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and return to:

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Nashville, Tennessee 37206
Attn: Steven T. Morris

_____ [Space above reserved for recorder use only] _____

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

THIS DECLARATION OF DEVELOPMENT is made by 5916 MORROW HOLDING CO., LLC, a Tennessee limited liability company ("Developer"), for itself and its successors, grantees and assigns.

W I T N E S S E T H:

WHEREAS, Developer is the owner in fee simple of real property and certain improvements, lying and situated in Nashville, Davidson County, Tennessee, as more particularly set forth in Exhibit "A" attached hereto (the "Submitted Property"), subject to the reservations, restrictions, and easements of record or reserved herein, which property will consist of the easements, improvements and fixtures located on the Submitted Property, described in this Declaration, consisting in part of that certain two (2) story building developed by Developer, all as more particularly described below; and,

WHEREAS, Developer has developed four (4) residential units and two (2) commercial units and related facilities within the Submitted Property; and,

WHEREAS, Developer desires to submit the Submitted Property, related improvements and facilities, and certain additional real property, as expressly described in this Declaration, to ownerslip as a horizontal property regime pursuant to T.C.A. § 66-27-101 et. seq. (the "Act").

NOW, THEREFORE, the Developer makes the following declarations:

ARTICLE I

DEFINITIONS

Section 1.1 As used in this Declaration and the exhibits hereto, and any amendments thereof, unless the context otherwise requires, the following definitions shall prevail:

"Act" means and refers to the Tennessee Horizontal Property Act, being T.C.A. Section 66-27-101, et seq., as amended from time to time.

"Assessment" means a share of the funds required for the payment of Common Expenses which, from time to time, are assessed against each Unit and the Unit Owner by the Association, and includes the terms "General Assessments," "Special Assessments," "Capital Improvement Assessments," and "Limited Common Element Assessments," as such terms are defined in Article IX of this Declaration.

"Association" means 60TH & MORROW Unit Owner's Association, Inc., a Tennessee not-for-profit corporation, the sole entity responsible for the management and operation of the Development, including the Common Elements thereof, its successors and assigns.

"Board of Directors" or "Board" means the Board of Directors of the Association.

"Building" shall mean that certain three (3) story building having an address of 5916 Morrow Road, Nashville, Tennessee, 37209, which comprises a portion of the Development and is depicted on the Development Plat.

"Bylaws" means the Bylaws of the Association, as amended from time to time, being more particularly described in Article VII and VIII of this Declaration. A copy of the Bylaws as initially adopted by the Board of Directors of the Association is attached hereto as Exhibit "C" and made a part hereof.

"Charter" means the Charter of the Association, as the same may be amended from time to time, being more particularly described in Article VII of this Declaration. A copy of the Charter as initially filed with the Secretary of State of Tennessee is attached as Exhibit "C" hereto and made a part hereof.

"Commercial Unit(s)" means any space shown on the Development Plat marked as "Commercial" or "Retail" which may be further identified by a number to distinguish one Commercial Unit from another.

"Common Elements" means the portions of the Development Property that are not included within the Units and any other items designated in this Declaration as constituting Common Elements, including those designated as such in Article III, Section 3.3(F) below, including, without limitation, those items defined as "Common Elements" in the Act.

"Common Expenses" means all expenses incurred by the Association to accomplish its duties as contemplated by this Declaration and the Act or as designated as a Common Expense pursuant to this Declaration. The Common Expenses shall be assessed against Units in the Development by the Association as authorized by the Act. For purposes of this Declaration, "Common Expenses" shall also include all reserves required by the Act or authorized and established by the Association, regardless of when such reserved funds were expended.

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"Common Surplus" means the excess of all receipts of the Association from this Development, including, but not limited to, assessments, rents, profits and revenue on account of the Common Elements, over and above the amount of Common Expenses of this Development.

"Development" means 60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS, which has been submitted to the form of ownership of property under which units are subject to ownership by one or more owners, and appurtenant to each Unit is an undivided interest in the common elements, all pursuant to the provision of the Act.

"Development Documents" means this Declaration, and all exhibits annexed hereto, as the same may be amended from time to time. The term "Development Documents" also may mean, where applicable, rules and regulations and other documents required pursuant to the Act as applicable to this Development unless the context otherwise requires, and notwithstanding that some or all of such documents or items may or may not be exhibits to the Declaration and/or recorded in the public records of Davidson County, Tennessee.

"Development Parcel" or "Parcel" means a Unit, together with the undivided share in the Common Elements which is appurtenant to the Unit.

"Development Plat" means the Development Plat of 60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS, attached hereto as Exhibit "B" and made a part hereof, recorded in the Register of Deeds Office for Davidson County, Tennessee, pursuant to the Act, with the recording of this document and constituting a part of this Declaration, as the same may be amended or otherwise modified or revised from time to time and recorded as provided for by the Act. The term "Plat" as used in this Declaration refers only to such plat and not to any subdivision plat under applicable Davidson County ordinances of which the Property may be a part from time to time.

"Development Property" or "Property" means and includes the improvements, easements and all other property interests that are expressly subjected to the horizontal property form of ownership pursuant to the terms of this Declaration.

"Unit" or "Unit" means each of the separate and identified units that are delineated in the Development Plat attached to this Declaration as Exhibit "B" and which are capable of exclusive ownership as contemplated by the Act. The physical boundaries of each Unit are as more particularly described in Article III of this Declaration.

"Declaration" means this instrument, as it may be amended from time to time.

"Developer" means 5916 MORROW HOLDING CO., LLC, a Tennessee limited liability company, and its successors and assigns, but does not include an owner or lessee of a Unit who has acquired his or her own Unit for his or her own occupancy or investment.

"Developer Control Period" means the time period in which Developer has the right to appoint directors and officers of the Association, which period shall terminate no later than the earlier of (A) the Developer no longer owns any Units, or (B) Developer's written surrender of its authority to appoint or remove officers and directors of the Association.

"Eligible Mortgage Holder" means the holder, insurer or guarantor of a first deed of trust on a Unit that has been duly recorded in the Register of Deeds Office for Davidson County, Tennessee, which has submitted a written request to the Association for notice with respect to any action that, pursuant to the terms of this Declaration, requires the consent of a specified percentage of Eligible Mortgage Holders, and provides to the Association in such notice its name and address, and the Unit number or address of the Unit on which the Eligible Mortgage Holder holds, insures or guarantees the first mortgage.

"Graphic Depiction" means the graphic depiction of the improvements located on the Submitted Property, as provided in Section 3.3(A) of this Declaration.

"Institutional Mortgagee" means a bank, state or federal savings and loan association, institutional investor, the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), federal or state agency, credit union, real estate investment trust, insurance company or pension fund authorized to do business in the United States of America, an agency of the United States government, a mortgage investment trust, or a lender generally recognized in the community as an institutional type lender, in any case holding a deed of trust on one or more Units or all or part of the Development Property and the successors or assigns of such entities.

"Laws" means all laws, statutes, ordinances, codes, regulations, and decrees (judicial or administrative), of all federal, state, or local governmental authorities, tribunals, or agencies.

"Limited Common Elements" means and includes those Common Elements that are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as described in the Development Documents, including without limitation the descriptions of the Limited Common Elements set forth in Article III, Section 3.3(G) of this Declaration.

"Management Agreement" means and refers to that certain agreement, if any, with the Management Firm for the operation and administration of the Development and the management of the Development Property, as the same may be amended and/or replaced from time to time.

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"Management Firm" means and refers to the then-current firm engaged to provide management services to the Development Property and the Common Elements pursuant to the Management Agreement.

"Occupant" means any person or persons, other than the Unit Owner, in possession of a Unit from time to time, including tenants and lessees of a Unit Owner.

"Parking Area" means that certain parking area that is a part of the Development Property. The Parking Area contains parking spaces assigned to and available for use by Unit Owners, subject to the provisions of this Declaration and as shown on the Development Plat.

"Person" means an individual, corporation, firm, association, partnership, limited liability company, trust or other legal entity.

"Residential Unit" means all Units except for any Commercial Unit as defined above.

"Unit" means that part of the Development Property which is subject to exclusive ownership and consists of improvements as described in Article III herein below.

"Unit Owner," "Owner of a Unit" or "Parcel Owner" means the record titleholder of a Unit within the Development but shall not include a Person who is only a holder of a deed of trust.

"Utility" or "Utilities" means all public and private utilities of every kind that either are or may hereafter be furnished or furnishable to the Development Property, including without limitation potable water, wastewater, irrigation or graywater, electricity, gas, telephone (including voice or data transmission utilities), wastewater and stormwater drainage, cable television and/or installation of a master television antenna system, lighting and illumination, transportation, and other systems, and includes all facilities necessary or desirable for the transmission, handling or provision of any such Utility or Utilities, including pipes, wires, conduits, cables, lines, wires, panels, boxes, switching equipment, control equipment and structures, and related facilities and equipment of every kind.

Unless the context otherwise requires, all other terms used in this Declaration shall be assumed to have the meaning attributed to such term by the applicable definitional section of the Act as of the date this Declaration is recorded.

ARTICLE II

NAME

The name by which this Development is to be identified is 60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS.

ARTICLE III

SUBMISSION TO HORIZONTAL PROPERTY ACT AND DESCRIPTION OF DEVELOPMENT

Section 3.1 Property Submitted to Horizontal Property Act. Developer hereby submits the real estate, easements and rights described in Exhibit "A" attached hereto and made a part hereof, together with all improvements thereon, to the Horizontal Property Act, in the manner provided for in the Act as it exists on the date of recordation hereof.

Section 3.2 Submitted Property Subject to Certain Recorded Encumbrances. The Submitted Property is subject to all easements, reservations, limitations, prohibitions, dedications, and restrictions of record.

Section 3.3 Description of the Development. The Development shall consist of four (4) Residential Units and two (2) Commercial Units (as hereinafter described).

A. The Development Plat of the Submitted Property, a graphic depiction of the improvements located thereon (including the Units and the Building in which they are located) (the "Graphic Depiction"), and a plot plan and floor plans showing the improvements thereon and identifying each Unit, the Common Elements, and the Limited Common Elements, their relative locations and approximate dimensions, are attached hereto as Exhibit "B." Developer is hereby authorized to make such changes in the plans and specifications of all improvements to the Development as Developer may deem necessary or desirable; provided, however, that such changes do not conflict with the Act.

B. The Graphic Depiction and the Development Plat, together with this Declaration, are sufficient in detail to identify Units, Common Elements, and Limited Common Elements and their relative location and dimensions.

C. The Development is a mixed use, commercial and multi-family residential building that exists on the Submitted Property.

D. Types of Units. The Units shall be known and numbered as described in Exhibit "B." The Development contains the following Unit types, identified below:

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(1) Residential Units. Four (4) in number, located as shown on the Development Plat. Residential Units may also be used as live/work spaces as permitted by applicable law. If used for a commercial purpose, residential units must comply with the restrictions on commercial use contained herein.

(2) Commercial Units. Two (2) in number, located as shown on the Development Plat.

E. Units and Unit Boundaries. The term "Unit" or "Units" as the case may be, shall mean and include the Units which are designated in Exhibit "B" to this Declaration. Each Unit shall include that part of the Building containing the Unit that lies within the following boundaries:

(1) Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

(i) Upper Boundaries. The horizontal plane of the lowest surface of the unfinished ceiling slab. In a Unit containing a room in which the ceiling is raised above the level of the ceiling in the rest of the Unit, the ceiling slab shall include the vertical slab or wall connecting the raised ceiling with the ceiling of the remaining portion of the Unit, and the upper boundary shall include the plane of the unfinished surface of the vertical slab or wall of the raised ceiling that joins the planes of the lowest surfaces of the unfinished horizontal portions of the ceiling slabs.

(ii) Lower Boundaries. The plane of the lowest surfaces of the unfinished floor slab. In a Unit containing a room in which the floor is raised above the level of the floor in the rest of the Unit, the floor slab shall include the vertical slab or wall connecting the raised floor with the floor of the remaining portion of the Unit, and lower boundary shall include the plane of the unfinished surface of the vertical slab or wall that joins the planes of the lowest surfaces of the unfinished horizontal portions of the floor slabs.

(iii) Stairwells. Any stairwells within the boundaries of a Unit, as set forth above, or which connect the upper and lower floors of Loft Units shall be a part of the Unit.

(iv) Fixtures, Mechanical Systems, Etc. All fixtures, mechanical systems and equipment installed for the sole and exclusive use of the Unit shall be deemed a part of the Unit.

(v) Interior Divisions of Living Space. All spaces, walls, interior partitions, stairways, fixtures and other improvements within the boundaries of a Unit as described above are a part of such Unit. Nonstructural interior walls shall not be considered a boundary of the Unit. All interior doors adjacent to interior hall ways shall be deemed a part of the Unit.

(2) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the exterior walls bounding the Unit (as extended adjacent to the innermost surfaces of the exterior windows and their frames), extended to their planar intersections with each other and with the upper and lower boundaries, including all surfaces of the exterior windows (and their frames), but excluding therefrom exterior vents and other adjacent structural elements.

(3) Special Unit Considerations.

(i) The Unit shall not be deemed to include pipes, wires, conduits, or other public or private Utility lines running through the respective Units which are utilized for or serve more than one Unit, which items are hereby made a part of the Common Elements of the Development.

(ii) All exterior windows (and their window frames) are hereby declared to be a part of the Unit to which they are appurtenant; provided, however, that any maintenance of exterior windows, as well as repair of broken glass or window frames from time to time, shall be performed by the Association in a uniform and attractive manner, at the sole expense of the Unit Owner, which expense the Unit Owner shall pay promptly to the Association upon receipt of a statement for any such repairs.

(iii) In connection with the design and construction of each Unit and the Development, each Unit Owner, by acceptance of a deed conveying title to a Unit in the Development, shall be deemed to have agreed as follows:

1) No modification, decoration or customization of the Unit by any Unit Owner shall involve any core drilling or penetration of the floor of the Unit, nor any alteration of the Common Elements of the Development, unless expressly authorized, in writing, in the manner provided in this Declaration.

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2) To the fullest extent permitted by Tennessee law, Developer makes no warranty with respect to cosmetic conditions affecting the Building or any Unit, unless the cosmetic conditions resulted from a defect in an element warranted under applicable Tennessee law. "Cosmetic conditions" means aesthetic imperfections that do not affect the working condition or functionality of an item or improvement within a Unit, including discoloration of floor coverings, wall papers, or window treatments; or minor scratches, cracks, chips, dents, scrapes and caulking imperfections in walls, flooring material, tile, fixtures or mirrors.

F. Common Elements. The Common Elements shall consist of the following:

(1) The Submitted Property (other than the Units);

(2) All parts of the Development that are not included in the Units;

(3) Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of Utility services, heating and cooling and/or ventilation to the Units and to the Common Elements or the Building;

(4) Easements of support in every portion of a Unit that contributes to the support of any other Unit or to the Building;

(5) Cross-easements for ingress, egress, support, maintenance, repair, replacement and Utilities;

(6) Easements for encroachments by the perimeter walls, ceilings and floors surrounding each Unit caused by the settlement or movement of the Building or by minor inaccuracies in building or rebuilding which may now exist or hereafter exist, and such easements shall continue until such encroachments no longer exist;

(7) Installations for the furnishing of Utility services to more than one Unit or to the Common Elements;

(8) Certain elevators, elevator shafts, elevator lobbies, trash receptacles, and stairwells, all as shown on the Graphic Depiction and Development Plat attached hereto as Exhibit "B," specifically excepting from the Common Elements those stairwells that are located within the boundaries of a Unit, if applicable;

(9) All walkways that are a part of the Development Property;

(10) All fixtures on property owned or held for the common use, benefit and enjoyment of all Unit Owners in the Development; and

(11) Certain utility infrastructures, paving, retaining walls, the foundation, roof, exterior walls of the Building, balconies, terraces, landscape areas, parking areas and lighting for same, heat exchanges for chilled water booster pumps, driveway areas, mail room, hallways, lobby, shafts, elevator, elevator shafts, elevator machine room, valve room, emergency generator room, electrical rooms, main communications room, mechanical rooms, maintenance room, control room, dumpster, trash receptacles, compactor/dumpster trash room, water meter room, concierge desk, fitness room, swimming pool, swimming pool equipment room, club room, limited access gated entry system, loading docks, and all lighting in any Common Elements.

Notwithstanding any provision of this Declaration to the contrary, Unit Owners shall not do anything within their Units or on the Common Elements that would adversely affect the safety or soundness of the Common Elements or any portion of the Development, or the Building.

G. Limited Common Elements.

(1) Description of Limited Common Elements. The Limited Common Elements shall consist of those portions of the Common Elements that are reserved for the use of certain Unit Owners or a certain Unit Owner, to the exclusion of other Unit Owners, and which are either designated as Limited Common Elements on the materials depicting the Development in Exhibit "B" attached hereto or are otherwise identified as Limited Common Elements in this Declaration. Such Limited Common Elements shall include, without limitation, the following items:

(i) The perpetual, exclusive easement to use the area of the exterior windows and doors adjacent to each Unit, and as more particularly described in the Graphic Depiction and Development Plat attached hereto as Exhibit "B", which easement shall be limited to the Owner of the Unit to which such windows and doors are attached;

(ii) The mailbox assigned to a particular Unit, to be initially assigned in the sole discretion of Developer, that is located within the Development; provided, however, that the mailbox shall not be replaced, altered or changed in any manner except in

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accordance with the color, style, design and quality of mailbox required by the Rules and Regulations of the Association;

(iii) Light and electrical fixtures outside the Unit or attached to the exterior wall of the Unit and which solely serve such Unit.

(iv) The hallways, elevator lobbies, and service elevator vestibules on commercial and residential floors, as more specifically shown on the Plat, are assigned as Limited Common Elements to the Residential Units or Commercial Units located on the floor upon which such hallways, elevator lobbies, and vestibules are located;

(v) The ground floor residential lobby and elevators, including the related elevator shafts and equipment, exclusively serving the Residential Units are assigned as Limited Common Elements to the Residential Units;

(vi) The portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as a Limited Common Element to the Unit or Units so served;

(vii) Any utility meter which serves only one (1) Unit is assigned as a Limited Common Element to the Unit so served;

(viii) Parking spaces are assigned as described in Exhibit "D" attached hereto and incorporated herein by reference and shown on the Plat. Parking spaces may be initially allocated or reallocated by amendment to this Declaration as provided in subparagraphs (2) and (3) below. In accordance with § 66-27-305(a)(6) of the Act, all such parking spaces may be allocated or reallocated as Limited Common Elements. No reallocation that affects the commercial spaces may be done without unanimous consent of Commercial Unit Owners; and

(ix) A balcony or a terrace attached to and exclusively serving a Unit, as more specifically shown on the Plat, is assigned as a Limited Common Element to the Unit so served.

(2) The Association's Board of Directors, without need for a membership vote, is hereby authorized to allocate and reallocate Limited Common Elements and Common Elements not previously assigned, provided that any such allocation or reallocation shall be made in accordance with the Act. A Common Element not previously allocated as a Limited Common Element may be so allocated and a Limited Common Element may be reallocated by the Board, without the need for a vote of the Association, upon written application to the Association by the Owner or Owners for whose exclusive use such Common Element is requested or whose use of the Limited Common Element previously allocated is directly affected. Upon such application, the Board shall prepare and execute an amendment to the Declaration allocating the Common Element as a Limited Common Element or reallocating the Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. For so long as Developer owns a Unit primarily for the purpose of sale, an amendment to allocate or reallocate a Common Element not previously allocated as a Limited Common Element shall be executed by the officers of the Association, if the request is made by Developer. The Board has the right to approve or disapprove any such request made by any Person other than Developer.

(3) For so long as Developer owns any Unit primarily for the purpose of sale, Developer shall have the right to allocate to Owners one (1) or more parking spaces and storage spaces to be allocated as Limited Common Elements pursuant to subparagraphs (ix) and (x) above. The proceeds of the allocation of parking spaces and storage spaces as Limited Common Elements shall belong to Developer.

The use and enjoyment of the Limited Common Elements shall be in accordance with the terms and provisions of this Declaration, the Articles, the Bylaws and any rules and regulations promulgated by the Association from time to time.

(4) Responsibilities of Unit Owners. Subject to the provisions of Section 3.3 G(1) above, any maintenance, repair or replacement relating to Limited Common Elements shall be performed by the Owner of the Unit to which appurtenant, at such Unit Owner's sole cost and expense, unless the contrary is expressly provided by this Declaration. Additionally:

(i) Each Unit Owner shall also be responsible for replacing the necessary light bulbs for the foregoing light fixtures with the same color and bulb wattage as initially installed by Developer, or as otherwise approved by the Association.

(ii) Each Unit Owner shall be solely responsible for maintaining all portions of the Unit intrusion system serving the Unit alone, including without limitation, all electrical lines and other facilities.

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(iii) In addition to any other rights of the Association set forth in this Declaration, should any maintenance, repair or replacement of a portion of the Limited Common Elements be necessary or desirable from time to time, then the Association shall have the right to perform the same for the account of the Unit Owner. In such event, the Association shall have the right to a lien upon the Unit on the same basis as a lien for assessments as set forth in this Declaration, to secure payment of all sums expended, together with interest thereon at the highest lawful rate costs and attorneys fees. The Association shall also have the right to direct the levy of an administrative fine against the Owner of the Unit, but only to the extent permitted by Section 20.13 below.

H. Insurance. Each Unit Owner shall be solely responsible for insuring any and all equipment, machinery, fixtures, furniture or other personal property installed or placed upon or within the Limited Common Elements appurtenant to the Unit by or at the request of the Unit Owner, as well as any other improvements located within such Limited Common Elements by or at the request of the Unit Owner, and the Association shall not have any duty or obligation to do so. Notwithstanding anything contained in the foregoing to the contrary, the Association shall have the sole obligation of maintaining adequate insurance to protect the Association and the Common Elements required to be insured by the Association pursuant to the terms of this Declaration or by law.

