Karen Johnson Davidson County
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HARPETH HEIGHTS TOWNHOMES

A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HARPETH HEIGHTS TOWNHOMES, is made, published, and declared by and between Seaside FLA, LLC, a Florida limited liability company (the "Townhome Parcel Owner"), Beazer Homes, LLC, a Delaware limited liability company (the "Developer"), and any and all persons, firms, or corporations presently owning or hereafter acquiring any of the within described property.

W I T N E S E T H:

WHEREAS, Townhome Parcel Owner is the owner of certain real property located in the County of Davidson, State of Tennessee, which is described on **Exhibit "A"** and depicted on **Exhibit "A-1"** attached hereto;

WHEREAS, Townhome Parcel Owner intends to and do hereby submit said real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging to, or in any way pertaining thereto, to the provisions of the Tennessee Horizontal Property Act, Tenn. Code Ann. § 66-27-101 et seq., for the express purpose of establishing thereon a horizontal property regime with private elements to be known as Harpeth Heights Townhomes; and

WHEREAS, Townhome Parcel Owner further desires to establish said horizontal property regime for its own benefit and for the mutual benefit of all future owners or occupants of the Townhome Parcel (as defined below) or any part thereof, and intend that all future owners, occupants, mortgagees, and any other persons hereinafter acquiring any interest in the Townhome Parcel, shall hold such interest subject to certain rights, easements and privileges in, over and upon the Townhome Parcel and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, as hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of residence on the Townhome Parcel, and are established for the purpose of enhancing the value, desirability and attractiveness of the Townhome Parcel.

WHEREAS, it is to the benefit, interest, and advantage of Townhome Parcel Owner and of each and every person or other entity hereafter acquiring any of the within described Townhome Parcel that certain covenants, conditions, restrictions, assessments, and liens governing and regulating the use and occupancy of such property be established, fixed, and set forth and declared to be covenants running with the land;

WHEREAS, Townhome Parcel Owner, now desires to supersede any restrictions that may presently exist with respect to the Townhome Parcel described herein and to establish restrictions applicable to such Townhome Parcel in accordance with the terms of this Declaration;

NOW, THEREFORE, in consideration of the premises, Townhome Parcel Owner, with

any and all persons, firms, corporations, or other entities hereafter acquiring all or any of the Townhome Parcel, that any previous restrictions, recorded or unrecorded shall be of no further force or effect and that the Townhome Parcel shall be hereinafter subjected to the following restrictions, covenants, conditions, assessments, and liens (collectively, the "Townhome Restrictions") relating to the use and occupancy thereof and relating to the use, occupancy, and maintenance of such portions of the same as at present or in the future shall be designated as common areas, said Townhome Restrictions to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title, or interest in or to the Townhome Parcel or any part thereof and which shall inure to the benefit of each owner thereof.

NOW, THEREFORE, Townhome Parcel Owner declares as follows:

1. Definitions. As used herein, unless the context otherwise requires:

(a) "Act" means the Horizontal Property Act of the State of Tennessee, Tenn. Code Ann., Sections 66-27-101, et seq.

(b) "Additional Property" means all real property which may be subject to annexation to the terms of this Townhome Declaration in accordance with the provisions hereof.

(c) "Developer" means Beazer Homes, LLC, a Delaware limited liability company, its successors and assigns, provided such successors or assigns are designated in writing by Developer as a successor or assign of the rights of Developer set forth herein (such designated successor or assign being a "Successor Developer").

(d) "Building" or **"Buildings"** means the buildings located on the Townhome Parcel and forming part of the Townhome Parcel and containing the Townhomes. The "Building" or "Buildings" are and shall be delineated on Exhibit A-1 and on a comparable exhibit to any Supplementary Declaration annexing Additional Property as provided hereunder.

(e) "Harpeth Heights" refers to that certain residential real estate development located in Davidson County, Tennessee known as Harpeth Heights of which the Townhome Parcel is a part. In addition to the Townhome Restrictions contained herein, the Townhome Parcel is subject to the Declaration of Easements, Covenants, Conditions and Restrictions for Harpeth Heights recorded or to be recorded with the Register's Office for Davidson County, Tennessee (the "Master Declaration"). Members of the Townhome Association will also be members of the Master Association (as defined herein) and will be obligated to pay Master Association assessments and other charges (either directly to the Master Association or through the Townhome Association). All Townhomes, Townhome Owners and Townhome Occupants are bound by the provisions of both the Master Governing Documents and the Townhome Governing Documents. Any conflict between the provisions of the Townhome Governing Documents, on one hand and any provision of the Master Governing Documents (as such documents may be amended from time to time in accordance with their own provisions), on the other hand, shall be resolved in favor of the Master Governing Documents.

(f) "Limited Common Elements" means any Townhome Common Elements contiguous to and serving a single Townhome or a certain number of Townhomes to the exclusion of other Townhomes, as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Townhome or Townhomes either in this Townhome Declaration, on Exhibit A-1 or by a similar exhibit to a Supplementary Declaration hereto.

(g) "Majority" or **"Majority of the Townhome Owners"** means the owners of more than fifty percent (50%) of the voting rights of the Townhome Owners.

(h) "Master Association" means any non-profit owner association that Townhome Parcel Owner may, at its sole option, elect to form to administer the Master Declaration. During any period of time during which Townhome Parcel Owner has not formed a Master Association, references in this Townhome Declaration to "Master Association" shall be deemed to mean the Townhome Parcel Owner which shall perform all duties and obligations, and shall possess and hold all rights, that would be vested in a Master Association if it existed.

(i) "Master Declaration" means the Declaration of Easements, Covenants, Conditions and Restrictions for Harpeth Heights recorded or to be recorded with the Register's Office for Davidson County, Tennessee.

(j) "Master Governing Documents" means collectively, the corporate charter and corporate bylaws of the Master Association and any Rules and Regulations adopted by the Master Association Board of Directors.

(k) "Member" means a member of the Townhome Association.

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

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

(n) "Private Elements" means the lot area upon which each Townhome is located and the improvements now or hereafter located thereon as shown on Exhibit A-1 or on a similar exhibit to a Supplementary Declaration hereto. A Townhome Owner's ownership of a Townhome shall include fee simple ownership and use of the Private Elements for such Townhome. References to lots in this Townhome Declaration or on Exhibit A-1 (or on an exhibit to a Supplementary Declaration hereto) shall be deemed to refer to the Private Elements.

(o) "Record" "Recorded" or **"Recording"** refers to the record or recording in the office of the Register of Deeds of Davidson County, Tennessee.

(p) **"Supplementary Declaration"** means an instrument filed with the Register's Office of Davidson County, Tennessee which subjects Additional Property to this Townhome Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

(q) **"Townhome Association"** means Harpeth Heights Townhome Owners Association, Inc.

(r) **"Townhome Board"** means the Board of Directors of the Townhome Association.

(s) **"Townhome Bylaws"** means the Bylaws of the Townhome Association. For purposes of the Act, all provisions contained in this Townhome Declaration dealing with the administration and maintenance of the Townhome Parcel shall be deemed to be a part of the Bylaws.

(t) **"Townhome Common Elements"** means all real and personal property within the Townhome Parcel other than the Townhomes which is now or hereafter owned by the Townhome Association. The Townhome Common Elements are designated on Exhibit A-1 (and on a similar exhibit to any Supplementary Declaration hereto) and shall be held by the Townhome Association for the common use and enjoyment of the Townhome Owners. The Townhome Common Elements shall include, but shall not be limited to lawns (other than those within Private Elements), streets, roadways, bridges, culverts, parking areas, drainage structures and facilities, private sanitary sewers, ponds, waterways, fences, sidewalks, curbs, gutters, signs, lights, utilities and other improvements. Townhome Parcel Owner shall convey title to the Townhome Common Elements to the Townhome Association.

(u) **"Townhome Declaration"** means this instrument, as amended or supplemented from time to time.

(v) **"Townhome Governing Documents"** means collectively, the corporate charter and corporate bylaws of the Townhome Association and any Rules and Regulations adopted by the Townhome Board.

(w) **"Townhome Lot" or "Townhome"** means a portion of the Townhome Parcel as shown and designated in Exhibit A-1 (or on an exhibit to any Supplementary Declaration) for separate ownership and shall include the Private Elements and the residence and improvements now and hereafter located thereon. The Townhomes are identified by number on Exhibit A-1 and may be held and conveyed by reference to such number. Conveyance of a Townhome shall automatically convey the undivided membership of each Townhome Owner in the Townhome Association. Any Townhome may be jointly or commonly owned in any estate recognized under applicable law.

(x) **"Townhome Owner"** means the person(s) or entity(ies) whose estates or interests, individually or collectively, aggregate fee simple ownership of a Townhome. Unless specifically provided otherwise herein, Developer and Townhome Parcel Owner shall each be

deemed a Townhome Owner so long they hold title to any Townhome.

(y) **"Townhome Parcel"** means the parcel or tract of real estate described on **Exhibit "A"** and depicted on **Exhibit "A-1"** attached to this Townhome Declaration, the Additional Property as herein defined, and all improvements and structures thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Townhome Owners, submitted to the provisions of the Act.

(z) **"Townhome Parcel Owner"** means Seaside FLA, LLC, a Florida limited liability company, its successors and assigns.

2. Submission of Townhome Parcel to the Act.

(a) Townhome Parcel Owner, by recording this Townhome Declaration, does hereby submit and subject the Townhome Parcel to the provisions of the Act and hereby establish a horizontal property regime with private elements as authorized and described in the Act and to be hereafter known as Harpeth Heights Townhomes.

(b) Annexation of Additional Property. Without further assent or permit, Developer, its successors and assigns, hereby reserves the right, exercisable from time to time but not later than ten (10) years after the date hereof, or the date of any Supplementary Declaration hereto, to subject to these Townhome Restrictions Additional Property, in one or more additional phases, in order to extend the scheme of this Townhome Declaration and to bring Additional Property within the jurisdiction of the Townhome Association.

