office Unit, except that, in Emergency situations requiring a temporary closing, prior notice shall not be required. Such repairs and maintenance shall be performed at a time and in a manner reasonably calculated to minimize disruption and inconvenience to the Occupants of the Hotel Unit and the Office Unit and their respective Permittees. In the event that any portion of the Garage Unit is temporarily closed, the Owner of the Garage Unit shall make all commercially reasonable efforts to keep one (1) entrance into the Garage open, and in all events, the Garage Driveway shall not be blocked in a manner that impedes or prohibits access to the open portions of the Garage.

(ii) The Owner of the Garage Unit shall have the right, but not the obligation, to install speed bumps in the Garage to help prevent violations of the posted speed limit, if any; provided, however, the Owner of the Garage Unit shall have no responsibility for any damage to any vehicle caused by the placement of such speed bumps.

(iii) The lighting features that serve the Garage shall be properly maintained to ensure that the illumination of each level of the Parking Deck complies with all applicable governmental requirements.

(iv) The Owner of the Garage Unit shall have the right, but not the obligation, to employ, at its sole expense, parking attendants ("Garage Attendants") to administer and monitor the use of parking in the Garage Unit; provided, however, that any individual or individuals employed by the Owner of the Garage Unit as Garage Attendants must be approved (in writing) by the Owner of the Hotel Unit. The Owner of the Garage Unit may also issue identifying cards, stickers, tokens or the like as reasonably necessary to monitor, enforce, and regulate parking in the Garage Unit and to charge a fee to offset the actual cost of such items. In the event that the Owner of the Garage Unit elects to install and/or replace any gate equipment associated with the operation of the Garage (the "Gate Equipment"), such Gate Equipment shall be installed by the Owner of the Garage Unit in such a manner that access will be permitted by the Hotel Unit Owner, the Office Unit Owner and any of their respective Permittees or Occupants. The costs of such Gate Equipment, and the installation, maintenance, repair, and replacement of the same shall be borne solely by the Owner of the Garage Unit.

(v) Notwithstanding anything to the contrary stated in this Declaration, 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 Garage.

(vi) In addition to any other restrictions contained in this Declaration, the Garage shall not be used for any other uses other than a parking deck (i.e., craft shows, flea markets, antique sales).

(b) Limitations of Vehicular Access Within the Garage Unit. The Driveway Easement set forth in Article 21 below shall (unless expressly provided herein to the contrary) be perpetual in duration and shall, both as to the benefits and the burdens thereof, run with the title to, and burden the title to, the Units. The Driveway Easement is subject to the following rights, obligations and restrictions, all of which must be exercised in a commercially reasonable manner;

(i) The right, but not the obligation, of the Owner of the Garage Unit to: (A) reasonably regulate and control access to, over, across and through the Garage Driveway (but subject to the easement right of the Owners of the Units and their respective Occupants and Permittees to have access to, over, and across the Garage Driveway); (B) modify from time to time the configuration of the vehicular traffic flow within the Garage Driveway and the Garage Unit; and (C) require Persons exercising their easement rights to: (1) post an identifying decal at a particular location on their vehicles; (2) show identification to an attendant, if any; and/or (3) enter a code or swipe card or depress an automatic gate opener to raise a gate, mechanical arm, or other device which controls or restricts access to, over, across and through the Garage Driveway.

(ii) It shall be the responsibility of the Owner of the Hotel Unit and the Owner of the Office Unit to provide to and maintain with the Owner of the Garage Unit a current list of all of the Occupants or Permittees of their respective Units (herein, the "Parking List"); provided, however, that the Parking List shall be applicable only to Office Team Members and Hotel Team Members, as described in Exhibit E. The Owner of the Garage Unit shall have the right to rely on the Parking List, and the changes thereto, to control access to, over, across and through the Garage Driveway and into the Garage. Each of the Owner of the Office Unit and the Owner of the Hotel Unit shall indemnify and hold harmless the Owner of the Garage Unit from and against any and all loss, damage, liability, cost or expense arising out of or relating to any inaccuracies on the Parking List as provided by such Owner or in the event that the Parking List is not kept current by such Owner.

(iii) The Owner of the Garage Unit shall be responsible for the cost of decals, swipe cards, identification cards, automatic gate openers and similar equipment kept in a vehicle or by any Person on the Parking List to obtain access, to, over, across and through the Garage Driveway and into the Garage.

(c) Garage Revenue. Notwithstanding anything to the contrary stated in this Declaration, all revenue generated by the Owner of the Garage Unit related to the fees charged for the use of the parking spaces located on the Garage shall exclusively benefit the Owner of the Garage Unit.

(d) Parking Regulations. Subject to the easements and covenants set forth in this Declaration, the Owner of the Garage Unit shall have the authority to make, modify, repeal and enforce reasonable parking rules and regulations on a nondiscriminatory basis to the Occupants and their Permittees, governing the conduct, use, and enjoyment of the Garage Unit, including, without limitation, the right to authorize the towing or booting of vehicles illegally or improperly parked in the Garage Unit; provided, however, copies of all such parking rules and regulations shall be furnished to the Occupants and their Permittees, or conspicuously displayed on the interior walls of the Garage Unit. The Occupants and their Permittees shall comply with the provisions set forth in this Subsection and/or the parking rules and regulations adopted by the Owner of the Garage Unit, and any lack of compliance therewith shall entitle the Owner of the Garage Unit to take action to enforce the provisions set forth in this Subsection.

(e) Exclusive Parking Areas; Additional Rules and Regulations. Exhibit "E" attached hereto sets forth and identifies certain other rules, regulations, reserved parking privileges and other covenants regarding the use of the Garage by the Owners, Occupants and Permittees of the Office Unit and the Hotel Unit.

(f) Self-Help Rights. Notwithstanding anything to the contrary herein contained, in the event the Garage Unit Owner does not comply with its obligation to maintain, repair or replace the Garage, 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 Garage Unit Owner and the Association giving the Garage Unit Owner 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 Garage Unit Owner'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 Garage Unit Owner (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 Garage.

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

(v) The aggrieved Owner shall indemnify and hold the Garage Unit Owner and any 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 Garage Unit Owner or any other Owner, or their respective employees, licensees or invitees.

(g) Violations. If a Permittee of a Unit commits a violation of any rules governing the operation of the Garage, 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. Pest Control**. Each Owner shall have regular extermination of insects, pests, and vermin performed in the Owner's Unit.

**Section 14.12. 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 Owners (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) 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 Hotel Unit except umbrellas, patio tables and chairs, and temporary enclosures consistent with first class retail establishments and providing cover during rainfall or cold weather.

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

(i) 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 14.13. 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 14.14. 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 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) 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;

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

(e) 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;

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

(g) 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

(h) 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 in accordance with their respective Percentage Interests:

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

(b) 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 in accordance with Percentage Interests.

(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 rules or requirements of the Associations. The Association shall be responsible for meeting all inspection requirements adopted by the Association or the Board.

(c) Schedule of Inspections. Such inspections shall take place at least annually or as otherwise recommended by the Association. 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).

## ARTICLE 16. MORTGAGEE RIGHTS

**Section 16.1. Consent Required.** Unless each of the Owners of a Unit 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, with respect to such Unit Owner's Unit, 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. Notwithstanding the foregoing, the obligations of each Unit Owner to insure compliance with Legal Requirements pursuant to this Section 18.1 shall not be deemed a breach or violation of the terms of this Declaration unless the failure to comply with the applicable Legal Requirement has resulted in a Material Adverse Effect on another Unit.

**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 hotel, 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 Association and the other Unit Owners, their respective Mortgagees, partners, beneficiaries, members, managers, stockholders, directors, officers, agents and employees (hereinafter referred to as the "Indemnitee"):

(a) from and against any and all claims, actions or proceedings, losses, liabilities, damages, judgments, costs and expenses (herein, a "Claim") by or on behalf of any Person other than the Indemnitee, arising from or out of the following:

(i) the Indemnifying Unit Owner's use 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;

(ii) the Indemnifying Unit Owner's use, exercise or enjoyment of any Common Element, Limited Common Element or easement area (shared or otherwise);

(iii) the Indemnifying Unit Owner's failure to perform any of its maintenance, repair, replacement, restoration or similar obligations hereunder; or

(iv) the Indemnifying Unit Owner's breach or violation of its obligations under the terms of this Declaration; and

(b) from and against all costs, reasonable attorney's fees actually incurred (including appeals of any judgment or order), expenses and liabilities incurred with respect to any Claim arising therefrom, but only to the extent the Indemnitee is not insured against (or required to be insured against) such losses, liabilities, damages, judgments, costs and expenses under valid and collectible insurance policies.

In no event shall the Indemnifying Unit Owner have any indemnification obligation to the Indemnitee to the extent occasioned by the negligent or wrongful acts or omissions of any Indemnitee or its affiliates or its Permittees. The indemnification obligations of the Indemnifying Unit Owner hereunder shall not include or be deemed to extend to the Permittees or affiliates of the Indemnitee; provided, however, that this provision shall not limit the obligation of the Indemnifying Unit Owner with respect to any claims made against an Indemnitee by any such permittees. In case any action or proceeding is brought against any Indemnitee by reason of any such Claim, Indemnifying Unit Owner, upon notice from any such Indemnitee, covenants to resist or defend such Claim with attorneys reasonably satisfactory to such Indemnitee. Any counsel for the insurance company providing insurance against such Claim shall be presumed reasonably satisfactory to each such Indemnitee. Indemnifying Unit Owner may not settle a Claim without the consent of each affected Indemnitee, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding anything to the contrary contained herein, the foregoing indemnity obligations are in no way limited by the coverage limits of applicable insurance policies.

**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, which consent may be granted or denied in the sole discretion of each of the respective 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 Garage Unit. 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. 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 19.6. 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 19.7. Notices**. Each notice concerning the subject matter of this Declaration shall be in writing and shall be deemed to have been properly been given or served by (i) the deposit of the same with the United States Postal Service or any official successor thereto, designated as certified mail, return receipt requested, bearing adequate postage and addressed to the addressee

at the last known address or (ii) 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.

(a) 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 19.8. 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 19.9. Disclosures**. Each Owner and Occupant acknowledges and understands the disclosures set forth in Exhibit "D" hereto.

**Section 19.10. 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.** 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.

(a) 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.

(b) 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 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.

**Section 21.11. Easements Affecting the Garage Unit.**

(a) Benefiting the Office Unit and Hotel Unit. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Owner of the Hotel Unit, the Owner of the Office Unit and their respective Occupants and Permittees, the following easements:

(i) a perpetual, nonexclusive easement over and across the Garage Driveway, subject to Section 14.10 of this Declaration, for the purpose of allowing pedestrian and vehicular access to and from the parking spaces in the Garage, as shown on the Plat and the Floor Plans (the "Driveway Easement"), and in exchange for said Driveway Easement, the Owner of the Hotel Unit and the Owner of the Office Unit shall be obligated to make the following pro-rata contributions to the Owner of the Garage Unit:

(A) For repairs directly related to the Garage Driveway, the Owner of the Hotel Unit shall pay the Owner of the Garage Unit a pro-rata contribution of fifty-five percent (55%) of the actual repair costs; and

(B) For repairs directly related to the Garage Driveway, the Owner of the Office Unit shall pay the Owner of the Garage Unit a pro-rata contribution of thirty-five percent (35%) of the actual repair costs; and

(C) For on-going maintenance of the Garage Driveway, the Owner of the Hotel Unit shall pay the Owner of the Garage Unit a pro-rata contribution of fifty-five percent (55%) of such maintenance costs on a quarterly basis; and

(D) For on-going maintenance of the Garage Driveway, the Owner of the Office Unit shall pay the Owner of the Garage Unit a pro-rata contribution of thirty-five percent (35%) of such maintenance costs on a quarterly basis.

The foregoing payments related to the Garage Driveway shall be paid by the Owner of the Hotel Unit and the Owner of the Office Unit to the Garage Unit within thirty (30) days' of invoicing by the Owner of the Garage Unit.

**Section 21.12. Easements Related to Valet Services.**

(a) Benefitting the Garage Unit. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Owner of the Garage Unit a perpetual, non-exclusive and irrevocable easement over and across the Valet Easement Areas, as reflected on the Floor Plans, for pedestrian ingress and egress to and from vehicles temporarily parked on portions of the Common Element driveways as designated by the Board of Directors to the extent reasonably necessary for no more than one (1) Valet Provider (together with any representatives, agents or employees of the Valet Provider) at any given time to carry out and provide valet parking services ("Valet Services") and to otherwise gain access to the Submitted Property; and (ii) a non-exclusive right and license to utilize and otherwise avail themselves of the benefits of any right, title and interest of the Association (or any parties on whose behalf the Association may act for such purpose) in and to the Valet Easement Areas to the extent reasonably necessary for the purposes of carrying out, providing or, as the case may be, utilizing the Valet Services, which may include the Valet Provider's placement of one (1) or more valet stands and associated apparatus (including signage, which shall be approved by the Architectural Review Committee in accordance with Section 13.2 of this Declaration) in the Valet Easement Areas in order to allow for the conduct of its business therefrom, subject in all events to the receipt of all applicable governmental permits and approvals required for the provision of the Valet Services by the Owner of the Garage Unit or the Valet Provider. The Association shall cooperate with Owners of the Hotel Unit and the Office Unit and the applicable Valet Provider, at no cost or expense to the Association, in connection with the pursuit of any permits or approvals required from the City of Nashville or any other governmental authority to utilize any public areas for such purposes, which agreement to cooperate shall include, without limitation, an obligation to ratify or consent in writing, and, to the extent within the Association's authority or reasonable control, an obligation to cause each of the Owners of the Units to ratify or consent in writing to the use of public areas for such purposes, in the event any such ratification(s) or consent(s) are required by the applicable governmental authorities as a condition to granting such permits or approvals. The Owner of the Garage Unit shall be obligated to provide Valet Services for the Submitted Property for the benefit of the Owners and Permittees of the Hotel Unit and the Office Unit.

(b) Benefitting the Hotel Unit and Office Unit. In the event that the Owner of the Garage Unit desires to discontinue Valet Services (with at least five (5) days' prior written notice to the Owners of the Hotel Unit and the Office Unit) or fails to provide Valet Services as contemplated in this Section, then all easements and other rights reserved to the Owner of the Garage Unit in this Section shall be deemed assigned immediately to the Owners of the Hotel Unit and Office Unit, and the Owners of the Hotel Unit and Office Unit, collectively, shall be permitted to exercise all such easements and other rights reserved to the Owner of the Garage Unit in this Section. Notwithstanding any provision herein to the contrary, the selection of a Valet Provider

pursuant to this section shall be made by the Owner of the Hotel Unit. Moreover, the Valet Provider selected by the Owner of the Hotel Unit (there being no more than one (1) Valet Provider at any given time) shall have a perpetual, non-exclusive pedestrian and vehicular easement over and across the Garage Driveway for the purposes of accessing parking spaces within the Garage Unit.

(c) Compliance with Governmental Requirements and this Master Declaration. The Owners of the Hotel Unit and the Office Unit shall, on behalf of themselves and the applicable Valet Provider, ensure that the Valet Services do not violate Governmental Requirements and are performed in a manner that does not violate the terms of this Declaration or any other documents presently of record affecting the Submitted Property.

(d) Indemnity Insurance. The Owners of the Hotel Unit and the Office Unit hereby indemnify the Association and agree to hold the Association harmless from and against any and all loss, cost, expense or liability, including, without limitation, reasonable attorneys' fees actually incurred (without regard to statutory interpretation), which the Association may suffer or incur to the extent the result of personal injury, damage to property or liens of any nature arising out of the exercise of the easement granted in this Section by the Owners of the Hotel Unit and the Office Unit and/or the applicable Valet Provider, except to the extent caused by the gross negligence or willful misconduct of the Association. The Owners of the Hotel Unit and the Office Unit shall respectively carry, at their sole expense (or, as applicable, cause the applicable Valet Provider to carry at its expense), commercial general liability insurance which, at a minimum, complies with the insurance requirements applicable to valet services serving the Condominium, as more particularly set forth in Article 11 of this Declaration. Prior to (and as a condition to) any exercise of the rights granted under this Section, the Owners of the Hotel Unit and the Office Unit shall deliver (or, as applicable, cause the applicable Valet Provider to deliver) to the Association a certificate evidencing insurance consistent with such requirements.

## 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 the Owners holding not less than 66 and 2/3$^{rds}$ of the Voting Rights as provided in Exhibit B attached hereto, 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. Furthermore, if the subject matter of such amendment constitutes a Major Decision, such amendment shall require the approval of all the Owners as contemplated by Article 7 of this Declaration. 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 13 day of December, 2019.

DECLARANT:

**LOEWS NASHVILLE HOTEL CORP.**, a Delaware corporation

By: _____
(SEAL)
Name: Matthew Brenner
Title: Chief Financial officer

STATE OF New York

COUNTY OF New York

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Matthew Brenner with whom I am personally acquainted and who, upon oath, acknowledged herself/himself to be the Chief Financial Offer of Loews Nashville Hotel Corp., a Delaware corporation, the within named bargainor, and that she/he as such Chief Financial Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself/himself as such Chief Financial Officer.

Witness my hand and official seal at office this 13 day of December, 2019.

_____
Notary Public

My commission expires:

June 17, 2023

MAYA A BUNCH
NOTARY PUBLIC. STATE OF NEW YORK
Registration No. 01BU6393489
Qualified in New York County
Commission Expires June 17, 2023

MAYA A BUNCH NOTARY PUBLIC STATE OF NEW YORK

# EXHIBIT "A"

## DESCRIPTION OF SUBMITTED PROPERTY

Being Lot 1 as shown on the Vanderbilt Plaza Consolidation Plat, Second Revision, of record in Book 9700, page 643, Register's Office for Davidson County, Tennessee.