I. Easements. In addition to any other easements created under the Act or the terms of this Declaration, the following easements are expressly created, granted and reserved:

(1) Services and Utilities. Non-exclusive easements are hereby reserved unto the Developer, its successors and assigns, and also granted to the respective Utility providers from time to time, on, over, under, across and through the Common Elements and Limited Common Elements of the Development, to such extent as may be required for the provision of services and Utilities to all of the Development Property and the Building (whether or not included in the Development), including, but not limited to, all Utility services (whether public or private), the complete operation of any services or facilities which may be provided by the Developer or the Association, their respective successors or assigns, or any public or private Utility company to serve the Development or the Building. The reservation and grant of easement includes (i) easements over, under, across and through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of Utility and other services to the Units, Common Elements and Limited Common Elements, and (ii) the right to construct or install all necessary facilities or equipment upon the Development Property and to enter thereon to maintain, repair, service, replace, or enlarge the same. A Unit Owner shall do nothing within or outside his Unit that interferes with or impairs, or may interfere with or impair, the provision of any Utility, or other service facilities or the use of these easements. The Association has the irrevocable right to access of each Unit during reasonable hours, when necessary, to maintain, repair or replace those items and areas, as detailed in this Declaration or as contemplated hereunder, for which the Association is responsible, and to remove any improvements interfering with or impairing such facilities or easements herein reserved, pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

(2) Encroachments. In the event that any permitted improvements within a Unit, or any portion of the Common Elements or Limited Common Elements shall encroach upon any other Unit, or the Common Elements or Limited Common Elements for any reason except the intentional or negligent act of the Unit Owner, then an easement shall exist to the extent of such encroachment so long as the same shall exist. The foregoing easement for encroachments shall include, without limitation, any encroachment occurring by reason of construction or reconstruction of improvements after casualty or condemnation, settling or shifting of any improvements, any addition, alteration or repair to the Common Elements or Limited Common Elements made with the consent of the Association. Any such easement for encroachments shall also include an easement for the maintenance and use of encroaching improvements in favor of the Unit Owners, their successors and assigns.

(3) Support. An easement of support in favor of all Unit Owners, their successors and assigns, shall burden every portion of a Unit contributing to the support of the Building or an adjacent Unit, Common Elements or Limited Common Elements.

(4) Ingress and Egress. A non-exclusive perpetual easement shall exist, in favor of each Unit Owner and Occupant, their families, guests and invitees, for pedestrian traffic over, through and across the Common Elements intended for such purposes from time to time; provided, however, that under no circumstances shall any pedestrian traffic be allowed over or through any Unit (except for pedestrian traffic by the Unit Owner and such Unit Owner's family and invitees). A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their families, guests and invitees, for purposes of vehicular and pedestrian access (but not cross-parking) on, over and across the drive aisles located in the Parking Area, in order to access the parking spaces that have been assigned to the Unit Owner as provided in Section 3.3(G) above.

(5) Drainage. An easement shall exist over, under and through the Development Property as may be necessary for drainage and for the construction, repair, maintenance and operation of drainage facilities for the benefit of the Development Property; provided, however, that any such activities shall be conducted in conformity to the construction plans and all governmental approvals for the Building.

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(6) Construction of Improvements. Easements shall exist in favor of Developer over the Development Property for ingress and egress, and for such purposes of constructing, equipping, fixturing and furnishing of the Development Property, including construction, maintenance, operation and the like of the Development Property, its Units, Common Elements and Limited Common Elements. Developer shall also have an easement over, under, across, in and through such property as may be required by the Developer in connection with the completion of any contemplated improvements in the Building and the sale of Units therein, and in the Parking Area. Neither the Unit Owners nor the Association, nor their use of the Development Property, shall interfere in any way with the Developer's completion and sale of Units located within the Development.

(7) Sales and Management Activities. Until such time as the Developer has conveyed all Units to third parties, the Developer, its designees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements for Units models; sales, management and construction offices; to show model Units and the Common Elements to prospective purchasers and, if applicable, tenants of Units; and to erect on the Development Property signs, banners, flags and other promotional material to advertise Units for sale or lease. In addition, until such time as the Developer has conveyed all Units to third parties, Developer shall have the right to permit the Management Firm to utilize an office located within the Building in order to perform the services required of it pursuant to the Management Agreement.

(8) Development Plat. All easements described or shown on the Development Plat.

(9) Developer Activities. Until such time as Developer completes and sells all of the Units in the Development, the Developer reserves the right to prohibit access to any portion of the Common Elements of the Development Property, or uncompleted Units, to any of the Occupants of the Development and to utilize various portions of the Common Elements or Units in connection with such construction and development. No Unit Owner or such Owner's invitees shall in any way interfere or hamper the Developer, its employees, agents, contractors, successors or assigns, in connection with such construction. Thereafter, during such time as the Developer, its successors or assigns, owns any Unit within the Building and is carrying on any business in connection therewith, including the selling, renting or leasing of such Unit or Units, the Unit Owners and their invitees shall in no way interfere with such activities or prevent access to such Units by Developer, its employees, agents, contractors, successors, or assigns.

(10) Association Easement.

(i) A perpetual, non-exclusive easement is hereby granted to the Association, its successors and assigns over, under, across and through the Development Property for the purpose of permitting the Association to perform its obligations hereunder. Such easement shall permit access to Units upon reasonable prior notice (which may be written, telephonic, or any other reasonable notice), except that no notice shall be required for access to a Unit in the event of any emergency. A Unit Owner shall do nothing within or outside his or her Unit that interferes with or impairs, or may interfere with or impair, the provision of Utility, or the use of any of the foregoing easements. The Association shall have the irrevocable right of access to each Unit during reasonable hours, when necessary to maintain, repair, or replace those items and areas for which the Association is responsible, and to remove any improvements interfering with or impairing such facilities or easements herein reserved, pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to any Unit or Units. Whenever in this Section or elsewhere in this Declaration an easement is granted or reserved to any party, such easement shall also benefit such party's successors, grantees, assigns, agents, employees, licensees, and guests. All easements referred to herein shall be non-exclusive easements. The Association shall have the right to (i) grant and declare additional easements over, upon, under and/or across the Common Elements in favor of Unit Owners and Occupants, their families, guests and invitees, in favor of any other person, entity, public or quasi-public authority or Utility company, or (ii) modify, relocate, abandon or terminate existing easements within or outside of the Development in favor of the Association and/or the Unit Owners and Occupants of the Development and their families, guests and invitees, or in favor of any person, entity, public or quasi public authority or Utility company, as the Association may deem desirable for the proper operation and maintenance of the Development, or any portion thereof, or for the health, safety or welfare of the Unit Owners, or for any other reason or purpose. So long as such additional easements, or the modification, relocation or abandonment of existing easements, will not unreasonably and adversely interfere with the use of the Units for residential dwelling and other purposes permitted by this Declaration, no joinder of any Unit Owner or any mortgagee of any Unit shall be required, or, if the same would unreasonably and adversely interfere with the use of any Unit for dwelling or such other purposes, only the joinder of the Unit Owners and Eligible Mortgage Holders of the Units so affected will be required. To the extent required, all Unit Owners hereby irrevocably appoint the Association as their attorney-in-fact for the foregoing purposes.

(ii) The Association may but shall not be obligated to dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event

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the Association chooses to provide such pest control, the Association and its duly authorized contracts, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units and Common Elements. Owners shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designed by the Board of Directors to allow entry into the Unit for these purposes. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals or performing such maintenance.

(11) General. Easements shall exist over, under, across, in and through the Development Property for the purposes of the Developer and Association to carry out their rights and duties, expressed or implied, pursuant to this Declaration and its exhibits, and to facilitate such other actions by appropriate parties as may be reasonably necessary to further the development of the Development and the Building.

(12) Easements To Benefit Units. The Submitted Property being submitted to horizontal property form of ownership is subject to and benefited by certain ingress, egress, utility, drainage, parking, trash disposal and support easements which have been granted for the benefit of the Development, including without limitation the following:

(i) Perpetual, exclusive easements and rights for vehicular and pedestrian access, ingress and egress to and from the Development, over, across and through the Parking Area, and to the use of the Development trash receptacles and Utility shafts, all as depicted on the Graphic Depiction and Development Plat attached hereto as Exhibit "B";

(ii) Perpetual, non-exclusive easements for ingress and egress through the exit stairwells contained within the Building;

(iii) Perpetual, non-exclusive easements and rights for vehicular and pedestrian access, ingress and egress to and from the Development, in order to access and use the ground level trash compactor (as shown on the Graphic Depiction); and

(iv) Perpetual, non-exclusive easements for vehicular and pedestrian access over drive aisles, walkways and sidewalks in the Building that are designed, constructed and intended for common use purposes from time to time.

(13) No Public Rights; Additional Rights. No right shall ever accrue to the public as to the aforesaid easements referred to in the preceding paragraphs except as otherwise noted on the Development Plat or for the use of the Commercial Unit(s) as depicted on the Development Plat. Until such time as control of the Association has been turned over to the Unit Owners other than Developer, (i) the foregoing easements shall be subject to such additional easements as the Developer may hereafter deem necessary, and (ii) the Developer shall have the right, in its sole and absolute discretion, to grant such additional easements over, upon, across and under all easement areas which may be within or outside of the Development as it deems necessary, and the consent of no other party shall be required. Notwithstanding the foregoing, until such time as control of the Association has been turned over to the Unit Owners other than Developer the Developer may convey or dedicate to public use any easement granted by this Declaration, in Developer's sole and absolute discretion.

(14) Special Rights and Rights to Grant Easements.

(i) Reservation by Developer. Developer hereby reserves unto itself, and its successors and assigns, for the express use and benefit of all portions of the Building, non-exclusive easements over, under and through the Common Elements and Limited Common Elements for the construction, maintenance, use and operation of all Utilities, including the construction, maintenance, use and operation of equipment, conduits, pipes, lines and similar installations servicing the Development Property, together with the power to relocate any such existing easements in any portion of the Development Property, provided that such easements or the relocation of easements will not prevent or unreasonably interfere with the reasonable use of the Units for residential purposes and other purposes permitted by this Declaration.

(ii) Grants by Developer. Additionally, Developer shall have the right to grant easements over the Development Property, specifically including, but not limited to granting non-exclusive easements to vendors and contractors. Developer shall be entitled to retain any and all commissions, fees and compensation from any such vendor or contractor for such easements, and the Association shall have no right of contribution to such commissions, fees, or compensation, subject however to Developer's obligation to pay an equitable share of the Common Expenses attributable to the grant of such easements pursuant to Section 66-27-203(12)(D) and Section 66-27-307(f) of the Act if and to the extent that such easements constitute "licenses" for the purposes of those sections of the Act.

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(iii) Roof Easements. Furthermore, Developer shall have an exclusive, perpetual and irrevocable right and license for itself, its agents, successors and assigns to use, sell, lease or assign any space on the roof of the Building, for the construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of telecommunication antennae and equipment, and signage for any lawful purpose or purposes. Developer shall have a non-exclusive, perpetual and irrevocable easement over the roof areas to exercise its rights set forth above. Without limitation, this easement shall include the right to construct, install, use, maintain, repair, replace, improve, remove and operate any type of telecommunication antennae and equipment and signage on the roof of the Building. In addition, Developer shall have a non-exclusive, perpetual and irrevocable easement over other portions of the Development for access to and from such roof areas and to construct, install, use, maintain, repair, replace, improve, remove and operate any Utility lines servicing such telecommunication equipment or signage. The Developer agrees to indemnify the Association for any damage or destruction caused to the property of Association in the exercise of any easement right or license granted to Developer in this Declaration. The Developer shall collect and retain any and all income received from the exercise of its rights under the provisions of this subsection, subject however to Developer's obligation to pay an equitable share of the Common Expenses attributable to the grant of any such license to use, sell, lease or assign any such space as required by Section 66-27-203(12)(D) and Section 66-27-307(f) of the Act.

(iv) Utility Service Easements. Developer hereby reserves unto itself and its successors and its assigns, and grants to the Association, with the power to assign, non-exclusive easements over, under, upon and through the Development Property for the purposes of access to, constructing or maintaining, improvements upon, providing Utility services to or across, or providing drainage to or from the Development Property, any other property which may become part of the Development Property pursuant to this Declaration, or any other property adjacent to the Development Property.

(v) Other Facility Easements. Developer hereby reserves the right to install all lines, pipes and facilities throughout the Development Property as may be needed for the use of the Units individually and/or collectively from time to time. Developer shall assume all costs associated with such installations. Subsequent to installation, unless otherwise provided and agreed to by the affected Unit Owner or Owners, the Association shall be responsible for the maintenance of such lines, pipes and facilities.

(vi) Warranty Obligations. For as long as the Developer remains liable under any warranty, whether statutory, expressed, or implied, for any act or omission in the development of the Development, or in the sale or marketing thereof, the Developer shall have the right to enter on the Development Property, and to take all actions necessary or convenient for the purpose of inspecting, testing, surveying, to determine the actions needed to fulfill any warranty or to determine the extent of the warranty, and to take those actions necessary to fulfill the Developer's responsibilities under the warranty.

(vii) Right of Assignment. Developer hereby reserves the right to assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with specific portions of the Development. In the event of any partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a nonexclusive basis. The rights of Developer under this Declaration are independent of the Developer's rights to control the Board of Directors of the Association, and, accordingly, shall not be deemed waived, transferred or assigned to the Unit Owners, the Board or the Association upon the transfer of control of the Association. Any assignment of Developer rights shall be evidenced by an instrument recorded with the formalities of a deed in the public records of Davidson County, Tennessee.

(viii) Incidental Damage. Any damage to any Unit caused by, or as a result of, the carrying out of the maintenance responsibilities of the Association or another Unit Owner, or the negligence thereof, shall be repaired promptly by the Association as a Common Expense, or the Unit Owner, as the case may be. Any damage to any part of the Common Elements caused by or the result of any intentional act of a Unit Owner, the Unit Owner's family, agents, contractors, invitees, licensees or tenants, or by such Unit Owner in carrying out his maintenance responsibilities, if any, shall be repaired promptly at the expense of such Unit Owner.

(ix) Combination or Division of Multiple Units. A Unit shall not be combined with any laterally or vertically adjacent Unit or Units without the express written consent of the Board; provided, however, Developer and its successors and assigns may combine or divide any lateral or vertical adjacent Unit or Units (Residential or Commercial) without the consent of the Board or any Person, Unit Owner or Occupant.

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ARTICLE IV

RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

The undivided share in the Common Elements, Limited Common Elements and Common Surplus and the exclusive right to use all appurtenant Limited Common Elements, shall not be separated from the Unit and shall pass with the title to the Unit, whether or not separately described. Except as otherwise expressly provided in this Declaration, the appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all appurtenant Limited Common Elements appurtenant to a Unit, shall remain undivided and cannot be conveyed or encumbered, except together with such Unit. No Unit Owner shall bring, or have any right to bring, any action for partition or division of the Common Elements, Limited Common Elements, or the Development Property except as provided in this Declaration with respect to a termination of the Development.

ARTICLE V

OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS; SHARE OF COMMON EXPENSES; VOTING RIGHTS

Section 5.1 Ownership Shares. The undivided share in the Common Elements and the Common Surplus which are appurtenant to each Unit, as well as the undivided share of the Common Expenses to be paid with respect to each Unit, shall be computed on the following basis:

A. Calculation of Interest. The allocation of percentage shares in the Common Elements and Common Surplus, and the percentage share of the Common Expenses, appurtenant to each Unit is set forth in Exhibit "E" as attached hereto and made a part hereof. The allocation of percentage shares has been established by the Developer in the following manner:

(1) The approximate area of each Unit has been measured in square feet of floor area based upon the interior surface of the walls bounding the Unit (the "Unit Area").

(2) The total area of all Units has been computed and is hereinafter referred to as the "Total Unit Area."

(3) The Total Unit Area has been divided into the Unit Area of each Unit to determine the allocation of percentage shares for each Unit as set forth on Exhibit "E" to this Declaration.

If one or more Units is/are added or withdrawn from the Development, the calculation set forth in this Section 5.1(A) shall govern the reallocation of each Unit Owner's percentage share in the Common Elements and Common Surplus, and its percentage share of Common Expenses.

Section 5.2 Acceptance. The foregoing methods of calculation were undertaken in order to establish a fair and equitable method of allocating assessment percentages to Units within the Development and every purchaser of a Unit, whether from the Developer or otherwise, hereby agrees to be bound by such calculations and hereby irrevocably waives the right to assert that the formula used or the measurements made were unfair, inequitable, or otherwise in error.

Section 5.3 Voting Rights. Each Owner of a Unit shall be a member of the Association and shall be entitled to one (1) vote, which shall be cast by the Owner in accordance with the provisions of the Bylaws and Charter of the Association. The total number of votes shall be equal to the total number of Units in the Development. Membership in the Association shall automatically terminate upon the termination of ownership of a Unit, and the subsequent Unit Owner taking title shall automatically be entitled to such membership.

Section 5.4 Common Expense and Common Surplus. The Common Expenses of the Development shall be determined and shared by the Unit Owners, as specified and set forth in this Declaration and applicable exhibits hereto, except as may otherwise be provided by applicable Tennessee law. The percentage interest in Common Expenses and Assessments is set forth in Section 5.1 above. Any Common Surplus of the Association shall be owned by each of the Unit Owners in the same proportion as their ownership interest in the Common Elements.

ARTICLE VI

METHOD OF AMENDMENT OF DECLARATION

Section 6.1 Amendment to Development Documents and Development Plat by Developer. The Developer reserves the right to make whatever changes it may deem necessary in the Development Documents and/or the Development Plat so that they more completely and accurately indicate graphically the Units, Common Elements and Limited Common Elements of the Development as they exist in fact. Any such amendment reflecting any such changes need only be executed by the Developer; provided, however, that no such amendment approved by the Developer shall make any material changes or amendments to the Development Documents, unless Unit Owners who represent at least sixty-seven percent (67%) of the total votes in the Association, joined by Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders, shall consent to the change or amendment. For purposes of the foregoing sentence, and without limiting the generality of the foregoing, a change in the provisions of this Declaration, or the other Development Documents, relating to the following matters (collectively, the "Material Changes") shall be considered material:

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A. Any change in the configuration or size of a Unit;

B. Any material alteration or modification of the appurtenances to a Unit;

C. Any change in the proportion or percentages by which a Unit Owner shares the Common Expenses of the Development and owns the common surplus of the Development.

Notwithstanding the foregoing, however, the acquisition of property by the Association and material alterations or substantial additions to such property or the Common Elements by the Association and amendments providing for the transfer of use rights in limited common elements shall not be deemed to constitute a material alteration or modification of the appurtenances to the Units. Further, the Developer hereby reserves the right to alter the boundaries between Units as long as the Developer owns the Units so altered; provided, however, no such change shall materially alter the boundaries of the Common Elements, nor change the proportion by which the Owners of Units share the Common Expenses or own the Common Surplus, and provided further that any Eligible Mortgage Holder of such altered Units must consent to the alteration. If the Developer shall make such changes in a Unit or Units permitted in this Section, such changes shall be reflected by an amendment to this Declaration, any other necessary Development Documents and the Development Plat, with any amended drawing attached, reflecting such authorized alteration of the Unit or Units, and such amendment shall be executed and acknowledged by Developer and any Eligible Mortgage Holder holding a first mortgage encumbering such altered Unit or Units.

Section 6.2 Amendment By Unit Owners. Except as otherwise provided in Section 6.1 herein or elsewhere in the Development Documents, or as otherwise granted to the Developer by the Act, this Declaration may be amended only with the approval of Unit Owners who represent at least sixty-seven percent (67%) of the total votes in the Association, together with the approval (or deemed approval) of Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders, at a meeting duly called for such purpose pursuant to the Bylaws; provided, however, that (1) until such time as Developer no longer holds any Units for sale in the ordinary course of Developer's business, no amendment to this Declaration shall be made which affects any of the rights and privileges provided to the Developer as defined herein without the written consent of such Developer, (2) no amendment may change the configuration or size of a Unit without the written consent of the affected Unit Owner or Owners, together with the approval (or deemed approval) of the Eligible Mortgage Holder of such Unit, (3) for a period of ten (10) years following the date of this Declaration, Section 20.11(B) of this Declaration may not be amended without the written consent of Contractor (defined in Section 20.11(B) below); (4) no amendment may change any rule affecting the Commercial Units without the consent of one hundred percent (100%) of the Commercial Units; and (5) no amendment may change any rule regarding leasing without the consent of one hundred percent of the Units. All amendments made under authority of this Section 6.2 shall be executed by the President or the Secretary of the Association, which officer shall also certify that such amendment has been approved (or deemed approved) by the requisite number of Unit Owners and Eligible Mortgage Holders (it being acknowledged that all approving Unit Owners and Eligible Mortgage Holders are not required to sign such amendment). Any such amendment shall be recorded in the Register's Office for Davidson County, Tennessee. Notwithstanding the provisions of this Article VI, the Declaration and the exhibits hereto, where applicable, may be amended by Developer without the consent of the Unit Owners or Eligible Mortgage Holders in order to correct scrivener's errors.

Section 6.3 Special Amendment. Anything herein to the contrary notwithstanding, Developer reserves the right and power to record a special amendment ("Special Amendment") to this Declaration, at any time and from time to time, which amends the Declaration and any provision therein (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell insure, guarantee or otherwise deal with first mortgages covering Units; and (iii) to bring this Declaration into compliance with applicable Laws, and, in furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer to make or consent to a Special Amendment on behalf of each Unit Owner and the Association. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of the Developer to make, execute and record Special Amendments. Notwithstanding the foregoing, however, the right and power of the Developer to make Special Amendments hereunder shall terminate on the date of turnover of control of the Association to the Unit Owners other than the Developer or the expiration date of the Developer Control Period, whichever shall first occur.

Section 6.4 Limitation. No amendment may be adopted which will eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits of privileges or priorities granted or reserved to the Developer without the consent of Developer in each instance. The provisions of this paragraph may not be amended in any manner.

Section 6.5 Procedure. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the Declaration shall contain the full text of the provision to be amended, new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed changes are so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlines or hyphens of words edited or deleted, but, rather, a notation must be inserted immediately preceding the proposed amendment and substantially in the following language: "Substantial rewording of Declaration. See Provision ____ for proposed

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text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

ARTICLE VII

ASSOCIATION

The Association shall be the entity responsible for the operation of the Development. The Association shall be organized in Tennessee as a not-for-profit corporation and shall fulfill its functions pursuant to the Act in general and also the following provisions:

Section 7.1 Powers. The Association shall have all of the common law and statutory powers of a not-for-profit corporation, all of the powers and duties set forth in the Act, this Declaration, the Charter and the Bylaws, and all of the powers and duties necessary to operate the Development, whether or not set forth in this Declaration, the Charter or the Bylaws, as they may be amended from time to time. Such powers shall include, but not be limited to, the power to make and collect Assessments, to lease, license, maintain, repair and replace the Common Elements, and to borrow money and incur indebtedness, subject to the provisions of the Charter and Bylaws. Unless otherwise provided by statute, the Development Documents or the Act, the power and duties of the Association shall be exercised by its Board of Directors, which shall consist of not less than three (3) members who are to be elected according to the Charter and Bylaws.