(c) Supplementary Declarations. The additions herein authorized shall be made by filing of record with the Register's Office for Davidson County, Tennessee one or more Supplementary Declarations which shall extend the jurisdiction of the Townhome Association to Additional Property in said Supplementary Declarations, and thereby subject such Additional Property to assessment for its just share of the Townhome Association's expenses. Each Supplementary Declaration must subject the annexed property to the covenants, conditions and Townhome Restrictions contained herein.

(d) Consent to Rezoning. Every Townhome Owner shall be deemed to have consented to any rezoning that may be necessary or desirable for the development of Additional Property as part of Harpeth Heights. Townhome Owners within Additional Property shall succeed to all of the rights and obligations of membership in the Townhome Association.

(e) Extension of Development Rights to Adjacent Property. Developer shall have the rights described in this Section 2, exercisable without approval of the Townhome Association or any other person or entity. Townhome Parcel Owner and Developer shall have the voting rights as specified hereinafter with respect to any added Townhomes.

(f) Townhome Association Rights. The Townhome Association may not assert as a reason to object to the new development plan the fact that existing Townhome Association facilities

will be additionally burdened by the Additional Property to be added by the new development or that the type of home or size of a Townhome in any future construction differs from that of the initial construction phase, or any subsequent phase, it being acknowledged that both Townhomes and single family detached homes are expected to be built within Harpeth Heights. Developer reserves the right to modify any preliminary plan to reconfigure any Townhomes, create additional amenities areas or create additional Townhome Common Elements, in an additional phase or otherwise, without the consent of any Townhome Owner.

(g) HUD/VA Approval. If so required by applicable and effective federal law or regulations, annexation of Additional Property as part of the Townhome Parcel and/or subjecting Additional Property to the terms of this Townhome Declaration shall require prior HUD/VA approval so long as a Class B membership exists.

(h) Withdrawal of Property Only by Townhome Parcel Owner or Developer. Developer may de-annex all or any portion of the Townhome Parcel from the terms and conditions of this Declaration.

(i) Continued Use of Common Elements. No addition shall revoke or diminish the rights of the Townhome Owners to the utilization of the Common Elements as established hereunder, except to grant to the owners of the land being added to the Townhome Parcel the right to use the Common Elements according to the terms and conditions as established hereunder, and the right to vote and be assessed as hereinafter provided.

(j) Merger. Upon a merger or consolidation of the Townhome Association with another non-profit corporation, its property (whether real or personal or mixed) may, by operation of law, be transferred to the surviving or consolidated corporation or, alternatively, the property of the other non-profit corporation may, by operation of law, be added to the property of the Townhome Association as the surviving corporation pursuant to a merger. The surviving or consolidated corporation shall thereafter operate as the Townhome Association under this Declaration and administer the covenants and restrictions established by this Declaration upon the Townhome Parcel. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration.

3. Exhibit A-1. Exhibit A-1 sets forth the numbers, areas, locations, and other data required by the Act.

4. Townhomes. The legal description of each Townhome shall consist of the identifying number of such Townhome as shown on Exhibit A-1 (and on any similar exhibit to a Supplementary Declaration). Every deed, lease, mortgage, deed of trust or other instrument shall legally describe a Townhome by its identifying number as shown on Exhibit A-1, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Townhome Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause such Owner's Townhome to be separated into any tracts or parcels different from the whole Townhome as shown on Exhibit A-1.



5. Townhome Owners Association; Administration and Operation of the Townhome Parcel.

(a) Developer shall form the Townhome Association, which shall be the governing body for Harpeth Heights Townhomes and shall be operated to provide for the maintenance, repair, replacement, administration, operation and care of the Townhome Parcel as provided in the Act, this Declaration and the Bylaws. The Townhome Owners shall each be members of both the Master Association (if any) and the Townhome Association, with each Townhome holding an undivided membership interest in the Townhome Association which shall be appurtenant to such Townhome, each such membership interest appurtenant to a Townhome being in an equal share, subject to the provisions concerning voting hereinafter set forth. The Board of Directors of the Townhome Association shall be elected and shall serve in accordance with the provisions of the Bylaws. The fiscal year of the Townhome Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Townhome Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Townhome Association shall be for the use and benefit of Townhome Owners in accordance with the provisions of the Act, this Declaration and the Bylaws. A Townhome Owner's membership shall automatically terminate when such owner ceases to be a Townhome Owner. Upon the conveyance or transfer of a Townhome Owner's ownership interest to a new Townhome Owner, the new Townhome Owner shall automatically succeed to the former Townhome Owner's membership in the Townhome Association. The aggregate number of votes for all members of the Townhome Association shall be divided among the respective Townhome Owners with one (1) vote granted to each Townhome (except that Developer and Townhome Parcel Owner shall have five (5) votes per Townhome).

(b) Voting Membership.

Class A. Class A members shall be all Townhome Owners (except Townhome Parcel Owner and Developer), and shall be entitled to one (1) vote for each Townhome owned. When more than one (1) person holds an interest in any Townhome, all such persons shall be members. The vote for such Townhome shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Townhome.

Class B. THE CLASS B MEMBERS SHALL BE THE TOWNHOME PARCEL OWNER AND DEVELOPER, EACH OF WHICH SHALL BE ENTITLED TO FIVE (5) VOTES FOR EACH TOWNHOME OWNED UNTIL THE LATER OF (A) THE DATE WHEN ONE-HUNDRED PERCENT (100%) OF THE TOWNHOMES SUBJECTED TO THIS INSTRUMENT OR BY ANY SUPPLEMENTARY DECLARATION ARE NOT OWNED BY EITHER TOWNHOME PARCEL OWNER OR DEVELOPER, (B) TEN (10) YEARS FROM THE LATER OF THE DATE HEREOF OR THE DATE OF THE LAST SUCH SUPPLEMENTARY DECLARATION, OR (C) WHEN, IN THEIR DISCRETION, DEVELOPER AND THE TOWNHOME PARCEL OWNER SO DETERMINE.

(c) Management of Townhome Parcel. The Townhome Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Townhome Parcel, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of subsection (d) below. The Board shall require that such Managing Agent have fidelity bond coverage on its employees handling Association funds. The cost of such services shall be a common expense, as defined below. Any vote of the Board to adopt any form of management of the Townhome Parcel without the services of a professional property management company shall be subject to the prior approval of a majority of all first mortgagees of Townhomes.

(d) Initial Management Contract. The first Board, appointed as provided herein, shall ratify and approve the Management Agreement, on behalf of the Townhome Association, and a management company, to act as Managing Agent for the Townhome Parcel, for a term as approved by said first Board.

(e) Use by Developer. During the period of sale of Townhomes for occupancy, Developer, its agents, employees, contractors and subcontractors, and their respective agents and employees, shall have easements for access, ingress to and egress from the Buildings and Townhome Parcel as may be required for purposes of construction and sale of the Townhomes and for the development of the Common Elements and work to be performed thereon. While Developer and the Townhome Parcel Owner own any of the Townhomes and until each Townhome sold by them is occupied, Developer and its employees may use and show one or more of such unsold or unoccupied Townhomes as model units, or as a sales office, and may maintain customary signs in connection therewith.

(f) Non-Liability of Developer, Townhome Parcel Owner, Townhome Board, Directors and Officers. The Developer, Townhome Parcel Owner, the Townhome Association, the Townhome Board, and the officers, directors and agents of such entities shall not be personally liable to any Townhome Owner for any mistake of judgment or for any other acts or omissions of any nature whatsoever, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Townhome Owners shall collectively indemnify and hold harmless Developer, Townhome Parcel Owner, the Townhome Association, the Townhome Board, and the officers, directors and agents of such entities, and their respective heirs, executors, administrators, successors and assigns in accordance with the Charter of the Townhome Association and Townhome Bylaws.

(g) Interest of Association in Common Elements. Ownership of the Common Elements shall be vested in the Townhome Association pursuant to a conveyance of said Common Elements from Townhome Parcel Owner to the Townhome Association.

6. Developer Determination Binding. In the event of any dispute or disagreement between any Townhome Owners relating to the Townhome Parcel, or any questions of interpretation or application of the provisions of this Townhome Declaration or the Townhome Bylaws, the determination thereof by the Developer (or the Townhome Board after termination of all Class B Memberships) shall be final and binding on each and all such Townhome Owners.

7. Ownership of Interests in the Townhome Association. Subject to the provisions concerning voting rights hereinabove contained, each Townhome shall be allocated an equal percentage ownership in the Townhome Association. The percentages of ownership interests shall remain constant unless hereafter changed by recorded amendment to this Townhome Declaration consented to in writing by the Townhome Owners, in accordance with the requirements hereinafter contained. Said ownership interest shall be an undivided interest, and the undivided membership interests in the Townhome Association shall be owned by the Townhome Owners as tenants in common in accordance with their respective percentages of ownership. The ownership of each Townhome shall not be conveyed separate from the percentage of ownership in the Townhome Association corresponding to said Townhome. The undivided percentage of ownership in the Townhome Association corresponding to any Townhome shall be deemed conveyed or encumbered with that Townhome, even though the legal description in the instrument conveying or encumbering said Townhome may refer only to the title to that Townhome.

8. Use of the Townhome Common Elements. Except as hereinafter set forth, each Townhome Owner shall have the right to use the Townhome Common Elements in common with all other Townhome Owners, and shall have easements for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Townhome owned by such Townhome Owner. Such right to use the Townhome Common Elements shall extend to each Townhome Owner, and such Owner's agents, servants, tenants, family members, customers, invitees and licensees. However, each Townhome Owner shall have the right to the exclusive use and possession of the Private Elements attributable to the Townhome. Such rights to use the Townhome Common Elements, shall be subject to and governed by the provisions of the Act, the Master Governing Documents and the Townhome Governing Documents and the following:

(a) the right of the Townhome Association to lease, grant concessions or grant easements with respect to parts of the Townhome Common Elements (subject to the provisions of the Townhome Governing Documents and the Master Governing Documents), all income derived by the Townhome Association from leases, concessions or other sources to be held and used for the benefit of the members of the Townhome Association, pursuant to such rules, resolutions or regulations as the Townhome Board may adopt or prescribe.