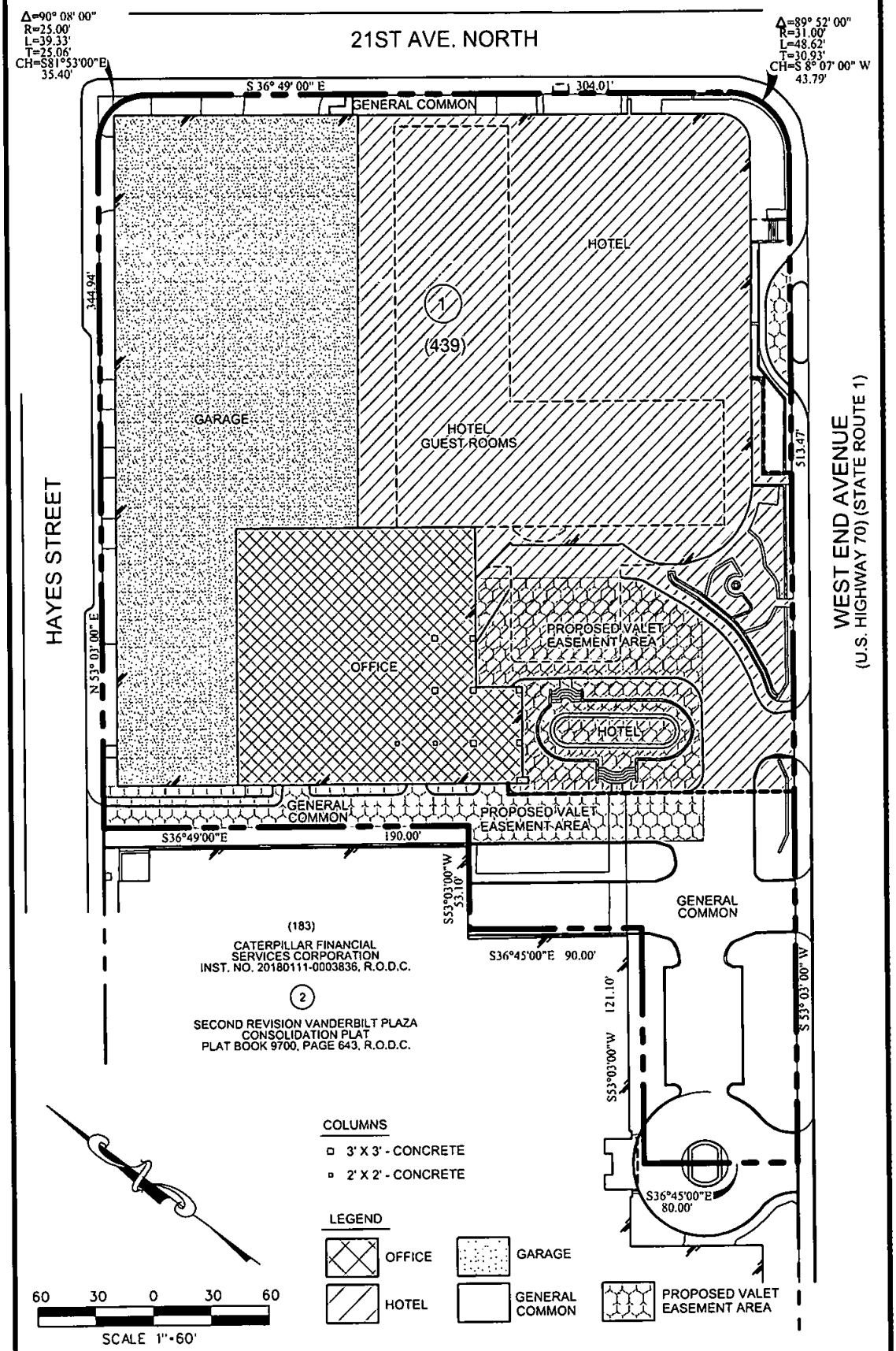
# EXHIBIT "B"

## PERCENTAGE INTERESTS

| Unit | Approximate Square Footage | Percentage Interest | Number of Votes Allocated to Board Seat and Votes as Owner | Number of Votes Allocated to ARC Representative |
|---|---|---|---|---|
| Hotel Unit | 297,962 | 57.5% | 57.5 | 57.5 |
| Office Unit | 129,653 | 32.5% | 32.5 | 32.5 |
| Parking Unit | 243,244 | 10% | 10 | 10 |
| **TOTAL** | **670,859** | **100.00%** | **100** | **100** |

NOTE: The Percentage Interest allocated above is based upon a reasonable allocation of voting rights and expense allocation in light of the operations permitted in and contemplated for each Unit.

# EXHIBIT C - PLAT




12/23/2019
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PHONE (615)254-1500 FAX (615) 255-6572

LOEWS HOTEL CONDO EXHIBITS

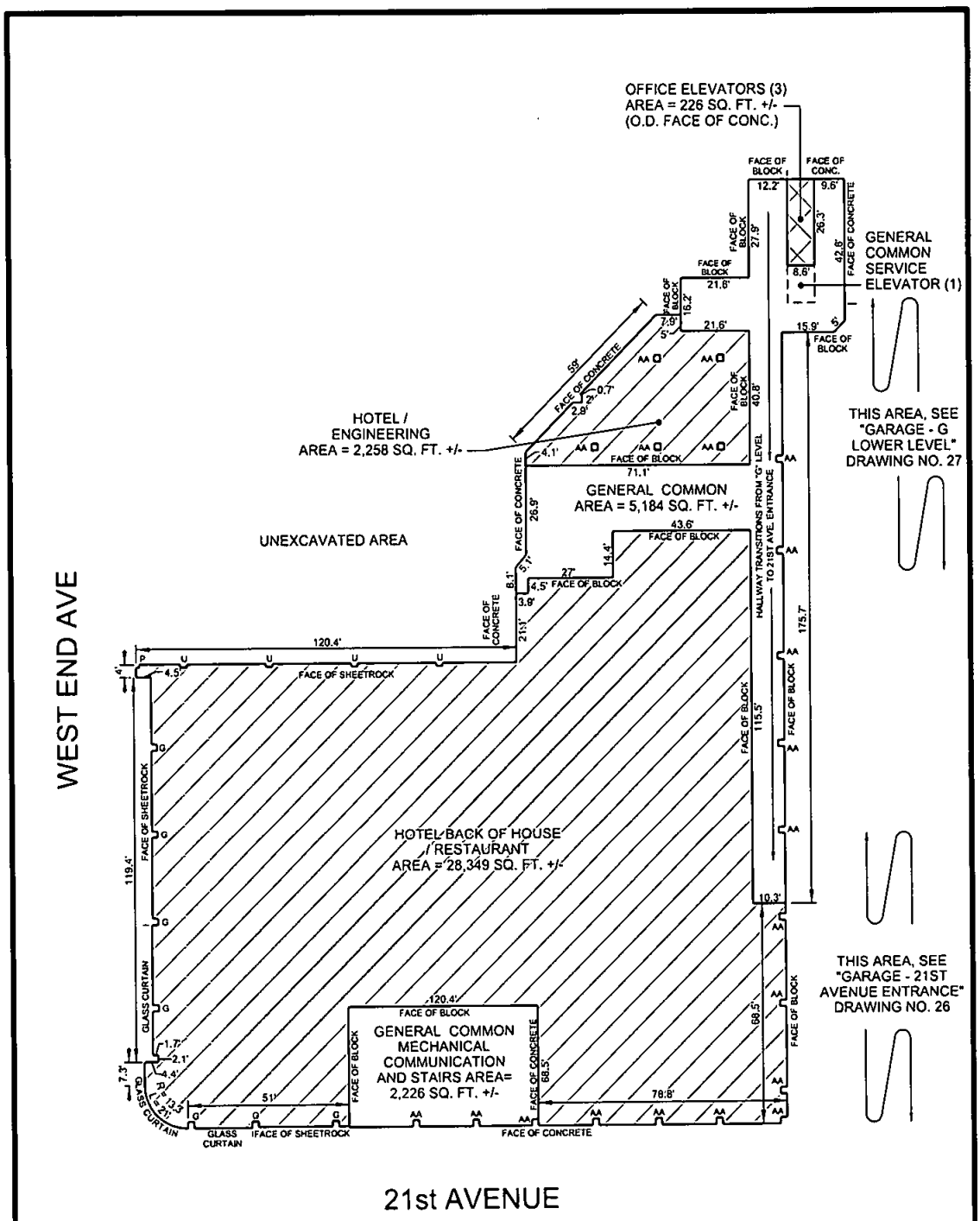
PLAT
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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DRAWING NO.: EXHIBIT C

| PROJECT NO.: | DATE: |
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COLUMNS

| | | |
|---|---|---|
| G | ◘ | 2.3' X 1.8' - FACE OF SHEET ROCK |
| P | ● | 1' X 1' - FACE OF SHEET ROCK |
| U | ▬ | 2' X 1' - FACE OF SHEET ROCK |
| AA | ◘ | 2' X 2' - FACE OF CONCRETE |

AREAS

TOTAL HOTEL AREA = 30,607 SQ. FT. +/-
TOTAL GENERAL COMMON AREA = 7,430 SQ. FT. +/-
TOTAL OFFICE AREA = 226 SQ. FT. +/-

LEGEND

HOTEL
OFFICE
GENERAL
GENERAL COMMON

40 20 0 20 40

SCALE: 1" = 40'

12/17/2019
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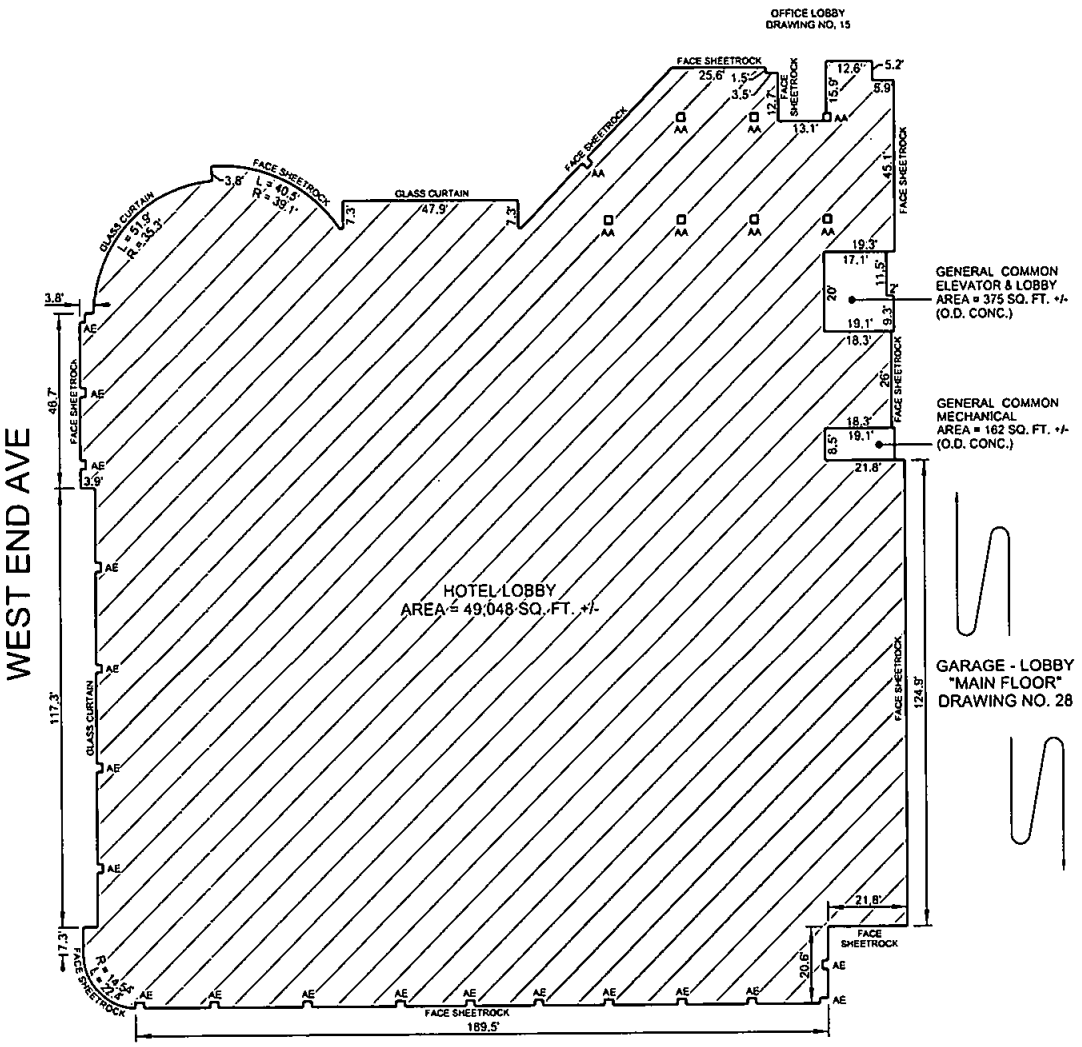
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815 Third Avenue South, Suite 700, Nashville, Tennessee 37210
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LOEWS HOTEL CONDO EXHIBITS

HOTEL G - "LOWER LEVEL"
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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| DRAWING NO.: | 1 |
| PROJECT NO.: | DATE: |
| 3671201 | 12/17/2019 |

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COLUMNS

AE ▫ 2.3' X 1.5' - FACE OF SHEETROCK

AA ▫ 2' X 2' - FACE OF CONCRETE

AREAS

TOTAL HOTEL AREA = 49,048 SQ. FT. +/-

TOTAL GENERAL COMMON AREA = 565 SQ. FT. +/-

LEGEND

HOTEL

GENERAL COMMON

40 20 0 20 40

SCALE: 1" = 40'

12/17/2019
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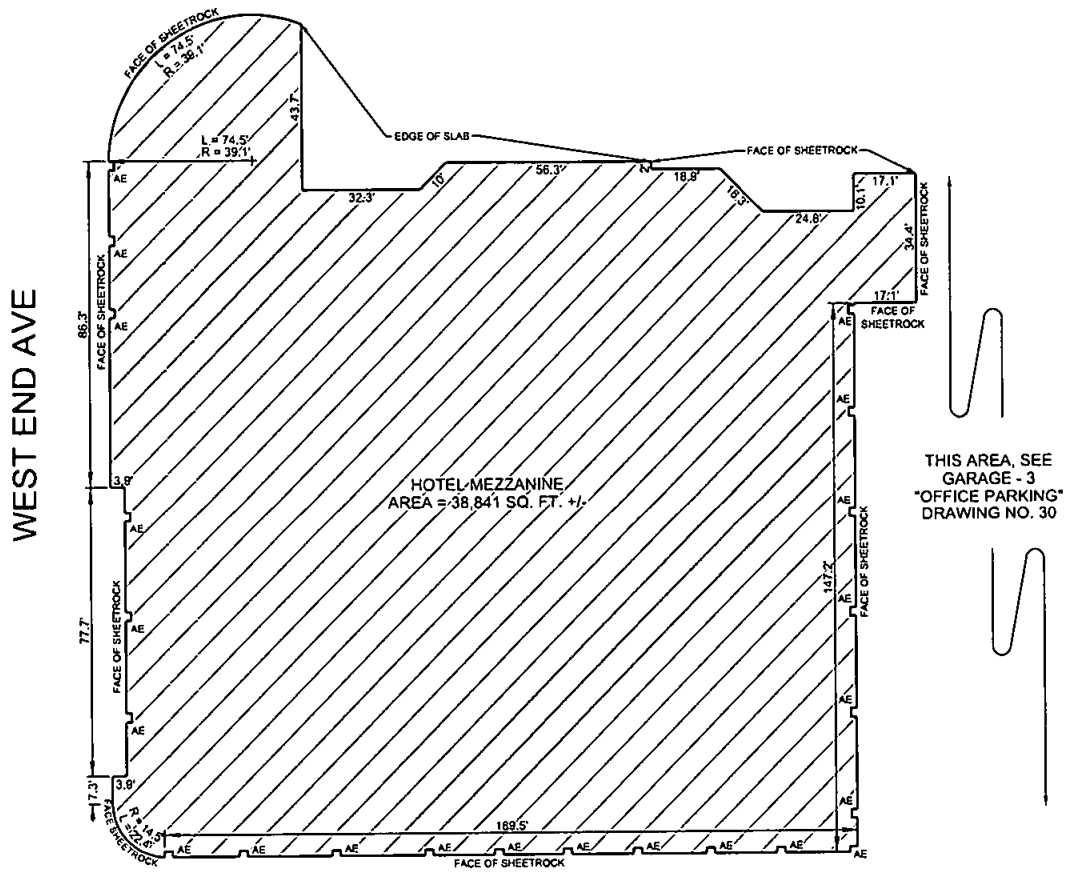
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LOEWS HOTEL CONDO EXHIBITS

HOTEL LOBBY
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
| MFS | BTT |
| DRAWING NO.: | |
| 2 | |
| PROJECT NO.: | DATE: |
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COLUMNS

AE ◘ 2.3' X 1.5' - FACE OF SHEETROCK

AREA

TOTAL HOTEL AREA = 38,841 SQ. FT. +/-

LEGEND

HOTEL

40 20 0 20 40

SCALE: 1" = 40'

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LOEWS HOTEL CONDO EXHIBITS

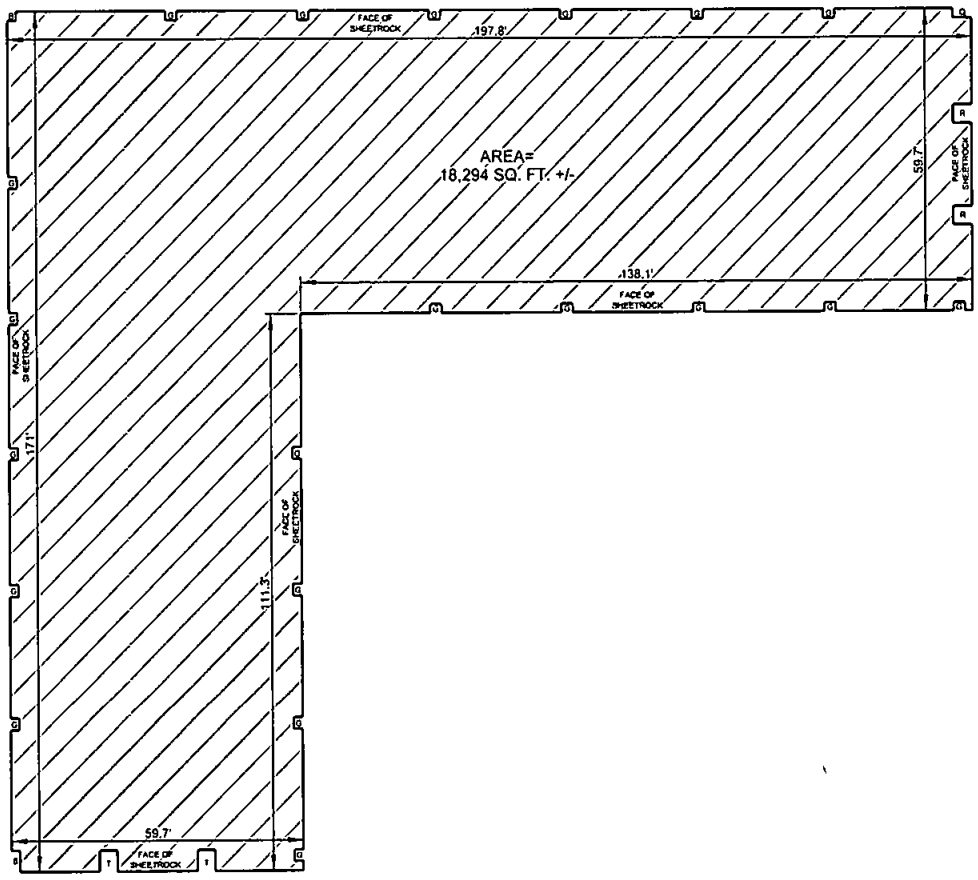
HOTEL MEZZANINE
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
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| DRAWING NO.: | |
| 3 | |
| PROJECT NO.: | DATE: |
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# HAYES STREET