Section 7.2 Membership. The members of the Association shall consist of all of the record owners of Units in the Development, including the Developer, and their voting rights shall be as provided in Article V hereinabove and in the Charter and Bylaws. Change of membership in the Association and designation of voting members shall be as provided in the Charter and Bylaws. Developer shall have control over the Association during the Developer Control Period.

Section 7.3 Management By Board of Directors. The affairs of the Association shall be managed by the Board of Directors in the number and designated in the manner provided in the Charter and Bylaws. During the Developer Control Period, Developer shall appoint or remove the Directors and may limit the Board to one Director, which may be Developer; provided, however, that not later than one hundred twenty (120) days after conveyance of twenty five percent (25%) of the Units to Unit Owners other than Developer, at least one member of the Board of Directors shall be elected by Unit Owners other than Developer.

Section 7.4 Shares Nontransferable. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Unit.

Section 7.5 Binding Effect. Every Owner of a Unit, whether he has acquired his ownership by gift, conveyance or transfer by operation of law, or otherwise, shall be bound by the Charter and Bylaws, the provisions of this Declaration, and all other Development Documents. Membership in the Association shall automatically terminate upon the termination of ownership of a Unit in this Development, and the subsequent owner(s) taking title shall automatically become entitled to membership.

Section 7.6 Conflict Rules. In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration or the exhibits attached hereto, this Declaration shall take precedence over the Charter, Bylaws and applicable rules and regulations; the Charter shall take precedence over the Bylaws and applicable rules and regulations; and the Bylaws shall take precedence over applicable rules and regulations, as amended from time to time. Notwithstanding anything in this Declaration or the exhibits hereto to the contrary, the Association shall at all times be the entity having ultimate authority over the Development, consistent with the Act.

Section 7.7 Non-Liability. Notwithstanding the duty of the Association to maintain and repair parts of the Development Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Development Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

Section 7.8 Other Provisions Relating to the Association.

A. Notwithstanding anything contained herein or in the Charter, Bylaws, any rules or regulations of the association or any other document governing or binding the Association (collectively, the "Association Documents"), the Association shall not be liable or responsible for, or in any manner be a guarantor or insurer of, the health, safety or welfare of any owner, Occupant or user of any portion of the Development Property, including, without limitation, residents and their families, guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons.

B. It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the Development Property have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Development Property and the value thereof.

C. Any provisions of the Association Documents setting forth the uses of assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of

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assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for any such reason.

ARTICLE VIII

BYLAWS

The operation of the Development Property shall be governed by the Bylaws. No modification of or amendment to the Bylaws shall be valid unless set forth in or annexed to a duly recorded amendment to this Declaration. The Bylaws may be amended in the manner provided for therein, but no amendment of such Bylaws shall be adopted which would affect or impair the validity or priority of any deed of trust covering any Development Parcel(s), or which would change the provisions of the Bylaws with respect to Eligible Mortgage Holders without the written approval of all Eligible Mortgage Holders. No amendment shall change the rights and privileges of Developer and Management Firm without their respective written consent. Any amendment to the Bylaws, as provided herein, shall be approved by the Unit Owners and Eligible Mortgage Holders as required in this Article and in Article VI above, shall be certified by the President or Secretary of the Association, and shall be recorded in the Register's Office for Davidson County, Tennessee.

ARTICLE IX

ASSESSMENTS AND OTHER CHARGES

Section 9.1 Power to Fix and Determine Assessments.

A. In General. The Board of Directors shall fix and determine from time to time the sum or sums necessary and adequate to provide for the Common Expenses and such other sums as are specifically provided for in this Declaration and exhibits attached hereto. The procedure for the determination of all such Assessments shall be as set forth in more detail in the Bylaws. Unless otherwise provided in the resolution levying the Assessment, such Assessment shall be paid in monthly installments with each due on the first of the month. Assessments shall begin upon the conveyance of the Unit from Developer to a Unit Owner. The Association shall include in the Common Expenses such amounts as are sufficient to satisfy its obligations pursuant to this Declaration, including but not limited to, the following:

(1) maintenance, repair, replacement, management and operation of the Common Elements;

(2) property taxes and assessments against the Development Property (until such time as any of such taxes and assessments are made against the Units and their undivided share of the Common Elements and Limited Common Elements individually, and thereafter only as to such taxes and assessments, if any, as may be assessed against the Development Property as a whole);

(3) insurance premiums for insurance procured by the Association (provided that, in accordance with § 66-27-414(c)(3) of the Act, the cost of insurance may be assessed in proportion to risk as determined by the Board);

(4) legal and accounting fees and expenses of the Association;

(5) management fees, costs and expenses and operating expenses of the Development Property and Association;

(6) repairs, replacements, and maintenance expenses (but only as to the Common Elements and Limited Common Elements, except for emergency repairs or replacements to individual Units deemed necessary by the Association to protect the Common Elements and Limited Common Elements);

(7) charges for all Utilities used in common for the benefit of the Development (or not separately metered to each Unit) and any bulk-metered or bulk-calculated Utility services rendered to the Development Property or the Units for their benefit, including cleaning and janitorial services for the Common Elements and Limited Common Elements (provided that, in accordance with § 66-27-414(c)(3) of the Act, the cost of Utilities must be assessed in proportion to usage as determined by the Board);

(8) fiber optic, data, voice or other communication system, and all other services maintained by the Association for the use and benefit of the Unit Owners;

(9) liability incurred by the Association in and about the enforcement of its rights and duties against the Unit Owners or other parties, including attorney's and legal assistant's fees and expenses;

(10) reasonable contingency and/or reserve funds for the protection of the Members and the Development Property;

(11) all other expenses declared by the Board of Directors of the Association to be Common Expenses from time to time, and any and all other sums due from the Association under

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any agreement, lease, contract or undertaking affecting all or any portion of the Common Elements or Limited Common Elements;

B. Budget for General Assessments. The Board of Directors shall from time to time, and at least annually, prepare and adopt a budget for the Development ("Budget for Common Expenses"), determine the amount payable by the Unit Owners to meet the Common Expenses of the Development, and allocate and assess such Expenses among the Unit Owners in accordance with the provisions of this Declaration and the Bylaws ("General Assessment").

(1) The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the General Assessment payable by each of them as determined by the Board of Directors as aforesaid. The Budget for Common Expenses shall include the reserves required by law or determined appropriate by the Board, the costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Charter, the Bylaws or applicable rules and regulations of the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated.

C. Budget Amendments. Any adopted Budget for Common Expenses shall be subject to change by the Board of Directors, and the amount of the General Assessment shall be changed in accordance with such revised Budget for Common Expenses to cover actual expenses at any time.

D. Special Meetings for General Assessment Increases. If the Board of Directors adopts in any fiscal year of the Association a Budget for Common Expenses which requires General Assessments against Unit Owners which exceed one hundred fifteen percent (115%) of General Assessments for the preceding fiscal year, the Board of Directors shall conduct a special meeting of the Unit Owners to consider a substitute budget, if the Board of Directors receives, within twenty-one (21) days after adoption of the Budget for Common Expenses, a written request for a special meeting from Unit Owners who represent at least fifty percent (50%) of the total votes in the Association. The special meeting shall be conducted within sixty (60) days after adoption of the Budget for Common Expenses. At least fourteen (14) days prior to such special meeting, the Board of Directors shall hand deliver to each Unit Owner, or mail to each Unit Owner at the address last furnished to the Association, a notice of the meeting. An officer or manager of the Association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be filed among the official records of the Association. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests of the Association. If there is not a quorum at the special meeting or a substitute budget is not adopted, the Budget for Common Expenses previously adopted by the Board of Directors shall take effect as scheduled. Any determination of whether General Assessments exceed one hundred fifteen percent (115%) of General Assessments for the prior fiscal year shall exclude any authorized provision for reasonable reserves for repair or replacement of the Development Property, anticipated expenses of the Association which the Board of Directors does not expect to be incurred on a regular or annual basis, or Assessments for betterments to the Development Property.

E. Other Assessments. In addition to General Assessments, the Board of Directors may levy "Special Assessments," "Capital Improvement Assessments" and "Limited Common Element Assessments" upon the following terms and conditions:

(1) "Special Assessments" shall mean or refer to amounts levied against each Owner and such Owner's Unit, representing a portion of the costs incurred by the Association for specific purposes of a nonrecurring nature which are not in the nature of capital improvements.

(2) "Capital Improvement Assessments" shall mean and refer to amounts levied against each Owner and such Owner's Unit, representing a portion of the costs incurred by the Association for the acquisition, installation, construction or replacement (as distinguished from maintenance and repairs) of any capital improvements located or to be located within the Common Elements.

(3) Special Assessments and Capital Improvement Assessments may be levied by the Board of Directors and shall be payable in lump sums or installments, in the discretion of the Board.

(4) "Limited Common Element Assessments" shall mean and refer to amounts levied against the Owners of Units for the maintenance, repair, replacement and/or reconstruction of the Limited Common Elements that are appurtenant to such Units.

(5) Unit Owners, by virtue of their taking title to their Unit, agree to the foregoing and acknowledge that they have a contractual obligation and agreement with each other as to the payment of General Assessments, Special Assessments, Capital Improvement Assessments and Limited Common Element Assessments which may be enforced in any court of competent jurisdiction.

(6) Notwithstanding anything herein to the contrary, the Developer during such time as Developer controls the Association as provided in Article I of the Bylaws or the Developer appointed Board shall be authorized to reduce the amount of annual assessments owed by Unit

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Owners without the vote of Owners to reflect cost savings not anticipated at the time the initial estimated operating budget for the Association was compiled.

F. Personal Liability. Each Unit Owner shall be personally liable to pay the Assessments levied with respect to each Unit owned by such Unit Owner. Additionally, the Association shall have a lien on each Development Parcel to secure payment of the respective Assessments, together with interest thereon, costs, reasonable attorneys' fees incurred by the Association incident to the collection of such Assessments or the enforcement of such lien, and such additional amounts as may be provided by the Act or other applicable Tennessee law. The Board of Directors may take such action as it deems necessary to collect Assessments or other amounts due by personal action or by enforcing and foreclosing such lien, and may settle and compromise the same if deemed in its best interests. No Owner of a Unit may exempt himself from liability for Unit Owner's contribution toward the Common Expenses by abandonment of the Unit or by refusal or waiver of the use and enjoyment of any of the Common Elements or services for which the fee or cost constitutes a part of the Common Expenses.

G. Default in Payment of Assessments.

(1) Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the rate established from time to time by the Board of Directors from the due date until paid (provided, however, that no such rate shall exceed the maximum allowed by law). In the event the Board has not established such rate, the interest rate shall be 18% per annum or the highest rate permissible under applicable Tennessee law, whichever is less. Each delinquent payment also shall be subject to an administrative late fee in an amount established by the Board from time to time, not to exceed the highest fee permitted by the Act. If any payment is made by a check that is dishonored by the Unit Owner's bank, all bank charges and collection costs incurred by the Association in connection with such dishonored check shall be due and payable to the Association, and shall be equally secured by the lien described in this subsection below.

(2) The Association has a lien on each Development Parcel for any unpaid Assessments on such Development Parcel, with interest thereon and for reasonable attorneys' fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien shall be effective on the earliest date allowed by law. The lien shall secure all unpaid Assessments, interest thereon, the administrative late fee (if permitted under applicable law), and costs and attorneys' fees which are due and which may accrue prior to the entry of a final judgment of foreclosure thereof.

(3) The Association or its assignee may bring an action to foreclose a lien for unpaid Assessments in the manner a mortgage or deed of trust with power of sale on real property is foreclosed in Tennessee and may also bring an action at law to recover a money judgment for the unpaid Assessments and other amounts due without waiving any claim of lien. In furtherance thereof, and in order to secure payment of each Unit Owner's payment obligations pursuant to this Declaration, including without limitation, its obligation to pay Assessments to the Association and to pay any other sums payable by such Unit Owner (all such obligations being hereinafter referred to as the "Payment Obligations"), each Unit Owner, its successors and assigns, hereby transfers and conveys his/her/its Unit and all appurtenances thereto in trust to Kelly L. Worman, a resident of Davidson County, Tennessee ("Trustee"), as trustee with power of sale, for the benefit of the Association. If any Unit Owner fails or refuses to pay any Payment Obligations which are due and owing by such Unit Owner to the Association, such Unit Owner's Unit may be sold by Trustee to the highest bidder at public auction in front of the courthouse door of Davidson County, Tennessee, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper of general circulation published in Davidson County, Tennessee (the first such publication to be at least twenty (20) days prior to the date of the sale) and, upon payment of the purchase money, Trustee or any person conducting the sale for Trustee is authorized to execute to the purchaser at said sale a deed to the Unit purchased at such foreclosure sale. The foreclosure sale may be adjourned from time to time by Trustee or his designee, at the place of sale on the date the sale is originally set, or on the date of any adjournment thereof, and may be reset at a later date or dates, by announcement without any additional publication. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee may resign at any time upon giving thirty (30) days' notice to the Association. The Association may remove Trustee at any time or from time to time and select a successor trustee. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for actual expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered. The Association is entitled to recover its costs and reasonable attorneys' fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid Assessments.

(4) As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit

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Owner, the Association may declare the balance of General Assessment installments due for the remainder of the fiscal year and payments of other known Assessments to be accelerated and shall thereupon be immediately due and payable. In the event that the amount of such accelerated installments or payments changes, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of the same taking effect.

(5) Any payments received by the Association from a delinquent Unit Owner shall be applied first to any interest accrued as provided above, then to any administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection as aforesaid and then to the delinquent and any accelerated Assessments. The foregoing application of funds received shall be applicable despite any restrictive endorsement, designation or instruction placed on or accompanying a payment.

(6) The Association shall give written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments at least thirty (30) days before institution of any foreclosure action with respect to such lien. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the Association may proceed with the foreclosure action and may recover attorneys' fees and costs as permitted by law.

(7) The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose a lien, and to apply as a cash credit against its bid all sums due, as provided herein, covered by the lien enforced. In case of such foreclosure, the Unit Owner may be required to pay a reasonable rental for the Unit or the period of time such Unit is occupied by the Unit Owner, or anyone by, through or under such Unit Owner, and the Association may request the appointment of a receiver to collect same from the Unit Owner and/or Occupant.

(8) If the Unit Owner remains in possession of the Unit after a foreclosure judgment has been entered, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit. If the Unit is rented or leased while the foreclosure action is pending, the Association is entitled to the appointment of a receiver to collect the rent, the expenses of such receiver to be paid by the party that does not prevail in the foreclosure action.

(9) In the event the holder of a first deed of trust encumbering a Unit or other purchaser at foreclosure sale conducted incident to the foreclosure of a first deed of trust, shall obtain title to a Unit by foreclosure, or by deed in lieu of foreclosure, such first mortgagee or purchaser, its or their successors and assigns, shall be liable for Assessments or other related expenses authorized under the Act secured by the Association's lien only to the extent provided by the Act. If, due to the applicable provisions of the Act, any unpaid share of the Assessments or other related expenses authorized under the Act are not required to be paid, then such unpaid share or other related expenses authorized under the Act shall be deemed to be a Common Expense collectible from all of the Unit Owners, including such acquirer and such acquirer's successors and assigns. Any person who acquires an interest in a Unit, except through foreclosure of a first mortgage of record, or by virtue of a deed given in lieu of foreclosure, as specifically provided hereinabove, including without limitation persons acquiring title by operation of law, including purchasers at judicial sales, shall be obligated for all unpaid Assessments and other amounts due from the former Unit Owners. The Association, acting through its Board of Directors, shall continue to have lien rights as referenced in this Article.

(10) Within fifteen (15) days after request by a Unit Owner or Eligible Mortgage Holder of a Unit, the Association shall provide a certificate stating all Assessments and other monies owed to the Association by the Unit Owner with respect to such Owner's Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

H. Capital Reserves. The Association shall maintain a reserve fund to be used solely for making capital expenditures in connection with the Common Elements (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of the improvements to the Common Elements and equipment owned by the Association as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Elements or the purchase of equipment to be used by the Association in connection with its duties hereunder. Each budget shall disclose that percentage of the annual Assessment that shall be added to the Capital Reserve, and each Unit Owner shall be deemed to make a capital contribution to the Association equal to such percentage multiplied by each installment of the annual Assessment paid by such Unit Owner. Such reserves may be waived or reduced on an annual basis as determined by the Board. Extraordinary expenditures not originally included in the annual estimate that may become necessary during the year shall be charged first against such portions of any contingency reserve or Capital Reserve, as applicable, which remains unallocated. If the "estimated cash requirement" proves inadequate for any reason or in the event a non-recurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or non-recurring expense for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a separate Assessment shall be made to each

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Unit Owner for his proportionate share of such supplemental budget. All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

I. Working Capital Funds. At the time the initial sale of each Unit is closed, the purchaser of each Unit shall have a one-time obligation to pay to the Association an amount equal to two (2) times the first full monthly Assessment for such Unit. This sum shall be used and applied for start-up costs and as a working capital fund in connection with all initial operating expenses for the Common Elements. This payment shall not be refundable or applied as a credit against the Unit Owner's monthly Assessments, and shall not be used by the Developer to resolve any budget deficits during the time the Developer is in control of the Association.

ARTICLE X

PROVISIONS RELATING TO THE SALE OR RENTAL OF UNITS

Section 10.1 Leasing. "Leasing," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any Person other than the Owner. For purposes hereof, occupancy by a roommate of an Owner who occupies the Residential Unit as such Owner's primary residence shall not constitute "leasing" hereunder. No amendment may change any rule regarding Leasing without the consent of one hundred percent of the Units.

A. Leasing of Residential Units.

(1) General. Residential Units may be leased in any manner allowed by applicable laws and regulations, including on a short term basis. There is no limit on the number of Residential Units that may be leased.

(2) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Residential Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be deemed incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Residential Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Residential in order to ensure such compliance. The Owner shall cause all Occupants of his or her Residential Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Residential Unit are fully liable and may be sanctioned for any such violation. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with Article V of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Residential Unit.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Tennessee law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Residential Unit.

(ii) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities.

(iii) Liability for Assessments. When a Residential Owner who is leasing his or her Residential Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments

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made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

B. Leasing of Commercial Unit(s). The Commercial Unit(s) may be leased for only those purposes permitted for the Commercial Unit(s) as set forth in Section 14.2 and shall be subject to the following provisions.

(1) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner of a Commercial Unit covenants and agrees that any lease of a Commercial Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be deemed incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Commercial Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(2) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Commercial Unit in order to ensure such compliance. The Owner of a Commercial Unit shall cause all Occupants of his or her Commercial Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Commercial Unit are fully liable and may be sanctioned for any such violation. If the lessee, or an employee, agent, contractor, customer, or invitee of the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner of a Commercial Unit and the lessee, and such fine may be assessed against the lessee in accordance with Article V of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Commercial Unit.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease after the expiration of any cure provisions in such lease and shall authorize the Owner to terminate the lease without liability and to evict the lessee in accordance with Tennessee law, provided, however, the preceding sentence shall be subject to the lessee's reasonable right to cure such violation under the lease for the Commercial Unit, which cure period shall not exceed thirty (30) days. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Commercial Unit.

(3) Use of Common Elements. The Owner of a Commercial Unit transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner of a Commercial Unit has to use the Common Elements, except as may be expressly provided otherwise in such lease.

(4) Liability for Assessments. When an Owner of a Commercial Unit who is leasing his or her Commercial Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner of the Commercial Unit hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner of the Commercial Unit from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

C. Applicability of this Paragraph. Notwithstanding the above, this Paragraph 10.1 shall not apply to any leasing transaction entered into by Developer (regardless of whether said lease is entered into prior to or after the expiration of the Developer Control Period), the Association, or the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage. Such parties shall be permitted to lease a

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Residential Unit without first obtaining a permit in accordance with this Paragraph 10.1, and such Residential Units shall not be considered as being leased in determining the maximum number of Residential Units that may be leased in accordance with this Paragraph 10.1.

Section 10.2 Re-Sale of Units.

A. Notices of Impending Transfer. An Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

B. Notice of Completed Transfer. Within seven (7) days after receiving title to a Unit, the purchaser of the Unit shall give written notice to the Board of Directors of his or her ownership of the Unit. Upon failure of an Owner to give the required notice within the seven (7) day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

ARTICLE XI

INSURANCE, RESTORATION OF IMPROVEMENTS AND EMINENT DOMAIN

Section 11.1 Insurance. The insurance (other than title insurance) that shall be carried upon the Development Property and the property of the Unit Owners shall be governed by the following provisions:

A. Authority to Procure Insurance. The Board of Directors shall have the authority to and shall obtain insurance for the Property as follows:

(1) Insurance on the Property, including the Units, Common Elements, and Limited Common Elements, all items under the terms of this Declaration for which the Association is responsible for the maintenance thereof, and all items for which the Association is required under applicable provisions of the Act to insure, against loss or damage by fire and against loss or damage by risks now or hereafter embraced by a "Special Form" property insurance policy, subject to commercially reasonable exclusions and in an amount sufficient to prevent the insured from being a co-insurer within the terms of the applicable policies, but in any event in an amount not less than one hundred percent (100%) of the full replacement value of the Building which shall include all Units and the fixtures initially installed by Developer, but shall not include any improvements or additions (including wall coverings and fixtures) made by or on behalf of any Owner other than those made by Developer and shall exclude furnishings and other personal property within a Unit. The "full replacement value" shall be determined from time to time by the Board, which determination may be based upon appropriate insurance appraisals. The cost of all such appraisals shall be deemed a Common Expense;

(2) To the extent applicable, if any, insurance on the Property (excluding excavations, foundations and footings) against all loss or damage from explosion of heating apparatus, pressure vessels and pressure pipes, if any, installed in, on or about such Property, without co-insurance clause so long as available, in such amount as the Board shall deem desirable;

(3) Commercial General Liability insurance against claims for personal injury or death or property damage suffered by the public or by any passageways and other areas adjoining the Property, such public liability and property damage insurance to afford protection to such limits as the Board shall deem desirable (but in no event for less than Three Million Dollars ($3,000,000.00) with respect to liability for personal injury or property damage arising out of a single accident), and such insurance coverage to include Unit Owners as additional insureds, but only with respect to that portion of the Property not reserved for the exclusive use of a single Unit Owner;

(4) Such workers' compensation insurance as may be necessary to comply with applicable Laws;

(5) Employer's liability insurance in such amount as the Board shall deem desirable;

(6) Adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the Association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the Association. The Association shall bear the cost of the insurance or fidelity bonding, which shall be a Common Expense;

(7) The casualty and liability insurance, hazard and flood insurance, and fidelity bond coverage required to be maintained by the Association shall meet the requirements specified in Part B7, Insurance of the Selling Guide, Part II; Mortgage and Property Insurance of the Servicing Guide,

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and related announcements, all as published from time to time by the Federal National Mortgage Association;

(8) Such other insurance (including insurance with respect to officers' and directors' liability) as may be required by law or deemed necessary by the Board, in such reasonable amounts as the Board shall deem desirable;

The premiums for the above-described insurance, and the cost arising from deductibles under any such policies in the event of a loss, except as otherwise provided in this Article, shall be a part of the Common Expenses;

(9) The Board of Directors shall make available for review by Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs and each Owner shall have the obligation to obtain any additional coverage at his or her own expense; and

(10) It shall be the duty of the Board of Directors at least every two (2) years to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association and to satisfy the requirements of this Paragraph. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent to verify that insurance policies in existence meet the needs of the Association and satisfy the requirements of this Paragraph.