(b) the right of the Townhome Association to limit the use of the Townhome Common Elements to Owners or Occupants of Townhomes, their families and their guests;

(c) the right of the Townhome Association to suspend voting privileges and rights of use of the Townhome Common Elements for any Owner whose assessment against his Townhome becomes delinquent or who is otherwise in violation of the provisions of this Townhome Declaration, the By-laws or the rules and regulations of the Townhome Association;

(d) the right of the Townhome Association to dedicate or transfer all or any part of the Townhome Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Members; provided that no such dedication or transfer shall be effective unless the Members entitled to cast at least three-fourths (3/4) of the votes agree to such dedication or transfer and signify their agreement by a signed and recorded

written document; and provided further that this Section shall not preclude the Townhome Board of Directors of the Townhome Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities, and drainage facilities upon, over, under, and across the Townhome Common Elements without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Townhome Parcel or are otherwise in the best interests of the Townhome Association; and

(e) so long as Developer or Townhome Parcel Owner owns any portion of the Townhome Parcel or any property subject to annexation into Harpeth Heights, the right of Developer to:

(i) require the Townhome Association to swap Townhome Common Elements if necessary to cure any setback or other building regulation violation; and

(ii) redesignate any portion of the Townhome Common Elements as developable lots (or portions of lots), or require the Townhome Association to convey Townhome Common Elements to Developer for such redesignation;

shall not be diminished, so long as such transfer or redesignation is done in accordance with all applicable governmental requirements and the total amount of Townhome Common Elements within Harpeth Heights is not diminished.

9. Storage Areas and Parking Spaces. Any storage areas on the Townhome Parcel, except those inside the Townhomes and those which are Private Elements, shall be used by such Townhome Owners in such manner and subject to such rules and regulations as the Townhome Board may prescribe. Parking spaces within the Townhome Parcel, shall be used by such Townhome Owners in such manner and subject to such rules and regulations as the Townhome Board may prescribe.

10. Townhome Expenses.

(a) The Townhome Association shall be responsible for the "Townhome Expenses" as defined herein. Each Townhome Owner shall be assessed an equal share of the Townhome Expenses as described below. Townhome Expenses shall consist of the following:

(i) the cost of administration of the Townhome Association, and the administration, repair, maintenance, replacement and operation of the Townhome Common Elements; and

(ii) the cost of trash pickup service and of necessary maintenance, care, replacement of the following portions of the Buildings, the Townhomes and the Private Elements thereof: the exterior landscaping, driveways, walkways, porches, located upon or about each Townhome, with the exception of elevated decks (the Townhome Association may contract with the Townhome Owner of any Townhome for the maintenance of such elevated decks and for the maintenance of such other areas as the Townhome Board deems appropriate), painting, maintenance, and nonstructural repair of

exterior building surfaces as the Townhome Board shall deem necessary and proper, including roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, replacement of trim, caulking and other repairs to roof covers (to include the repair and replacement of all non-structural components of the roof of each Townhome) and other miscellaneous repairs of a non-structural nature. The Townhome Association shall also provide necessary maintenance, repair and replacement of foundations, foundation walls, exterior stairs, exterior windows and exterior doors. Such exterior maintenance shall not include glass surfaces of any nature. The balance of the Townhomes and the improvements located thereon shall be maintained by the Townhome Owner of each particular Townhome. In the event that a Townhome Owner fails to satisfy his maintenance obligations as herein defined, the Townhome Association may, after approval by two-thirds vote of the Townhome Board, enter onto said Townhome and perform such necessary maintenance, repair or replacement, the cost of such work to be added to and become a part of the Townhome Assessment to which said Townhome is subject.

(iii) any other expenses determined by the Townhome Board to be Townhome Expenses.

(b) Lien of Townhome Assessment. In order to secure payment of Townhome Assessments, both monthly or annual and special, as the same become due, there shall arise a continuing lien and charge against each Townhome, the amount of which shall include interest at the maximum effective rate allowed by law, costs, and reasonable attorney's fees to the extent permissible by law. Each such Townhome Assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Townhome Owner of the Townhome at the time the Townhome Assessment became due; provided that this personal obligation shall not pass to successors in title unless expressly assumed by them. The lien provided for herein, however, shall be subordinate to the lien of any first deed of trust (sometimes hereinafter called "mortgage") on any Townhome. The sale or transfer of any Townhome shall not affect any Townhome Assessment lien. The sale or transfer of any Townhome that is subject to any first mortgage, pursuant to a foreclosure thereof or under power of sale or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such Townhome Assessment, but not the personal obligation of any former title holder, as to payments that became due prior to such sale or transfer and subsequent to the recordation of the first mortgage that has been foreclosed, but the Townhome Association shall have a lien upon the proceeds from foreclosure or of sale junior only to the lien of the foreclosed first mortgage. No sale or transfer shall relieve such Townhome from liability for any Townhome Assessment thereafter becoming due or from the lien thereof.

(c) Levy of Townhome Assessments. The Townhome Board shall fix the commencement date for monthly or annual assessments ("Townhome Assessments") on the first day of the month following the conveyance of the first Townhome to a Townhome Owner and shall provide for a partial Townhome Assessment between the commencement date and the end of the calendar year next following. Thereafter, monthly or annual Townhome Assessments shall be levied by the Townhome Board, by action taken on or before December 1 of each year for the ensuing year. The Townhome Board, in its discretion, may provide for the periodic payment of

such Townhome Assessments at some intervals other than monthly. The Townhome Board, in its sole and reasonable discretion, may also levy supplemental assessments during any assessment year if required to defray unanticipated expenses or increased costs which occur during said assessment year.

Special Townhome Assessments may be levied in any year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Townhome Common Elements or such other portion of the Townhome Parcel for which the Townhome Association is obligated to maintain and repair, if any, including fixtures and personal property related thereto; provided that the same are first approved by the Townhome Board of Directors of the Townhome Association, recommended to the membership, and subsequently approved by affirmative vote of Members entitled to cast at least two-thirds (2/3) of the votes at a meeting of the Members duly held for that purpose. Written notice of the monthly, annual or special Townhome Assessment shall be mailed (by U.S. first class mail) to every Townhome Owner subject thereto. The Townhome Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Townhome Association setting forth whether the Townhome Assessments on a specified Townhome have been paid and the amount of any delinquencies. The Townhome Association shall not be required to obtain a request for such certificate signed by the Townhome Owner, but may deliver such certificate to any party who in the Townhome Association's judgment has a legitimate reason for requesting the same.

Upon acquisition of record title to a Townhome by each purchaser other than Townhome Parcel Owner or Developer, or an owner who purchases a Townhome solely for the purpose of constructing a dwelling thereon for resale, the purchaser shall pay to the Association at the time of purchase a transfer fee in an amount established by the Townhome Board from time to time in its sole and absolute discretion. The transfer fee shall not be considered as an advance payment of any assessment.

The Townhome Association may also charge a fee for an estoppel certificate in an amount determined by the Townhome Board from time to time in its sole and reasonable discretion.

(d) Maximum Annual Townhome Assessment. The amount of the annual Townhome Assessment shall be established by the Board from time to time, with an initial capital charge in amount to be determined by the Board of Directors from time to time. The purchaser of such Townhome shall commence monthly payments of one-twelfth (1/12) the annual Townhome Assessment in the third full month following closing. The Townhome Association at its option may allow the payment of the annual Townhome Assessment on a monthly or quarterly basis. From and after one year from the date hereof, the maximum annual Townhome Assessment may be increased each year by an amount up to, but not in excess of ten percent (10%) of the annual Townhome Assessment for the previous year without a vote of the membership. In the event the Townhome Board of Directors determines that an increase in excess of such amount is required, the amount of Townhome Assessment exceeding such limitation shall

be automatically effective thirty (30) days after the Townhome Association sends written notice to each Townhome Owner of the amount and necessity of such increased Townhome Assessment unless the Townhome Association receives written objection to such increased Townhome Assessment by Members entitled to cast more than fifty percent (50%) of the percentage values of the votes eligible to be cast by Members of the Townhome Association within such thirty (30) day period or a special meeting of Members is called within such thirty (30) day period and the excess Townhome Assessment is disapproved by a like vote of the Members at such meeting.

(e) Rate of Townhome Assessment. All Townhomes in the development shall commence to bear their Townhome Assessments simultaneously, except that Townhomes owned by Developer or Townhome Parcel Owner do not accrue liability for Townhome Assessments of any nature while owned by them.

(f) Effect of Non-Payment of Townhome Assessments and Remedies of the Townhome Association. In addition to any other remedy available to the Townhome Association under this Townhome Declaration or applicable law, any Townhome Assessment not paid within thirty (30) days after the due date shall be subject to a monthly late fee in an amount determined by the Townhome Board from time to time. Unpaid Townhome Assessments shall also bear interest from the due date at the maximum rate allowed by law. The Townhome Association, its agent or representative, may bring an action at law against the Townhome Owner personally obligated to pay the same or foreclose the lien against the Townhome to which the Townhome Assessment relates, and interest, costs, and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such Townhome Assessment to the extent allowed by law. No Townhome Owner may avoid liability for the Townhome Assessments provided for herein by non-use of the Townhome Common Elements or abandonment of his Townhome.