GARAGE - 4
DRAWING NO. 31




21st AVENUE

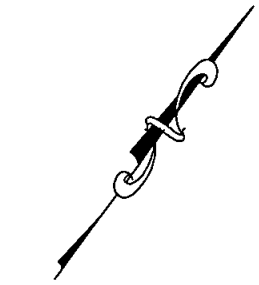
# WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| G | ▭ | 2.3' X 1.8' - FACE OF SHEET ROCK |
| Q | ▯ | 3.9' X 1.8' - FACE OF SHEET ROCK |
| R | □ | 3.9' X 3.6' - FACE OF SHEET ROCK |
| S | ▯ | 4.3'X 1.8' - FACE OF SHEET ROCK |
| T | □ | 4.3'X 3.6' - FACE OF SHEET ROCK |

LEGEND

HOTEL



30 15 0 15 30

SCALE: 1" = 30'

12/17/2019
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LOEWS HOTEL CONDO EXHIBITS

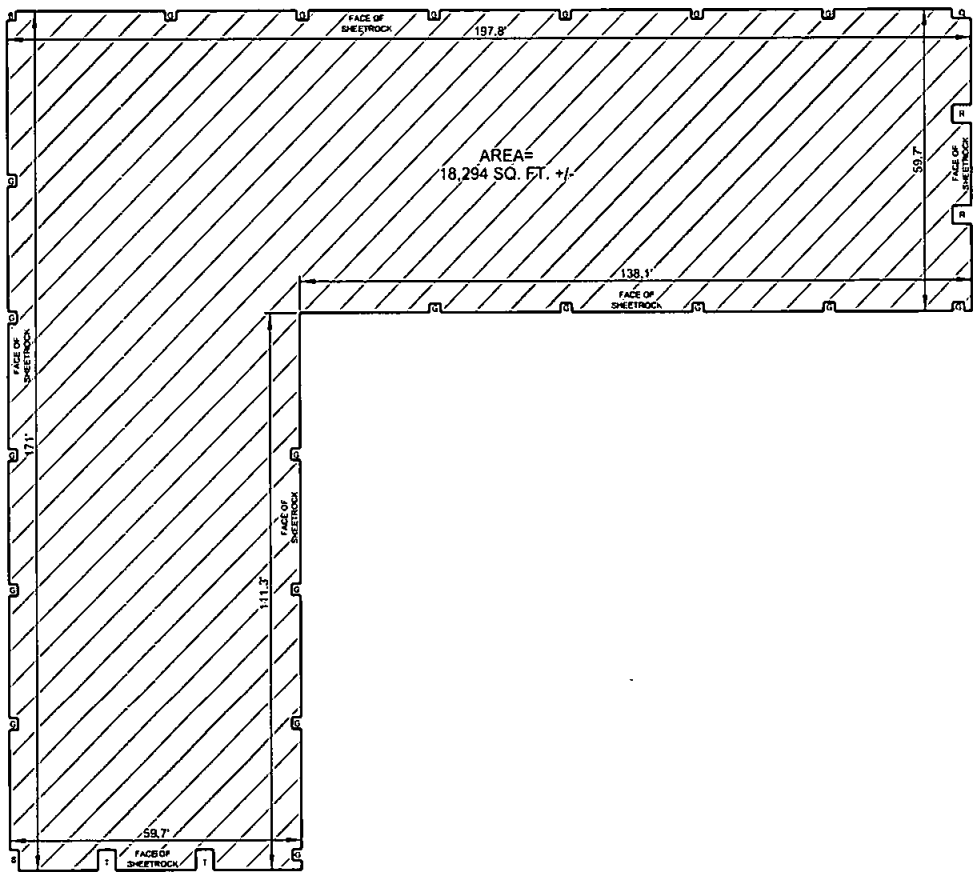
HOTEL 2ND FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
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# HAYES STREET

GARAGE - 5
DRAWING NO. 32




21st AVENUE

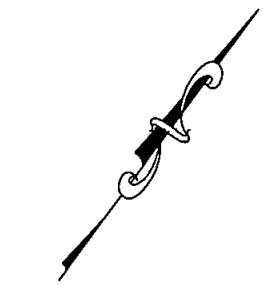
# WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| G | ▭ | 2.3' X 1.8' - FACE OF SHEET ROCK |
| Q | ▯ | 3.9' X 1.8' - FACE OF SHEET ROCK |
| R | □ | 3.9' X 3.6' - FACE OF SHEET ROCK |
| S | ▯ | 4.3'X 1.8' - FACE OF SHEET ROCK |
| T | □ | 4.3'X 3.6' - FACE OF SHEET ROCK |

LEGEND

HOTEL



30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

HOTEL 3RD FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

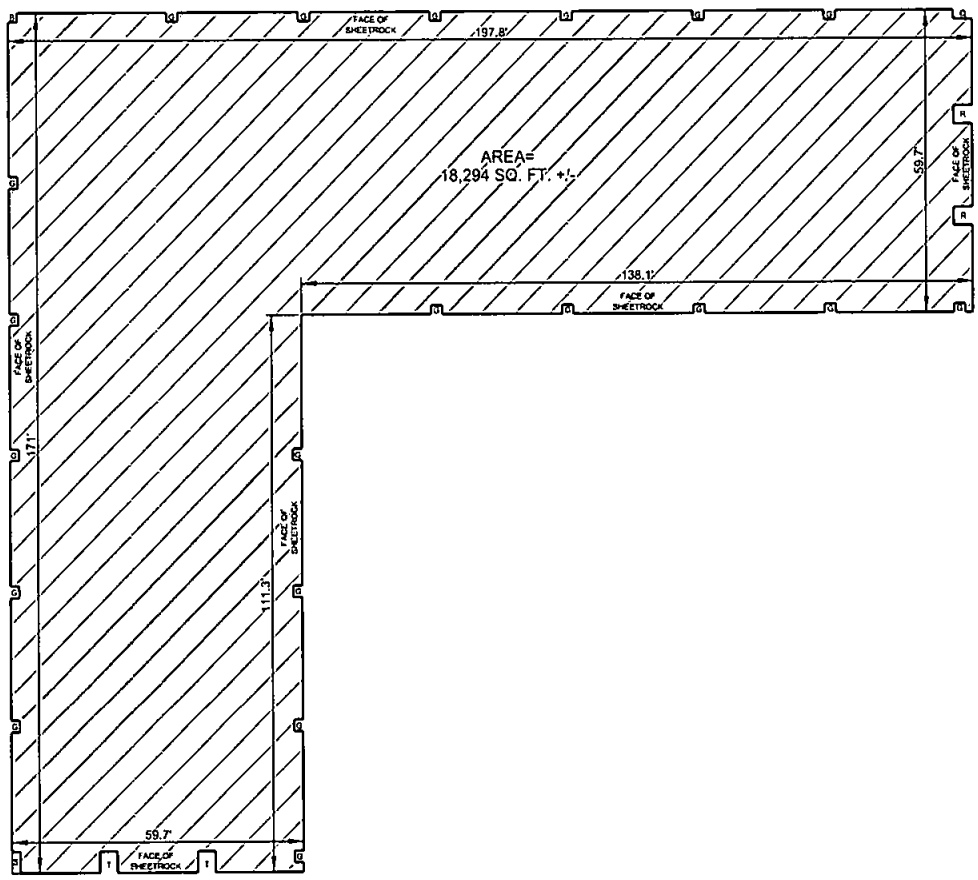
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HAYES STREET




21st AVENUE

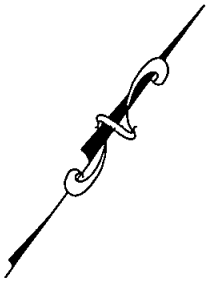
WEST END AVENUE

COLUMNS

B 1.8' X 1.8' - FACE OF SHEET ROCK
G 2.3' X 1.8' - FACE OF SHEET ROCK
Q 3.9' X 1.8' - FACE OF SHEET ROCK
R 3.9' X 3.6' - FACE OF SHEET ROCK
S 4.3'X 1.8' - FACE OF SHEET ROCK
T 4.3'X 3.6' - FACE OF SHEET ROCK

LEGEND

HOTEL



30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

HOTEL 4TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

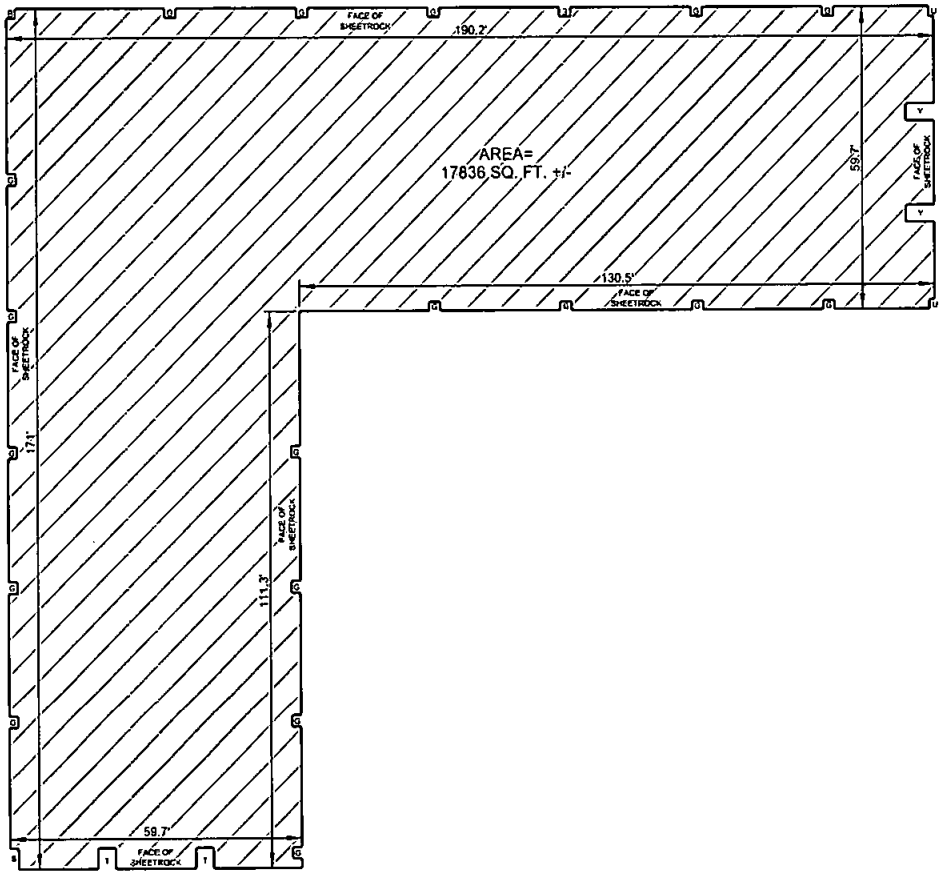
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# HAYES STREET




21st AVENUE

# WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| G | ▭ | 2.3' X 1.8' - FACE OF SHEET ROCK |
| S | ▯ | 4.3'X 1.8' - FACE OF SHEET ROCK |
| T | ▢ | 4.3'X 3.6' - FACE OF SHEET ROCK |
| U | ▯ | 2' X 1' - FACE OF SHEET ROCK |

LEGEND

▨ HOTEL

30 15 0 15 30

SCALE: 1" = 30'

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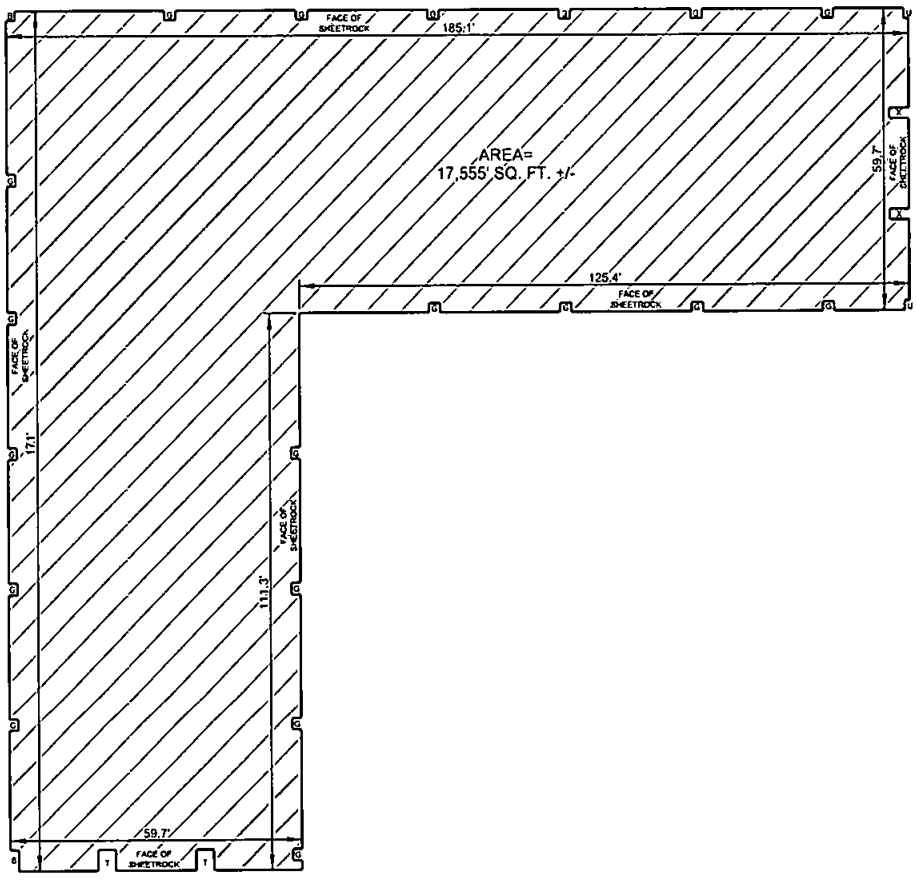
LOEWS HOTEL CONDO EXHIBITS

HOTEL 5TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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HAYES STREET




21st AVENUE

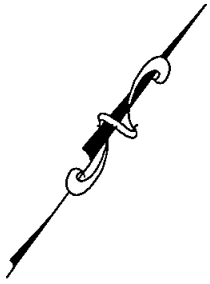
WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| G | ▭ | 2.3' X 1.8' - FACE OF SHEET ROCK |
| S | ▯ | 4.3'X 1.8' - FACE OF SHEET ROCK |
| T | ▢ | 4.3'X 3.6' - FACE OF SHEET ROCK |
| U | ▮ | 2' X 1' - FACE OF SHEET ROCK |
| X | ▬ | 4' X 2' - FACE OF CONCRETE |

LEGEND

HOTEL



30 15 0 15 30

SCALE: 1" - 30'

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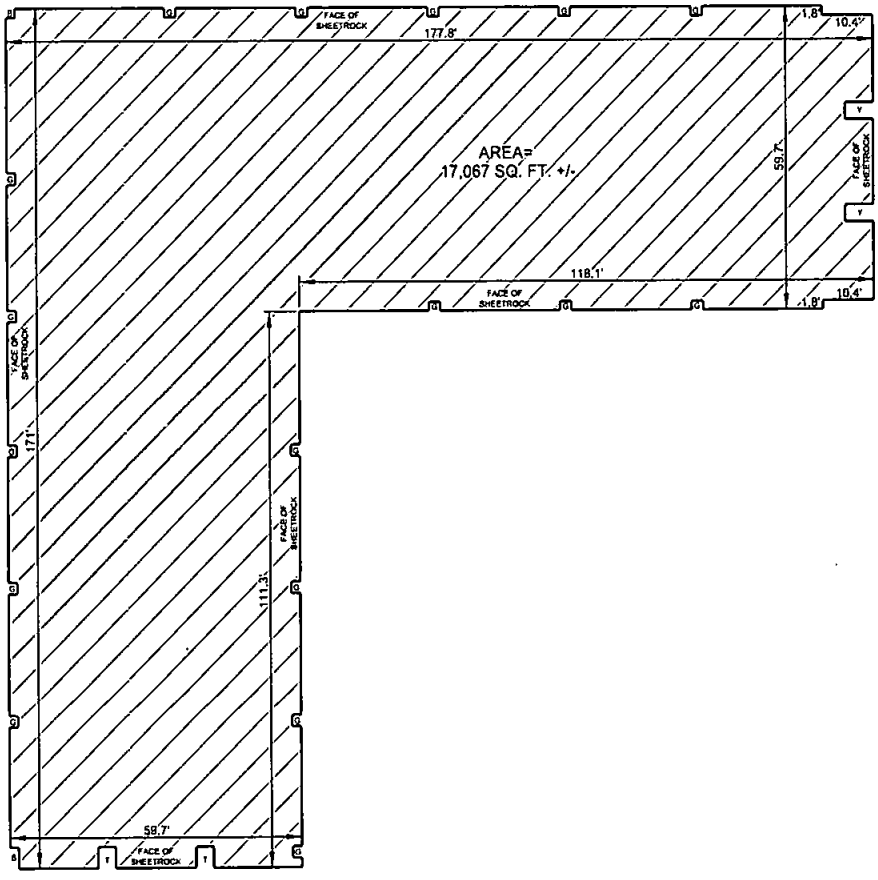
LOEWS HOTEL CONDO EXHIBITS

HOTEL 6TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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HAYES STREET




21st AVENUE

WEST END AVENUE

COLUMNS

B 1.8' X 1.8' - FACE OF SHEET ROCK
G 2.3' X 1.8' - FACE OF SHEET ROCK
S 4.3'X 1.8' - FACE OF SHEET ROCK
T 4.3'X 3.6' - FACE OF SHEET ROCK
Y 5.8' X 3.4' - FACE OF SHEET ROCK