B. Insurers. All insurance provided for in this Article shall be maintained under valid and enforceable policies, and procured from companies that are rated by Best's Rating Guide as not less than "A" and which are licensed and authorized to do business in the State of Tennessee.

C. Named Insureds. All policies of insurance of the character described in Section 11.1(A): (a) shall name, as insured, the Developer, so long as it has an insurable interest, and the Association individually and as trustee of the Unit Owners without naming them and their respective mortgagees, and shall also name as an insured the Insurance Trustee, described in Paragraph 11.1(F), as the respective interests of all such insureds may appear; (b) shall be without contribution as respects other such policies of insurance carried individually by the Unit Owners whether such other insurance covers their respective Units and/or the additions and improvements made by such Unit Owners to their respective Units; (c) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement thereof, such option shall not be exercisable in the event the Unit Owners elect to sell the Submitted Property or terminate the Development; and (d) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least thirty (30) days prior written notice to the Association and the mortgagee of each Unit. Policies of insurance of the character described in Paragraph 11.1(A) may contain an endorsement extending coverage so as to include the payment of Common Expenses with respect to damaged Units during the period of reconstruction thereof. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in Paragraphs (1) and (2) of Section 11.1(A), any losses under such policies shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed, in accordance with the provisions of this Declaration.

D. Other Named Insureds. All policies of insurance of the character described in Section 11.1(A) shall name as insureds the Association, the Board, the Management Firm, and the other agents and employees of such Association, Board and Management Firm and the Developer in its capacity as a Unit Owner and Board member, and shall also provide coverage for each Unit Owner (but as to the insurance described in Section 11.1(A), only with respect to those portions of the Property not reserved for his or her exclusive use). In addition, all policies of insurance of the character described in Section 11.1(A) shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Developer, the Management Firm, their respective employees and agents, the Unit Owners and Occupants, and Contractor (defined in Section 20.11(B) below). Further, all policies of insurance described in Section 11.1(A)(1) shall contain an agreed value endorsement and an inflation guard endorsement.

E. Payment of Premiums. The Association, for the benefit of the Unit Owners and the mortgagee of each Unit, shall pay the premiums on the policies of insurance described in Section 11.1(A) not later than the expiration dates of the respective policies.

F. Loss Payable. The loss, if any, under any policies of insurance of the character described in Section 11.1(A) shall be payable, and the insurance proceeds paid, on account of any such loss shall be applied and disbursed as follows:

(1) To the Association, as trustee for each of the Unit Owners in their respective percentages of ownership in the Common Elements as established in the Declaration, in the case of any one loss, of FIFTY THOUSAND DOLLARS ($50,000.00) or less in the aggregate, which insurance proceeds, less the actual costs, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied to the payment of the cost of restoring the Property to substantially the same condition in which it existed immediately prior to such damage or destruction, with each Unit and Common Element having the same vertical and horizontal boundaries as before, free from construction liens and other similar liens, in accordance with the provisions of subsection C, below; or

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(2) In case of any one loss exceeding FIFTY THOUSAND DOLLARS ($50,000.00) in the aggregate, then the insurance proceeds shall be paid to such state or national banking institution or other corporate entity having the power to act as a trustee under the laws of Tennessee, designated by the Board to act as trustee (the "Insurance Trustee") for the purpose of collecting and disbursing the insurance proceeds described in this subparagraph (2). If the Insurance Trustee shall fail or cease for any reason to act as the Insurance Trustee, then the Board shall appoint a successor Insurance Trustee. The Insurance Trustee shall not be liable for the payment of premiums nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds, nor for the form or content of the policies. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid and distribute the same as herein provided for the purposes elsewhere stated. Such proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, and the fees of the Insurance Trustee, shall be applied by the Insurance Trustee to the payment of the cost of restoring the Property to substantially the same condition in which it existed immediately prior to such damage or destruction, with each Unit and Common Element having the same vertical and horizontal boundaries as before. Such proceeds shall be paid by the Insurance Trustee to or for the account of the Association, from time to time as work progresses, in such manner as shall be required to facilitate the restoration of the damaged property. The Association and the Insurance Trustee may, prior or subsequent to any such loss, enter into an insurance trust agreement further implementing the provisions of this Declaration with respect to the collection and disbursement of proceeds of insurance by the Insurance Trustee.

(3) Notwithstanding anything to the contrary herein, in the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of assessments owed to the Association under Section 9.1 herein, then the Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

G. Board Authority. The Board or, where applicable, the Insurance Trustee shall have the exclusive authority to negotiate losses under any policy providing property or liability insurance as described in this Article and such other authority as may be necessary in connection with its purchase and maintenance of the insurance required under this Article.

H. Contents Insurance for Units. Each Unit Owner shall be responsible for his or her own insurance and deductibles on the furnishings and personal property located in his Unit and his personal property stored elsewhere on the Property, and his personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Unit Owners as above provided. All policies of casualty insurance carried by each Unit Owner shall be without contribution as respects the policies of casualty insurance obtained by the Board for the benefit of all of the Unit Owners as above provided. Upon request by the Board, the Owner shall furnish a copy of such insurance to the Association. In the event that any such Owner fails to obtain insurance as required by this Section 11.1 (H), the Association may purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner, to be collected in the manner provided for collection of Assessments.

I. Alterations and Additions. Each Unit Owner shall be required to report all additions or alterations to his or her Unit promptly in writing to the Board, without prior request from the Board or the Management Firm, and he shall be responsible for any deficiency in any insurance loss recovery resulting from his failure to so notify the Board. The Board shall not be responsible for obtaining insurance on such additions, alterations or improvements unless and until such Unit Owner shall make such report and request the Board in writing to obtain such insurance, and shall make arrangements satisfactory to the Board for such additional premiums; and upon the failure of such Unit Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better then the condition existing prior to the making of such additions, alterations or improvements. "Additions" or "alterations" shall mean property attached to the Unit and not readily removable without damage to the Unit, including but not limited to, carpeting, special flooring, special wall covering, and paneling. The insurance coverage described in this Section 11.1(I) shall not be deemed to include personal property owned by the Unit Owner and not attached to the Unit.

J. Waiver. Each Unit Owner hereby waives and releases any and all claims which he may have against any other Unit Owner if any, and their respective employees and agents, for damages to the Common Elements, the Units, or to any personal property located in the Unit or Common Elements caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

K. Cancellation of Insurance. The Board shall be responsible, in the event any insurance required under this Article is canceled and is not simultaneously replaced with another policy of insurance for similar coverage, for serving notice of such cancellation upon any persons insured thereunder.

L. Repair, Restoration or Reconstruction of the Improvements.

(1) Except as provided in subsection (2) immediately following this subsection, in the case of damage or other destruction to the Development Property, including the Units, Common Elements or Limited Common Elements, the Board of Directors shall arrange for the prompt restoration and repair of the portion of the Development Property damaged or destroyed. The Association or the Insurance Trustee, as the case may be, shall disburse the proceeds of insurance

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to such contractors as are selected and retained by the Association for the repair and restoration work in commercially reasonable progress payments, subsequent to the execution of a contract for construction with such contractor. If there is a balance of construction funds remaining in the possession of the Association or Insurance Trustee, as the case may be, after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance shall be distributed pro rata to each Unit Owner, by check made payable jointly to such Unit Owner and its respective mortgagee.

(2) Any portion of the Development Property for which insurance is required under this Declaration that is damaged or destroyed shall be repaired or replaced promptly by the Association unless:

(a) The Development is terminated;

(b) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or

(c) Eighty percent (80%) of the Unit Owners, together with eighty percent (80%) of the Unit Owners of Units that are assigned Limited Common Elements that will not be rebuilt, vote not to rebuild.

(3) The cost of repair or replacement in excess of insurance proceeds and Capital Reserves is a Common Expense. If the entire Development is not repaired or replaced:

(a) The insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Development;

(b) The insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt must be distributed to the Unit Owners of those Units and the Unit Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear;

(c) The remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Common Element interests of all the Units; and

(d) The remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Common Element interests of all the Units.

(4) If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under § 66-27-207(a) of the Act, and the Association promptly shall prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Notwithstanding this subsection 11.1(L)(4), Section 66-27-318 of the Act governs the distribution of insurance proceeds if the Development is terminated.

(5) As used in this Article, "repair, restoration or reconstruction" of improvements means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and Common Element having the same vertical and horizontal boundaries as before unless, if allowed by the Act, other action is approved by the Unit Owners and their lienholders in the percentages set forth in subsection (2)(c) immediately above.

(6) If the proceeds of the insurance policies payable with respect to any damage or destruction of the Development Property, together with any Capital Reserves then in the possession of the Association, shall be insufficient to pay the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments as determined by the Board (which may be in the form of General Assessments, Special Assessments, Capital Improvement Assessments or Limited Common Element Assessments, shall be levied against the Unit Owners in sufficient amounts to provide funds for the payment of all such costs. Such Assessments shall be in proportion to all of the Unit Owners' respective undivided interests in the Common Elements, as determined by the Association.

(7) If damage occurs to any Unit, the maintenance and responsibility for which lies solely with the Unit Owner thereof, then except to the extent the property insurance maintained by the Association covers such Unit Owner's Unit (if at all), such Unit Owner shall be solely responsible for all necessary reconstruction of and repair to the Unit, which reconstruction and repair shall be effected promptly and in accordance with guidelines established by the Board of Directors. Each Unit Owner shall have the absolute responsibility for applying insurance proceeds, arising as a result of flood, fire, or other casualty loss or damage to the Unit, to repair, restoration or reconstruction of such Unit; provided, however, that no Unit Owner shall have the responsibility of applying insurance proceeds to the repair or restoration of a Unit if the Development is terminated as provided in Article XVI of this Declaration.

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M. Plate Glass Insurance for Commercial Units. The Owner of each Commercial Unit (and not the Association) shall be responsible for plate glass insurance covering all plate glass within such Commercial Unit at full replacement value; provided, however, that any such Owner may require its tenant (if any) to carry such insurance pursuant to the terms of the lease for such Commercial Unit.

ARTICLE XII

EMINENT DOMAIN.

The condemnation or taking of all or any portion of the Development Property by any governmental authority through legal action or negotiations in lieu thereof shall be governed by the following provisions:

Section 12.1 Deposit of Certain Condemnation Awards with Insurance Trustee. Condemnation awards pertaining to the taking of Common Elements shall be paid over by each Unit Owner to the Insurance Trustee for use as noted hereinafter in this Section. In the event the Unit Owner fails to turn over such award as required, the defaulting Unit Owner shall be charged the maximum interest which does not constitute usury under Tennessee law until such amount is fully paid. Regardless of the foregoing, however, condemnation awards pertaining to the condemnation of Units shall not be the property of the Association.

Section 12.2 Determination Whether to Continue Development. Whether the Development will be continued after condemnation will be determined in the manner provided for in Article XI hereinabove for determining whether damaged property will be restored, reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.

Section 12.3 Disbursement of Funds. If the Development is terminated following a condemnation, the proceeds of the awards pertaining to the condemnation of Common Elements will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Development is terminated after a casualty. If the Development is not terminated after condemnation, the size of the Development will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of any such awards shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee after a casualty, or as elsewhere in this Section specifically provided.

Section 12.4 Condemnation of Common Elements. Awards for the taking of portions of the Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, however, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed, after adjustments to those shares effected pursuant hereto by reason of the taking, to each Unit Owner by check made payable jointly to such Unit Owner and its respective mortgagee(s), in accordance with the provisions of Article XI of this Declaration. Awards for the taking of Limited Common Elements shall be divided equally among the Unit Owners to which such Limited Common Element(s) was/were allocated at the time of condemnation.

Section 12.5 Condemnation of a Unit. If there is a taking of a Unit, the respective Unit Owner shall not be required to utilize any portion of the condemnation award with regard to reconstruction of the Unit. Following such taking of a Unit and the recording of a deed to the condemning authority, (1) the affected Unit Owner shall no longer have an ownership interest in the Unit or an undivided ownership interest in the Common Elements, and (2) such Unit Owner shall no longer be responsible for the payment of Common Expenses. The following changes shall be made in the Development following a taking as described in this Section:

A. Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors.

B. Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Development shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This distribution shall be determined by taking the fractional share of each Unit Owner in proportion to the number of Units remaining in the Development.

C. Assessments. In the event the Association does not have the funds necessary to alter the remaining portion of the condemned Unit for use as a part of the Common Elements, the additional funds for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Development effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

D. Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration that is only required to be approved by, and executed upon the direction of a majority of all members of the Board of Directors.

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ARTICLE XIII

ARCHITECTURAL CONTROLS

Section 13.1 During Developer Control. During the Developer Control Period, all encroachments onto the Common Elements or Limited Common Elements, exterior change, alteration or construction (including painting and landscaping), and any erection, placement or posting of any object, sign, sticker, light, fountain, flag, personalized or customized exterior door mat, or thing on the exterior or roof of the Building, in any windows (except window treatments as provided herein), or on any Limited Common Elements or any Common Elements, must receive the prior written approval of Developer. However, reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15. Granting or withholding such approval shall be within the sole discretion of Developer. All references in the Development Documents to the Board of Directors shall refer to Developer during the period Developer has the right to appoint the officers and directors of the Association. Notwithstanding anything to the contrary stated herein, any architectural change to the Development made by Developer during the Developer Control Period shall be deemed to have been approved by the Board.

Section 13.2 After Developer Control. After the Developer Control Period has expired, except for Developer, so long as Developer shall own a Unit for sale, no Owner, Occupant, or any other person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration, or construction (including painting and landscaping), nor erect, place or post any object, sign, sticker, light, fountain, flag, personalized or customized exterior door mat, or thing on the exterior or roof of the Building, in any windows (except window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements, without first obtaining the written approval of the Board. However, reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing Building, Units and structures, the location in relation to surrounding structures and topography, and the impact of such approval, if any, on the increase or decrease of sounds and vibrations between the Units and between the Units and the Common Elements and the impact of such approval, if any, on the increase or decrease of sounds and vibrations between the Units and between the Units and the Common Elements. Notwithstanding the above, Developer shall not be required to obtain any approvals under this Section.

Section 13.3 Alteration of Units. Subject to the other provisions of this Declaration, alterations to the interiors of Units, relocation of the boundaries between adjoining Units, and subdivision of Units are subject to the following restrictions:

A. Alterations to the Interiors of the Units. Notwithstanding anything to the contrary stated herein, no Owner or Occupant may make any alteration to or within a Unit that: (A) involves connecting to or relocating pipes, lines, conduits and/or other apparatus for access to common utilities; (B) places an excessive load on any structural or load bearing portions of a Unit; or (C) requires penetration of any concrete floor or ceiling slab without first making a complete application to the Board pursuant to subparagraph 13.3(D) below, and obtaining the prior written approval of the Board. Such approval shall not be granted by the Board unless the Owner or Occupant of the Unit has presented to the Board such information as the Board may reasonably require, including, but not limited to, the following documentation: (1) a report or drawing prepared and certified by a structural engineer licensed in the State of Tennessee, which report or drawing shall demonstrate that such proposed interior modifications will not in any way affect or impair the structural soundness or integrity of the Building or any of the Units; (2) building plans for the proposed interior modifications; (3) all necessary permits or approvals required by governmental authorities for the proposed interior modifications; and (4) a certificate of insurance from applicant's contractor, which names the Association and the Owner of the Unit as an additional insured. In addition, within seven (7) days of completion of the interior modifications, the Board shall be provided with a copy of the certificate of occupancy, and an inspection report prepared and certified by a structural engineer licensed in the State of Tennessee.

Furthermore, if alterations to the interior of a Unit require the penetration of the concrete floor or ceiling slab, the Owner shall also provide the Board with a report prepared and certified by a structural engineer licensed in the State of Tennessee confirming that an x-ray analysis 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 or conduits that may be located within the concrete floor or ceiling slab.

B. Relocation of Boundaries. Boundaries between adjoining Units shall not be relocated; provided, however, Developer shall have the right to relocate boundaries between Units owned by Developer without the approval of the Board, and the Board shall execute the required amendment to the Declaration.

C. Subdivision of Units. No Unit shall be subdivided into a smaller Unit or Units; provided, however, Developer shall have the right to subdivide Units owned by Developer without the approval of the Board, and the Board shall execute the required amendment to the Declaration.

D. Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the Board may reasonably require, including, but not limited to, the documentation described in subparagraph A above. Once an application and all required information is received by the Board, the Board shall stamp the application as being complete, and shall then forward to the applicant a written notice of application completion (the "Notice of Application Completion"). The Board shall be authorized to retain an engineer, architect or other consultant to review such application and related

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documentation and plans, and all costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the Board until such time as all costs and expenses related to the review of an application have been paid by the applicant. The Board shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, materials to be used, initial acoustical rating approved by Developer, harmony with the external design of the Building and other structures that may be located on the Development, and it shall be entitled to stop any construction that is not in conformance with approved plans. The Board may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the Building and Units, and the location in relation to surrounding structures and topography of the vicinity.

If the Board fails to approve or to disapprove a complete application within ten (10) days after the date of the Notice of Application Completion, its approval will not be required and this Paragraph will be deemed complied with; provided, however, even if the requirements of this Paragraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is in violation of this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable zoning or other laws. Under no circumstances will alterations be made or permitted to be made by any Owner if such alteration will:

(1) unreasonably diminish the benefits afforded to such other Owners by any easement or license or unreasonably interrupt such other Owner's use or enjoyment of any easement or license; provided, however, interruption of the use and enjoyment of any easement or license for temporary construction purposes shall not require consent of the Owners if, upon completion of construction, each Owner's use and enjoyment of the affected easement or license is restored;

(2) materially adversely affect or impair the structural integrity, character, value or utility of the Building (or any portion thereof);

(3) materially adversely affect facilities benefiting any other Owners;

(4) except as to signage, alter the facade or exterior appearance of any portion of the Building in any material respect; or

(5) materially and adversely affect the rights of any Owner, Occupant or Person to exercise the easement rights granted in this Declaration.

E. Encroachments onto Common Elements. The Board, subject to this Section, may permit Owners to make encroachments onto the Common Elements as it deems acceptable.

F. Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of him or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless otherwise agreed to in writing by the Board. It is the responsibility of every Owner of a Unit to determine for him or herself what architectural modifications have been made to his or her Unit by any predecessor-in-interest. In the discretion of the Board, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of him or herself and all successors-in-interest.

G. Limitation of Liability. Review and approval of any application pursuant to this Section is made on the basis of aesthetic considerations only, and neither Developer nor the Board shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither Developer, the Association, the Board, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

H. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the Board may adopt different architectural standards for different parts of the Development, based on street visibility and location of the proposed modification in the Building. The approval of the Board of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board 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 whatever subsequently or additionally submitted for approval or consent.

I. Enforcement. Any construction, alteration, or other work done in violation of this Section shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorneys' fees, may be assessed against the benefited Unit and collected as an assessment pursuant to this Declaration.

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In addition to the foregoing, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions. Furthermore, the Board shall have the authority to record in the Davidson County land records notices of violation of the provisions of this Section.

If any Owner or Occupant makes any change, alteration, or construction (including landscaping) upon the Common Elements or Limited Common Elements in violation of this Section, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

J. Commencement of Construction. All changes, modifications and improvements approved by the Board hereunder must be commenced within three (3) months from the date of approval. If not commenced within three (3) months from the date of such approval, then such approval shall be deemed revoked by the Board, unless the Board gives a written extension for commencing the work. All work approved by the Board hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the Board. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

ARTICLE XIV

USE AND OCCUPANCY

In addition to other obligations and duties set forth in this Declaration, each Unit Owner or Occupant of a Unit shall abide by the following use restrictions and any rules and regulations adopted by the Association that are not inconsistent with the provisions set forth herein or the exhibits hereto. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants as a result of such person's violation of the Development Documents, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants. In order to provide for congenial occupancy of the Development Property and for the protection of the values of the Units, the use of the Development Property shall be restricted to and shall be used and occupied in compliance with, the following provisions and every Unit Owner shall do and perform the following:

Section 14.1 Residential Use. The Residential Units will be used only for the purpose of a residence, in which there shall be not more than two (2) persons per bedroom continuously residing; subject, however, to the requirements of all applicable Laws, the provisions of this Declaration and its exhibits, and to the rules and regulations of the Association promulgated from time to time and provided no trade or business of any kind may be conducted in or from a Unit, except that the Owner or Occupant may conduct ancillary business activities within the unit so long as (i) the existence or operation of the business is not apparent or detectable from outside the Unit an any manner; (ii) the business operation does not involve visitation at the Unit by employees, clients, customers, suppliers or business invitees in excess of expected visitations to Unit without business activity; (iii) the business is legal and conforms to all laws, zoning requirements and restrictive covenants applicable to the Development; (iv) the business activity does not increase traffic in the Development in excess of what would normally be expected for the Development without business activity (other than deliveries by carriers, express mail carriers and other similar deliveries; (v) the business activity does not increase the Association's insurance premiums or ability to obtain insurance; (vi) the business activity is consistent with a residential Development character, is not hazardous or offensive or threaten the health, safety or security of other residents as determined by the Board; and (vii) the business does not materially increase the use of the Common Elements. Further, each Owner shall:

A. Clean and Sanitary. Maintain in a clean and sanitary manner and good condition of repair and maintenance the Unit and all interior surfaces within or surrounding the Unit (such as the surfaces of the walls, ceilings, floors, etc.) whether or not a part of the Unit or Limited Common Elements which are a part of the Unit and maintain and repair the fixtures therein and pay for any Utilities that are separately metered to the Unit.