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

11. Mortgages and Deeds of Trust. Each Townhome Owner shall have the right, subject to the provisions herein, to make separate mortgages and deeds of trust for such Townhome Owners' respective Townhome, including such Townhome Owner's respective ownership interest in the Townhome Association. No Townhome Owner shall have the right or authority to make or create, or cause to be made or created, from the date hereof, any mortgage, deed of trust or other lien on or affecting the Townhome Parcel or any part thereof, except only to the extent of such Owner's Townhome and the interest in the Townhome Association corresponding thereto.

12. Separate Real Estate Taxes. Real estate taxes shall be separately taxed to each Townhome Owner for such Owner's Townhome and including the corresponding percentage of ownership in the Townhome Association, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Townhome Owner, but rather are taxed on the Townhome Parcel as a whole, then each Townhome Owner shall pay such Owner's proportionate share thereof in accordance with such Owner's respective percentage of ownership interest in the Townhome Association, and, in said event, such taxes shall be a Common Expense.

13. Insurance. The Townhome Board shall obtain insurance for the Townhome Parcel, including the Townhomes and Private Elements, and the Townhome Common Elements, exclusive of the additions within, improvements to and decorating of the Townhomes by the Townhome Owners, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Townhome Common Elements and the Townhomes, and against such other hazards and for such amounts as the Townhome Board may deem advisable. Such insurance shall, if possible, include all or any portion of all Townhome Limited Common Elements. Insurable replacement cost shall be deemed to be the cost of restoring the Townhome Common Elements, Townhomes or any part thereof to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Townhome Board of the Townhome Association, as the trustee for each of the Townhome Owners in direct ratio to said Townhome Owner's respective percentage of ownership in the Townhome Association, as set forth in the Townhome Declaration, and for the holders of mortgages and deeds of trust on his Townhome, if any. The policy of insurance shall also contain, if possible, (1) a waiver of subrogation rights by the insurer against individual Townhome Owners, (2) an inflation guard endorsement, (3) a building ordinance endorsement and (4) (i) a guaranteed replacement cost endorsement or (ii) a replacement cost endorsement and, where available an agreed amount endorsement. The premiums for such insurance and funds to cover deductible amounts shall be a Common Expense. Liability insurance limits for the Townhome Common Elements shall be a minimum of $1,000,000.00 per occurrence.

In the event of damage to or destruction of any Buildings or Townhome Common Elements as a result of fire or other casualty covered by insurance proceeds (unless more than two-thirds (2/3) of the Buildings require reconstruction) the Townhome Board shall, in its discretion, with the prior written approval of a majority of the mortgagees of the Townhomes affected, determine and, without intervention of any Townhome Owner, arrange for the prompt repair and restoration of the damaged portions of all Townhomes, Buildings and Townhome Common Elements substantially in accordance with the original plans and specifications therefor. Where the insurance indemnity is insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Townhome Owners directly affected by the damage, in proportion to each Townhome's percentage of ownership in the Townhome Association. The Townhome Board shall not be responsible for the repair, replacement or restoration of any wall, ceiling or floor decorations or covering, or furniture, furnishings, fixtures, appliances or equipment installed in the Townhome by a Townhome Owner or Occupant unless insurance therefor is specifically provided for in the insurance policy obtained by the Townhome Board.

Reconstruction shall not be compulsory where the whole or more than two-thirds (2/3) of all the Buildings are destroyed or damaged by fire or other casualty, as determined by the Townhome Board. In such case, and unless otherwise unanimously agreed upon by the Townhome Owners and their mortgagees, the insurance proceeds shall be delivered to the Townhome Owners or their mortgagees, as their interests may appear, in proportion to the respective interests of the Townhome Owners, as computed by dividing the square footage of each Townhome by the total square footage of all Townhomes taken together; and the Townhome Board, as soon as reasonably possible and as agent for the Townhome Owners, shall sell the Townhome Parcel, in its then condition, free from the effect of this Townhome Declaration, which shall terminate upon such sale, on terms satisfactory to the Townhome Board, and the net proceeds of such sale and the net proceeds of all insurance policies shall thereupon be distributed to the Townhome Owners or their mortgagees, as their interests may appear, in proportion to the percentage interest of each Townhome Owner in the Townhome Association. If the Townhome Board fails to consummate a sale pursuant to this section within twenty-four (24) months after the destruction or damage occurs, then the Managing Agent, or the Townhome Board, shall, or if they do not, any Townhome Owner or Mortgagee may, record a sworn declaration setting forth such decision and reciting that under the provisions of this Townhome Declaration the prohibition against judicial partition provided for in this Townhome Declaration has terminated and that judicial partition of the Townhome Parcel may be obtained pursuant to the laws of the State of Tennessee. Upon final judgment of a court of competent jurisdiction decreeing such partition, this Townhome Declaration shall terminate.

The Townhome Board shall also have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and worker's compensation insurance and other liability insurance as it deems desirable, insuring each Townhome Owner, mortgagees of record, if any, the Townhome Association, its officers, directors, Townhome Board and employees, Developer and the Townhome Parcel Owner, and the Managing Agent, if any, from liability in connection with the Townhome Common Elements. The premiums and funds to cover deductibles for such insurance shall be Townhome Expenses. Townhome Board shall retain in safekeeping any such public liability policy for six (6) years after the expiration date of the policy.

The Townhome Board shall also have authority to and shall obtain such insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring each member of the Townhome Board, officers of the Townhome Association, and members of any Townhome Association committee, from liability arising from the fact that said person is or was director or officer of the Townhome Association, or a member of such a committee.

Each Townhome Owner shall be responsible for obtaining insurance on the contents of their own Townhome, as well as additions and improvements thereto, decorations, furnishings and personal property therein, and personal property stored elsewhere on the Townhome Parcel. In addition, in the event a Townhome Owner desires to insure against such Townhome Owner's personal liability and loss or damage by fire or other hazards above and beyond the extent that such Townhome Owner's liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Townhome

Board for all of the Townhome Owners as part of the Townhome Expenses, as above provided, said Townhome Owner may, at such Townhome Owners option and expense, obtain additional insurance. To the extent that insurance coverage purchased by an individual Townhome Owner is coextensive with insurance coverage purchased by the Townhome Association, the Townhome Association's insurance policy shall be primary.

14. Maintenance, Repairs and Replacements.

(a) Obligations of Townhome Owners. Each Townhome Owner, at such Owner's expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within the interior of such Owner's Townhome, including plumbing, pipes, wiring, appliances, and structural components of the Townhome. In addition, each Townhome Owner shall be responsible for all exterior glass, windows, including storm windows, screens, and doors, including storm doors, and all portions of the Townhome for which the Townhome Association is not responsible.

(b) Obligations of Townhome Association. The Townhome Association shall be responsible for maintenance of, repairs to and replacements within the Townhome Common Elements and the Townhome Parcel, including landscaping and yard maintenance, and the items specified in Section 10(a) above for the Townhomes and Private Elements. The Townhome Association shall be responsible for trash pickup service, exterior landscaping to the extent as installed by the Townhome Association, driveways, walkways, porches, decks, patios, painting and non-structural maintenance and repair of roofs, gutters, down-spouts, exterior trim, exterior caulking and other exterior repairs of a non-structural nature, provided that such exterior maintenance responsibilities shall not include glass, windows, including storm windows, screens and doors, including storm doors, which shall be the responsibility of the Townhome Owner. Other items of maintenance, repair, and replacement in a Townhome shall be the responsibility of the Townhome Owner. The cost of maintenance of, repairs to and replacements, which are the responsibility of the Townhome Association, shall be part of the Townhome Expenses, subject to the terms of this Townhome Declaration, the Townhome Board, rules and regulations of the Townhome Association.

Developer and the Townhome Parcel Owner, the Master Association and the Townhome Association shall have permanent access easement onto, over, across, through and under the Townhomes for the purpose of performing their respective repair and maintenance obligations or for any other purposes required or permitted under the Master Governing Documents or the Townhome Governing Documents.

(c) Loss Attributable to Townhome Owner. Notwithstanding any provision of this Townhome Declaration to the contrary, if the need for maintenance or repair that would otherwise result in a Common Expense that was the obligation of the Townhome Association is caused by the willful or negligent conduct or act of a Townhome Owner, his household pet, family, guest, invitees, or other Person using or occupying said Townhome Owner's Townhome with express or implied permission, the cost of such repair or maintenance shall be assessed against such Townhome Owner and shall be due and payable thirty (30) days from the date of notice thereof, such Assessment to be collected and enforced as provided in this Townhome

Declaration for the collection of Townhome Assessments. Such assessment shall not require approval of any of the Members; provided, however, that a Townhome Owner against whose Townhome such an Assessment is levied shall be entitled to ten (10) days' notice, a hearing before the Townhome Board and a reasonable opportunity to perform the necessary maintenance or repair work prior to being levied with such an assessment.

(d) Access to Townhomes. The authorized representative of the Townhome Association, Townhome Board or of the Managing Agent with approval of the Townhome Board shall be entitled to reasonable access to the individual Townhomes and Private Elements as may be required in connection with the preservation of any individual Townhome or Private Elements in the event of an emergency, or in connection with maintenance of, repairs or replacements within the Townhome Common Elements, Private Elements or any equipment, facilities or fixtures affecting or serving the other Townhomes, Townhome Common Elements or Private Elements or to make any alteration required by any governmental authority. Such employees or agents are further authorized to enter upon any Townhome and the Private Elements thereof without notice to the Townhome Owner when, in the judgment of the Townhome Board, such entrance is necessary to prevent damage to such Townhome or surrounding Townhomes by fire, criminal act, natural disaster or other emergency.