LEGEND

HOTEL

30 15 0 15 30

SCALE: 1" = 30'

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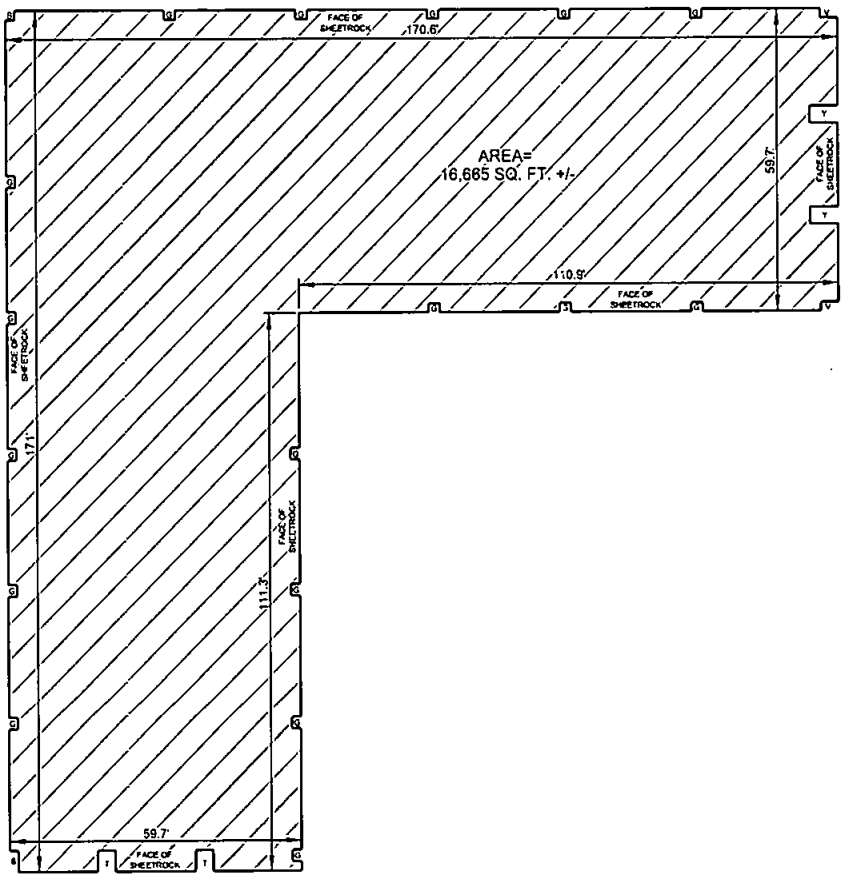
LOEWS HOTEL CONDO EXHIBITS

HOTEL 7TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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HAYES STREET




21st AVENUE

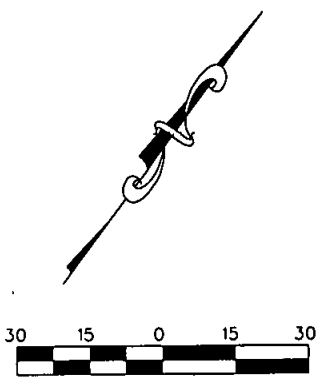
WEST END AVENUE

COLUMNS

B 1.8' X 1.8' - FACE OF SHEET ROCK
G 2.3' X 1.8' - FACE OF SHEET ROCK
S 4.3'X 1.8' - FACE OF SHEET ROCK
T 4.3'X 3.6' - FACE OF SHEET ROCK
V 3.6' X 1.8' - FACE OF SHEET ROCK
Y 5.8' X 3.4' - FACE OF SHEET ROCK

LEGEND

HOTEL




SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

HOTEL 8TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

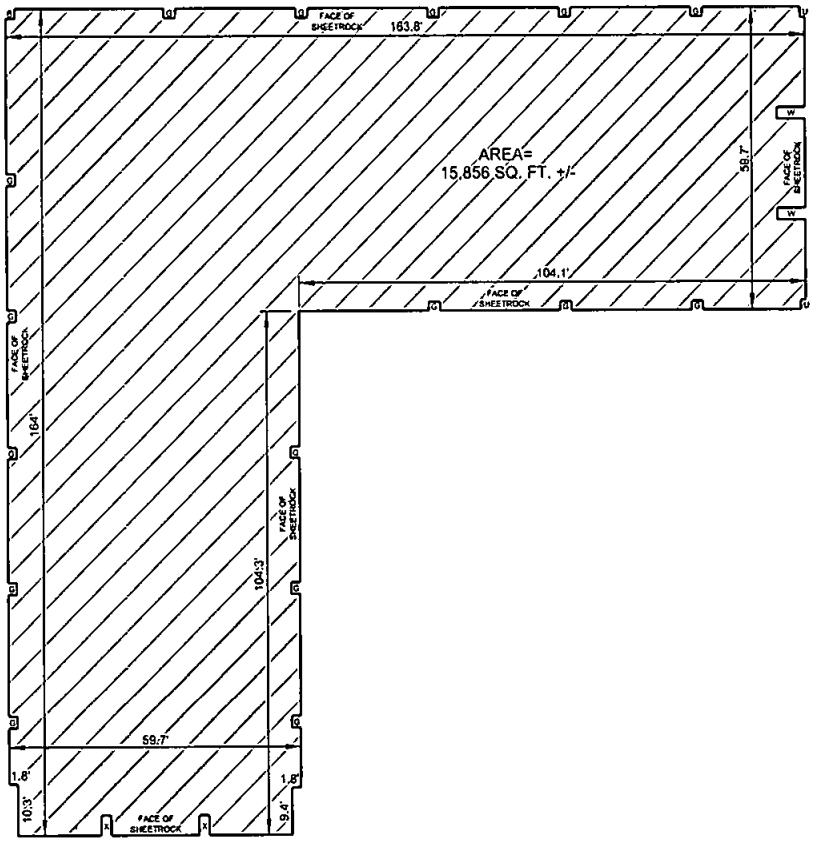
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HAYES STREET




21st AVENUE

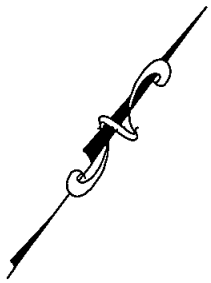
WEST END AVENUE

COLUMNS

B 1.8' X 1.8' - FACE OF SHEET ROCK
G 2.3' X 1.8' - FACE OF SHEET ROCK
U 2' X 1' - FACE OF SHEET ROCK
W 5.8' X 2.3' - FACE OF SHEET ROCK
X 4' X 2' - FACE OF CONCRETE

LEGEND

HOTEL



30 15 0 15 30

SCALE: 1" = 30'

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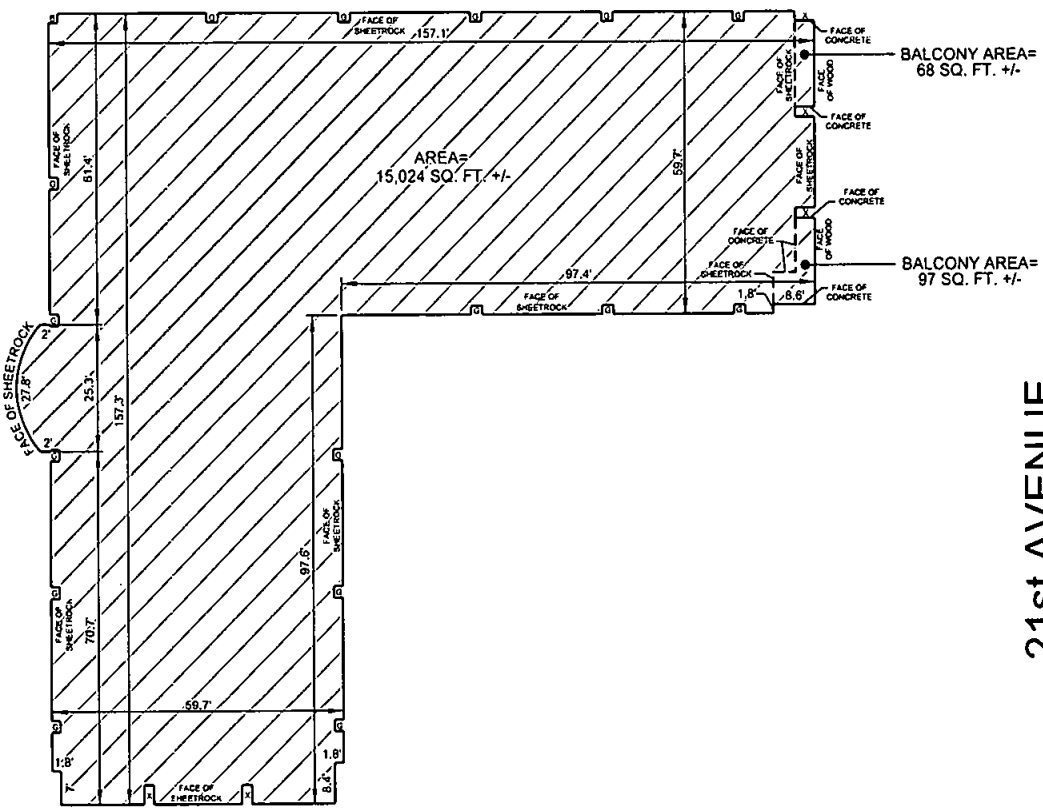
LOEWS HOTEL CONDO EXHIBITS

HOTEL 9TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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| MFS | BTT |
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HAYES STREET




21st AVENUE

WEST END AVENUE

B ▭ 1.8' X 1.8' - FACE OF SHEET ROCK
G ▭ 2.3' X 1.8' - FACE OF SHEET ROCK
U ▯ 2' X 1' - FACE OF SHEET ROCK
X ▭ 4' X 2' - FACE OF CONCRETE

LEGEND

HOTEL

30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

HOTEL 10TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

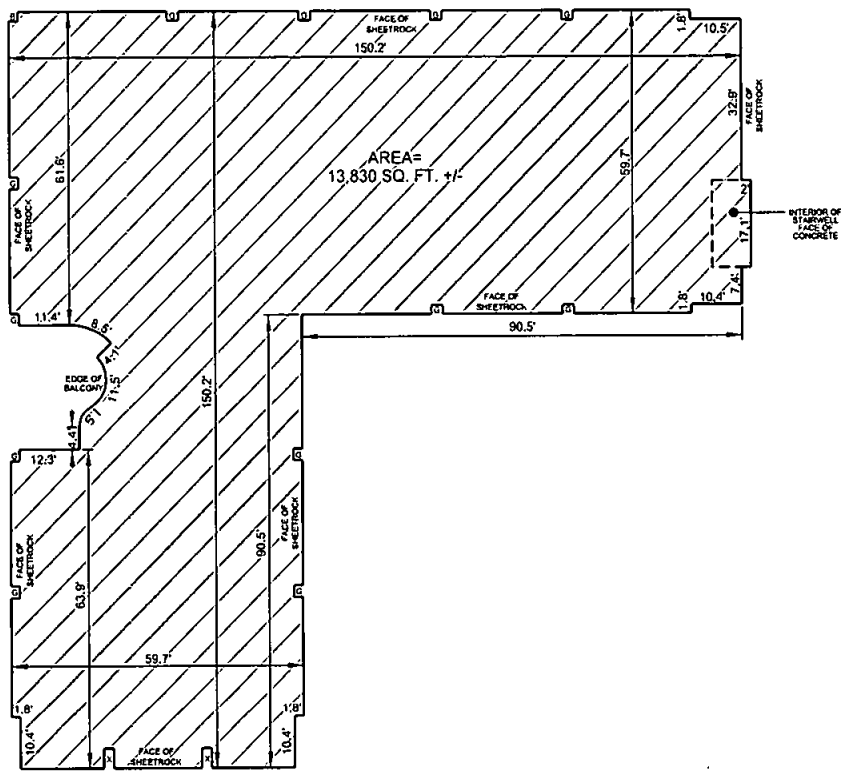
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HAYES STREET




21st AVENUE

WEST END AVENUE

COLUMNS

B ▭ 1.8' X 1.8' - FACE OF SHEET ROCK
G ▭ 2.3' X 1.8' - FACE OF SHEET ROCK
X ▭ 4' X 2' - FACE OF CONCRETE

LEGEND

HOTEL

30 15 0 15 30

SCALE: 1" - 30'

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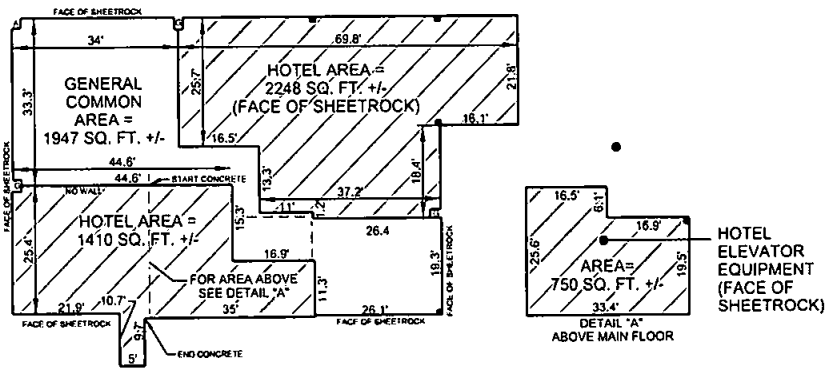
LOEWS HOTEL CONDO EXHIBITS

HOTEL 11TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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|---|---|
| MFS | BTT |
| DRAWING NO.: | 13 |
| PROJECT NO.: | 3671201 |
| DATE: | 12/17/2019 |

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HAYES STREET




21st AVENUE

WEST END AVENUE

AREAS

TOTAL GENERAL COMMON AREA = 1947 SQ. FT. +/-

TOTAL HOTEL AREA = 4408 SQ. FT. +/-

COLUMNS

A ▭ 2' X 1.8' - FACE OF SHEET ROCK

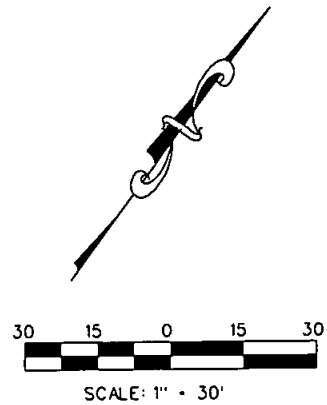
G ▭ 2.3' X 1.8' - FACE OF SHEET ROCK

▪ 1' X 1' - FIREPROOFED STEEL COLUMN

LEGEND

HOTEL

GENERAL COMMON




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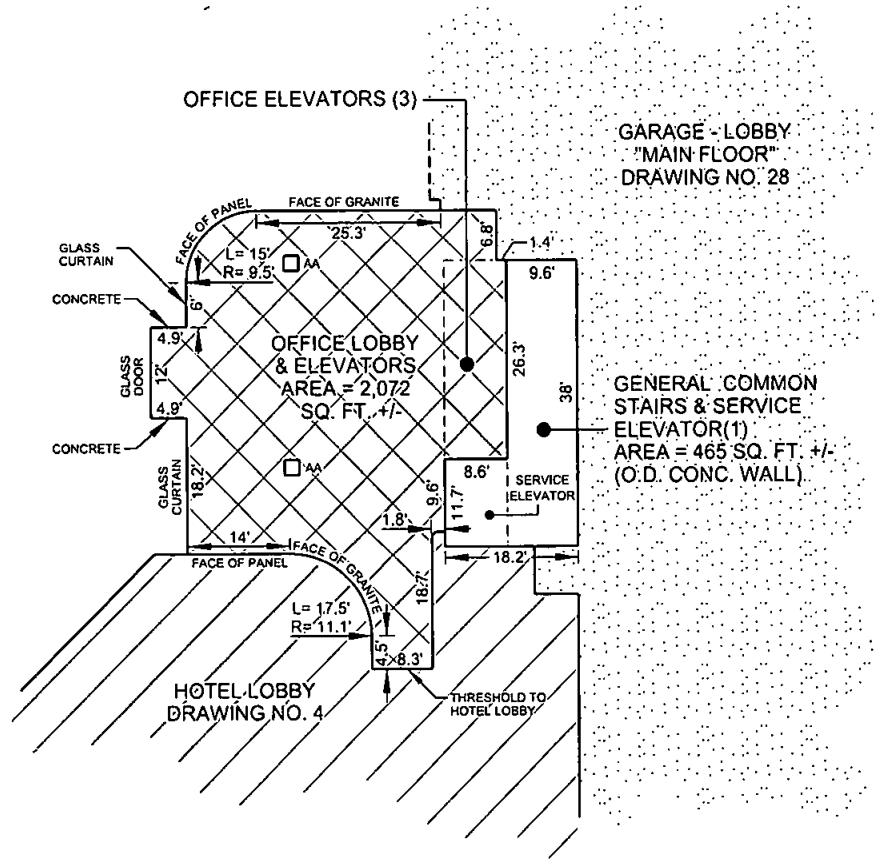
BARGE DESIGN SOLUTIONS
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PHONE (615)254-1500 FAX (615) 255-6572

LOEWS HOTEL CONDO EXHIBITS

HOTEL AND GENERAL COMMON MECHANICAL
PENTHOUSE - HOTEL
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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| DRAWING NO.: | |
| 14 | |
| PROJECT NO.: | DATE: |
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## AREAS

TOTAL OFFICE AREA = 2,080 FT. +/-

TOTAL GENERAL COMMON AREA = 473 FT. +/-

## COLUMNS

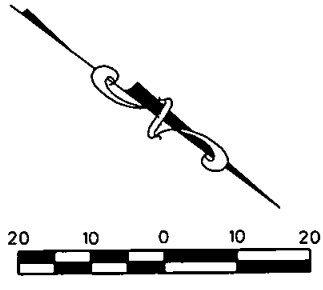
AA ☐ 2' X 2' - FACE OF CONCRETE

LEGEND

OFFICE

OFFICE

GENERAL COMMON




SCALE: 1" = 20'

12/17/2019
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LOEWS HOTEL CONDO EXHIBITS

OFFICE LOBBY
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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|---|---|
| MFS | BTT |