B. Lawful Use. Not use or permit the use of any Unit except for purposes consistent with all applicable Laws.

C. Maintain Insurance Rate. Not permit or suffer anything to be done or kept in the Unit which would increase the insurance rates on the Unit or the Common Elements, or which will obstruct or interfere with the rights of other Unit Owners, their successors or assigns, or annoy them with disturbing or unreasonable noises, whether caused by the Unit Owner, any Occupant, their family members, guests, invitees or pets; nor shall a member commit or permit any nuisance, immoral or illegal act in any Unit or on the Common Elements. The Association is expressly authorized to implement the foregoing provisions by Rules and Regulations in furtherance thereof.

D. Alteration. Make no alteration, decoration, repair, replacement or change of the Common Elements or to any outside or exterior portion of the Building without the prior written consent of the Association.

E. Access By Association. Allow the Board of Directors or the authorized agents of the Association to enter any Unit during reasonable hours, when necessary for maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association

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pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to another Unit or Units. If no key has been provided to the Association, then the expense of entry into a Unit for emergency purposes shall be borne by the Owner of the Unit.

F. Signs; Advertising; Aerials. Show no sign, advertisement or notice of any type on the Common Elements, Limited Common Elements, or the Unit, including but not limited to "For Sale" or "For Rent" signs, nor shall any such signs be posted within a Unit in such manner as to be visible from the exterior of the Unit. The Unit Owner shall erect no exterior antennas or aerials, antenna masts, towers, satellite or direct TV dishes or other similar devices, except as required to be permitted by law and as provided in uniform regulations promulgated by the Association.

G. Children. Abide by any regulations regarding children as may be established by the Association, except that no regulations shall prohibit children from residing in or occupying a Unit.

H. No Unauthorized Repairs. Make no repairs to any plumbing, heating air conditioning systems, electrical wiring or other systems or equipment within a Unit, except by plumbers, repairmen, service technicians, or electricians who are duly licensed and insured for the work undertaken. If modifications to the Unit are to be made (and any necessary approvals required by this Declaration have been obtained in advance) such modifications shall be made only by licensed and insured contractors or technicians who are approved by the Board. All plumbing, mechanical, heating, air conditioning and electrical repairs within a Unit shall be paid for and constitute the financial obligations of the Owner of the Unit. The Association shall pay for and be responsible for plumbing, mechanical, heating, air conditioning repairs and electrical wiring within the Common Elements. The Association shall have the right to exclude any unlicensed, uninsured or (in the event of any modifications as aforesaid) unauthorized contractors, repair personnel or service technicians from the Development.

I. Payment of Taxes. Return the "Development Parcel" for the purpose of ad valorem taxes to the respective taxing authorities having jurisdiction over them for separate Assessment against the Development Parcel. For the purposes of ad valorem taxation, the interest of the Owner of a "Development Parcel" in a "Unit" and in the "Common Elements" shall be considered as a part of the Unit. The value of such Unit shall be equal to the proportion or percentage of the value of the entire Development, including improvements, as has been assigned to such Unit in Exhibit "E" to this Declaration. The total of all said proportions or percentages equals the value of all of the improvements that are a part of the Submitted Property. Nothing herein shall be construed, however, as giving to any Unit Owner the right of contribution or any right of adjustment against any other Unit Owner on account of any deviation by the taxing authorities from the valuation herein prescribed, and each Unit Owner shall pay ad valorem taxes and special assessments as are separately assessed against his Development Parcel.

J. Slider Replacement; Etc. Not replace and/or remove sliders, plate glass, or other enclosures on any parts of the building, even though such areas may be a part of the Unit, except with prior written approval of the Board of Directors.

K. No Unauthorized Subdivision. Except as otherwise provided herein, not divide or subdivide a Unit for purpose of sale or lease. Notwithstanding the foregoing, a Unit may be combined with a contiguous Unit and occupied as one dwelling Unit, provided, however, that the Board shall have consented in writing in advance to such combination, in its sole and absolute discretion. Such a combination shall be for occupancy only and shall not be deemed an amendment to the Declaration. Further, any such combination shall not materially alter the configuration of a Unit.

L. Exterior Appearance. Not hang any laundry, garments or other objects which are visible from outside of the Unit, except for draperies, shades or other suitable window coverings. Decorative window coverings shall not include any type of reflective film on any glass windows or doors (it being acknowledged that such material may compromise the integrity of the glass). The exterior appearance of all window coverings shall be neutral or darker in color (and in no event stark white). Notwithstanding the foregoing, however, a Unit Owner may display one portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display official flags that represent the United States Army, Navy, Air Force, Marine Corps and Coast Guard, regardless of any provisions of the declaration, restrictive covenants, or rules dealing with flags or decorations.

M. Rubbish, Etc. Not deposit rubbish, trash or garbage in any container other than a container located entirely within the Unit and not visible from the exterior of the Unit, nor dispose of any rubbish, refuse, garbage or trash except in the trash bin serving the Development Property. Garbage shall be placed in waterproof bags or similar containers before being placed in the trash bin, so that each Unit, the Common Elements and Limited Common Elements shall at all times remain in a clean and sanitary condition. No garbage receptacles shall be placed in any of the Common Elements of the Development, including the corridors and halls adjacent to the Units.

N. Pets. Pets may be kept in a Unit, subject to the following limitations and exclusions. No pet shall be kept in a Unit without the prior written approval of the Board. No pet shall be allowed to be a nuisance in any public portion of the Development Building or grounds. The term "pets" shall be limited to dogs, house cats, birds and aquarium fish. All other animals are expressly forbidden, unless otherwise approved by the Association, in its sole and absolute discretion. The total of all pets belonging to a Unit Owner shall not exceed two (2), aquarium fish excluded. In addition, breed, size and weight restrictions to be promulgated by the Association in its rules and regulations shall apply to all dogs and cats.

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Notwithstanding the foregoing no pit bulls or attack-trained dogs, nor any other dog (regardless of breed) that attacks a human and causes serious bodily injury, nor snakes, other poisonous or venomous creatures, potbelly pigs or livestock shall be allowed on any of the Development Property. No pets shall be permitted to do other than pass through the elevator lobbies or other Common Elements of the Development in order to reach the Owner's Unit. Ownership of pets and their maintenance on or about the Units and Common Elements of the Development shall be subject to such reasonable rules and regulations as the Association may promulgate and enforce from time to time.

O. Soundproofing and Insulation. The Board of Directors shall have the right to promulgate and enforce rules and regulations regarding soundproofing of floors in connection with the installation of floor coverings. No ceramic tile or wood flooring shall be installed in a Unit that has not been supplied or installed by Developer unless the Board of Directors and the Unit Owner(s) of the Commercial Unit(s) have approved the rules and regulations providing for adequate noise insulation and abatement. All flooring changes shall comply with the acoustical ratings as originally approved by Developer and each Owner grants the Developer and the Board the right to enter their Unit to field test and verify the acoustical rating. The insulation in the walls is R-13 and in the ceiling is R-38.

P. Personal Property of Unit Owners. Personal property of Unit Owners, including without limitation bicycles, motorcycles, mopeds, golf carts and similar items, shall be kept entirely within a Unit or a Storage Area when not in use.

Q. Use of Roof. Unit Owners shall not have use of the roofs of the Building at any time or for any purpose, other than the roof deck depicted on the architectural drawings.

R. Identification System. The Association shall have the right to provide, at any time and from time to time, all residents with a picture identification or other reasonable identification system that must be presented as a condition of access to the Development. Maintenance and repair of such system shall be deemed a Common Expense.

S. Construction. Other than the Developer and as otherwise provided herein, Owners may not do any construction or renovation without written notification to the Association at least seventy-two (72) hours in advance. The Association may reasonably restrict the time and manner of construction, except as it relates to the Developer. Other than the Developer, Unit Owners shall be bound by the following requirements with respect to construction:

(1) Owners must provide copies of proper permits, licenses and insurance certificates and plans and specifications to the Association before commencing with work. Owners must use only properly licensed workers.

(2) All construction or renovation in Units may be done only on Monday through Friday during the hours between 9:00 a.m. to 5:00 p.m.

(3) Contractors must reserve elevators to deliver materials to the Units.

T. Attire. Proper and appropriate attire shall be required, including shirts and shoes, when walking through Common Elements.

U. Trash. Owners and residents must deposit their trash in common receptacle. The Association will arrange for private trash service for the development.

V. Special Developer Provisions. The Developer, its successors and assigns, shall be exempt from all provisions of this Article requiring the consent of the Association, except with respect to the following matters, from which the Developer shall not be exempt, and by which the Developer shall be bound to the same extent as all other Unit Owners:

(1) Restrictions on the presence of pets; and

(2) Restrictions on occupancy of Units based on age.

W. Firearms and Fireworks. The display or discharge of firearms or fireworks on the Development Property is prohibited, except by law enforcement officers or for transporting the firearm to and from the Occupant's Unit. The term "firearms" includes "B-B" guns, pellet guns and all other types of firearms, regardless of size and including sling shots, archery and other projectile-emitting devices.

X. Grilling. The use of outdoor grills on any portion of the Development Property, without exception, is prohibited except as may be designated in specific areas by Developer or the Board.

Y. Parking Restrictions. Each Unit Owner shall have the right to use at least one (1) parking space in the Parking Area, such parking spaces to be unassigned, subject to the following terms, provisions and conditions:

(1) Disabled and stored vehicles are prohibited from being parked on the Development. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is inoperable. A vehicle shall be considered "stored" if it remains on the

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Development without being driven for thirty (30) consecutive days or longer without prior written Board permission.

(2) Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Tennessee Department of Motor Vehicles), recreational vehicles (RVs and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than vehicles belonging to the Owners or Occupants of the Commercial Units, or Sheriffs, Marshals, or police officers' vehicles marked as such, are also prohibited from being parked on the Development, except in areas, if any, that may be designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements; provided, however, no such vehicle shall remain on the Common Elements overnight or for any purpose unless prior written consent of the Board is first obtained.

(3) If any vehicle is parked on any portion of the Development in violation of this Paragraph or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the person or entity that will do the towing or booting and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle.

(4) If a vehicle is parked in a fire lane, is blocking another vehicle or access to another parking space, is obstructing the flow of traffic, is parked in a parking space which has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed immediately. If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 14.2 Commercial Unit(s). The Commercial Unit(s) shall be used only for such commercial use or business purposes permitted by applicable zoning ordinance and use restrictions, provided such commercial or business activity does not constitute a nuisance or hazardous or offensive use, or threaten the security or safety of the residents of the Development, as may be determined in the reasonable discretion of the Board. Except as otherwise specifically provided for herein, no tenant, employee, visitor, guest or invitee of a Commercial Unit shall have access, ingress, or egress to or through any portion of the Development except said Commercial Unit, the Limited Common Elements assigned to such Commercial Unit, and any portion of the Development reasonably necessary to provide access, ingress, and egress between such Commercial Unit and the parking area and loading dock, or between two (2) or more Commercial Units owned by the same Owner or occupied by the same Occupant. All trash and rubbish for the Commercial Unit(s) shall be stored only in an adequate dumpster or trash compactor in an area approved by the Board. No Commercial Unit may be subdivided; provided, however, Developer shall have the right during the Developer Control Period to subdivide, and any Commercial Unit Owner shall have the right, upon prior written notice to the Board, to combine, one or more Commercial Units owned by such Owner without the approval of the Board and the Board shall execute the required amendment to this Declaration.

A. Prohibited Uses. Without limiting the generality of the foregoing, except as otherwise specifically provided in this Section 14.2, no part of a Commercial Unit may be used for any of the following purposes:

(1) cinema/movie theater or other performing arts venue;

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

(3) pool hall;

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

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

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

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

(8) funeral home or store selling caskets;

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(9) mortuary;

(10) automotive supplies and parts;

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

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

(13) industrial operation;

(14) processing or rendering plant;

(15) lumber yard;

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

(17) any automobile and/or service station or car wash, or any automobile, truck, van, trailer, mobile home or recreational vehicle sales, leasing, display or repair facility, including without limitation any tire, battery and accessory facility;

(18) residential uses, living quarters, sleeping apartments, hotel, motel, hostel or lodging rooms;

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

(20) thrift store, pawn shop, consignment shop, liquidation outlet, flea market, or similar establishment;

(21) betting or other gaming establishment, facility or operation, including, but not limited to, off-track or sports betting parlor, table games such as blackjack 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);

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

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

(24) training or education facility, including, but not limited to, beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, the foregoing shall not be applicable to on-site employee or other training by Occupants incidental to the conduct of its business in a Unit;

(25) any medical office, clinic or surgical center performing or dispensing reproductive health services;

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

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

(28) any employment office, day labor service, or other enterprise or organization that offers laborers for hire.

B. Proposed Uses. Any proposed use of any part of a Unit that is not specified in subparagraph (A), other than restaurant uses in the Commercial Unit(s) on the ground floor of the Building (for which no review or approval shall be required), shall be submitted for the review, consideration and approval of the Board of Directors, such approval not to be unreasonably withheld, conditioned or delayed.

C. Use of Common Elements Including Amenities. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. With prior written Board approval, and subject to any restrictions imposed by the Board, an Owner may reserve portions of the Common Elements for use for a period of time as set by the Board, provided, however, such use shall not interfere with the use or access to the Commercial Units by the Occupants thereby. Any such Owner who reserves a portion of the Common Elements as provided herein shall assume, on behalf of him or herself and his or her guests, Occupants and family, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury

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is caused solely by the willful acts or gross negligence of the Association, its agents or employees. There shall be no use of or access to the roof of the Development by the Owners, his or her family members, guests, tenants, invitees, agents or contractors. The Association and its agents and contractors shall have access to the roof for performing its maintenance and repair responsibility. There shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board. This subparagraph shall not apply to Developer, for so long as Developer shall own a Unit for sale.

D. Use of Limited Common Elements, Storage Spaces, Terraces, and Balconies. Except as otherwise provided herein, the use of the Limited Common Elements assigned to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and said Owner's family members, guests, tenants and invitees. 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, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements.

(1) Storage Spaces. Storage spaces shall be used solely for the purpose of storing any personal property belonging to the Owner or Occupant of the Unit to which such storage space is assigned as a Limited Common Element. No Owner or Occupant shall store any explosives, or any flammable, odorous, noxious, corrosive, hazardous or pollutant materials or any other goods in the space that would cause danger or nuisance to the storage space or the Development. The storage space shall not be used for any purposes unlawful or contrary to any ordinance, regulation, fire code, or health code. If hazardous substances are stored, used, generated or disposed of on or in the storage space or if the storage space becomes contaminated in any manner for which the Owner or Occupant thereof is legally liable, Owner or Occupant shall indemnify and hold harmless Developer, Association and Board of Directors from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid from settlement of claims, attorneys' fees, consultant and expert fees, arising as a result of that contamination by Owner or Occupant.

(2) Balconies and Terraces. No objects, including by way of illustration, but not limitation, potted plants, grills, umbrellas, bicycles, laundry garments, towels, awnings, canopies and all other objects, may be located on a balcony or terrace serving a Unit provided. Objects shall not be permitted to hang over or be attached to any exterior surface of a balcony or terrace wall or to otherwise protrude outside of the vertical plane formed by the exterior surface of a balcony or terrace wall. Penetration of the surfaces of a balcony or terrace wall, floor or ceiling is also prohibited. Enclosure of a balcony is prohibited.

E. Signage. Except as may be provided for herein or as may be required by legal proceedings, and except for signs which may be erected by Developer related to the development and sale of Units, no signs, flags, banners, stickers, advertising posters, flyers, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Development without the prior written consent of the Board or its designee. The Board also shall have the authority to adopt regulations permitting temporary signs on the front door of a Unit announcing births, birthdays or other events for limited periods of time. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

Notwithstanding anything to the contrary herein, an Owner of a Commercial Unit, on behalf of itself or its Occupant(s), shall be permitted to erect signage subject to the following conditions: (A) an Owner or Occupant shall be permitted to erect signage related to its business activities conducted within the Commercial Unit on the interior of the windows of such Commercial Unit, provided that, such signage shall be subject to the approval of the Board of Directors and no such signage shall exceed more than one-third (1/3) of the total glass surface area of such interior window; (B) all signage shall comply with local signage ordinances, except as to signage which Developer sought and for which Developer was granted a variance; (C) no signage shall contain or consist of flashing lights; and (D) any Owner or Occupant that removes signage or other improvement from the exterior façade of the Building shall restore the affected portions of the exterior façade to its original condition.

F. Window Treatments. Subject to any restrictions set forth in the Bylaws, Owners and Occupants of Residential Units shall be permitted to remove and replace window treatments originally installed by Developer (if any) in accordance with the rules and regulations of the Association as they may be amended, and otherwise shall be responsible for maintaining and keeping in good repair such window treatments not so removed or replaced. Notwithstanding the forgoing, if no such rules and regulations of the Association address removal and replacement of window treatments, an Owner or Occupant of a Residential Unit may replace the window treatments with the prior written approval of the Board of Directors, provided that the color of such alternative window treatments visible from outside any portion of the Residential Unit (if other than the colors permitted by the Bylaws) shall have been approved in advance by the Board of Directors. Under no circumstances shall there be allowed a canopy or awning to be placed by an Owner on the exterior of a Residential Unit or over its balcony; provided, however, that patio umbrellas shall be permitted on terraces located on the fifth floor of the Building so long as the color(s) of any such umbrellas are approved in advance by the Board. Under no circumstances shall an Owner or Occupant be permitted to drill into a window casement and breach the metal window frame.

G. Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any portion of the Development, including the Unit

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or Limited Common Elements; provided, however, the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners:

(1) No transmission antenna, of any kind, may be erected anywhere on the Development, including the Units, without written approval of the Board of Directors.

(2) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one meter in diameter shall be placed, allowed or maintained upon the Development, including the Units and the Limited Common Elements.

(3) Subject to the last sentence of this subparagraph (3) DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association, and only if and to the extent such rules mandate that such dishes or antennas be allowed, both as may be amended from time to time. In such event, to the extent permissible under the FCC rules and regulations, (A) such satellite dishes and antennas shall not be located above a line 3-feet (3') from the floor of the balconies or outside of the balcony railings, (B) such satellite dishes and antennas shall be in a uniform color designated by the Board of Directors, and (C) the Board of Directors may designate and restrict the specific location and color of such satellite dishes and antennas. To the extent that any of the foregoing subsections (A) through (C) is not permitted under the FCC rules and regulations, the remaining portion of this subparagraph (n) shall survive independently to the extent permissible under the FCC rules and regulations.

In the event of a transfer of the Unit that includes a satellite dish or antenna, the Grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

To the extent allowed by FCC rules and regulations, the Association shall maintain at its expense a master DBS dish or antenna system that Owners and Occupants shall be required to utilize in lieu of individual DBS dishes and antennae.

H. Abandoned Personal Property. Personal property, other than vehicles as provided for in Section 14.1(Y)(1) above, shall not be kept, or allowed to remain for more than twenty-four (24) hours upon any portion of the Common Elements, other than on a Limited Common Element, without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, 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 notice shall include the name and telephone number of the person or entity that will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give 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.

I. Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Units by Developer it shall be expressly permissible for Developer, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Development as Developer may deem necessary, such facilities and activities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the completion and sale of the Units, including, but without limitation, business offices, signs, model Units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities on the Development for such purposes and to use the Units owned by Developer as model Units and as offices for the sale of the Units and related activities.

J. Move In/Move Out. An Owner or Occupant shall not move furniture, personal property, construction materials, and other over-sized items in or out of the Development except during such hours and according to requirements to be determined by the Board of Directors. Furthermore, an Owner or Occupant shall reserve a date and time with the Board of Directors to use the elevator for moving furniture, personal property, construction materials, and other over-sized items in or out of the Development. The Board of Directors, in its sole discretion, may require a non-refundable security deposit prior to using the elevator for moving furniture, construction materials or other over-sized items. The Board of Directors shall also be authorized to approve movers and/or moving companies that require access to the Development for the purpose of moving furniture, construction materials, and other oversized items, on behalf of an Owner or Occupant, in or out of the Development, and such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary stated herein, an Owner or Occupant shall not leave unattended any furniture, personal property, construction materials, and other over-sized items on any portion of the Common Elements for any period of time.

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K. Life-Safety Systems. Owners and Occupants shall not tamper with or disengage any portion of the life-safety systems that serve the Development including, without limitation, the sprinkler heads and all branch and feed lines that support such sprinkler heads, and all fire control devices (such as smoke detectors and call boxes), regardless of whether such items are located within the boundaries of a Unit.

The Board of Directors of the Association shall have the right to promulgate and enforce, from time to time, rules and regulations implementing, elaborating or clarifying any of the restrictions set forth in this Article; provided, however, that no such rules or regulation shall be inconsistent with the operation of a restaurant within the Commercial Units located on the ground floor of the Building.

ARTICLE XV

MAINTENANCE AND ALTERATIONS

Section 15.1 Maintenance and Repairs. Responsibility for the maintenance, repair and replacement of the Development Property is as follows:

A. By the Association. The Association shall maintain, repair and replace all of the following, the costs of which are a part of the Common Expenses:

(1) All Common Elements;

(2) All portions of the Units (except interior wall surfaces) contributing to the support of the Building, which portions shall include, but not be limited to, load bearing columns and walls;

(3) All Common Elements including but not limited to conduits, ducts, plumbing, wiring and other facilities for the furnishing of Utility services that are contained in the portions of the Unit contributing to the support of the Building or within the interior boundary walls and all such facilities contained within a Unit that service part or parts of the Development other than the Unit within which it is contained;

(4) All exterior windows of Residential Units; and

(5) All incidental damage caused to a Unit by such work shall be promptly repaired or replaced at the expense of the Association.

B. By the Unit Owner. Each Unit Owner shall operate, maintain, repair and replace, at the Unit Owner's expense, all of the following:

(1) All portions of the Unit, excepting only the portions to be maintained, repaired or replaced by the Association as provided above;

(2) Cleaning all exterior doors and screens adjacent or attached to the Unit; provided, however, that the painting of the exterior doors shall be a Common Expense and the color, finish and design thereof shall be designated by the Association. These surfaces shall be maintained in such manner as to preserve a uniform appearance among the Units in the Development;

(3) Interior paint, finish, covering, wallpaper and decoration of all walls, floors and ceilings;

(4) All built-in shelves, cabinets, counters, storage areas and closets;

(5) All mechanical, ventilating, heating and air conditioning equipment serving the individual Unit; any refrigerators, stoves, ovens, disposals, dishwashers and other kitchen equipment; all bathroom fixtures, equipment and apparatus;

(6) All electrical, plumbing, telephone and television fixtures, apparatus, equipment, outlets, switches, wires, pipes and conduits serving only the respective Unit, and all electrical lines between the Unit and its individual service panel or meter;

(7) All interior doors, non-load-bearing walls, partitions, and room dividers;

(8) All furniture, furnishings and personal property contained within the respective Unit; and

(9) All other maintenance, repair or replacements involving a Unit as contemplated and authorized hereunder.