(e) Party Walls. Each wall built as a part of the original construction of a structure upon the Private Elements and placed on the dividing line between two Townhomes shall constitute a party wall and, to the extent not inconsistent with the provisions of this Townhome Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

The following provisions shall apply to all party walls constructed in the Townhome Parcel: (i) The cost of reasonable repair and maintenance of a party wall shall be shared by the Townhome Owners who make use of the wall in proportion to such use; (ii) If a party wall is destroyed or damaged by fire or other casualty, any Townhome Owner who has used the wall may restore it. If other Townhome Owners make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; subject, however, to the right of any Townhome Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions; (iii) The Townhome Owner may construct or reconstruct a party wall subject to and within the limitations of architectural control and other limitations of this Townhome Declaration with the right to go upon the adjoining Townhome to the extent reasonably necessary to perform the construction. The construction shall be done expeditiously. Upon completion of the construction, the Townhome Owner shall restore, as is reasonably practicable, the adjoining Townhome to as near the same condition which prevailed on or before the commencement of the construction; (iv) The right of any Townhome Owner to contribution from any other Townhome Owner under this Section shall be appurtenant to the land and shall pass to the Townhome Owner's successors in title; (v) If any Townhome Owner desires to sell his Townhome, he may, in order to assure a prospective purchaser that no adjoining Townhome Owner(s) has a right of contribution as provided in this Article, request that the adjoining Townhome Owner(s) provide a certification that no right of contribution exists. It shall be the duty of each adjoining Townhome Owner to make a certification as to whether there is any pending claim of contribution immediately upon request and without charge.

15. Architectural Control, Alterations, Additions or Improvements.

(a) Architectural Control. No structure may be erected, placed or altered on any Private Elements, and no building permit may be obtained, until the construction plans and building specifications and a plan showing: (i) the location of improvements on the Private Elements; (ii) the grade elevation (including rear, front and side elevations); (iii) the type of exterior material and roof material (including delivery of samples thereof); (iv) the color of paint or stain to be applied to any exterior surfaces and the color of the roof material (including delivery of samples thereof); and (v) the location and size of any wood deck or patio (which shall be broom finish concrete, unless otherwise approved by Developer), shall have been approved in writing by the Association's Architectural Control Committee (the "ACC"). Members of the ACC shall be appointed by Developer until such time as neither Townhome Parcel Owner nor Developer own any Townhome. Thereafter, members of the ACC shall be appointed by the Townhome Board.

(b) Alterations, Additions or Improvements. Except as provided specifically herein, no alteration of any Townhome Common Elements or Private Elements, or any additions or improvements thereto, shall be made by any Townhome Owner without the prior written approval of the Townhome Board after review and approval by the ACC. The Townhome Board may authorize and charge as Townhome Expenses alterations, additions, and improvements of the Townhome Common Elements and Private Elements as provided in the Townhome Board. The expense of such charges shall be paid out of the reserves established in the Townhome Association's annual budget, which shall be funded by a portion of the annual Townhome Assessments applicable to each Townhome. Any Townhome Owner may make non-structural alterations, additions or improvements within the Townhome of the Townhome Owner without the prior written approval of the Townhome Board, but such Townhome Owner shall be responsible for any damage to other Townhomes, the Townhome Common Elements, the Private Elements, the Townhome Parcel, or any part thereof, resulting from such alterations, additions or improvements.

16. Decorating. Each Townhome Owner, at such Owner's expense, shall furnish and be responsible for all decorating within such Owner's Townhome and Private Elements serving such Townhome.

17. Encroachments and Easements.

(a) Easement for Encroachment. If any portions of the Common Elements shall actually encroach upon any Townhome or Private Elements, or if any Townhome or Private Elements shall actually encroach upon any portions of the Common Elements, or if any Townhome or Private Elements shall actually encroach upon another Townhome or Private Elements, as the Common Elements, Townhomes and Private Elements are shown by Exhibit A-1, there shall be deemed to be mutual easements in favor of the owners of the Common Elements

and the respective Townhome Owners involved, to the extent of such encroachments, so long as the same shall exist.

(b) Utilities Easements. Townhome Parcel Owner hereby establishes and reserves unto itself, Developer their successors and assigns: (a) a perpetual non-exclusive easement over and across Common Area within the Townhome Parcel for public and private utilities necessary or required to serve the Townhome Parcel or the Townhomes; (b) a non-exclusive utility easement over, across and under each Townhome to the extent necessary or required to provide utility service to each Townhome or to any portion of the Townhome Parcel; provided, however, that such easement will not unreasonably interfere with the use of any Townhome for residential purposes; and (c) an easement on the exterior elevation of each residence (including necessary penetrations into the residence) for the purpose of installation, operation, maintenance, and repair of meters, panels, lines and related facilities or appurtenances necessary or required to utilities to each Townhome and the residences located therein. In addition, Developer and/or Townhome Parcel Owner while the Class B membership exists and thereafter the Board of Directors of the Townhome Association, may grant further easements over and across the Townhomes and Common Areas to the extent necessary or required to provide utilities to the residences and/or Townhomes; provided, however, that such easements do not unreasonably interfere with the use of any residence for residential purposes. A company or entity, public or private, furnishing utility service to the Townhome Parcel, is granted an easement over the Townhome Parcel, including the residences and Townhomes, for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Townhome Parcel. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, electronic communications and internet, master or cable television and security. Neither Townhome Parcel Owner, Developer nor any utility company using the easements shall be liable for any damage done by either of them or their successors or assigns, or by their agents, employees or servants to shrubbery, trees, flowers or improvements of the Townhome Owner located on the land within or affected by said easements. A right of pedestrian access by way of a driveway or open lawn area shall also be granted on each Townhome, from the front lot line to the rear lot line to any utility company having an installation in the easement. The easement area of each Townhome and all improvements in it shall be maintained continuously by the Owner of the Townhome, except for those improvements for which a public authority or public utility company is responsible. Fences shall not be allowed to be constructed over or along any easement for public utilities.

(c) Construction and Sales Easement. Townhome Parcel Owner hereby, declares, grants and reserves for the benefit of Townhome Parcel Owner, Developer and their respective affiliates, together with the right to grant, assign, and transfer the same to their respective sales agents and/or sales representatives, (a) an easement for construction activities anywhere on the Townhome Parcel, and (b) an easement for sales, marketing and promotional activities, including, without limitation, the installation and maintenance of signs on the Townhome Parcel and for the construction and maintenance on the Townhome Parcel from time to time of a sales and administrative center in which and from which Townhome Parcel Owner, Developer, their respective affiliates and their respective authorized sales agents and sales representatives may engage in marketing, sales and promotional activities and related or supportive administrative activities of a commercial nature.

18. Townhome Association's Right to Purchase at a Foreclosure Sale. The Townhome Board shall have the power and authority to bid and purchase, for and on behalf of any Townhome, or interest therein, at a sale pursuant to a deed of trust or mortgage foreclosure, a foreclosure of the lien for common expenses under the Act, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of Townhome Owners owning not less than three-fifths (3/5) of the total votes of the Townhome Owners. Such consent shall set forth a maximum price, which the Townhome Board or its duly authorized agent may bid and pay for said Townhome.

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

19. Use and Occupancy Restrictions. Subject to the provisions of the Master Governing Documents and Townhome Board, no part of the Townhome Parcel may be used for purposes other than housing and the related common purposes for which the Townhome Parcel was designed and as allowed by municipal zoning laws. Each Townhome shall be used as a residence or such other use permitted by this Townhome Declaration and for no other purposes except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Townhome Owner from: (a) maintaining a personal professional library; (b) keeping personal business or professional records or accounts; or (c) handling personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions or municipal zoning law.

No Townhome or Townhome Common Elements may be used in violation of the Townhome Restrictions and provisions contained in this Townhome Declaration, the Townhome Board or the Master Governing Documents. No building or other structure shall be erected, altered, or permitted to remain as part of any Townhome except in conformance with this Townhome Declaration.

The Townhome Common Elements shall be used only by the Townhome Owners and their agents, servants, tenants, family members, customers, invitees and licensees for access, ingress to and egress from the respective Townhomes and for such other purposes incidental to use of the Townhomes; provided, however, that any areas designed for a specific use shall be used for the purposes approved by the Townhome Board. The use, maintenance and operation of the Townhome Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Townhome Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Townhome Board at some future time, affecting any

part or all of said Townhome Common Elements.

In addition to the above, the following restrictions shall apply:

(a) Approval of Plans. No construction, reconstruction, remodeling, alteration, or addition of or to any structure, building, fence, wall or improvement of any nature shall be constructed without obtaining prior written approval of the ACC as to the location, plans, and specifications therefor. As a prerequisite to consideration for approval and prior to the commencement of the contemplated work, two (2) complete sets of building plans and specifications shall be submitted. The ACC shall be the sole arbiter of such plans and may withhold its approval for any reasons, including purely aesthetic reasons. It is expressly acknowledged that construction undertaken by Developer shall be conclusively deemed to comply with the foregoing, it being declared that construction of Townhome(s) by Developer shall be exempt from ACC review and from any limitations on construction existing under this Townhome Declaration or the Townhome Association's Bylaws. Upon giving approval, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans.

At such time as Developer divests itself of all Townhomes within the development, the right of approval of plans for further construction, reconstruction, remodeling, alterations, and additions shall thereafter rest exclusively in the Townhome Association and in its Townhome Board of Directors, which Townhome Board shall thereafter appoint the membership of the ACC.

Developer, Townhome Parcel Owner, the Townhome Association, the ACC and the individual members thereof shall not be liable for any act or omission in performing or purporting to perform the functions delegated hereunder. In the event that the ACC fails to indicate its approval or disapproval within sixty (60) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. Approval or disapproval by the ACC shall not be deemed to constitute any warranty or representation by it including, without limitation, any warranty or representation as to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Anything contained in this section, or elsewhere in this Townhome Declaration to the contrary notwithstanding, Developer and the Townhome Association are hereby authorized and empowered, at their sole and absolute discretion, to make and permit reasonable modifications or deviations from any of the requirements of this Townhome Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Townhome and of the size and location of such building or improvement when, in their sole and final judgment, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Townhome Parcel and the improvements as a whole; provided, however, such modifications and deviations must remain within all applicable ordinances and regulations established by the City of Nashville, Davidson

County, Tennessee.