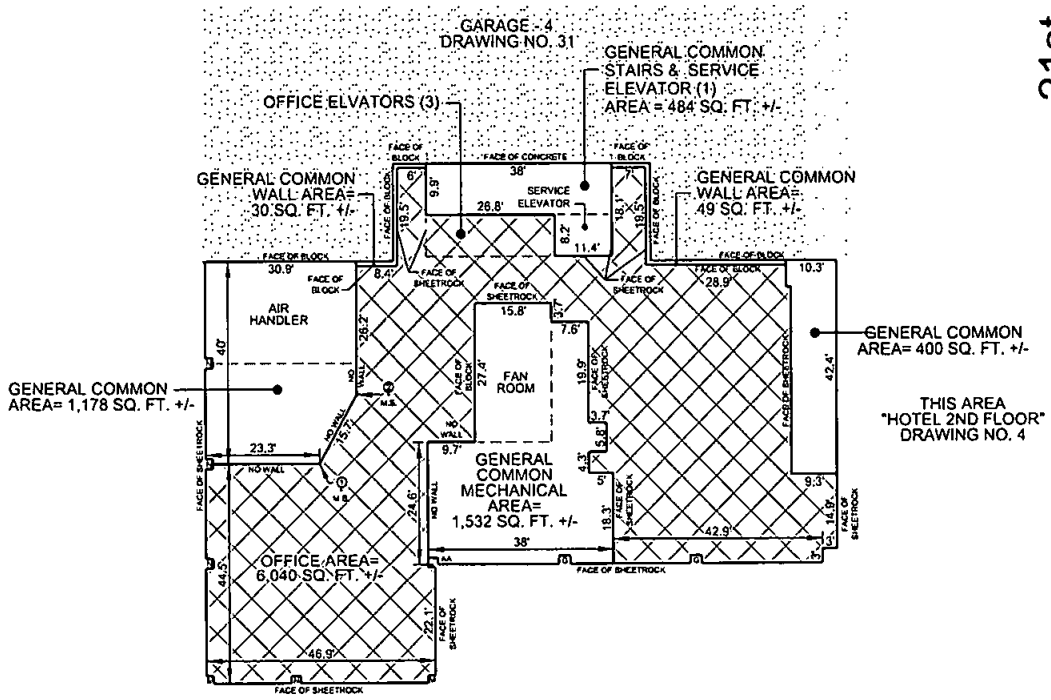
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HAYES STREET

21st AVENUE




WEST END AVENUE

AREAS

TOTAL GENERAL COMMON AREA = 3,673 SQ. FT. +/-

TOTAL OFFICE AREA = 6,040 SQ. FT. +/-

COLUMNS

G ☐ 2.3' X 1.8' - FACE OF SHEET ROCK

M ▫ 1.5' X 1.5' - FACE OF CONCRETE

N ☐ 2' X1.5' - FACE OF CONCRETE

AA ☐ 2' X 2' - FACE OF CONCRETE

LEGEND

OFFICE

GARAGE

GENERAL COMMON

30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

OFFICE, HOTEL/COMMON MECHANICAL 4TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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|---|---|
| MFS | BTT |

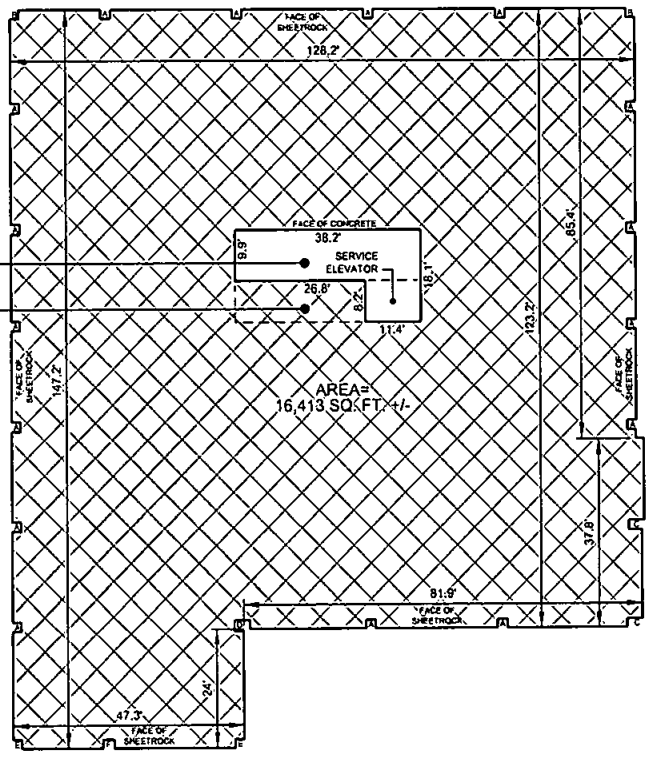
DRAWING NO.: 16

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HAYES STREET

21st AVENUE




GENERAL COMMON
STAIRS & SERVICE
ELEVATOR (1)
AREA = 471 SQ. FT. +/-

OFFICE ELEVATORS (3)

THIS AREA
"HOTEL 3RD FLOOR"
DRAWING NO. 5

WEST END AVENUE

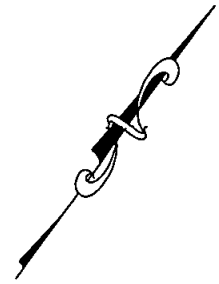
COLUMNS

| | | |
|---|---|---|
| A | ▭ | 2' X 1.8' - FACE OF SHEET ROCK |
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| C | ▭ | 3.2' X 1.8' - FACE OF SHEET ROCK |
| D | ▭ | 3.1' X 2.3' - FACE OF SHEET ROCK |
| E | ▭ | 1.8'X 1.3' - FACE OF SHEET ROCK |
| F | ▭ | 2.3' X 1.3' - FACE OF SHEET ROCK |

LEGEND

OFFICE

GENERAL COMMON



30 15 0 15 30

SCALE: 1" - 30'

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LOEWS HOTEL CONDO EXHIBITS

OFFICE 6TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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| MFS | BTT |

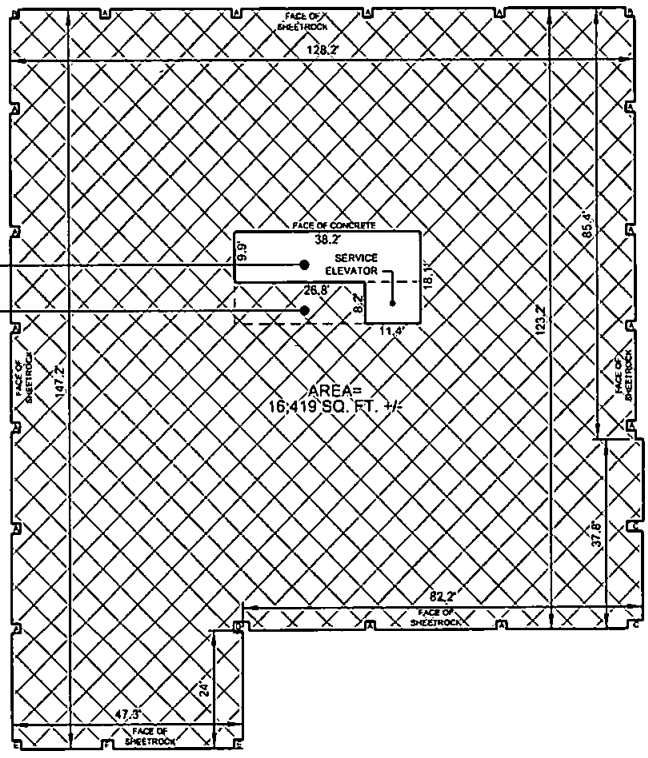
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HAYES STREET

21st AVENUE




GENERAL COMMON STAIRS & SERVICE ELEVATOR (1) AREA = 471 SQ. FT. +/-

OFFICE ELEVATORS (3)

THIS AREA "HOTEL 4TH FLOOR" DRAWING NO. 6

WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| A | ▯ | 2' X 1.8' - FACE OF SHEET ROCK |
| B | ▯ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| C | ▭ | 3.2' X 1.8' - FACE OF SHEET ROCK |
| D | ▭ | 3.1' X 2.3' - FACE OF SHEET ROCK |
| E | ▫ | 1.8'X 1.3' - FACE OF SHEET ROCK |
| F | ▭ | 2.3' X 1.3' - FACE OF SHEET ROCK |

LEGEND

OFFICE

GENERAL COMMON

30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

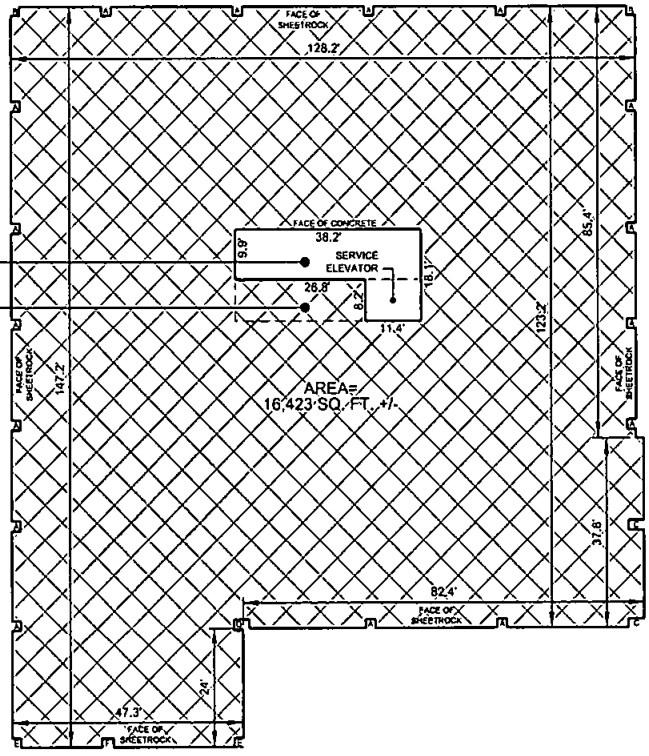
OFFICE 7TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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| 18 | |
| PROJECT NO.: | DATE: |
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HAYES STREET

21st AVENUE




GENERAL COMMON STAIRS & SERVICE ELEVATOR (1) AREA = 471 SQ. FT. +/-

OFFICE ELEVATORS (3)

THIS AREA "HOTEL 5TH FLOOR" DRAWING NO. 7

WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| A | ▯ | 2' X 1.8' - FACE OF SHEET ROCK |
| B | ▯ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| C | ▭ | 3.2' X 1.8' - FACE OF SHEET ROCK |
| D | ▭ | 3.1' X 2.3' - FACE OF SHEET ROCK |
| E | ▭ | 1.8'X 1.3' - FACE OF SHEET ROCK |
| F | ▭ | 2.3' X 1.3' - FACE OF SHEET ROCK |

LEGEND

OFFICE

GENERAL COMMON

30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

OFFICE 8TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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|---|---|
| MFS | BTT |

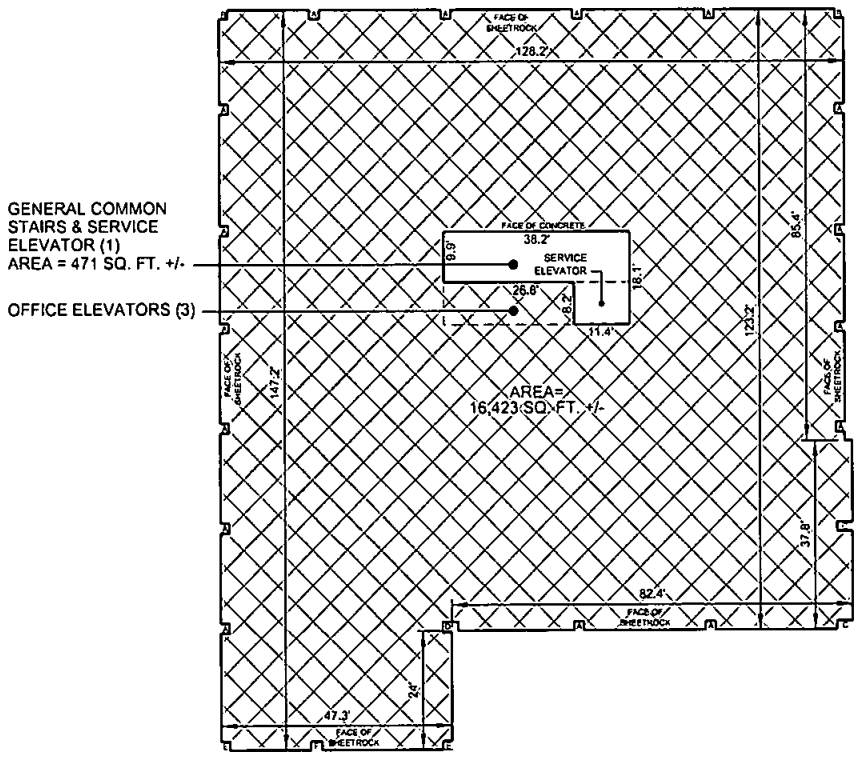
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HAYES STREET

21st AVENUE




WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| A | ▭ | 2' X 1.8' - FACE OF SHEET ROCK |
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| C | ▭ | 3.2' X 1.8' - FACE OF SHEET ROCK |
| D | ▭ | 3.1' X 2.3' - FACE OF SHEET ROCK |
| E | ▭ | 1.8'X 1.3' - FACE OF SHEET ROCK |
| F | ▭ | 2.3' X 1.3' - FACE OF SHEET ROCK |

LEGEND

OFFICE

GENERAL COMMON

30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

OFFICE 9TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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| MFS | BTT |

DRAWING NO.: 20

| PROJECT NO.: | DATE: |
|---|---|
| 3671201 | 12/17/2019 |

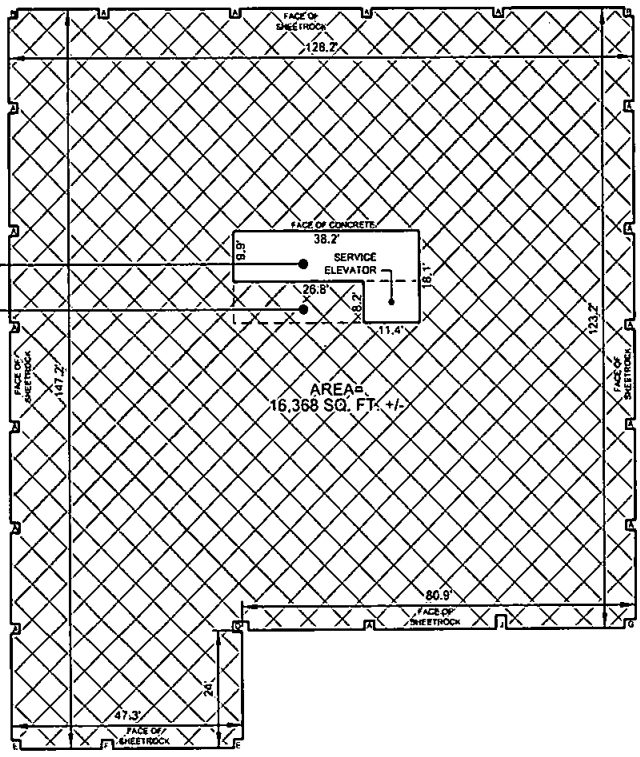
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# HAYES STREET

21st AVENUE

GENERAL COMMON
STAIRS & SERVICE
ELEVATOR (1)
AREA = 471 SQ. FT. +/-

OFFICE ELEVATORS (3)




THIS AREA
"HOTEL 7TH FLOOR"
DRAWING NO. 9

# WEST END AVENUE

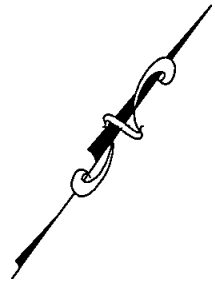
COLUMNS

| | | |
|---|---|---|
| A | ▭ | 2' X 1.8' - FACE OF SHEET ROCK |
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| D | ▭ | 3.1' X 2.3' - FACE OF SHEET ROCK |
| E | ▭ | 1.8'X 1.3' - FACE OF SHEET ROCK |
| F | ▭ | 2.3' X 1.3' - FACE OF SHEET ROCK |
| G | ▭ | 2.3' X 1.8' - FACE OF SHEET ROCK |
| J | ▭ | 2.8' X 2' - FACE OF SHEET ROCK |

LEGEND

OFFICE

GENERAL COMMON



30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

OFFICE 10TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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|---|---|
| MFS | BTT |

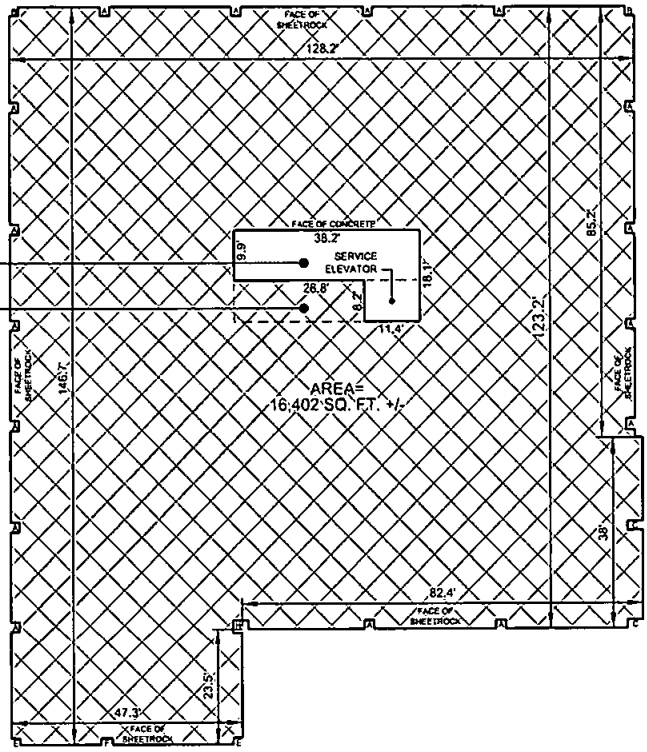
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HAYES STREET

21st AVENUE




GENERAL COMMON STAIRS & SERVICE ELEVATOR (1) AREA = 471 SQ. FT. +/-

OFFICE ELEVATORS (3)

THIS AREA "HOTEL 8TH FLOOR" DRAWING NO. 10

WEST END AVENUE

COLUMNS

| | | |
|---|---|---|
| A | 2' X 1.8' | - FACE OF SHEET ROCK |
| B | 1.8' X 1.8' | - FACE OF SHEET ROCK |
| C | 3.2' X 1.8' | - FACE OF SHEET ROCK |
| E | 1.8'X 1.3' | - FACE OF SHEET ROCK |
| F | 2.3' X 1.3' | - FACE OF SHEET ROCK |
| H | 3.1' X 2.6' | - FACE OF SHEET ROCK |