All property to be maintained and repaired by a Unit Owner shall be kept in a first class condition at all times and in good working order, if the same affects the exterior appearance of the Building, so as to preserve a well-kept appearance throughout the Development and the Building at all times, and no maintenance, repairs or replacements shall be performed in a manner that changes or alters the exterior appearance of the Building from its original appearance or condition without the prior written consent of the Association, in its sole and absolute discretion. All property to be maintained, repaired or replaced by a Unit Owner that is inside of the

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Unit Owner's Unit and that does not affect the exterior appearance of the Building shall be maintained in a condition that does not and will not adversely affect any other Unit Owner, or any portion of the Development Property or the Building. No Unit Owner shall operate, maintain, repair or replace any portion of the Common Elements or Limited Common Elements to be operated, maintained, repaired or replaced by the Association without the prior written consent of the Association, as the case may be. Each Unit Owner shall promptly report to the Association any defects or need for repairs, maintenance or replacement, the responsibility for which is that of the Association.

Section 15.2 Alterations and Improvements. Alterations and improvements to the Common Elements and the Units shall be governed by the following provisions:

A. To Common Elements. After the completion of the improvements included in the Common Elements that are set forth in this Declaration, or that are contemplated by the Developer in the completion of the development as set forth herein, there shall be no alterations or additions to the Common Elements or Limited Common Elements unless authorized by an Amendment to this Declaration in the manner set forth in Article VI above.

B. To the Units. Except as otherwise reserved by the Developer, no Unit Owner shall make any alteration or improvement to the Unit Owner's Unit except in accordance with this Section. A Unit Owner may make alterations and improvements to the interior of the dwelling located within the Unit, so long as such alterations or improvements are not visible from the outside of the Unit, do not impair the structural integrity of the Common Elements or the Building, do not otherwise violate the terms of this Declaration, and are in compliance with all applicable Laws. Any other alterations or improvements to a Unit (including, but not limited, to the enclosing or screening in of any porch or patio within the Unit), may be made only if prior written approval is obtained from the Board of Directors, which approval may be withheld, conditioned or delayed in their sole and absolute discretion.

C. Indemnification. A Unit Owner making or causing to be made any additions, alterations or improvements agrees and shall be deemed to have agreed, for such Owner and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Development Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association.

D. Contracts By Association. The Board of Directors may enter into a contract with any firm, person or corporation, or may join with other Development associations and entities in contracting for the maintenance and repair of the Development Property, the property of other Developments and other type properties, and may contract for or may join with other associations in contracting for the management of the Development Property, the property of other developments and other type properties, as may be more specifically provided for by the Charter and Bylaws. The Association, through its Board of Directors, has entered into the Management Agreement, which is encompassed by the provisions of this paragraph.

E. Entry Into Unit. Each Unit Owner agrees to allow the Association to enter into any Unit for the purpose of maintenance, repair, replacement of the Common Elements or Limited Common Elements, or any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

F. Enforcement. In the event the Unit Owner of a Unit fails to maintain such Unit and/or the Limited Common Elements to the extent as required herein, or makes any alterations or additions without the required written consent, or otherwise violates or threatens to violate the provisions hereof or the rules and regulations adopted in or pursuant to the Bylaws, the Association shall have the right to proceed in a court of equity for an injunction to seek compliance with the provisions hereof, in addition to any other rights to which it may be entitled under applicable law.

G. Other Contracts. The Association may enter into agreements or authorize arrangements with such firms or companies as it may deem appropriate for and on behalf of the Unit Owners to provide certain services and/or maintenance which otherwise would be the responsibility of the Unit Owners rather than the Association under this Declaration. Such agreement(s) or arrangement(s) may provide for such maintenance and service to be performed on a regularly scheduled basis, such as air conditioning maintenance and service, exterminating services and other types of maintenance and services, as the Association deems advisable for such periods of time and on such bases as it determines. The cost for such services and/or maintenance shall be the specific responsibility of each Unit Owner participating in such service and/or maintenance and shall not be a Common Expense for all Unit Owners. Such agreements or arrangements shall not relieve the Unit Owners of the underlying responsibility but shall be a convenience for them. Each Unit Owner shall be deemed a party to such agreements or arrangements with the same force and effect as though such Unit Owner had executed such arrangement or authorized such arrangement and it is understood and agreed that the Association shall be executing or authorizing such agreements or arrangements as the agent for the Unit Owners.

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ARTICLE XVI

TERMINATION

This Development may be voluntarily terminated in the manner provided for in the Act at any time, provided that certain of the provisions of the Act may be superseded by specific provisions of this Article or any other provision of this Declaration. If proposed voluntary termination is submitted to a meeting of the membership of the Association, pursuant to notice, and is approved in writing, within sixty (60) days of such meeting, by Unit Owners who represent at least eighty percent (80%) of the total votes in the Association, and by Eligible Mortgage Holders that represent at least eighty percent (80%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders, then the Development shall be terminated upon the recording of a termination agreement evidencing such approvals and executed in a manner required for conveyances of land. Whenever any of the provisions of this Declaration and other exhibits attached hereto shall be in conflict, the provisions of this Declaration shall be controlling. Whenever any of the provisions of the Charter and the Bylaws, such documents being attached hereto as exhibits, shall be in conflict, the provisions of the Charter shall be controlling over the Bylaws.

ARTICLE XVII

MANAGEMENT AGREEMENT

Section 17.1 Purposes of the Management Agreement. The Association has, or may, enter into the Management Agreement, to which reference is hereby made. The general purpose of the Management Agreement is to contract for the management and maintenance of the Development Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Elements with funds as shall be made available by the Association for such purposes. The Association, its directors and its officers shall, however, retain at all times the powers and duties granted by the Development Documents and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association. Each Unit Owner, his heirs, successors and assigns, by virtue of such party's taking title to a Development Parcel, shall be deemed to have agreed to, confirmed and ratified the following:

A. Adopting, ratifying and consenting to the execution of such Management Agreement by the Association.

B. Covenanting and promising to perform each and every of the covenants, promises and undertakings to be performed by Unit Owners in the cases provided therefor in such Management Agreement.

C. Ratifying, confirming and approving each and every provision of such Management Agreement, and acknowledging that all of the terms and provisions thereof are reasonable.

D. Agreeing that the persons acting as Directors and officers of the Association entering into such an Agreement have not breached any of their duties or obligations to the Association.

Section 17.2 Related Parties Not Improper. It is specifically recognized that some or all of the persons comprising the original Board of Directors and officers of the Association are or may be stockholders, officers and directors of the Management Firm, and that such circumstance shall not and cannot be construed or considered as a breach of their duties and obligations to the Association, nor as possible grounds to invalidate such Management Agreement, in whole or in part.

Section 17.3 Ratification. The acts of the Board of Directors and officers of the Association in entering into the Management Agreement be and the same are hereby ratified, approved, confirmed and adopted.

Section 17.4 Right of Early Termination; Maximum Term. Notwithstanding any provision to the contrary in this Declaration, any agreement for professional management of the Development, whether it be by the Developer, its successors and assigns, or any other person or entity, shall not be of a duration in excess of three (3) years and, other than the initial three (3) year term of such agreement (in which such agreement shall only be terminable for cause) shall be terminable by either party with or without cause upon sixty (60) days' written notice without penalty, and the terms of any such agreement shall so provide.

ARTICLE XVIII

DISCLAIMER OF CERTAIN WARRANTIES

Section 18.1 Warranties Disclaimed. Except as set forth under the Act, the Developer specifically disclaims any intent to have made any express or implied warranty or representation in connection with the Property or the Development Documents, except as specifically set forth therein, and no person shall rely upon any warranty or representation not so specifically made therein. Common Expenses, taxes and other amounts paid or to be paid, and any Operating Budget delivered from time to time are estimates only and no warranty, guaranty or representation is made or intended, nor may one be relied upon.

Section 18.2 Certain Particular Conditions Not Warranted. The Developer shall not be responsible for conditions resulting from condensation on or expansion or contraction of materials, paint, if any, on both interior and exterior, loss or injury caused in any way by the elements; the water tightness of windows and doors, defects which

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are the results of characteristics common to the materials used and damage due to ordinary wear and tear or abusive use, collection of water on any portion of the Development Property, except such items as are specifically delineated and agreed to in writing between the Developer and the individual Unit Owner, and it shall be understood and agreed that the Developer shall bear no responsibility in any way as to the matters provided in this paragraph to the Association and Unit Owners. With respect to personal property, the Developer gives the same warranty for the same period provided by the manufacturer, commencing with the date of closing of the purchase or the date of possession of the Unit, whichever is earlier.

ARTICLE XIX

ADDITIONAL RIGHTS OF ELIGIBLE MORTGAGE HOLDERS AND OTHER PARTIES

The following provisions are intended for the benefit of each Eligible Mortgage Holder, and to the extent that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

Section 19.1 Information to Eligible Mortgage Holders. Upon request in writing, the Association shall furnish each Eligible Mortgage Holder, and any holder, insurer or guarantor of the mortgage held by such Eligible Mortgage Holder, with a written notice of any default by the Unit Owner of such Unit in the performance of such Unit Owner's obligations under this Declaration that is not cured within thirty (30) days.

Section 19.2 Additional Rights of Eligible Mortgage Holders. Each Eligible Mortgage Holder of a Unit and any holder, insurer or guarantor of a first mortgage on a Unit shall have the right:

A. to examine current copies of this Declaration, the Bylaws, rules and regulations and the books, records and financial statements of the Association during normal business hours;

B. to receive, without any charge and within a reasonable time after such request, the annual financial statement which is prepared and distributed by the Association to the Unit Owners at the end of its fiscal year;

C. to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;

D. to receive written notice of any decision by the Unit Owners to make a material amendment to the Declaration, Bylaws or Charter of the Association;

E. to receive written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

F. to receive written notice of any action which would require the consent of a specified number of Eligible Mortgage Holders pursuant to the terms of this Declaration;

G. to receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage; and

H. to receive any other information specified in Section 66-27-503 of the Act.

Section 19.3 Rights of Eligible Mortgage Holders in Respect of Insurance Proceeds. No provision of this Declaration, the Charter or Bylaws or any similar instrument pertaining to the Submitted Property or the Units therein shall be deemed to give a Unit Owner or any other party priority over any rights of the Eligible Mortgage Holders of Units pursuant to their mortgages in the case of distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of the Units, and/or the Common Elements or Limited Common Elements, or any portion thereof or interest therein. In such event, the Eligible Mortgage Holder of a Unit shall be entitled, upon specific written request, to timely written notice of any such loss.

Section 19.4 Consent of Eligible Mortgagees Required for Certain Material Changes. In addition to any other provisions of this Declaration that set forth particular requirements for amendment of this Declaration, the consent of Eligible Mortgage Holders that represent at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders shall be required (i) for any amendment to this Declaration which is of a material adverse nature to the rights of Eligible Mortgage Holders or (ii) to otherwise add or amend any provisions of this Declaration which establish, provide for, govern or regulate any of the following changes:

A. Voting rights;

B. Increases in General Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessments liens, or the priority of Assessment liens;

C. Reductions in reserves for maintenance, repair and replacement of Common Elements;

D. Responsibility for maintenance and repairs;

E. Reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use (provided that with respect to a reallocation of Limited Common Elements allocated to less than

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all Units, only the consent of the Eligible Mortgage Holders holding mortgages on the affected Units shall be required);

F. Redefinition of any Unit boundaries;

G. Convertibility of Units into Common Elements or vice versa;

H. Expansion or contraction of the Development, or the addition, annexation or withdrawal of property to or from the Development;

I. Hazard or fidelity insurance requirements;

J. Imposition of any restrictions on leasing of Units;

K. Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;

L. A decision by the Association to establish self-management, if professional management has been previously required by the Development Documents or by an Eligible Mortgage Holder;

M. Restoration or repair of the Development (after damage or partial condemnation) in a manner other than that specified in the Development Documents;

N. Any provisions that expressly benefit mortgage holders, insurers or guarantors;

O. Termination of the legal status of the Development after substantial destruction or condemnation (provided that, if any greater percentage of Eligible Mortgage Holders is required by the Act or elsewhere in this Declaration, such greater percentage shall be required);

P. Any amendment that affects or purports to affect the validity or priority of any mortgage or deed of trust or the rights or protections granted to Eligible Mortgage Holders, insurers or guarantors.

Q. Any amendment that would require an Eligible Mortgagee after it has acquired a Unit through foreclosure to pay more than its proportionate share of any unpaid Assessments accruing before such foreclosure.

R. Any amendment that would or could result in a mortgage or deed of trust being canceled by forfeiture, or in a Unit not being separately assessed for tax purposes.

S. Any amendment related to (i) the application of insurance proceeds in Article 11.1 above, or (ii) the disposition of any money received in any taking under condemnation proceedings.

T. Any amendment that would subject any Unit Owner to a right of first refusal or such other restriction, if his or her Unit is proposed to be transferred.

Section 19.5 Notice to First Mortgagees Upon Damage, Etc. Each Eligible Mortgage Holder holding a first mortgage on a Unit, or holder, insurer or guarantor of a first mortgage on a Unit, shall be furnished written notice by the Association in the event of the occurrence of:

A. any material damage to or destruction of the Units or Common Elements. For such purposes, any damage or destruction affecting any portion of the Common Elements to the extent of Ten Thousand Dollars ($10,000.00) or more of their value, or, if damage, destruction or taking shall occur to a Unit, to the extent of One Thousand Dollars ($1,000.00) of its value or more, shall be deemed material;

B. any delinquency of sixty (60) days or more in the payment of Assessments or other charges owed by the Owner of any Unit on which such Eligible Mortgage Holder holds a first mortgage;

C. a lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

D. a proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

Section 19.6 First Mortgagee's Rights Confirmed. If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, or if any Unit or any portion thereof or the Common Elements or any portion thereof shall be destroyed or damaged by a casualty, then the Eligible Mortgage Holder will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and, notwithstanding any provision of this Declaration or the Bylaws to the contrary, the distribution to such Unit Owner of the proceeds of any award, settlement, or insurance proceeds under this Declaration, the Bylaws or otherwise, shall at all times be subject to the terms of the Eligible Mortgage Holder's mortgage. Notwithstanding anything in this Declaration to the contrary, any Eligible Mortgage Holder who obtains title to a Unit through foreclosure or pursuant to the remedies under its mortgage with such Unit's Owner shall not be liable for any Assessments other than six (6) months (or less) of the Unit's unpaid General Assessments, together with the costs of collecting such unpaid General Assessments as is permitted hereunder.

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Section 19.7 Deemed Approval by First Mortgagee. Any Eligible Mortgage Holder that holds a first mortgage on a Unit who receives a written proposal to approve additions or amendments and fails to deliver or mail to the requesting party a negative response within sixty (60) days following receipt of notice of such proposal shall be deemed to have approved such request, provided that the notice was delivered by certified or registered mail, "return receipt requested."

ARTICLE XX

MISCELLANEOUS PROVISIONS

Section 20.1 Binding Effect. Each Unit Owner shall own his Unit subject to the covenants, conditions, restrictions, terms and provisions of this Declaration, and each successor in title shall likewise be bound thereby.

Section 20.2 Non-Ownership of Certain Facilities. The Owners of the respective Units shall not be deemed to own pipes, wires, conduits or other public or private Utility lines running through such respective Units which are utilized for or serve more than one (1) Unit, which items are, by these presents, hereby made a part of the Common Elements.

Section 20.3 Covenants Running With the Submitted Property. All provisions of this Declaration and amendments thereof shall be construed as covenants running with the Submitted Property, and of every part thereof and interest therein, including, but not limited to, every Unit and the appurtenances thereto, and every Unit Owner and Occupant of the Property, or any part thereof, or of any interest therein, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of such Declaration and any amendments thereof.

Section 20.4 Severability. If any of the provisions of this Declaration, or of the Charter or Bylaws, or any section, clause, phrase, word, or the application thereof, in any circumstances, is held invalid, then the validity of the remainder of this Declaration, and such other documents and the application of any such provision, action, sentence, clause, phrase or word, in other circumstances, shall not be affected thereby.

Section 20.5 Notices. Whenever notices are required to be sent hereunder, the same may be delivered to Unit Owners, either personally or by mail, addressed to such Unit Owners at their place of residence in the Development. Proof of such mailing or personal delivery by the Association or Management Firm shall be given by the affidavit of the person mailing or personally delivering such notices or alternatively, by a receipt of mailing or a "return receipt requested" if by mail, or a signed receipt if delivery is in person. Notices to the Association shall be delivered by mail to the secretary of the Association, at the secretary's residence in the Development, or in case of the secretary's absence, then the President of the Association at his residence in the Development, and in his absence, any member of the Board of Directors of the Association. The change of the mailing address of any party as specified herein shall not require an amendment to this Declaration. All notices shall be deemed and considered sent when mailed or delivered as the case may be. Notices to the Developer shall be delivered by mail to such entity at: PO Box 90381, Nashville, TN 37209

Service of legal process for any of the foregoing entities shall be upon the registered agent therefor with a copy mailed to such entity at the foregoing address.

Section 20.6 Certain Additional Rights of Developer. In addition to all other rights of Developer set forth in this Declaration, including Developer's right to appoint and remove officers and directors under Article II of the Bylaws, the Developer shall have the right to (A) use unsold Units as model apartments and a portion of the Common Elements of the Development Property and the parking area for the purpose of aiding in the sale of Units, including the right to use such parking areas for parking for prospective purchasers and such other parties as Developer determines, (B) display and erect signs, billboards and placards and store, keep and exhibit same and distribute audio and visual promotional materials upon the Common Elements of the Development Property and Units used as models, (C) photograph a Unit Owner(s), guests, and residents (with or without their consent) and use same for promotional purposes, (D) use any conference room within the Common Elements free of charge during any period in which such space has not been reserved by any other Unit Owner, and (E) incorporate the storage area(s) adjacent to the Commercial Unit into the Commercial Unit.

Section 20.7 Gender; Number. Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular. The provisions of the Development Documents shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a development.

Section 20.8 Captions. The captions used in this Declaration and the exhibits attached hereto are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of any of the text of this Declaration or exhibits hereto attached.

Section 20.9 Relation of Declaration to Act. Notwithstanding the fact that this Declaration is submitted in accordance with the provisions of the Act in effect as of the date hereof and certain specified provisions of the Act may have been incorporated by reference, provisions of this Declaration and exhibits attached hereto shall be paramount to the Act as to those provisions where permissive variances are permitted. However, in the event of any conflict between the provisions of this Declaration and the Act with respect to obligations owed by the Developer to any Unit Owner or with respect to the rights held by each Unit Owner, the provisions of the Act shall control.

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Section 20.10 **SECURITY. THE ASSOCIATION OR DEVELOPER MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SECURITY ON THE DEVELOPMENT; HOWEVER, EACH OWNER, FOR HIM OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DEVELOPER IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE DEVELOPMENT. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE DEVELOPMENT AND COMMIT CRIMINAL ACTS ON THE DEVELOPMENT NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE DEVELOPMENT WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. NEITHER DEVELOPER 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 20.11 Dispute Resolution.

A. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant 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 Owner's or Occupant'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. IF THE ASSOCIATION OR ANY UNIT OWNER ASSERTS A CAUSE OF ACTION THAT:

(1) INVOLVES IN WHOLE OR IN PART ANY ASPECT OF THE DESIGN, CONSTRUCTION, SALE MAINTENANCE, HABITABILITY OR CONDITION OF THE DEVELOPMENT, INCLUDING WITHOUT LIMITATION, ANY UNIT, THE COMMON ELEMENTS OR THE LIMITED COMMON ELEMENTS OF DEVELOPMENT;

(2) THAT ARISES OUT OF OR RELATES TO THE CONTRACT BETWEEN DEVELOPER AND THE UNIT OWNER FOR THE SALE OF UNIT, THE BREACH THEREOF, ANY WORK OR IMPROVEMENTS PERFORMED THEREUNDER, ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION RELATED TO THE MATTERS DESCRIBED OR INVOLVED IN SUCH CONTRACT OR ANY WORK OR IMPROVEMENT PERFORMED THEREUNDER;

(3) THAT ARISES OUT OF RELATES TO ANY CONTRACT BETWEEN OR AMONG ANY UNIT OWNER AND/OR ANY FUTURE UNIT OWNER(S) OF THE DEVELOPMENT FOR THE SALE OF A UNIT, THE BREACH THEREOF, ANY WORK OR IMPROVEMENTS PERFORMED THEREUNDER, ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION RELATED TO THE MATTERS DESCRIBED OR INVOLVED IN SUCH CONTRACT OR ANY WORK OR IMPROEVEMENT PERFORMED THEREUNDER; OR

(4) THAT ARISES OUT OF OR RELATES TO ANY CONTRACT BETWEEN OR AMONG DEVELOPER AND J. E. DUNN CONSTRUCTION COMPANY ("CONTRACTOR"), RELATED TO THE DEVELOPMENT, THE BREACH THEREOF, ANY WORK OR IMPROVEMENTS PERFORMED THEREUNDER, ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION RELATED TO THE MATTERS DESCRIBED OR INVOLVED IN SUCH CONTRACT OR ANY WORK OR IMPROVEMENT PERFORMED THEREUNDER

AGAINST CONTRACTOR, DEVELOPER, THE ASSOCIATION OR ANY OF THEIR REPRESENTATIVES, OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, SUBCONTRACTORS OR SUPPLIERS, ANY REAL ESTATE BROKER OR AGENT INVOLVED IN THE PURCHASE AND SALE OF A UNIT, OR ANY PRIOR UNIT OWNER, SUCH CLAIM OR CAUSE OF ACTION SHALL BE DECIDED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION ("AAA") IN ACCORDANCE WITH THE CONSTRUCTION ARBITRATION RULES OF THE AAA, AS IN EFFECT ON THE DATE OF ANY DEMAND FOR ARBITRATION HEREUNDER.