The ACC may require the submission to it of such documents and items, including as examples, but without limitation, written requests for and description of the variances requested, plans, specifications, plot plans and samples of material(s), as either of them shall deem appropriate, in connection with its consideration of a request for a variance. If the ACC shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Townhome Owner of the Townhome(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing its decision to permit the variance describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted) and signed by the ACC. Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (i) written notice of disapproval from the ACC or (ii) failure by the ACC to respond to the request for variance. In the event the ACC or any successor to the authority thereof shall not then be functioning, no variances from the covenants herein contained shall be permitted, it being the intention of Developer that no variances be available except at its discretion or that of the ACC. The ACC shall not have the authority to approve any variance except as expressly provided in this Townhome Declaration.

(b) Structural Compliance. All structures shall be built and maintained in substantial compliance with all applicable building Codes, and with the plans and specifications therefor, as approved by Developer or the Townhome Association as provided herein.

(c) Improvements and Setback Restrictions. No building or structure, or any part thereof, shall be located on any Townhome so that the improvements exceed the boundaries of the Townhome. Except as approved by Developer, no encroachment upon any utility easement reserved on Exhibit A-1 shall be authorized or permitted.

(d) Re-subdivision or Re-combination of Townhomes. No Townhome shall be re-subdivided or recombined, nor shall any building be erected or placed on any such re-subdivided Townhome, unless such re-subdivision is approved by the Townhome Association, as well as any governmental authority having jurisdiction. Developer, however, shall have the right, but not the obligation, to re-subdivide into Townhomes, by recorded plat or in any other lawful manner, all or any part of the Townhome Parcel contained within the outer boundaries of Exhibit A-1, and such Townhomes, as re-platted, shall be subject to this Townhome Declaration as if such Townhomes were originally included herein. Any such re-plat must comply with pertinent re-platting ordinances, statutes, regulations, and requirements.

(e) Walls, Fences and Hedges. All walls, fences or hedges shall be erected or maintained only as approved and directed by the ACC in accordance with the provisions of Townhome Declaration. As a general rule, fences must extend from the back corners of the townhouse to the rear property line of the Townhome, although the ACC, in its sole discretion, may also approve encroachments of fences over Townhome Common Elements. White vinyl privacy fences and black wrought iron design fences shall be permitted subject to ACC approval. Maintenance and repair of any fence shall be the responsibility of the Townhome Owner on whose

property the fence is located. The ACC may also promulgate fence guidelines which are not inconsistent with the terms of this Townhome Declaration.

(f) Roofing Material. The roof of any building shall be constructed or covered with roofing material as permitted and approved in the sole discretion of the ACC.

(g) Parking. Residents' vehicles shall be parked in the driveway serving such Townhome; provided, however, that residents may park a vehicle in a Common Element parking space or on the street if necessary to accommodate more vehicles than the driveway will allow. Common Element parking spaces are primarily for visitor use, although residents' vehicles may be parked there when a resident's driveway is full. Neither residents nor visitors may park, store or leave semi-tractors, tractor-trailers, buses, storage pods, trailers of any nature or any other large vehicle anywhere within the Properties except for such periods of time as are reasonably necessary for loading and unloading, providing delivery or household moving service(s) or as needed for construction or reconstruction work within the Properties. The Board of Directors may adopt and impose additional rules and regulations not inconsistent with this Declaration pertaining to the parking or storage of vehicles, boats and equipment within the Properties, on-street parking, the maintenance and use of parking spaces located on the Common Elements, and the uses, operation and control of motor vehicles, boats, and equipment of any kind within the Properties.

(h) Exterior Finish. Townhomes shall be constructed with an exterior finish as designated by the ACC. No Townhome shall be authorized to vary its exterior from that approved by the ACC.

(i) Common Mailbox Style. The Townhome Association reserves the right to designate the style and material of all mailboxes.

(j) Storage Tanks and Refuse Disposal. No exposed above-ground tanks or receptacles shall be permitted for the storage of fuel, water, or any other substance, except for refuse produced through normal daily living and of a nature which is satisfactory for pick-up by the Department of Public Works or its equivalent. Incinerators for garbage, trash, or other refuse shall not be used or permitted to be erected or place on or adjacent to any Townhome. All equipment, coolers, and garbage cans shall be concealed from the view of neighboring lots, roads, streets, and open areas.

(k) Clothes Lines. Outside clotheslines shall not be permitted.

(l) Signs and Advertisements. No sign, advertisement, billboard or advertising structure of any kind shall be erected upon or displayed or otherwise exposed to view on any Townhome or any improvement thereon; provided that this requirement shall not preclude the installation by Developer of signs identifying the entire residential development and provided further that this requirement shall not preclude the placement by Townhome Owners of "For Sale" signs in the front of individual residences of such size, character, and number as shall from time to time be approved by the ACC. Townhome Owners may display "For Rent" or "For Lease" signs, not larger than 24" x 24", only on the inside of front windows of their dwelling.

The Townhome Board shall have the right to remove any such unapproved sign, advertisement, billboard or structure that is placed on said Townhomes, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

(m) Use of Temporary Structures. No structure of a temporary character, mobile home, camper, trailer, tent, shack, barn or other outbuilding shall be erected or moved onto any Townhome. No structure of any kind except a dwelling house may be occupied as a residence, and the outside of any building so occupied must be completed before occupancy, including landscaping. Temporary structures may be used as building or sales offices and for related purposes during the construction period by Developer or its assigns.

(n) Storage of Automobiles, Boats, Trailers and Other Vehicles. No inoperative vehicles or recreational vehicles (including, but not limited to, campers, trailers, boats, boat trailers and travel trailers) may be stored on or in any Common or Private Elements. No tractor trailers, buses, or other large commercial vehicles may be parked in parking areas or in streets within the Townhome Parcel. The foregoing shall not apply to construction vehicles of Townhome Parcel Owner or Developer. Overnight parking of any vehicle, trailer or other wheeled instrument or equipment on any street within the Townhome Parcel shall not be permitted.

(o) Outside Lighting. Outside lights at eaves and door entrances shall be permitted, but no exterior flashing or high-intensity lights, floodlights, or spotlights on the exterior of any building shall be permitted, except with the prior written approval of the ACC.

(p) Satellite Dishes and Antennae. Unless otherwise approved by Developers or the ACC, all television antennae, satellite dishes, dishes which receive video programming services via multipoint distribution services and any other device used for the reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution (wireless cable) services must be one (1) meter or less in diameter, must be located to the rear of a Townhome and not visible from the street (unless such location would preclude reception of an acceptable quality signal) and may not be affixed to any portion of the Townhome Common Elements.

(q) HVAC Units. All central air conditioning system units must be used, erected, placed, or maintained on the side or to the rear of the Townhome. No window or wall type air conditioning units shall be permitted in any Townhome.

(r) Recreational Equipment. All playground and recreational equipment must be used, placed, or maintained to the rear of all Townhomes.

(s) Oil and Mining Operations. No oil drilling, oil development operations, oil refining quarrying or mining operations shall be permitted on any Townhome, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Townhome. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Townhome.

(t) Maintenance. All Townhomes shall be maintained in a neat and attractive

condition by their respective Townhome Owners or Occupants. No Townhome shall be used for storage of material and equipment, except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash or rubbish of any kind and the burning of any such materials is prohibited. In the event of default on the part of the Townhome Owner or Occupant of any Townhome in observing the above requirements or any of them, such default continuing after ten (10) days' written notice thereof, the Townhome Association may, subject to approval of its Townhome Board of Directors, enter upon said Townhome, repair, maintain and restore the same, and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions and to place said Townhome in a neat, attractive, healthful and sanitary condition. In so doing, the Townhome Association shall not be subject to any liability for trespass or otherwise. All costs incurred in any such repair, maintenance, restoration or removal shall be charged against the Owner of such Townhome as the personal obligation or such Owner and as a lien upon the Townhome, enforceable and collectible in the same manner and to the same extent as a maintenance assessment. Any Occupant of such Townhome shall be jointly and severally liable with the Townhome Owner for the payment of such costs.

(u) Landscape Maintenance. The Townhome Association shall contract with one (1) or more landscaping services to provide grass cutting, lawn maintenance, proper care for all trees, shrubbery and other landscaping, and other necessary maintenance services for the Townhome Common Elements and other portions of the Townhome Parcel for which the Townhome Association is responsible, provision for which shall be made in the monthly or annual Townhome Assessments.

(v) Use of Premises; Leasing. Each Townhome shown on Exhibit A-1 shall be used only for private, single-family residential purposes and not otherwise. Notwithstanding the foregoing, Townhome Parcel Owner and Developer may maintain, as long as they own any portion of the Townhome Parcel, such facilities as in their discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model townhomes and signs, and Townhome Parcel Owner and Developer may use residential structures or accessory buildings for sales offices and display purposes. It is expressly declared that Townhome Parcel Owner and any Developer shall be permitted to construct, maintain and operate one or more model Townhomes.

Notwithstanding any other provision of this Declaration to the contrary, no more than ten percent (10%) of the Townhomes within the Properties may be rented or leased at any one time. The Board of Directors of the Townhome Association is hereby authorized to make reasonable rules and regulations relating to leases and to the implementation of the provisions of this Section 19(w), including without limitation lease application requirements, notice requirements as to names and numbers of tenants, the creation of a waiting list for the right to lease a Townhome, the priority given to Townhome Owners on the waiting list and penalties for violations of this Section or the Board's leasing rules. The Townhome Association may also adopt a lease registration program which may require, among other things, a Townhome Owner to pay an annual fee to the Townhome Association for each leased Townhome to defray the cost to the Townhome Association of maintaining up to date contact information for occupants of leased Townhomes.