LEGEND

OFFICE

GENERAL COMMON

30 15 0 15 30

SCALE: 1" = 30'

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LOEWS HOTEL CONDO EXHIBITS

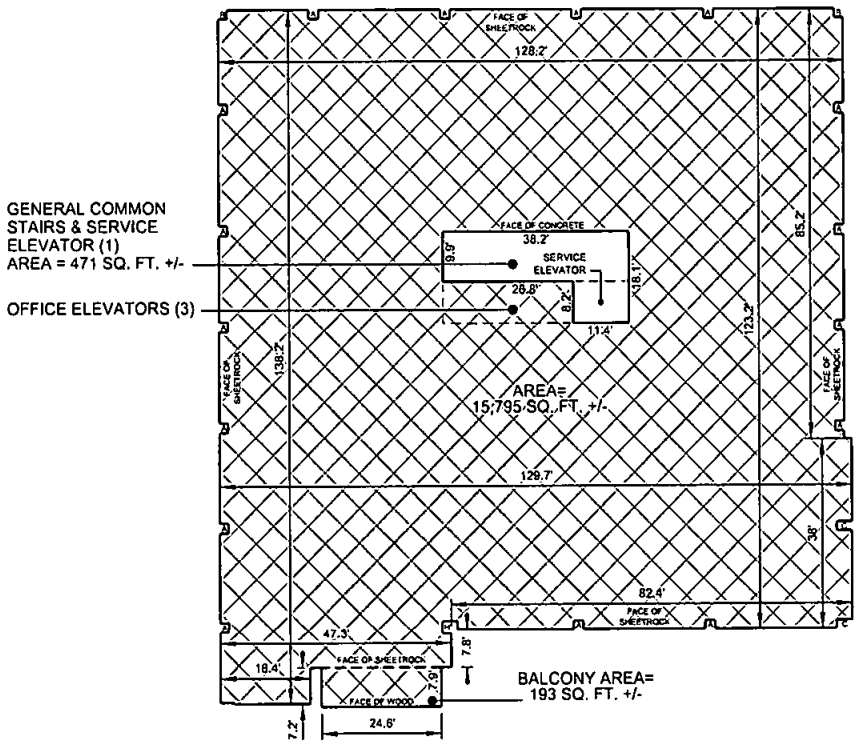
OFFICE 11TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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|---|---|
| MFS | BTT |
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| 22 | |
| PROJECT NO.: | DATE: |
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HAYES STREET

21st AVENUE




WEST END AVENUE

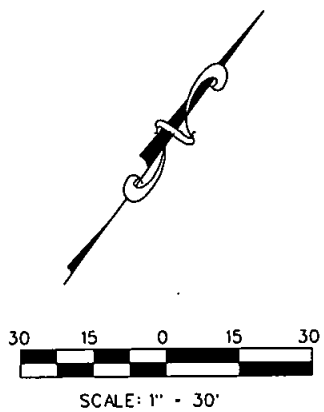
COLUMNS

A ▭ 2' X 1.8' - FACE OF SHEET ROCK
B ▭ 1.8' X 1.8' - FACE OF SHEET ROCK
C ▭ 3.2' X 1.8' - FACE OF SHEET ROCK
H ▭ 3.1' X 2.6' - FACE OF SHEET ROCK

LEGEND

OFFICE

GENERAL COMMON




12/17/2019
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LOEWS HOTEL CONDO EXHIBITS

OFFICE 12TH FLOOR
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
| MFS | BTT |

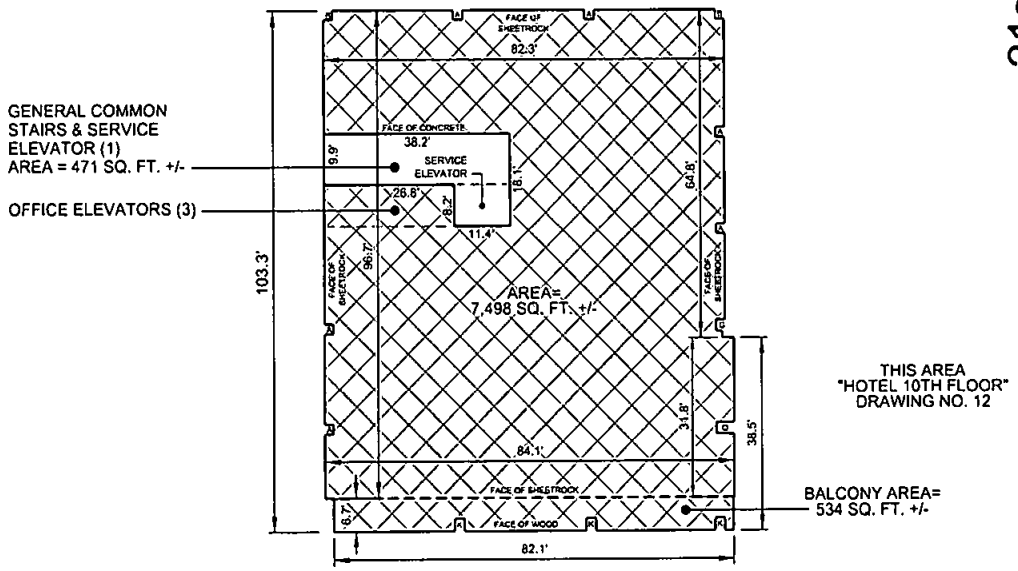
DRAWING NO.: 23

| PROJECT NO.: | DATE: |
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HAYES STREET

21st AVENUE




WEST END AVENUE

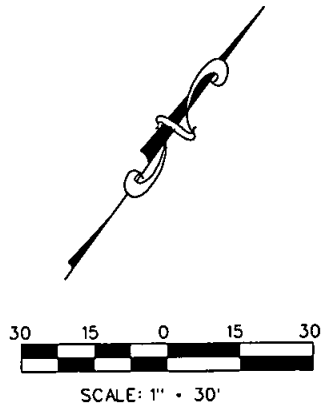
COLUMNS

| | | |
|---|---|---|
| A | ▭ | 2' X 1.8' - FACE OF SHEET ROCK |
| B | ▭ | 1.8' X 1.8' - FACE OF SHEET ROCK |
| G | ▭ | 2.3' X 1.8' - FACE OF SHEET ROCK |
| K | ▭ | 2.7' X 2' - FACE OF CONCRETE |
| Q | ▯ | 3.5' X 2.3' - FACE OF SHEET ROCK |

LEGEND

OFFICE

GENERAL COMMON




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LOEWS HOTEL CONDO EXHIBITS

OFFICE PENTHOUSE
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
| MFS | BTT |

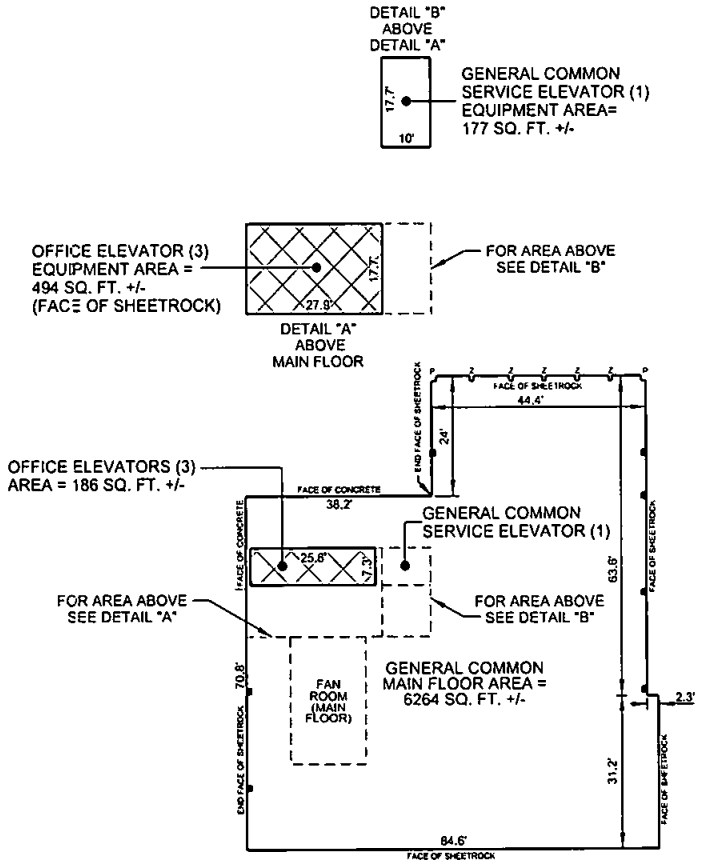
DRAWING NO.: 24

| PROJECT NO.: | DATE: |
|---|---|
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HAYES STREET

21st AVENUE




WEST END AVENUE

AREAS

TOTAL GENERAL COMMON AREA = 6,941 SQ. FT. +/-

TOTAL OFFICE AREA = 680 SQ. FT. +/-

COLUMNS

P ▫ 1' X 1' - FACE OF SHEET ROCK

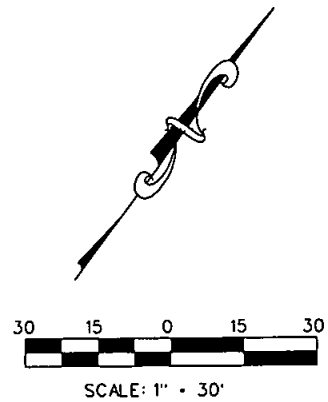
Z ▫ 1' X .7' - FACE OF SHEET ROCK

▪ 1' X 1' - FIREPROOFED STEEL COLUMN

LEGEND

OFFICE

GENERAL COMMON




12/18/2019
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BARGE DESIGN SOLUTIONS

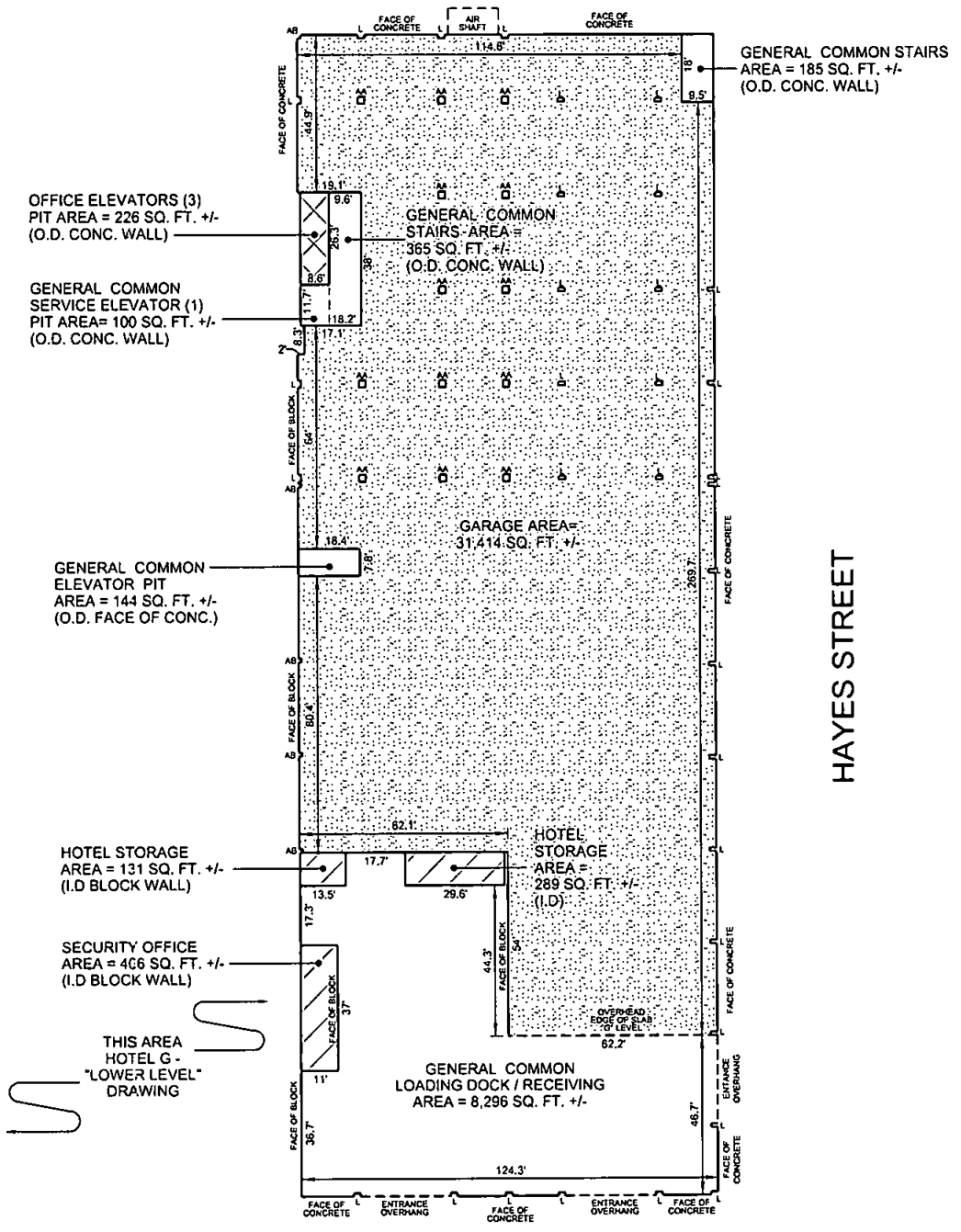
615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)254-1500 FAX (615) 255-6372

LOEWS HOTEL CONDO EXHIBITS

OFFICE / GENERAL COMMON MECHANICAL
PENTHOUSE - PART "B"
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
| MFS | BTT |
| DRAWING NO.: | |
| 25 | |
| PROJECT NO.: | DATE: |
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COLUMNS

| | | |
|---|---|---|
| L | ▭ | 2' X 1' - FACE OF CONCRETE |
| AA | □ | 2' X 2' - FACE OF CONCRETE |
| AB | ▫ | 1' X 1' - FACE OF CONCRETE |

AREAS

TOTAL GARAGE AREA = 31,725 SQ. FT. +/-
TOTAL GENERAL COMMON AREA = 10,462 SQ. FT. +/-
TOTAL HOTEL AREA = 826 SQ. FT. +/-
TOTAL OFFICE AREA = 226 SQ. FT. +/-

LEGEND

GARAGE
HOTEL
OFFICE

40 20 0 20 40

SCALE: 1" = 40'

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LOEWS HOTEL CONDO EXHIBITS

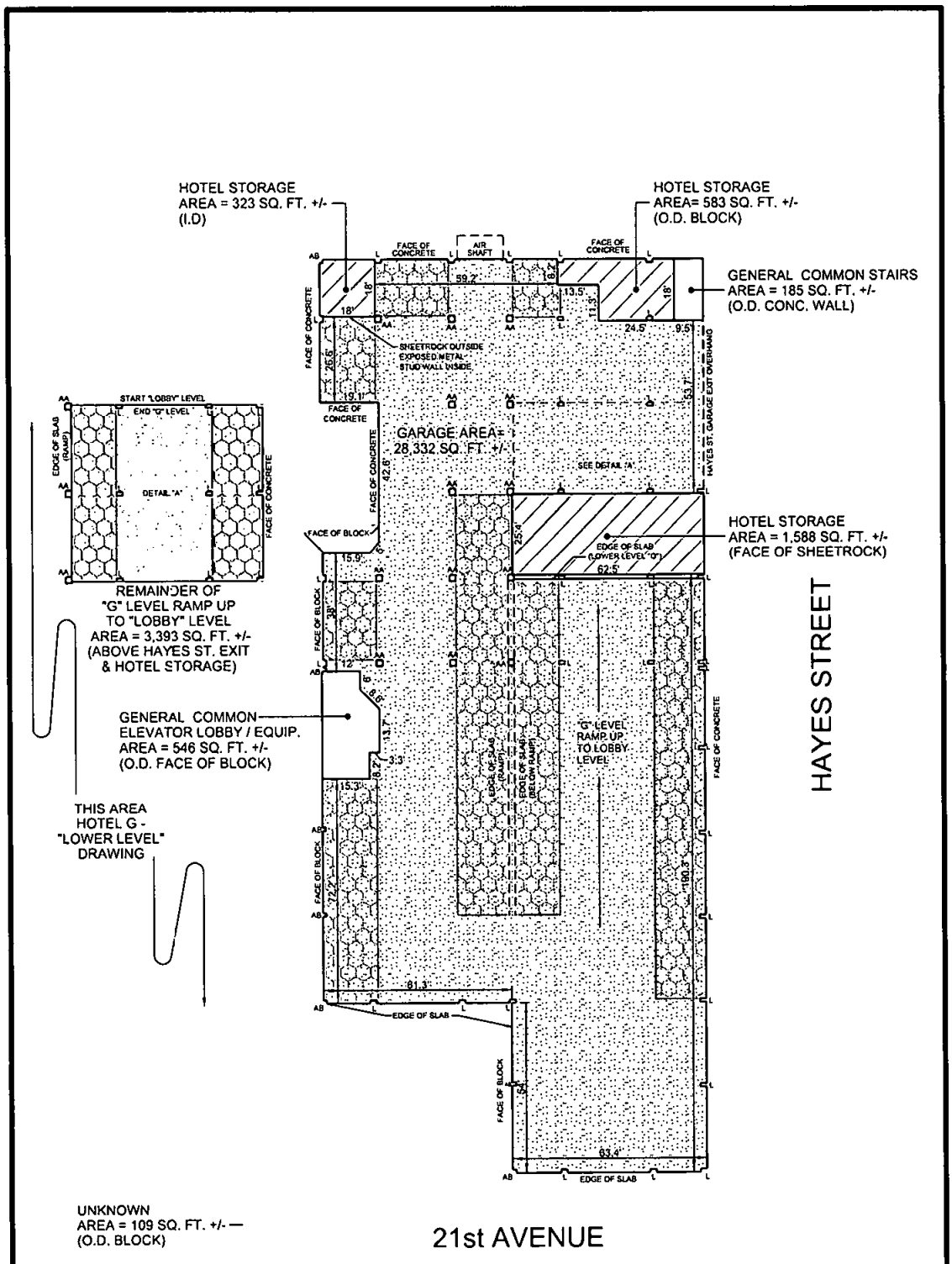
GARAGE - 21ST AVENUE ENTRANCE
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
| MFS | BTT |