C. EACH UNIT OWNER HEREBY AUTHORIZES THE ASSOCIATION TO ACT AS THE EXCLUSIVE REPRESENTATIVE OF EACH UNIT OWNER ASSERTING ANY CLAIMS AND CAUSES OF ACTION RELATING IN WHOLE OR IN PART TO THE COMMON ELEMENTS (INCLUDING THE LIMITED COMMON ELEMENTS) OF THE DEVELOPMENT AND TO ANY PORTION OF THE UNITS WHICH ARE THE RESPONSIBILITY OF THE ASSOCIATION TO MAINTAIN, REPAIR AND REPLACE. EACH UNIT OWNER HEREBY APPOINTS THE

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ASSOCIATION EXCLUSIVELY TO ACT AS THEIR ATTORNEY IN FACT (WHICH APPOINTMENT IS IRREVOCABLE) WITH RESPECT TO THE CLAIMS AND CAUSES OF ACTION REFERENCED IN THIS PARAGRAPH 20.11(B) INCLUDING THE RIGHT TO COMPROMISE AND SETTLE THE SAME. EACH UNIT OWNER AGREES THAT NO UNIT OWNER SHALL ASSERT A CLAIM OR CAUSE OF ACTION RELATING TO THE COMMON ELEMENTS (INCLUDING THE UNDIVIDED INTEREST AND THE LIMITED COMMON ELEMENTS) EXCEPT THROUGH THE ASSOCIATION. NOTHING CONTAINED HEREIN SHALL OBLIGATE THE ASSOCIATION TOASSERT A SUCH A CLAIM OR CAUSE OF ACTION ON BEHALF OF ANY UNIT OWNER. THIS PROVISION GIVES THE ASSOCIATION THE RIGHT, WITHOUT THE OBLIGATION, TO ASSERT A SUCH A CLAIM OR CAUSE OF ACTION ON BEHALF OF ANY UNIT OWNER, IF THE ASSOCIATION SO CHOOSES.

D. ALL ARBITRATIONS IN WHICH THE ASSOCIATION IS A PARTY SHALL BE RESOLVED BEFORE A PANEL OF THREE (3) ARBITRATORS PURSUANT TO THE CONSTRUCTION INDUSTRY RULES OF THE AMERICAN ARBITRATION ASSOCIATION.

E. ALL ARBITRATIONS IN WHICH A UNIT OWNER IS A PARTY (AND THE ASSOCIATION IS NOT A PARTY ASSERTING A CLAIM FOR RELIEF OTHER THAN FOR ATTORNEYS FEES AND/OR COSTS OF THE ARBITRATION) SHALL BE RESOLVED BEFORE ONE (1) ARBITRATOR PURSUANT TO THE CONSTRUCTION INDUSTRY RULES OF THE AMERICAN ARBITRATION ASSOCIATION.

F. ALL ARBITRATION HEARINGS SHALL BE CONDUCTED IN NASHVILLE, TENNESSEE. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR WHICH ARE BOUND BY) THIS COVENANT SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL CLAIMS AND CAUSES OF ACTION REGARDING THE DEVELOPMENT MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED IN SUCH ARBITRATION THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF REPOSE. NOTWITHSTANDING ANYTHING HEREIN THE CONTRARY, "CLASS" ARBITRATION PROCEEDINGS, DEFINED AS A SINGLE ARBITRATION PROCEEDING INITIATED BY MULTIPLE UNIT OWNERS, ARE PROHIBITED UNLESS AGREED TO IN WRITING BY ALL PARTIES ENTITLED TO ENFORCE (AND/OR WHICH ARE BOUND BY) THIS COVEVANT.

G. IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN UNITED STATES DISTRICT COURT) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATOR(S), WHO SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER THE AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY, OR HARASSMENT.

H. THE ARBITRATOR(S) SHALL ISSUE A WRITTEN AWARD WITHIN THIRTY (30) DAYS AFTER THE FINAL HEARING IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF *RES JUDICATA* AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. COSTS OF THE ARBITRATION AND AWARDS OF ATTORNEY'S FEES MAY BE INCLUDED IN THE DECISION OF THE ARBITRATOR(S). THE AWARD RENDERED BY THE ARBITRATOR(S) SHALL BE FINAL AND BINDING UPON ALL PARTIES AND JUDGMENT MAY BE ENTERED UPON IT IN ACCORDANCE WITH THE APPLICABLE LAW IN ANY COURT HAVING JURISDICTION THEREOF.

I. THIS COVENANT FOR ARBITRATION OF DISPUTES AND AGREEMENT FOR ARBITRATION IS EXPRESSLY INTENDED TO BENEFIT, BE ENFORCEABLE BY, AND BIND EACH PERSON AND ENTITY REFERENCED HEREIN WHETHER OR NOT SUCH PERSON OR ENTITY HAS EXECUTED THIS COVENANT FOR ARBITRATION OF DISPUTES AND AGREEMENT FOR ARBITRATION. THIS COVENANT FOR ARBITRATION OF DISPUTES AND AGREEMENT FOR ARBITRATION SHALL RUN WITH THE LAND.

J. ANY PORTION OF THIS COVENANT FOR ARBITRATION OF DISPUTES AND AGREEMENT FOR ARBITRATION, WHICH MAY BE HELD TO BE UNENFORCEABLE SHALL BE SEVERABLE FROM THE BALANCE OF THIS COVENANT FOR ARBITRATION OF DISPUTES AND AGREEMENT FOR ARBITRATION SO THAT THE REMAINDER OF THIS COVENANT FOR ARBITRATION OF DISPUTES AND AGREEMENT FOR ARBITRATION SHALL REMAIN IN FULL FORCE AND EFFECT.

K. THE FOREGOING AGREEMENT TO ARBITRATE SHALL BE ENFORCEABLE UNDER THE PREVAILING TENNESSEE ARBITRATION LAW.

L. Nothing in this Section 20.11(B) or elsewhere in this Declaration shall be deemed to waive Developer's rights or limit Developer's remedies against Contractor pursuant to any separate agreement(s).

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M. Parking Spaces and Storage Spaces. Neither Developer nor the Association shall be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage resulting from water or acid damage, to any property placed or kept in any parking space or storage space in the Development. Each Owner or Occupant with use of a parking space or storage space who places or keeps a vehicle and/or any personal property in the vehicle, parking space, or storage space does so at his or her own risk.

N. Unit Keys. At the request of the Association, each Residential Unit Owner, by acceptance of a deed to a Unit, agrees to provide the Association with a key to the Unit (and the security alarm code, if any) to be used by the Association for maintenance, emergency, security or safety purposes as provided in Section 15.2(E) of this Declaration (and for pest control, if necessary). Neither Developer nor the Association shall be liable for any loss or damage due to its holding such key, or use of such key for the purposes described above and each Owner shall indemnify and hold harmless Developer, the Association and its officers and directors against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon Developer, the Association or its officers or directors in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding) brought by the Owner or the Owner's family, tenants, guests, employees, invitees, or licensees against Developer, the Association, its officers or directors arising out of or relating to its holding or use of such key for the purposes described above.

O. Right of Action. 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. Notwithstanding the above, once Developer no longer has the right to appoint and remove directors and officers, as set forth in Article II, Section 2.1 of the Bylaws, the Board of Directors may, subject to the approval of at least two thirds (2/3) of the Unit Owners, negotiate the resolution of any alleged defect(s) in the Common Elements on behalf of the Owners and shall have the right and authority to settle and release on behalf of any and all of the Owners claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Owners and their successors and assigns. As set forth in Section 6.4 hereof, no amendment to this Declaration shall (i) modify, alter, or delete any provision of this Declaration that benefits Developer or any rights, privileges, easements, protections, or defenses of Developer; or (ii) alter the rights of the Owners or the Association in relationship to Developer, without the written consent of Developer attached to and recorded with such amendment.

P. Successor Developers. Any successor to Developer shall not be responsible or subject to liability by operation of law or through the purchase of Developer's interest in the Development or any portion thereof at foreclosure or otherwise for any act, omission, or matter occurring or arising from any act, omission, or matter occurring prior to the time the successor succeeded to the interest of Developer.

Q. Use and Conveyance of Commercial Unit(s) by Developer to Association.

(1) Developer may, but is not required to, give the Owners and/or the Association the right to use any unoccupied Commercial Unit(s). The duration, terms, and conditions of such usage are at the discretion of Developer and may be unilaterally changed by Developer from time to time. If Owners and/or Association are given the right by Developer to use any Commercial Unit(s) owned by Developer, then the Association shall be responsible for paying for insurance, property taxes, and the cost of maintaining and repairing such Commercial Unit(s).

(2) The Developer may, but shall not be obligated to, transfer or convey to the Association the Commercial Unit(s) which are subject to the terms of this Declaration. Any such conveyance shall be accepted by the Association, and the Commercial Unit(s) shall thereafter be maintained by the Association. Developer shall not be required to make any improvements whatsoever to the Commercial Unit(s) to be conveyed and accepted pursuant to this subparagraph.

R. Disclosures. Each Owner and Occupant acknowledge the following:

(1) The Development 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.

(2) The views from an Owners Unit may change over time due to, among other circumstances, additional development and the removal or addition of landscaping.

(3) 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.

(4) No representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another.

(5) The Plat and Development floor plans and the dimensions and square footage calculations shown thereon are only approximations. Any Owner who is concerned about any representations regarding the floor plans should do his/her own investigation as to the dimensions, measurements and square footage of his/her Unit.

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(6) All Owners and Occupants acknowledge and understand that Developer will be constructing/renovating portions of the Development and engaging in other construction activities related to the construction of Common Elements and improvement of Units. Such construction activities may, from time to time, produce certain conditions on the Development, 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 Development. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Development resulting from renovation and construction activities shall not be deemed a nuisance and shall not cause Developer and its agents to be deemed in violation of any provision of the Declaration.

(7) Developer has reserved for itself and its successors, assigns and permittees an exclusive license and right, for a period of ten (10) years from the date of this Declaration, to use (a) on an exclusive basis, and in consideration of payment to the Association of monthly rental in the amount of $150.00 until the expiration or earlier termination of such license, the easternmost office space located adjacent to the first floor lounge, and (b) on a non-exclusive basis with all other Unit Owners, but at no additional charge to Developer, the remaining conference rooms and office space located adjacent to the lounge and lobby of the first floor of the Development, and being more particularly shown on the Development Plat.

(8) Developer has reserved for itself, its successors, assigns and permittees the exclusive right, for a period of ten (10) years from the date of this Declaration, to control any content projected or displayed on any screens or monitors located in the first floor lobby and lounge area of the Development.

(9) Restaurant noise and odor and other noise and odor related to retail service and other businesses may emanate from the Commercial Units.

Section 20.12 Utility Services to Building. In order to provide the Development and the Building with adequate and uniform water service and sewage disposal service, the Developer may initially contract for the servicing of the Development and the Unit Owners therein with such services whether from a Utility company or a municipal or county Utility. Pursuant to the foregoing, the Developer has, will or may contemporaneously herewith contract with a Utility company in which the Developer may have an interest for the furnishing of such services, and the Association and Unit Owners agree to pay the charges therefor, pursuant to and to comply with all of the terms and conditions of such Utility agreement. So long as such Utility company is not an affiliate of Developer within the meaning of § 66-27-405 of the Development Act, Developer shall have the absolute right to transfer and assign all such contracts or agreements to the Association or the Unit Owners, as the case may be, and upon such transfer shall have the right to indemnification by the assignee from and against any further liability or responsibility thereunder.

Section 20.13 Administrative Fines. The Association may levy fines against a Unit for the failure of the Unit Owner, or its occupant, licensee or invitee, to comply with any provision of this Declaration, the Association Bylaws, or rules and regulations of the Association. Such fine will become a lien against a Unit as provided in this Declaration and § 66-27-415 of the Act. No fine shall exceed $2,500.00 per violation; provided, however, that a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed $100,000.00 (which amounts may be adjusted in the Board's discretion in accordance with corresponding increases in the Consumer Price Index). Any such fine(s) shall not limit the Association's remedies, including but not limited to the right of the Association to require the applicable Unit Owner to pay all costs related to any damage to the Common Elements caused by the Unit Owner, its occupants, licensees or invitees, which costs may be charged separately to the applicable Unit Owner and in addition to any fines that are levied.

Section 20.14 Statement of Easements Serving or Burdening Any Portion of the Development. In addition to any easements reserved under this Declaration, and in accordance with § 66-27-309(b)(5) of the Act, Developer hereby states that the property is subject to the following:

1. Subject to all matters shown on the Plan of record in Plat Book 57, Page 133 and Plat Book 57, Page 82, Register's Office for Davidson County, Tennessee.

2. Subject to any and all existing easements, restrictions and plans of record not stated herein.

[signature and notary acknowledgement appears on following page]

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IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed by the undersigned officer this 25th day of March, 2020.

DEVELOPER

5916 MORROW HOLDING CO., LLC

BY: [signature]

NAME: Michael Kenner

TITLE: Owner

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, Drew T. Bandy, a Notary Public in and for said State and County aforesaid, duly commissioned and qualified, personally appeared Michael F. Kenner, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Owner/Authorized Agent of 5916 MORROW HOLDING CO., LLC, the within-named bargainor, a Tennessee limited liability company, and that he, as such Member, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as such President.

WITNESS my hand and seal at office on this the 25 day of March, 2020.

[signature]
Notary Public

My Commission Expires:

DREW T. BANDY
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires May 3, 2021

EXHIBIT A

Description of Submitted Property

Land in Davidson County, Tennessee, being Lot No. 1 on the Plan of Subdivision Plat Subdivision Case NO. 2018S-033-001 of record in Plat at Instrument No. 20180730-0073828, in the Register's Office for Davidson County, Tennessee, to which Plan reference is hereby made for a more complete description of the property.

Being a portion of the same property conveyed to HR Properties of Tennessee, a Tennessee general partnership by Warranty deed from Stephens Liquidation Corporation formerly known as Stephens Millwork and Lumber Co. of record in Instrument No. 20140603-0047518 Register's Office for Davidson County, Tennessee, dated May 30, 2014 and recorded on June 3, 2014.

Being the same property conveyed to HR Properties of Tennessee by Warranty deed from Ikerd Consulting, LLC of record in Instrument No. 20160524-0051968 Register's Office for Davidson County, Tennessee, dated May 20, 2016 and recorded on May 24, 2016.

Being the same property conveyed to 5916 Morrow Holding Co., LLC by Warranty deed from HR Properties of Tennessee, GP of record in Instrument No. 20180713-0068016 Register's Office for Davidson County, Tennessee, dated June 28, 2018 and recorded on July 13, 2018.

Being the same property conveyed to 5916 Morrow Holding Co., LLC by Quitclaim deed from HR Properties of Tennessee, GP of record in Instrument No. 20200107-0002253, Register's Office for Davidson County, Tennessee, dated January 7, 2020 and recorded on January 11, 2020.

Being also known as 5916 Morrow Road, Nashville, Tennessee 37209.

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EXHIBIT B

[Development Plat]

OWNER: 5916 MORROW HOLDING CO, LLC
DB-20140507 0038943, RODC, TN

Tax Map 91-06, Parcels L900 CO & 23

THE MAP OF "WARREN B. SLOAN'S PLAN OF RESERVED FACTORY SITES" OF RECORD IN BOOK 421, PAGE

DATE: 3/5/2020

DA JOB NUMBER: 14042

THIS DRAWING SHOULD NOT BE REPRESENTED TO BE A LAND SURVEY. IT SHOULD NOT BE RELIED UPON FOR THE CONSTRUCTION OF FENCES OR ESTABLISHING THE EXACT LOCATION OF PROPERTY LINES.

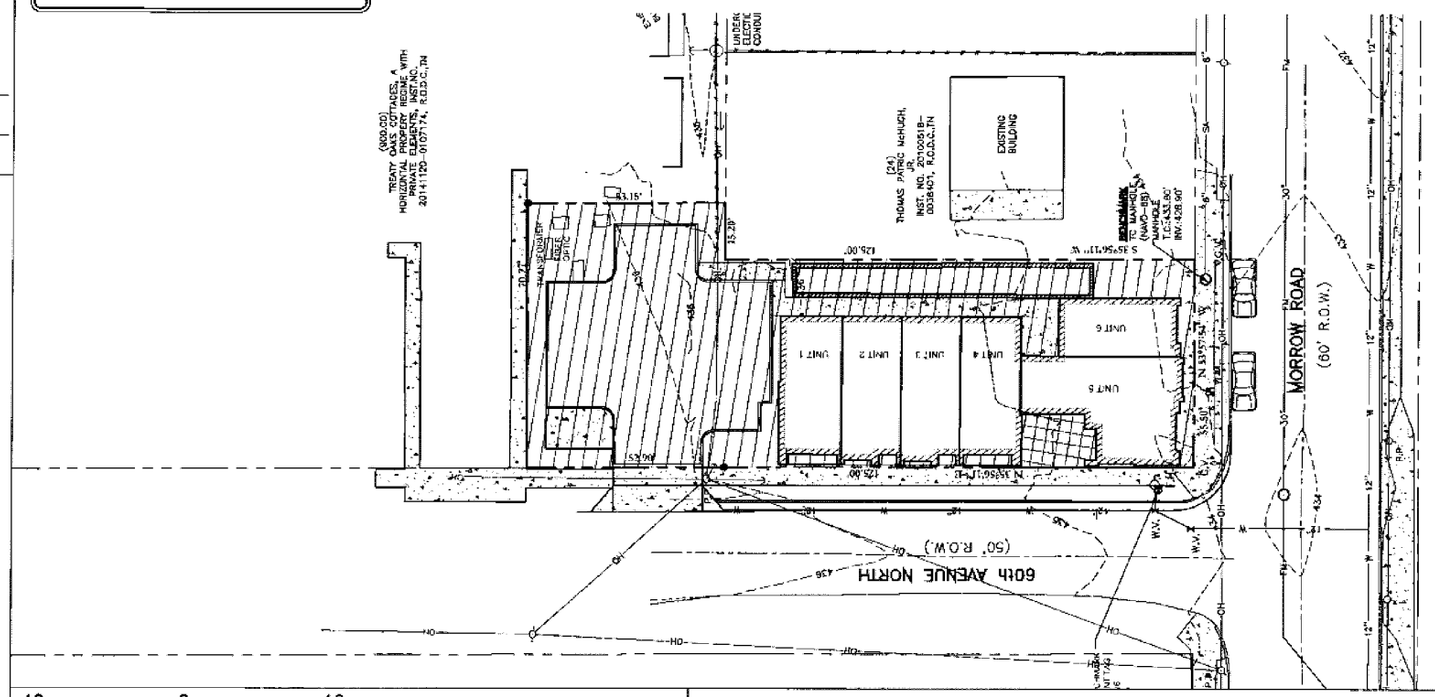
NO CORNERS WERE SET OR RESET AT THE TIME OF THIS INSPECTION.

MICHAEL CHRISTOPHER CARRIGAN
REGISTERED ENGINEER
AGRICULTURE
COMMERCE
NO. 0110726
STATE OF TENNESSEE
9/15/20

LEGEND
- Private Element
- Common Element
- Limited Common Element

SURVEY PROVIDED TO DALE AND ASSOCIATES BY CRAWFORD AND CUMMINGS, PC

DALE AND ASSOCIATES STAMPS THE LAYOUT FOR THIS HPR AND NOT THE SURVEY INFORMATION



40 0 40
Scale 1" = 40'

"EXHIBIT B"

SITE PLAN
60TH AND MORROW
A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

Dale & Associates
Consulting Civil Engineering/Land Planning & Zoning
Landscape Architecture/Surveying
516 Heather Place Nashville, Tn 37204 (615) 297-5166

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EXHIBIT C

[Charter and Bylaws]

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001087851

CHARTER
NONPROFIT CORPORATION

SS-4418

Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: $100.00

For Office Use Only
-FILED-
Control # 001087851

The undersigned, acting as incorporator(s) of a nonprofit corporation under the provisions of the Tennessee Nonprofit Corporation Act, adopt the following Articles of Incorporation.

1. The name of the corporation is: 60th & Morrow Unit Owner's Association, Inc.

2. Name Consent: (Written Consent for Use of Indistinguishable Name)
☐ This entity name already exists in Tennessee and has received name consent from the existing entity.

3. This company has the additional designation of: None

4. The name and complete address of its initial registered agent and office located in the State of Tennessee is:
STEVEN T MORRIS
STEVEN MORRIS
204 S 11TH ST
NASHVILLE, TN 37206-2939
DAVIDSON COUNTY

5. Fiscal Year Close Month: December **Period of Duration:** Perpetual

6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:
(none) (Not to exceed 90 days)

7. The corporation is not for profit.

8. Please complete all of the following sentences by checking one of the two boxes in each sentence:
This corporation is a ☐ public benefit corporation / ☑ mutual benefit corporation.
This corporation is a ☐ religious corporation / ☑ not a religious corporation.
This corporation will ☑ have members / ☐ not have members.

9. The complete address of its principal office is:
STEVEN MORRIS
204 S 11TH ST
NASHVILLE, TN 37206-2939
DAVIDSON COUNTY

(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

B0845-8638 03/26/2020 11:52 AM Received by Tennessee Secretary of State Tre Hargett

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CHARTER
NONPROFIT CORPORATION

SS-4418

Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: $100.00

For Office Use Only

-FILED-

Control # 001087851

The name of the corporation is: 60th & Morrow Unit Owner's Association, Inc.

10. The complete mailing address of the entity (if different from the principal office) is:
STEVEN MORRIS
204 S 11TH ST
NASHVILLE, TN 37206-2939

11. List the name and complete address of each incorporator:

Title	Name	Business Address	City, State, Zip
Incorporator	Steven T Morris	204 SOUTH 11TH STREET	NASHVILLE, TENNESSEE 37206

12. School Organization: (required if the additional designation of "School Organization - Exempt" is entered in section 3.)

☐ I certify that pursuant to T.C.A. §49-2-611, this nonprofit corporation is exempt from the $100 filing fee required by T.C.A. §48-51-303(a)(1).

☐ This nonprofit corporation is a "school support organization" as defined in T.C.A. §49-2-603(4)(A).

☐ This nonprofit corporation is an educational institution as defined in T.C.A. §48-101-502(b).

13. Insert here the provisions regarding the distribution of assets upon dissolution:
In the event of dissolution of the Corporation, the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.

14. Other Provisions:

(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

Electronic	Incorporator
Signature	Title/Signer's Capacity
Steven T Morris	Mar 26, 2020 11:52AM
Printed Name	Date

B0845-8639 03/26/2020 11:52 AM Received by Tennessee Secretary of State Tre Hargett

BYLAWS

OF

60TH & MORROW UNIT OWNERS ASSOCIATION, INC.