For purposes of this subsection (v), the term "lease" shall be deemed to include any agreement under which a person or persons other than the Owner occupy a Townhome in exchange for money or any other consideration, including without limitation a lease for any term, a tenancy at will, a tenancy at sufferance, a holdover tenancy, a lease/purchase contract, a lease with an option to purchase and a temporary occupancy agreement.

No Townhome may be leased for a term of less than twelve (12) months. Leasing a Townhome for a shorter term, including without limitation operating a boarding house, bed-and-breakfast establishment, motel, hotel, any other means of transient occupancy, and short-term rental of Townhomes through AirBnB.com, VRBO.com or other similar websites, is strictly prohibited. Townhomes must be leased in their entirety. Renting rooms or any portion of a Townhome less than the entire Townhome is strictly prohibited.

To avoid undue hardships, the Townhome Association's Board of Directors may, in its sole and absolute discretion, and upon written application by a Townhome Owner, grant permission to lease a Townhome on terms prescribed by the Board even if more ten percent (10%) of Townhomes are already under lease. By way of example but not limitation, hardship situations the Board may consider include:

(1) Death of a Townhome Owner (rental to be allowed during probate period);
(2) Confinement of a Townhome Owner to a medical or nursing care facility;
(3) Townhome Owner's loss of their job;
(4) Townhome Owner's temporary job transfer or relocation due to job circumstances more than fifty (50) miles from the Townhome. Such Townhome Owner's hardship leasing application must include written notice from Townhome Owner's employer stating reason for transfer or relocation and expected length of relocation; and
(5) Townhome Owner is a reservist in the United States Armed Forces who is called to temporary active duty, or is active-duty personnel in the United States Armed Forces who is temporarily deployed more than fifty (50) miles from the Townhome.

If a Townhome Owner leases a Townhome in violation of this subsection (v), or if the occupant of a leased Townhome violates any provision of the Declaration, the Townhome Association's Bylaws, Rules or Regulations, in addition to any other remedy to which the Townhome Association is entitled, the Townhome Association may declare the lease to be terminated and commence eviction proceedings against the tenant. In such proceedings, the Townhome Association shall be entitled to recover from the Townhome Owner and the tenant all expenses of such proceedings incurred by the Townhome Association, including without limitation the Townhome Association's reasonable attorney's fees.

(w) Animals and Pets. No animals, livestock, or poultry of any kind (including without limitation no potbellied pigs or snakes) shall be raised, bred, pastured, or maintained in any Townhome or on any Common Element, except for up to a total of two (2) dogs and/or cats. No animals may be kept for any commercial use or purpose. Pets are to be leashed at all times when they are not within the Townhome Owner's Private Elements. Pets may not be allowed to urinate or defecate in any Private Elements or Townhome Limited Common Elements. Use of Townhome Common Elements, for these purposes, must be cleaned up and disposed of properly.

No pet shall be allowed to cause noise that will or might disturb the peace and quiet of other Townhome Owners or Occupants of surrounding Townhomes or Private Elements

(x) **Nuisances and Unsightly Materials**. No Townhome or other structure on any Private Element shall be used for any business or commercial purpose. Each Townhome Owner or Occupant shall refrain from any act or use of his Townhome, which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to others. No noxious, offensive, or illegal activity shall be carried on upon any Townhome or Private Element. No motorcycle, motorbike, motor scooter, or any other unlicensed motorized vehicle shall be permitted to be operated on or in the Townhome Common Elements. No Townhome or Private Element shall be used, in whole or in part, for the storage of rubbish of any character whatsoever; nor shall any substance, thing, or material be kept upon any Townhome or Private Element which will emit foul or noxious odors or which will cause any noise that will or might disturb the peace and quiet of the Townhome Owners or Occupants of surrounding Townhomes or Private Elements.

(y) **Hobbies and Activities**. The pursuit of any inherently dangerous activity or hobby, including, without limitation, the assembly and disassembly of motor vehicles or other mechanical devices, the shooting of firearms, fireworks, or pyrotechnic devices of any type or size, and other such activities shall not be pursued or undertaken on any part of any Townhome or Private Element or upon the Townhome Common Elements without the consent of the Townhome Association.

(z) **Governmental Restrictions**. Each Townhome Owner shall observe all governmental building codes, health regulations, zoning restrictions, and other regulations applicable to his Townhome. In the event of any conflict between any provision of any such governmental code, regulation, or restriction and any provisions of this Townhome Declaration, the more restrictive provision shall apply.

20. Remedies. In the event of any violation of the provisions of the Act, this Declaration, the Bylaws or the rules and regulations of the Board or Association by any Townhome Owner (either by the Townhome Owner's own conduct or by the conduct of any other Occupant of such Owner's Townhome) the Townhome Association, or its successors or assigns, or the Board, or its agent, and any Townhome Owner(s) shall have each and all of the rights and remedies which may be provided for in the Act, this Declaration, the Bylaws, or said rules and regulations, or which may be available at law or in equity, and may prosecute an action or other proceeding against such defaulting Townhome Owner and/or others for enforcement of any lien and the appointment of a receiver for the Townhome and ownership interest of such Townhome Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to sell the Townhome through judicial process as provided hereinbefore, or for any combination of remedies, or for any other relief. All expenses of the Townhome Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of ten (10%) percent per annum until paid, shall be charged to and assessed against such defaulting Townhome Owner, and shall be added to and deemed part of such Owner's respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for nonpayment of the Townhome Owner's

respective share of the common expenses, upon the Townhome and ownership interest in the Townhome Association of such defaulting Townhome Owner and upon all of such Owner's additions and improvements thereto and upon all of such Owner's personal property in such Owner's Townhome or located elsewhere on the Townhome Parcel, provided, however, that such lien shall subordinate to the lien of a recorded mortgage or deed of trust on the interest of such Townhome Owner, except for the amount of the proportionate share of said common expenses which become due and payable from and after the date on which the said mortgage or deed of trust owner or holder either takes possession of the Townhome, accepts a conveyance of any interest therein (other than as a security) or files suit to foreclose its mortgage or deed of trust. In the event of any such default by any Townhome Owner, the Board and the manager or Managing Agent, if so authorized by the Board, shall have the authority to correct such default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Townhome Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

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

Violations of any provision this Townhome Declaration, the Townhome Bylaws, Rules, Regulations or written policy or guideline applicable to the Townhome Parcel (collectively the "Governing Documents") authorize the Townhome Board to take all or any of the following actions: (1) First Notice. Upon learning of a violation of the Governing Documents, the Board (or its agent) may send a written notice describing the violation and allowing a period of no less than five (5) days within which to cure the violation. The length of the cure period shall be determined by the Board in its sole and reasonable discretion depending on the nature and severity of the violation; (2) Second Notice. If the violation is not corrected within the time stated in the first notice, the Board may send a second written notice and assess a fine of up to $250.00 per violation (depending upon the nature and severity of the violation) payable within thirty (30) days; (3) Third Notice. If the violation remains uncorrected and/or the fine is unpaid thirty days after the second notice of violation, the Board may send a second written notice and assess a fine of up to $500.00 per violation payable within thirty (30) days; (4) When fines for any violation exceed $1,000.00, or if fines remain unpaid thirty (30) days after a third notice of violation, the Board shall add all costs of enforcement (including reasonable attorney's fees) to the total owed.

Townhome Owners are responsible and may be fined for violations committed by themselves, their family members, pets, tenants, occupants and visitors to the Townhome. The Board may also levy fines and take other enforcement action against tenants or other occupants of a Townhome.

In addition to the other remedies provided for herein, in the event of a default by a Townhome Owner in the payment of such Townhome Owner's respective share of the common expenses which default continues for a period of ninety (90) days, the Board shall have the power and authority to place such Townhome Owners name on a list of delinquent Townhome Owners, which list may be posted at a place designated by the Board for notices.

Notwithstanding the foregoing, no judicial or administrative proceeding shall be commenced or prosecuted by the Townhome Association, nor shall any legal services be provided with respect to preparing for such judicial or administrative proceedings unless approved by a vote of (a) 75% of the Class A Members eligible to vote, and (b) the Class B Member (if Class B membership has not been terminated). The Townhome Association shall prepare a budget of the total estimated cost of the litigation which shall be submitted to the Members for a vote along with the notice of the proposed litigation. The budget shall be based upon an estimate of the total cost and fees of the litigation made by the attorney being retained by the Townhome Association for the litigation. The Townhome Association shall assess all Townhome Owners whose interests are being sought to be protected through such litigation in accordance with the Assessment process provided herein; provided, however, that no funds from General Assessments or other sources may be used for such purpose. Prior to preparation for and institution of legal proceedings, any Assessment levied in such regard must be more than 75% collected. This Section shall not apply, however, to (a) actions brought by the Townhome Association against parties other than Developer to enforce the provisions of this Declaration (including without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, (d) counterclaims brought by the Townhome Association in proceedings instituted against it, or (e) any dispute in which the amount in controversy is $10,000 or less, as adjusted for inflation from year to year. This Section shall not be amended without the written approval of Developer so long as Developer owns any portion of the Townhome Parcel.

21. Amendments. Except as specifically stated elsewhere herein, and except for this Section 21, any provisions of this Declaration may be changed, modified or rescinded by an instrument in writing, setting forth such change, modification or rescission, approved by Townhome Owners owning not less than two-thirds (2/3) of the total Townhomes. No such amendment or modification to this Declaration shall be effective without the prior written consent of Developer so long as its Class B Membership exists.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR THE DECLARATION TO THE CONTRARY, FOR SO LONG AS DEVELOPER OWNS ANY PORTION OF THE TOWNHOME PARCEL, DEVELOPER, IN ITS SOLE DISCRETION, SHALL HAVE THE UNILATERAL RIGHT TO MAKE AND RECORD ANY AMENDMENT TO THIS TOWNHOME DECLARATION OR THE BYLAWS.

Amendments are effective upon their recordation in the office of the Register of Deeds of Davidson County, Tennessee.