DRAWING NO.: 26

| PROJECT NO.: | DATE: |
|---|---|
| 3671201 | 12/17/2019 |

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COLUMNS

| | | |
|---|---|---|
| L | ▭ | 2' X 1' - FACE OF CONCRETE |
| AA | □ | 2' X 2' - FACE OF CONCRETE |
| AB | ▫ | 1' X 1' - FACE OF CONCRETE |

AREAS

TOTAL GARAGE AREA = 31,725 SQ. FT. +/-
TOTAL HOTEL AREA = 2,494 SQ. FT. +/-
TOTAL GENERAL COMMON AREA = 803 SQ. FT. +/-

LEGEND

GARAGE
GENERAL COMMON
HOTEL
VALET EASEMENT

40 20 0 20 40

SCALE: 1" = 40'

12/17/2019
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BARGE DESIGN SOLUTIONS
615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)254-1500 FAX (615) 255-6572

LOEWS HOTEL CONDO EXHIBITS

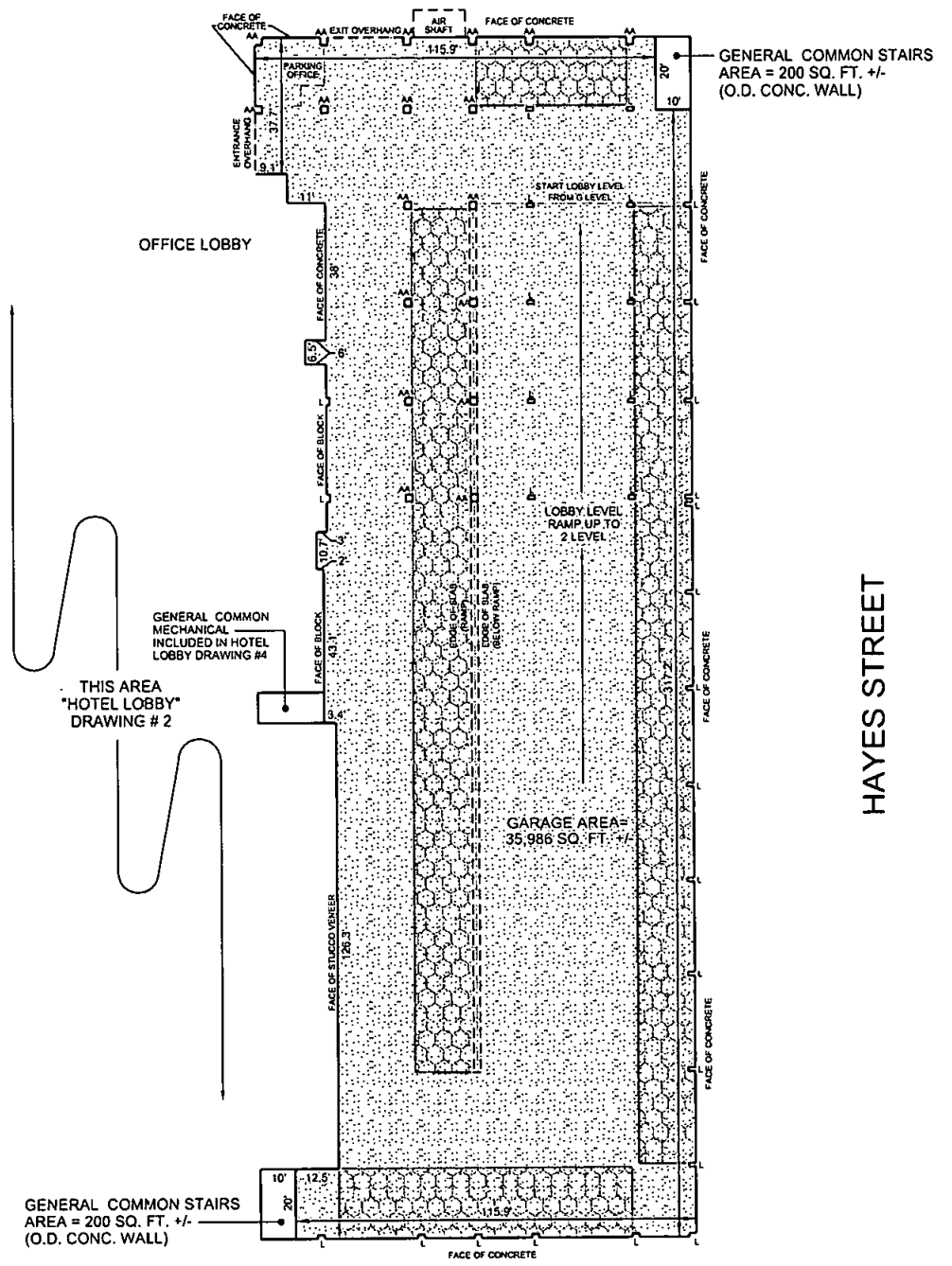
GARAGE - G "LOWER LEVEL"
HAYES STREET EXIT
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
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DRAWING NO.: 27

| PROJECT NO.: | DATE: |
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COLUMNS

L ▭ 2' X 1' - FACE OF CONCRETE

AA ▢ 2' X 2' - FACE OF CONCRETE

AREAS

TOTAL GARAGE AREA = 35,986 SQ. FT. +/-

TOTAL GENERAL COMMON AREA = 464 SQ. FT. +/-

LEGEND

GARAGE

GENERAL COMMON

VALET EASEMENT

40 20 0 20 40

SCALE: 1" = 40'

12/17/2019
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# LOEWS HOTEL CONDO EXHIBITS

GARAGE - LOBBY "MAIN FLOOR"

## 2100 WEST END AVENUE

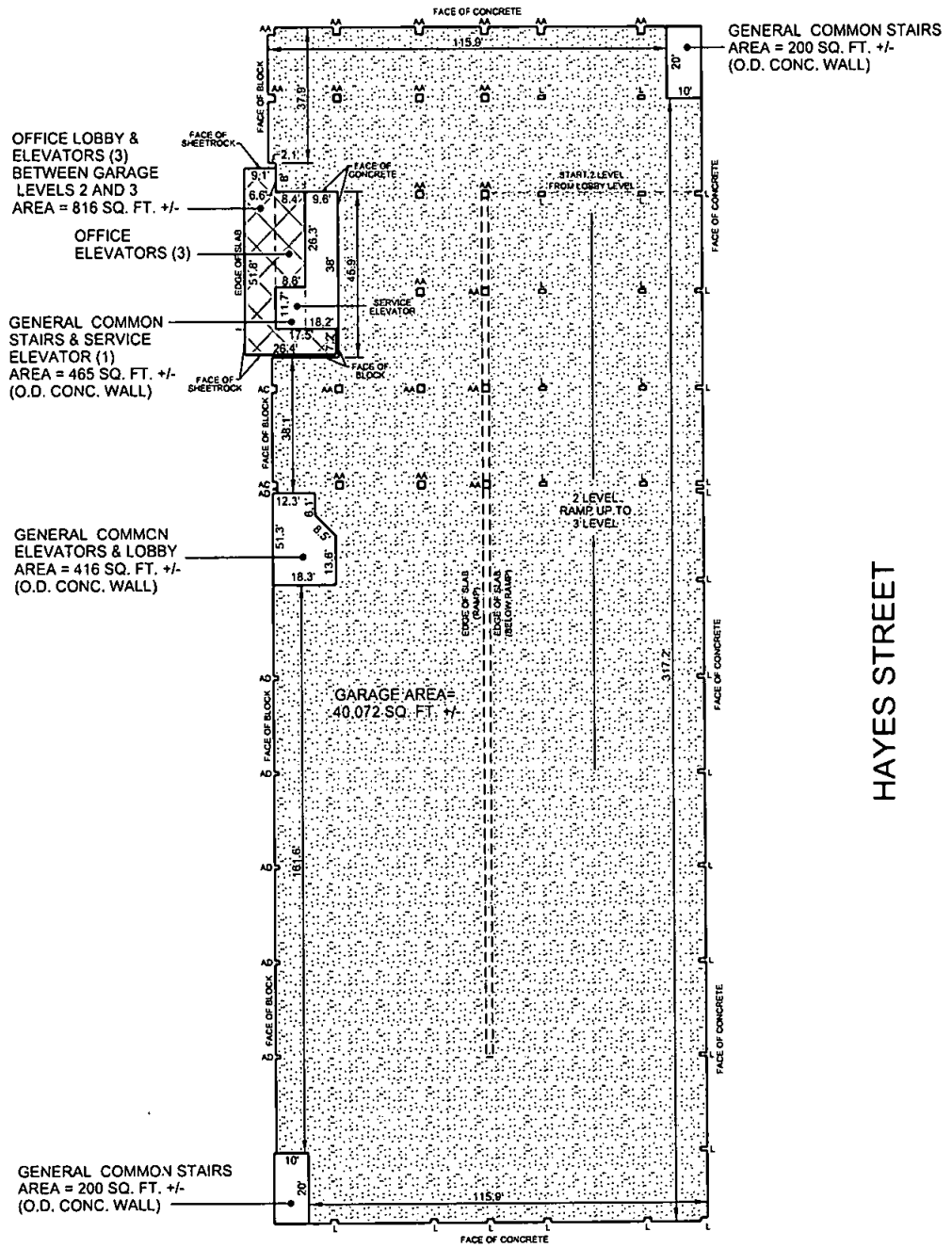
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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COLUMNS

| | | |
|---|---|---|
| L | ▭ | 2' X 1' - FACE OF CONCRETE |
| AA | □ | 2' X 2' - FACE OF CONCRETE |
| AC | ▯ | 2' X 1.4' - FACE OF CONCRETE |
| AD | ○ | 1.4' X 1' - FACE OF CONCRETE |

AREAS

TOTAL GARAGE AREA = 40,072 SQ. FT. +/-
TOTAL GENERAL COMMON AREA = 1,357 SQ. FT. +/-
TOTAL OFFICE AREA = 816 SQ. FT. +/-

LEGEND

GARAGE
OFFICE
GENERAL COMMON

40 20 0 20 40

SCALE: 1" = 40'

12/17/2019
F:\36\36712\3671201\04_CAD\SURV\3671201_EXH.dgn

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LOEWS HOTEL CONDO EXHIBITS

GARAGE - 2 "OFFICE/PARKING 525'-6" "

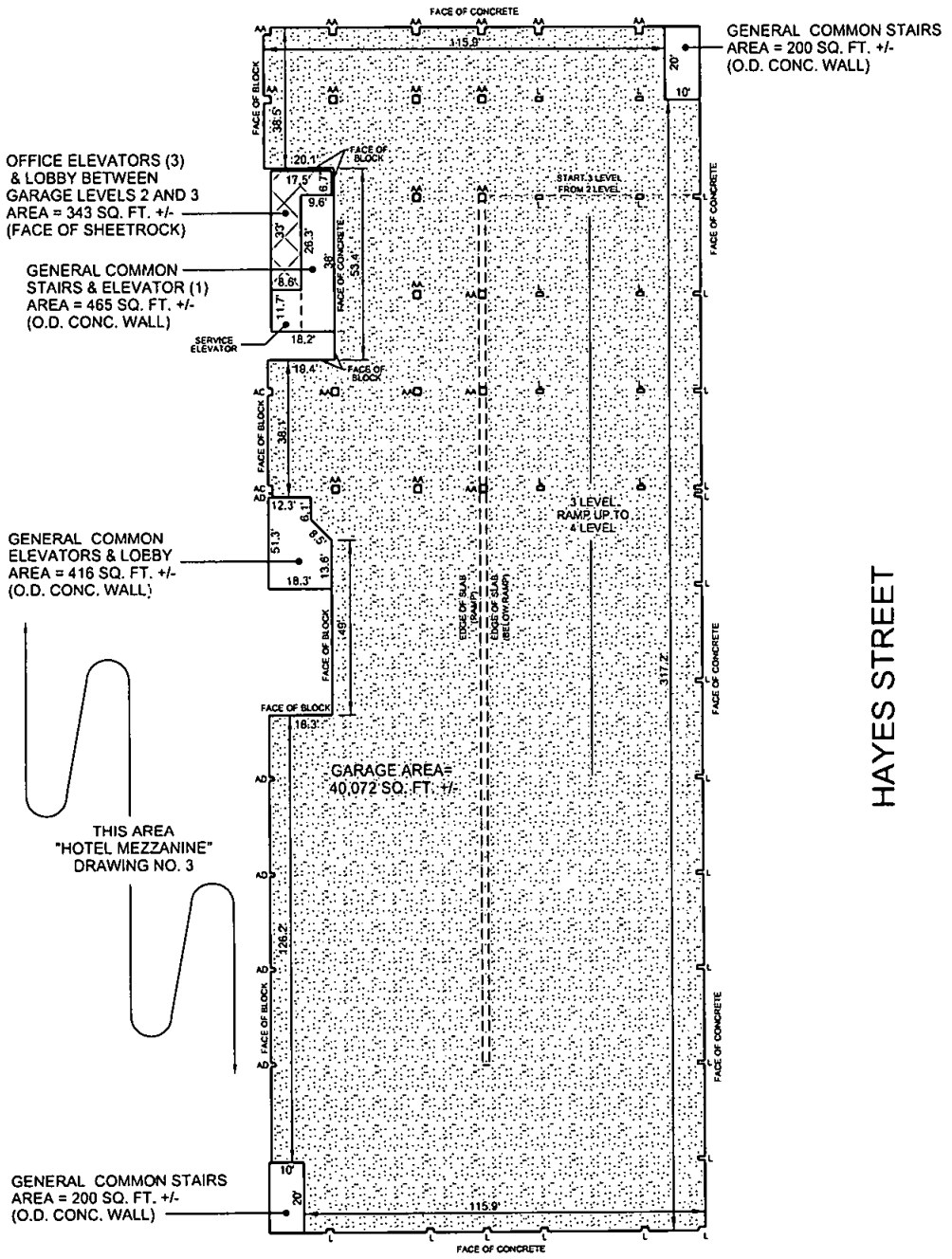
2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
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| MFS | BTT |

DRAWING NO.: 29

| PROJECT NO.: | DATE: |
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COLUMNS

| | | |
|---|---|---|
| L | ▭ | 2' X 1' - FACE OF CONCRETE |
| AA | □ | 2' X 2' - FACE OF CONCRETE |
| AC | ▯ | 2' X 1.4' - FACE OF CONCRETE |
| AD | ▭ | 1.4' X 1' - FACE OF CONCRETE |

AREAS

TOTAL GARAGE AREA = 39,302 SQ. FT. +/-
TOTAL GENERAL COMMON AREA = 1,353 SQ. FT. +/-
TOTAL OFFICE AREA = 343 SQ. FT. +/-

LEGEND

GARAGE
OFFICE
GENERAL COMMON

40 20 0 20 40

SCALE: 1" = 40'

12/17/2019
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LOEWS HOTEL CONDO EXHIBITS

GARAGE - 3 "OFFICE/PARKING 534'-0" "

2100 WEST END AVENUE

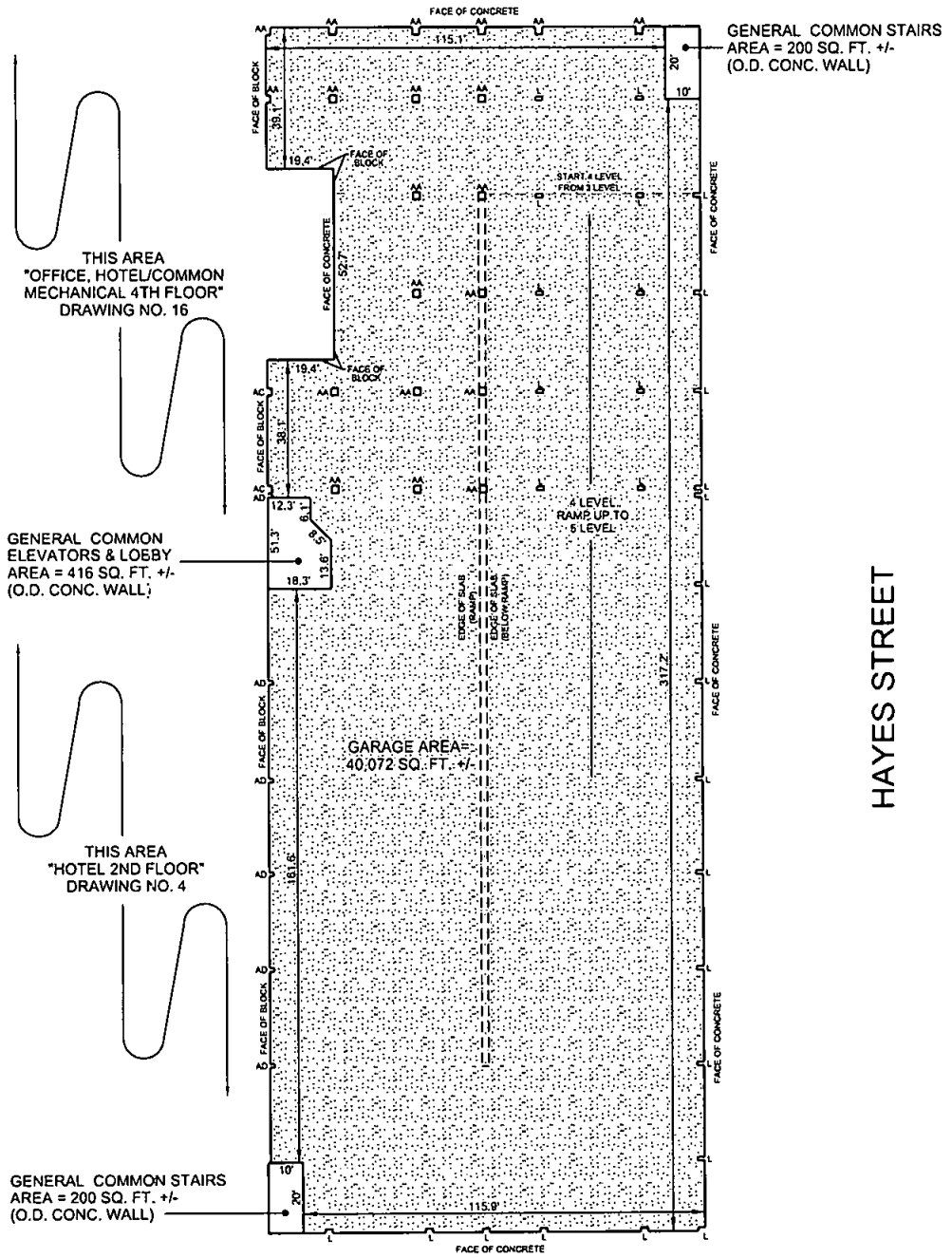
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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DRAWING NO.: 30

| PROJECT NO.: | DATE: |
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COLUMNS

| | | |
|---|---|---|
| L | ▭ | 2' X 1' - FACE OF CONCRETE |
| AA | □ | 2' X 2' - FACE OF CONCRETE |
| AC | ▯ | 2' X 1.4' - FACE OF CONCRETE |
| AD | ▭ | 1.4' X 1' - FACE OF CONCRETE |