ARTICLE I

MEMBERS (UNIT OWNERS)

Section 1.1 Eligibility. The members of 60TH & MORROW Unit Owners Association, Inc., a Tennessee nonprofit corporation (the "Association"), shall consist of the respective Unit Owners of 60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS (the "Property"), in accordance with the respective percentages of ownership interest in the Common Elements of the Property owned by the respective Unit Owners. These and other terms are used in these Bylaws as they are defined in that certain Declaration of Covenants, Conditions and Restrictions for 60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS (the "Declaration"), which Declaration is or will be recorded in the Register's Office for Davidson County, Tennessee. The words "member" or "members" as used in these Bylaws mean and shall refer to "Unit Owner" or "Unit Owners", as the case may be, as defined in the Declaration. If a Unit Owner is a land title holding trust under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary, then the members shall be said beneficiary of such trust.

Section 1.2 Succession. The membership of each Unit Owner shall terminate when such Owner ceases to be a Unit Owner, and upon the sale, transfer or other disposition of such Owner's ownership interest in the Property, such Owner's membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest.

Section 1.3 Annual Meetings. The annual meeting of Unit Owners shall be held at the time and place specified in the notice of such meeting, but such place shall be within five (5) miles of the Property. The annual meeting of Unit Owners shall be held on the first Tuesday following the sixtieth (60^{th}) day following the end of the Association's fiscal year of each and every year, if not a legal holiday, and if a legal holiday, then on the next succeeding Tuesday not a legal holiday. At the annual meeting, the Unit Owners shall elect Directors, receive reports on the activities and financial condition of the Association, and transact such other business as my properly come before the meeting. Notwithstanding anything in this Section 1.3 to the contrary, until such time as the Developer transfers control of the Association pursuant to Section 1.7 hereof, meetings of the Association shall be conducted in accordance with the terms of the notice of such meetings, as regards location, time, and method of meeting, i.e. teleconference, etc.

Section 1.4 Special Meetings. The Association shall hold a special meeting of its Unit Owners upon the call of the Board of Directors or President, or upon the written demand(s) to the Secretary by Unit Owners holding at least ten percent (10%) of all votes entitles to be cast on any issue to be considered at the proposed special meeting. Any call or demand for a special meeting shall describe the purpose(s) for which the special meeting is to be held. Only business within the purpose(s) described in the meeting notice for the special meeting may be conducted at such meeting.

Section 1.5 Notice of Meetings. The Association shall notify its Unit Owners of the date, time and place of each annual and special meeting of Unit Owners no fewer than ten (10), nor more than forty-five (45) days before the meeting date. The notice of a meeting shall also contain such other information which may be required by these Bylaws.

Section 1.6 Waiver of Notice. A Unit Owner's attendance at a meeting:

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

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

Section 1.7 Voting. The aggregate number of votes of all Unit Owners shall be equal to the total of all Units which are subject to the Declaration, and shall be divided among the respective Unit Owners with one (1) vote allocated to each Unit. If any Unit Owner consists of more than one (1) person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. A "majority of the Unit Owners" means the owners of more than fifty percent (50%) of the voting rights of Unit Owners.

Developer may exercise the voting rights with respect to Units owned by Developer; however, the Developer shall retain control of the Association until Developer transfers control of the Association to the other Unit Owners no later than the earlier of:

A. The Developer no longer owns any Units;

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B. Developer's written surrender of its authority to appoint or remove officers and directors of the Association.

If control must be transferred because of the occurrence of (a) or (b) above, the Developer's number of votes for Units owned shall be appropriately reduced so that control of the Association is effectively transferred.

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

Section 1.8 Quorum. Unless otherwise required by law, at least twenty percent (20%) of the votes entitled to be cast by Unit Owners must be represented at any meeting of the Unit Owners to constitute a quorum on that matter. If, however, such quorum is not represented at any such meeting, the Unit Owners present at the meeting in person or represented by proxy shall have the power to adjourn from time to time without notice other than announcement at the meeting, until the requisite quorum is present or represented, when any business may be transacted which might have been transacted a the meeting as provided in the original notice.

Section 1.9 Voting Requirements. Except as otherwise provided in these Bylaws, the Declaration or the Act, action on any matter noted upon at a meeting of the Unit Owners is approved if a majority of the Unit Owners in attendance (in person, by telephone, or by proxy) vote in favor of the action. However. Directors shall be elected by a plurality of the votes cast by the Unit Owners entitled to vote in the election at a meeting of the Unit Owners at which a quorum is present.

Section 1.10 Action by Written Consent. Action that is required or permitted to be taken at a meeting of the unit Owners may be taken without such a meeting if a majority of Unit Owners entitled to vote on the action consent to taking such action without a meeting. If all such Unit Owners so consent, the affirmative note of the number of votes that would be necessary to authorize or take such action at a meeting shall be the act of the Unit Owners, except as otherwise provided in these Bylaws. Such consent (or counterpart(s) thereof) shall describe the action taken, be in writing, be signed by each Unit Owner entitled to vote on the action, indicate each signing Unit Owner's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes or Association records.

Section 1.11 Action by Written Ballot. Any action that may be taken at any annual or special meeting of Unit Owners may be taken without a meeting if the Association delivers a written ballot to every Unit Owner entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

A. Indicate the number of responses needed to meet the quorum requirements;

B. State the percentage of approvals necessary to approve each matter other than election of Directors; and

C. Specify the time by which the ballot must be received by the Association in order to be counted.

ARTICLE II

BOARD OF DIRECTORS

Section 2.1 Number, Election and Term of Office. The Board of Directors of the Association (sometimes referred to herein as the "Board") shall consist of five (5) persons (hereinafter referred to as "Directors"). Directors shall be elected at the annual meeting of the Association's Unit Owners by the vote of Unit Owners as hereinafter provided, except that the Developer shall appoint or remove the Directors and may limit the Board to one Director, which may be the Developer, until the earlier of: (1) the Developer no longer owns any Units or (2) the surrender in writing by Developer of the authority to appoint and remove officers and directors of the Association. At the first meeting after the termination of Developer's control, the Unit Owners shall, among other business, elect five (5) members of the first Board of Directors ("First Board"). Developer shall have the right to propose a slate of candidates for the First Board. Those candidates for election as Director receiving the greatest number of votes cast either in person, or by proxy, at the meeting shall be elected. Directors, except for members of the First Board, shall hold office for the term of two (2) years and until his or her successor shall be elected and qualified. Two (2) members of the First Board shall hold office until the second annual meeting of the Association's Unit Owners, two (2) members of the First Board shall hold office until the second annual meeting of the Association's Unit Owners, two (2) members of the First Board shall hold office until the second annual meeting of the Association's Unit Owners, and one (1) member of the First Board shall hold office until the fourth annual meeting of the Association's Unit Owners.

Section 2.2 Qualification. Except for those persons making up the Board appointed by the Developer, each Director shall be a Unit Owner or the spouse of a Unit Owner (or, if a Unit Owner is a trustee of a trust, a Director

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may be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, a Director may be an officer, partner or employee of such Unit Owner or beneficiary.) If a Director shall cease to meet such qualifications during his term, such Director shall cease to be a Director and his or her place on the Board shall be deemed vacant.

Section 2.3 Regular Meetings. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

Section 2.4 Special Meetings. Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

Section 2.5 Notice of Meetings. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in any one (1) adjournment.

Section 2.6 Waiver of Notice. If a director attends or participates in a meeting, he or she waives any required notice to him or her of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 2.7 Quorum and Voting. A quorum of the Board of Directors consists of a majority (but no fewer than two (2), except in the event of a sole Director as appointed by Developer pursuant to Section 1 hereof) of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors, except as otherwise provided in these Bylaws.

Section 2.8 Vacancy. If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors or a vacancy resulting from a removal of a Director with or without cause:

A. The Board of Directors may fill the vacancy;

B. If the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all Directors remaining in office; or

C. If the Board of Directors (or the remaining Directors, if less than a quorum exists) fail or fails to fill the vacancy, the Unit Owners may fill the vacancy.

Any Director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director succeeded. Notwithstanding the other provisions of this Section, in the event the deed of trust beneficiary holding the largest number of deeds of trust on Units chooses not to appoint a Director, it shall be the Board which shall by majority vote of the remaining Directors fill such vacancy, but only for a term of one (1) year at a time.

Section 2.9 Removal of Directors. After the expiration of the Developer Control Period, the Unit Owners may remove any one (1) or more Directors, with or without cause, at any special meeting that is specifically called for that purpose.

Section 2.10 Action Without Meeting. Action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent(s) shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes filed with the Association's records.

Section 2.11 Indemnification. With respect to claims or liabilities arising out of service as a Director of the Association, the Association shall indemnity and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 2.12 Immunity. To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

Section 2.13 Compensation. Directors shall receive no compensation for their services as Directions, unless expressly provided for in resolutions duly adopted by the Unit Owners.

Section 2.14 Powers and Duties. The Board shall have the following powers and duties:

A. To elect and remove the officers of the Association as hereinafter provided;

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B. To administer the affairs of the Association and the Property, which power may be delegated to the Managing Agent (defined below);

C. To engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that the First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property for a term as approved by said First Board, but not to exceed three (3) years, and otherwise in accordance with Section 11.1(A)(9) of the Declaration; provided further, that the Board shall not have the authority to adopt any form of management of the Property, which excludes professional management by an independent agent;

D. To formulate policies for the administration, management and operation of the Property and the Common Elements thereof, which power may be delegated to the Managing Agent;

E. To adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations form time to time;

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

G. To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent;

H. To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

I. To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable, but only as allowed by law;

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

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

L. To resolve or mediate disputes, conflicts or problems between Unit Owners;

M. When necessary, to interpret the rules and regulations of the Association and the Declaration;

N. To exercise all other powers and duties of a board of administration as referred to in the Act of the State of Tennessee and all powers and duties of the Board of Directors referred to in the Declaration or these Bylaws.

Section 2.15 Non-Delegation. Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Unit Owners.

ARTICLE III

OFFICERS

Section 3.1 Designation. At each regular meeting after the sale of the first Unit, the Directors present at said meeting shall elect the following officers of the Association by a majority vote, provided a quorum exists:

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

B. A Secretary, who shall keep the minutes of all meetings of the Board and of the Unit Owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the Managing Agent;

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; and

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

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Section 3.2 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 restriction upon the powers of any officer as the Board may see fit. In addition, either the President or Secretary shall have the authority to prepare, execute, certify and record amendments of the Declaration on behalf of the Association, in accordance with Section 6.2 of the Declaration.

Section 3.3 Term of Office. Each officer shall hold office for the term of one (1) year and until a successor shall have been appointed or elected and qualified.

Section 3.4 Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining Directors at a special meeting of said Board. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded.

Section 3.5 Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Unit Owners.

Section 3.6 Removal. The Board of Directors may remove any officer at any time with or without cause.

Section 3.7 Indemnification. With respect to claims or liabilities arising out of service as an officer of the Association, the Association shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

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ARTICLE IV

ASSESSMENTS

Section 4.1 Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account any estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

Section 4.2 Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as such Owner's respective monthly assessment for the common expenses, one-twelfth (1/12) of such Owner's proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with such Owner's respective ownership interest in the Common Elements as set forth in the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of such Owner's respective monthly assessment as last determined. Each Unit Owner shall pay such Owner's monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Unit, the Common Elements, or the Limited Common Elements.

Section 4.3 Working Capital Contribution on Sale. At the time of the first sale of each Unit, the acquiring owner shall pay a working capital contribution of Two Hundred Dollars and No/100 to the Association. At the time of each subsequent sale of a Unit, the acquiring owner shall pay a working capital contribution of One Hundred Dollars and No/100 to the Association.

Section 4.4 Partial Year or Month. For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Board as appointed by the Developer. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Each Unit Owner shall pay such Owner's assessment for the following month or fraction of a month, which assessment shall be in proportion to the Owner's respective ownership interest in the Common Elements and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

Section 4.5 Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner, and to any other party required by the Declaration, a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 4.6 Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated common expenses and limited common expenses for the remainder of such year will be inadequate, then the board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for such Owner's proportionate share of such supplemental budget.

Section 4.7 Expenditures. Except for the Management Agreement described in Section 17.1 of the Declaration hereof and expenditures and contracts specifically authorized by the Declaration and Bylaws, including, without limitation, those included within the annual budget, the Board shall not approve any expenditure in excess of Five Thousand Dollars ($5,000.00) (as may be adjusted for inflation) unless required for emergency repair, protection or operation of the Common Elements or Limited Common Elements, nor enter any contract for more than three (3) years without the prior approval of a majority of the votes of the Unit Owners present and entitled to vote.

Section 4.8 Lien. It shall be the duty of every Unit Owner to pay such Owner's proportionate share of the Common Expenses as provided in the Declaration, and as assessed in the manner herein provided.

If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof, together with interest thereon at the highest legal rate of interest not to exceed eighteen percent (18%) per annum after said Common Expenses become due and payable, shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit Owner in the Property, provided, however that such lien shall be subordinate to the lien of a recorded deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of Common Expenses which are due and payable from and after the date on which such deed of trust beneficiary either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or files suit to foreclose on its deed of trust.

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The Association or its successors and assigns, and the Board or its agents, shall have the right to enforce the lien as provided in the Declaration, and there shall be added to the amount due the costs of any suit maintained to enforce the lien and other fees and expenses, together with legal interest and attorneys' fees. Furthermore, if any Unit Owner shall fail or refuse to pay when due such Owner's proportionate share of the Common Expenses and such Unit Owner withholds possession of such Owner's Unit after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to foreclose its lien on such Unit as provided in and in accordance with Section 9.1(G) of the Declaration. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Declaration or these Bylaws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

Section 4.9 Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in a book in chronological order of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the common expenses and limited common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine. Said book and the vouchers shall be available for examination by all Unit Owners at convenient hours on working days which shall be set and announced for general knowledge.

Section 4.10 Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance that in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit ownership. When fewer than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

Section 4.11 Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners.

Section 4.12 Association Records. The Association shall keep as permanent records minutes of all meetings of its Unit Owners and Board of Directors, a record of all actions taken by the Unit Owners and the Board of Directors without a meeting and all appropriate accounting records.

Section 4.13 Records at Principal Office. The Association shall keep at all times a copy of the following records at its principal office:

A. Its Charter or Restated Charter and all amendments thereto;

B. These Bylaws and all amendments thereto;

C. The minutes of all meetings of the Board of Directors and the records of all the actions taken by the Board of Directors without a meeting for the past three (3) years;

D. The minutes of all meetings of Unit Owners and the records of all actions taken by Unit Owners without a meeting for the past three (3) years;

E. A copy of the current rules and regulations of the Association;

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

G. A list of the names and business or home addresses of its current Directors and officers;

H. The most recent annual report delivered to the Tennessee Secretary of State; and

I. Its Declaration and all amendments thereto; and

J. All other records required to comply with Section 66-27-502 and 66-27-503 of the Act.

Section 4.14 Annual Financial Statements. The Association shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act.

ARTICLE V

USE AND OCCUPANCY RESTRICTIONS

Section 5.1 General. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon that shall constitute a nuisance or that shall in the judgment of the Board cause unreasonable noise or disturbance to others.

Each Unit Owner shall maintain such Owner's Unit in good condition and in good order and repair, at such Owner's expense, and shall not do or allow anything to be done in such Owner's Unit that may increase the cost or

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cause the cancellation of insurance on other Units or on the Common Elements. No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry, or other articles outside such Owner's Unit, or which may be visible from the outside of such Owner's Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board) or paint or decorate or adorn the outside of such Owner's Unit, or install outside such Owner's Unit any canopy or awning, or outside radio or television antenna, or Citizens Band radio transmitters, or other equipment, fixtures or items of any kind, including but not limited to satellite dishes or gas and charcoal grills, without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion. The foregoing restrictions as to use and occupancy shall not be construed to prohibit a Unit Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a patio that is a Limited Common Element appurtenant to such Owner's Unit. No Owner of a Unit shall display, hang, store or use any sign outside such Owner's Unit, in a hallway or elsewhere, or that may be visible from the outside of such Owner's Unit without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion.

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

Section 5.2 Animals. No animals shall be raised, bred, or kept in any Unit, except for dogs, household cats, birds and aquarium fish owned as household pets by a Unit Owner subject to the consent of the Board, provided that said pet is not kept for any commercial purpose, and provided that said pet shall be kept in strict accordance with the administrative rules and regulations relating to household pets from time to time adopted or approved by the Board, and provided that said pet shall not in the judgment of the Board constitute a nuisance to others. The total of all pets belonging to a Unit Owner shall not exceed two (2), aquarium fish excluded.

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

The Unit Owner shall indemnify the Association and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animals.

Section 5.3 Trash. Trash, garbage, and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

Section 5.4 Use by Developer. During the period of sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of said sale of Units. While the Developer owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

Section 5.5 Storage. Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing or other articles, shall not be stored or kept in common areas. Storage of boats, trailers, campers, and motor homes on the Property shall not be permitted.

Section 5.6 Wiring. No Unit Owner shall overload the electrical wiring in a Building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior written consent of the Board or the prior written consent of the Managing Agent, given in accord with the Board's direction.

Section 5.7 Window Treatments. All window treatments shall be of drapery type fashion (including, without limitation, pleated, ripplefold or accordia fold style fabric) with exterior visual colors limited to off white, alabaster, light grey, light tan or darker colors (and in no event stark white). Blinds shall be prohibited in all locations. Except as expressly provided in this Section 5.7, alternate color or style variations must be approved by the Board prior to installation.

ARTICLE VI

CONTRACTUAL POWERS

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one or more of the Directors of the Association are directors, 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

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

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

ARTICLE VII

AMENDMENTS

These Bylaws may be amended or modified from time to time by action or approval of a majority of the Unit Owners in attendance (in person, by telephone or by proxy) at a meeting where a quorum exists, or by the written consent without a meeting of at least a majority of all Unit Owners, with each Unit Owner casting one (1) vote for each Unit owned, as provided in Article I, Section 7 of these Bylaws. Such amendment(s) shall not be operative until they are recorded in the office of the Register of Deeds for Davidson County, Tennessee. These Bylaws may not be amended by the Board of Directors.

ARTICLE VIII

DEEDS OF TRUST

Section 8.1 Notice to Board. A Unit Owner who mortgages his Unit shall notify the Board of the name and address of the deed of trust beneficiary and shall file a copy of the note and deed of trust with the Board. The Board shall maintain such information in a book entitled "Deeds of Trust on Units."

Section 8.2 Notice of Unpaid Common Charges. The Board, whenever so requested in writing by a deed of trust beneficiary of a Unit, shall promptly report any then unpaid assessments, fees or common charges due from, or any default by, the Owner of the mortgaged Unit.

Section 8.3 Notice of Default. The Board, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each deed of trust beneficiary of record covering such Unit whose name and address has theretofore been furnished to the Board and which has requested in writing to be sent a copy of such notice(s).

Section 8.4 Examination of Books. Each Unit Owner, and others as specified in the Declaration, shall be permitted to examine the books and records of the Association, current copies of the Declaration and Bylaws, and rules and regulations of the Association during normal business hours and upon request.

Section 8.5 Lien of Valid First Deed of Trust. Except as otherwise provided in Section 66-27-415(b)(2) of the Act, the lien of a valid first deed of trust on a Unit shall be superior to the lien of the Board on such Unit in the event of a default by the Unit Owner, and nothing in this instrument shall be construed to the contrary. If the first lien deed of trust upon a Unit Owner's Unit has incorporated the terms of these Bylaws and the Declaration in its deed of trust, then said first lien deed of trust may at its option declare a default in its deed of trust by reason of any default by the Unit Owner hereunder, and may proceed to enforce its rights according to the terms of the deed of trust, notwithstanding any enforcement instituted by the Board.

ARTICLE IX

DEFINITION OF TERMS

The terms used in these Bylaws, to the extent they are defined herein, shall have the same definition as set forth in the Declaration for the horizontal property regime known as "60TH & MORROW, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS" as such may be amended from time to time, which Declaration is or will be recorded in the office of the Register of Deeds of Davidson County, Tennessee.

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

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 10.1 No Seal. The Association shall have no seal.

Section 10.2 Notices. Whenever notice is required to be given to Unit Owners, Directors or officers, unless otherwise provided by law, the Declaration, the Charter or these Bylaws, such notice may be given in person or by telephone, fax, e-mail, mail or private carrier. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address which appears for each such person on the books of the Corporation. Written notice sent by mail to Unit Owners shall be deemed to have been given when it is mailed. Any other written notice shall be deemed to have been given at the earliest of the following:

A. When received;

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B. Five (5) days after its deposit in the United States mail if sent first class, postage prepaid; or

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

Section 10.3 Waiver of Notice. Whenever any notice is required to be given under the provisions of any statute, or of the Declaration, the Charter or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon, and delivered to the Secretary of the Association and included in the minutes or corporate records, shall be deemed equivalent thereto.

Section 10.4 Negotiable Instruments. All checks, drafts, notes or other obligations of the Association shall be signed by such of the officers of the Association or by such other person(s), as may be authorized by the Board of Directors.

Section 10.5 Deposits. The monies of the Association may be deposited in the name of the Association in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

Section 10.6 Committee Members. With respect to claims or liabilities arising out of service as a member of a committee duly appointed by the Board of Directors of the Association, the Association shall indemnify and advance expenses to each such present and future committee member (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 10.7 Developer. With respect to claims or liabilities arising out of service as an agent of the Association, the Association shall indemnify and advance expenses to Developer (its officers, employees and successors) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect or as hereafter adopted or amended.

ARTICLE XI

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

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conflict with the provisions of said statute or of the Declaration, the provisions of said statute or of the Declaration, as the case may be, shall control.

The undersigned hereby certifies that the foregoing Bylaws were duly adopted as the Bylaws of 60TH & MORROW Unit Owners Association, Inc.

DATED as of the 25th day of March, 2020.

Name, President of 60TH & MORROW Unit Owners Association, Inc.

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EXHIBIT D

Undivided Share of Common Elements, Common Surplus and Common Expenses

UNIT/ADDRESS	PERCENTAGE
Unit 1	16.0% (1,846 SF)
Unit 2	15.6% (1,809 SF)
Unit 3	15.6% (1,809 SF)
Unit 4	15.8% (1,832 SF)
Unit 5	24.0% (2,778 SF)
Unit 6	12.9% (1,491 SF)

True Copy Certification

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

Signature

State of **TN**
County of **Davidson**

Personally appeared before me, **J. Brandon Miller**, a notary public for this county and state, **Angie Lawless** who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary's Signature

My Commission Expires: 5-2-22