AREAS

TOTAL GARAGE AREA = 39,937 SQ. FT. +/-

TOTAL GENERAL COMMON AREA = 888 SQ. FT. +/-

LEGEND

GARAGE

GENERAL COMMON

40 20 0 20 40

SCALE: 1" - 40'

12/17/2019
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615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)254-1500 FAX (615) 255-6572

LOEWS HOTEL CONDO EXHIBITS

GARAGE - 4 "OFFICE/PARKING 542'-6' "

2100 WEST END AVENUE

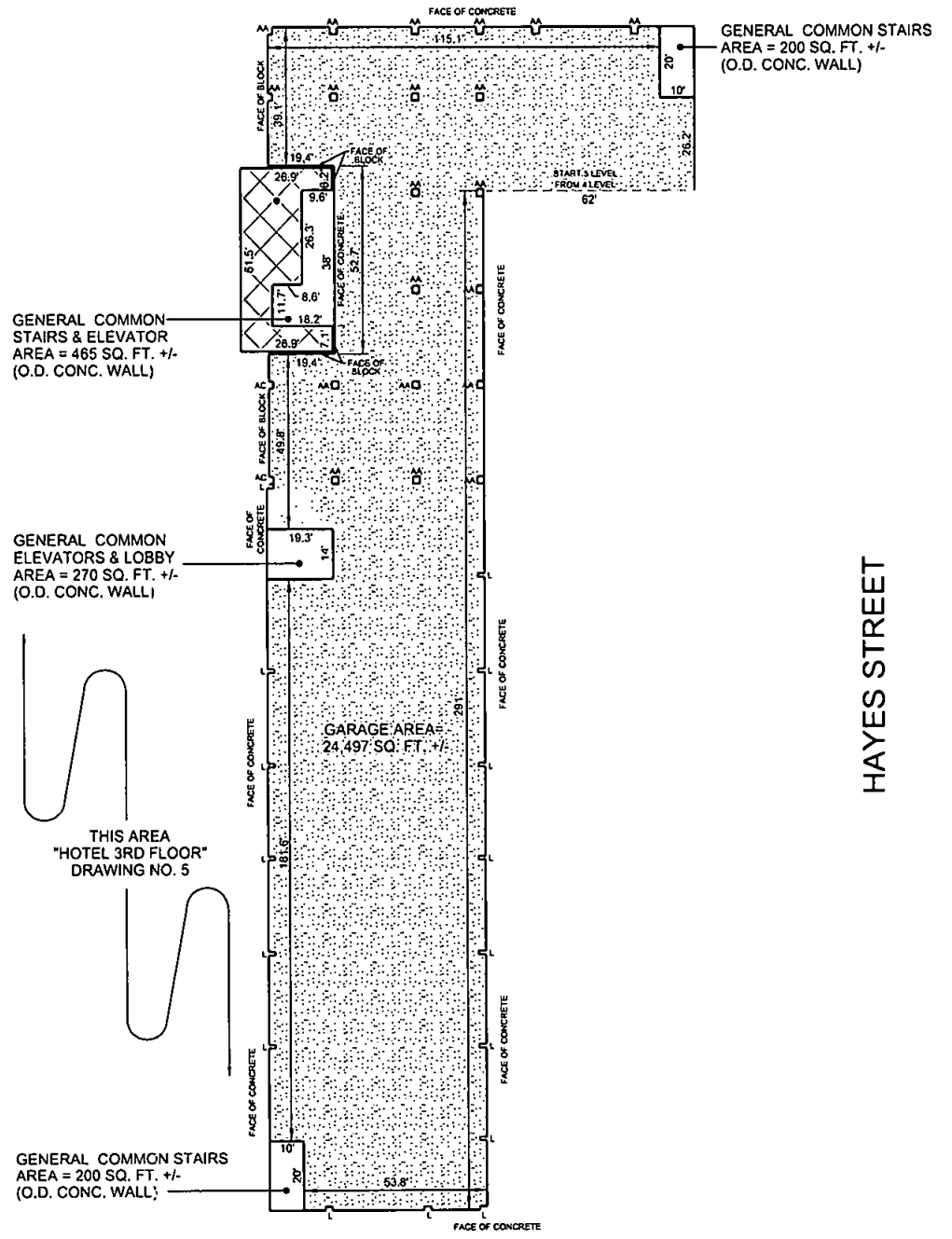
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
| MFS | BTT |

DRAWING NO.: 31

| PROJECT NO.: | DATE: |
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COLUMNS

L ▭ 2' X 1' - FACE OF CONCRETE
AA ▯ 2' X 2' - FACE OF CONCRETE
AC ▯ 2' X 1.4' - FACE OF CONCRETE

AREAS

TOTAL GARAGE AREA = 24,497 SQ. FT. +/-
TOTAL GENERAL COMMON AREA = 1,135 SQ. FT. +/-
TOTAL OFFICE AREA = 943 SQ. FT. +/-

LEGEND

GARAGE
OFFICE
GENERAL COMMON

40 20 0 20 40

SCALE: 1" - 40'

12/17/2019
F:\36\36712\3671201\04_CAD\SURV\3671201_EXH.dgn

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615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)254-1500 FAX (615) 255-6572

LOEWS HOTEL CONDO EXHIBITS

GARAGE - 5 "OFFICE/PARKING 551'-0" "

2100 WEST END AVENUE
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

| DRAWN BY: | CHECKED BY: |
|---|---|
| MFS | BTT |

DRAWING NO.: 32

| PROJECT NO.: | DATE: |
|---|---|
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## EXHIBIT "D"

## DISCLOSURES

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

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

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

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

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

(f) 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 multiple 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, 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, 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 renovations or alterations to 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 "E"

## EXCLUSIVE PARKING AREAS AND SPECIFIC REGULATIONS

This Exhibit E ("Special Parking Regulations") sets forth certain rules, regulations and covenants that relate to the Garage Unit and the utilization of the Garage Unit by the Owners. The following terms and provisions are made a part of the Declaration:

1. Office Team Members and Hotel Team Members. For purposes of this Declaration and these Special Parking Regulations, the term "Office Team Members" and "Hotel Team Members" shall have the following meanings:

(a) "Office Team Members" shall mean and refer to the Occupants of the Office Unit (or any portion thereof) and their respective tenants, officers, agents, employees or licensees; it being expressly understood that Office Team Members shall not include any customers, vendors, suppliers, guests, invitees or contractors.

(b) "Hotel Team Members" shall mean and refer to the Occupants of the Hotel Unit (or any portion thereof) and their respective tenants, officers, agents, employees or licensees; it being expressly understood that Hotel Team Members shall not include any customers, vendors, suppliers, guests, invitees or contractors.

2. The Owner of the Garage Unit shall at all times reserve not more than three hundred fifty (350) parking spaces (the "Maximum Office Parking Number") for vehicles to park in the Garage Unit for exclusive use by Office Team Members (the "Reserved Office Spaces"). The number of Reserved Office Spaces shall not exceed the Maximum Office Parking Number. At the beginning of each calendar quarter, the Owner of the Office Unit shall provide the Owner of the Garage Unit with a written notice (the "Quarterly Office Parking List and Notice") setting forth (i) the Parking List for the Office Unit and (ii) the number of parking spaces to be reserved for the Office Unit (to the extent such number is less than the Maximum Office Parking Number). In connection with the delivery of the Quarterly Office Parking List and Notice, the Owner of the Office Unit shall deliver to the Owner of the Garage Unit the Reserved Parking Fee Amount (defined below) for the applicable calendar quarter.

3. The Owner of the Garage Unit shall at all times reserve not more than one hundred fifty (150) parking spaces (the "Maximum Hotel Parking Number") for vehicles to park in the Garage Unit for exclusive use by Hotel Team Members (the "Reserved Hotel Spaces"). The number of Reserved Hotel Spaces shall not exceed the Maximum Hotel Parking Number. At the beginning of each calendar quarter, the Owner of the Hotel Unit shall provide the Owner of the Garage Unit with a written notice (the "Quarterly Hotel Parking List and Notice") setting forth (i) the Parking List for the Hotel Unit and (ii) the number of parking spaces to be reserved for the Hotel Unit (to the extent such number is less than the Maximum Hotel Parking Number). In connection with the delivery of the Quarterly Hotel Parking List and Notice, the Owner of the Hotel Unit shall deliver to the Owner of the Garage Unit the Reserved Parking Fee Amount (defined below) for the applicable calendar quarter.

4. The Owner of the Garage Unit shall at all times reserve not less than one hundred (100) parking spaces for vehicles in the Garage Unit that are reserved for use in connection with Valet Services (the "Valet Parking Area"). The Valet Parking Area shall be located on the ground level and main level in the areas so designated on pages 27 and 28 of the Floor Plans, and the Valet Parking Area shall be reserved for the exclusive use and enjoyment of the customers, vendors, suppliers, guests, invitees or contractors of the Owner of the Hotel Unit or the Owner of the Office Unit. The parking fees for vehicles parked in the Valet Parking Area shall be determined by the Owner of the Garage Unit, subject to the written approval of the Owner of the Hotel Unit, but shall at all times be consistent with (and not in excess of) market rates for valet parking for hotel occupants in similarly situated hotels in Nashville, Tennessee.

5. As used herein, the "Reserved Parking Fee" shall mean the monthly rate, as such may be modified from time to time by the Owner of the Garage Unit, but which shall never exceed the market rates for monthly parking with respect to similarly situated hotels and offices in the midtown Nashville, Tennessee business district.

6. The Owner of the Garage Unit may engage the services of a third-party manager for the operation of the Garage Unit (the "Parking Manager"). The Parking Manager must be approved in writing by the Owner of the Hotel Unit and must be a reputable and established commercial parking management company with existing contracts (under which there are no defaults) to manage not less than ten (10) urban, first class hotel properties providing valet parking services.

# EXHIBIT "F"

# BY-LAWS

## BYLAWS
## OF
## VANDERBILT PLAZA CONDOMINIUM ASSOCIATION, INC.

## ARTICLE I

## Members

**Section 1. Eligibility.** The Members of Vanderbilt Plaza Condominium Association, Inc., a Tennessee nonprofit corporation (the "**Association**"), shall consist of the respective Owners of Units of the Condominium known as Vanderbilt Plaza, A Condominium, located in Nashville, Davidson County, Tennessee (the "**Property**"), established by that certain Declaration of Condominium for Vanderbilt Plaza, a Condominium (the "**Declaration**"), recorded in the Register's Office for Davidson County, Tennessee. Capitalized terms not defined herein shall have the meaning set forth in the Declaration. The words "Member" or "Members" as used in these Bylaws means and shall refer to Owners of Units, as applicable.

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

**Section 3. Regular Meetings.** The first regular annual meeting of Members (the "**First Meeting**") may be held, subject to the terms hereof, on any date, at the option of the Board. Subsequent to the First Meeting, there shall be a regular annual meeting of Members. Attendance at a regular annual meeting may be in person, by telephone or by proxy.

**Section 4. Special Meetings.** Special meetings of the Members may be called by the unanimous consent of the Directors of the Board, or by Members having one-hundred percent (100%) of the votes entitled to be at such meeting. Attendance at a special meeting may be in person, by telephone or by proxy.

**Section 5. Notice of Meetings.** Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Secretary shall cause notice to be hand-delivered, sent prepaid by United States mail to the address of each Unit or by United States mail, facsimile or electronically, to any other physical or electronic address designated in writing or by electronic means by the Owner of each Unit to the Board for such purpose. The notice of any meeting must state the time, place, and method of attendance of or at the meeting, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget

changes, and any proposal to remove a Director or officer. Notice may be waived in writing signed by all Members.

**Section 6. Voting.** The number of votes allocated to each Unit shall be as set forth in **Exhibit B** of the Declaration. If any Owner of a Unit consists of more than one Person, the voting rights of such Unit shall not be divided but shall be exercised as if the Owner of such Unit consisted of only one Person in accordance with the proxy or other designation made by the Persons constituting the Owners of such Unit. Cumulative voting is not permitted.

Any Member in default in the payment of assessments shall not be entitled to exercise the right to vote until such default is cured. A Member shall be deemed to be in default if assessments are not paid within fifteen (15) days after receipt of notice of assessment. A Member may protest the amount of the assessment, but the assessment must be paid during the pendency of the protest.

**Section 7. Quorum.** A quorum of Members for any meeting shall be Members represented in person or by proxy holding fifty percent (50%) of the votes entitled to be cast at such meeting.

**Section 8. Proxies.** Votes allocated to a Unit may be cast pursuant to proxy duly executed by an Owner. The duration of a proxy is governed by Section 48-57-205 of the Tennessee Nonprofit Corporation Act.

## ARTICLE II

## Board of Directors

**Section 1. Number, Election and Term of Office.** The initial Board of Directors of the Association (sometimes referred to herein as the "**Board**") shall consist of three (3) members (hereinafter referred to as "**Directors**") as named in the Charter who shall serve until the first regular annual meeting of the Members. Directors shall be deemed to be selected at the regular annual meeting of Association Members by the Owners of the Units in accordance with the Declaration. The Owner of the Hotel Unit shall appoint one (1) duly authorized agent or representative as a Director; the Owner of the Office Unit shall appoint one (1) duly authorized agent or representative as a Director; and the Owner of the Garage Unit shall appoint one (1) duly authorized agent or representative as a Director. The voting rights of each Director shall be in accordance with the number of votes allocated to the applicable Unit as set forth in **Exhibit B**. In the event a Unit is subdivided into additional Units, the Owners of the Units resulting from such resubdivision will elect the Director(s) originally assigned to the Unit based on the number of votes allocated to each Unit resulting from the resubdivision as determined in accordance with the Declaration. In the event that additional Units are created, but not through the resubdivision of a Master Unit, then in such event the Owners may amend the Bylaws as necessary or required, in accordance with the amendment provisions set forth in the Declaration. The term of each Director shall be one (1) year and each Director is permitted to serve an unlimited number of successive terms. However, a Director continues to serve until a successor is selected as provided herein.

**Section 2. Qualification.** Members of the Board are not required to be Owners of a Unit.

**Section 3. Vacancies.** Any vacancy occurring in the Board shall be filled by the Owner of the Unit authorized to select such Director.

**Section 4. Meetings.** A regular annual meeting of the Board shall be held within seven (7) days following the regular annual meeting of Members. Special Meetings of the Board shall be held upon a call by the President or by three (3) members of the Board on not less than forty-eight (48) hours' notice in writing to each Director. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute waiver of notice.

**Section 5. Removal.** Only the Owner or a Majority of the collective votes of the Owners entitled to appoint a particular Board member in accordance with *Section 1* above may remove that Board member. Removal is accomplished by the Owner or a Majority of the votes of the collective Owners electing to remove that Board member.

**Section 6. Compensation.** Directors shall receive no compensation, unless expressly provided in resolutions duly adopted by the Owners.

**Section 7. Quorum.** Directors representing not less than 50% of the votes entitled to be cast at the meeting of Directors shall constitute a quorum of the Board.

**Section 8. Powers and Duties.** The Board shall have the powers and duties set forth in the Charter.

**Section 9. Non-Delegation.** Nothing in these Bylaws shall be deemed to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Members. Except as expressly authorized by the Act or the Declaration or these Bylaws, the Directors and officers may not enter into any contractual agreement, or bind the Association or any Member, or sue or be sued in any capacity other than in its operating or management capacity.

## ARTICLE III

## Officers

**Section 1. Designation.** At each regular annual meeting, the Directors present shall elect the following officers of the Association by unanimous vote:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Members;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Members, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; the office of Secretary and Treasurer may be held by one person;

(d) such additional officers as the Board shall see fit to elect.

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

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

**Section 4. Vacancies.** Vacancies in any office shall be filled by the Board by a Majority vote (based upon the number of votes entitled to be cast by the remaining members) of the remaining members at a special meeting of the Board. Any officer elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by Majority vote of the members of the Board.

**Section 5. Compensation.** The officers shall receive no compensation, unless expressly provided in a resolution duly adopted by the Owners.

## ARTICLE IV

## Contractual Powers

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

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

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

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

## ARTICLE V

## Amendments

**Section 1. Bylaws.** These Bylaws may be amended or modified from time to time by action or approval of Owners holding not less than sixty-seven percent (67%) of the votes allocated under the Declaration. Any such amendments may be recorded by the Secretary or the President in the Register's Office for Davidson County, Tennessee.

**Section 2. Declaration.** The Declaration may be amended as set forth in Article 22 of the Declaration.

## ARTICLE VI

## Indemnification

**Section 1. General.** The Association shall indemnify and hold harmless each of its Directors and officers, each member of any committee appointed pursuant to the Declaration or the Bylaws of the Association, and the Board and Declarant, against all contractual and other liabilities to others arising out of contracts made by or other acts of such Directors, Board, officers, committee members or Declarant, on behalf of the Owners of the Units, or arising out of their status as Directors, Board, officers, committee members or Declarant, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director, officer, Board, committee member or Declarant may be involved by virtue of such persons being or having been such Director, officer, Board, committee member, or Declarant; provided, however, that such indemnity shall not be operative with respect to:

(a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such Director, officer, Board, committee member, or Declarant, or

(b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, officer, Board, committee member, or Declarant.

**Section 2. Success on Merits.** To the extent that the Declarant or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the Bylaws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

**Section 3. Advance Payment.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or

payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association.

**Section 4.** **Miscellaneous.** The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of the Owner of any Unit arising out of any contract made by or other acts of the Directors, Board, officers, members of such committees, or Declarant, or out of the aforesaid indemnity in favor of the Directors, Board, officers, members of such committees, or Declarant, shall be limited to such proportion of the total liability hereunder as such Unit's percentage of interest in the Common Elements bears to the total percentage interest of all the Units in the Common Elements. The liability of each Owner of a Unit thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Units in the Common Elements. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of Members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Declarant or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.

## ARTICLE VII

## Conflicts

These Bylaws are set forth to comply with the requirements of the Act as it may be amended from time to time, and to allow the Bylaws to control in specific situations where such law allows. In case any of the Bylaws conflict with the provisions of the Act or of the Declaration, the provisions of the Act or the Declaration, as the case may be, shall control.