22. Notices. Notices provided for in the Act, Townhome Declaration or Townhome Board shall be in writing, and shall be addressed if to a Townhome Owner, to the address of such Owner's Townhome, and if to the Townhome Association or Townhome Board, as the case may be, to the registered office, as set forth in Charter of the Townhome Association or to such other address as may be designated by the Townhome Association or Townhome Board from time to time, or at such other address as may be hereinafter provided. The Townhome Association or Townhome Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Townhome Owners. Any Townhome Owner may designate a different address for notices by giving written notice to the Townhome Association. Notices addressed as above shall be deemed delivered when sent by United States registered or certified mail, when delivered in person with written acknowledgment of the receipt thereof or when sent by any other means permitted under the Townhome Bylaws, Tennessee Nonprofit Corporation Act, Tenn. Code Ann. § 48-51-101, *et seq.* or any other applicable law.

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

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

24. Rights and Obligations. Each grantee of Townhome Parcel Owner or Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Townhome Declaration. All present and future Townhome Owners, tenants, Occupants and other persons who have a right to use any portion of the Townhome Common Elements shall be subject to and shall comply with the provisions of this Townhome Declaration and the Townhome Board as they may be amended from time to time. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time an interest or estate in said land, and shall inure to the benefit of such grantee in like manner as though the provisions of this Townhome Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

The acceptance of a deed of conveyance, devise or of a lease to a Townhome, the entering into occupancy of any Townhome or the use of any portion of the Townhome Common Elements shall constitute an agreement that the provisions of this Townhome Declaration, the Townhome Board and any rules and regulations promulgated thereunder, as they may be

amended from time to time, are assumed, accepted and ratified by such Townhome Owner, tenant, Occupant or other person, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Townhome, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

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

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

26. Condemnation. In the event of a taking in condemnation or by eminent domain of a part of the Townhome Common Elements owned by the Townhome Association, the award made for such taking shall be payable to the Townhome Board for and on behalf of the Townhome Association and all mortgagees affected. If a majority of the Townhome Board in their discretion, with written consent of a majority of the mortgagees affected, approve the repair and restoration of such Townhome Common Elements, the Townhome Board shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that the Townhome Board and the mortgagees do not approve the repair and commence restoration of such Townhome Common Elements within one hundred twenty (120) days after taking by the public or private authority, the Townhome Board shall disburse the net proceeds of such award on the basis of such Townhomes' percentage of ownership in the Townhome Association to the Townhome Owners and the mortgagees as their interests may appear.

27. Rights Reserved. The Townhome Owners right of enjoyment in the property commonly owned by the Townhome Association as herein created shall be subject to:

(a) The right of the Townhome Association to suspend the enjoyment rights of any

member for any period during which any Townhome Assessment remains unpaid, and for such period as it considers appropriate for any infraction of the Master Governing Documents or the Townhome Governing Documents; and

(b) The right of the Townhome Association to charge reasonable fees for the use of parts of the Townhome Common Elements; and

(c) The right of the Townhome Association to diminish in any way or to dedicate or transfer all or any part of the Townhome Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such diminution, dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless Townhome Parcel Owner and Developer (and their successors or assigns) and members of the Townhome Association entitled to cast ninety percent (90%) of the total votes of members have been recorded, agreeing to such act, and further provided that so long as a Class B membership exists, if so required by applicable and effective federal law or regulations, dedication of the Townhome Common Elements must be approved by HUD/VA; and

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

28. Rights of Townhome Parcel Owner and Developer.

(a) Provisions Inoperative as to Initial Construction; Exemptions for Specified Parties. Nothing contained in this Declaration will be interpreted, construed or applied to prevent Townhome Parcel Owner and Developer, or their contractors, subcontractors, agents, and employees (collectively, "Specified Parties"), from doing or performing on all or any part of the Townhome Parcel owned or controlled by Townhome Parcel Owner or Developer, whatever is determined to be reasonably necessary or convenient to complete the development of the Harpeth Heights Townhomes, including, but not limited to, (i) the right to erect, construct, and maintain such structures and other improvements as may be reasonably necessary or convenient for the conduct of the Specified Parties' business of completing the development, establishing the Townhome Parcel as a residential community and disposing of the same by sale, lease, or otherwise; and (ii) the right to maintain such signs as may be reasonably necessary or convenient in connection with the development or the sale, lease or other transfer of Townhomes or the sales and marketing activities on the Townhome Parcel. Townhome Parcel Owner and Developer are hereby granted easements for ingress, egress, construction and maintenance over, across, under and through all portions of the Townhome Parcel to conduct such activities.

(b) Construction Activities. All Townhome Owners, occupants, and users of Townhomes are hereby placed on notice that Townhome Parcel Owner and Developer, their agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, shall continue, from time to time, to conduct construction activities within the Townhome Parcel. By the acceptance of a deed or other conveyance or leasehold, license, or other interest in a Townhome, and/or by using any portion of a Townhome or the Townhome Parcel generally, Townhome Owners and all residents and visitors to the Townhome Parcel acknowledge,

stipulate, and agree: (i) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (ii) not to enter upon, or allow their children or other persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise), any property within or in proximity to the Townhome or any other portion of the Townhome Parcel where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night, a holiday or otherwise during non-working hours); (iii) that Townhome Parcel Owner and Developer, and their agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shall not be liable for any losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from and/or relating to any breach of this covenant; (iv) that any purchase or use of any portion of a Townhome has been and will be made with full knowledge of the foregoing; and (v) this acknowledgment and agreement is a material inducement to Townhome Parcel Owner and Developer to sell, convey, lease, and/or allow the use of Townhomes within the Townhome Parcel.

(c) Disclaimer of Representations or Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS DECLARATION, NO REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, HAS BEEN GIVEN OR MADE BY TOWNHOME PARCEL OWNER, DEVELOPER OR THEIR AGENTS OR EMPLOYEES IN CONNECTION WITH THE TOWNHOME PARCEL, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE COMMUNITY, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF. IF ANY SUCH WARRANTY CANNOT BE DISCLAIMED, AND AS TO ANY CLAIMS WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

(d) Access and Control. Townhome Parcel Owner, Developer and the Townhome Association may, but shall not be obligated to, maintain or support certain activities within the Townhome Parcel designed to make the Townhome Parcel more secure than they otherwise might be. **Neither the Townhome Association, Developer nor Townhome Parcel Owner shall in any way be considered insurers or guarantors of privacy or safety within the Townhome Parcel. Neither the Townhome Association, Developer nor Townhome Parcel Owner shall be held liable for any loss or damage by reason of failure to provide adequate safety or privacy, or ineffectiveness of privacy or safety measures undertaken. All Townhome Owners and occupants of any Townhome, tenants, guests and invitees of any Townhome Owner, as applicable, understand, acknowledge and agree that (i) Townhome Parcel Owner, Developer, the Townhome Association, and their respective officers, directors and supervisors, are not in any way liable for the function or efficacy of any fire protection system, electronic monitoring system or other privacy system, whether or not approved by Developer, Townhome Parcel Owner or the ACC, and whether or not such systems or equipment was installed according to guidelines established by Townhome Parcel Owner Developer or the Townhome Association, (ii) Townhome Parcel Owner, Developer the Townhome Association, and the officers, directors and supervisors of each of them, do not warrant that any fire protection or electronic monitoring systems or other**

privacy systems will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, and (iii) that fire protection or electronic monitoring systems or other privacy systems will in all cases provide the detection or protection for which the system is designed or intended. Each Townhome Owner and occupant of any Townhome, and each tenant, guest and invitee of a Townhome Owner, as applicable, acknowledges and understands that each Townhome Owner and occupant of any Townhome and each tenant, guest and invitee of any Townhome Owner assumes all risks for loss or damage to persons, to Townhomes and to the contents of Homes and further acknowledges that the Townhome Association, Developer and Townhome Parcel Owner have made no representations or warranties nor has any Townhome Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or electronic monitoring systems or other privacy systems recommended or installed or any privacy measures undertaken within the Townhome Parcel.

29. **Natural Conditions**. The Townhome Parcel may contain a number of manmade, natural, and/or environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes, alligators, other reptiles, raccoons, foxes, wild dogs, wild cats, coyotes, birds and other animals, some of which may pose hazards to persons and/or pets coming in contact with them. Each Townhome Owner and occupant of any Townhome, and every person entering the Townhome Parcel: (a) acknowledges and agrees that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within and/or through the Townhome Parcel; and (b) knowingly and voluntarily assumes all risk of property damage, personal injury and/or death arising from the presence of such plants and wildlife within the Townhome Parcel. Neither the Townhome Association, Developer, Townhome Parcel Owner, nor their respective members, partners, affiliates, officers, directors, shareholders, attorneys, agents, and/or employees, shall have any duty to take action to control, remove, or eradicate any plant or wildlife within the Townhome Parcel, nor shall they have any liability for any property damage, personal injury and/or death resulting from the presence, movement, and/or propagation of any plant or animal wildlife within or through the Townhome Parcel. The areas described in this Section may also contain ponds, lakes, retention ponds, detention ponds, dry detention areas, intermittent pools of water, muddy areas and/or buffer areas, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Townhome Owner or occupant of a Townhome shall enter upon, or permit their guests, family members, invitees, agents, tenants, employees, contractors, subcontractors, visitors or any other person acting on that Townhome Owner's behalf to enter upon and/or disturb any such areas in any way without the prior written approval of Townhome Parcel Owner, Developer or the Townhome Association.

30. Flood Zones. Flood zone determinations are made by the Federal Emergency Management Agency. Neither Townhome Parcel Owner nor Developer makes any assurance, with regard to any portion of the Townhome Parcel, that any flood zone designation for a Townhome existing as of a particular date will remain the same. Townhome Parcel Owner and Developer further advise that any such flood designation could be changed due to re-grading of the land as a result of the land development process. Each Townhome Owner, by virtue of taking title to a Townhome, acknowledges and agrees, and shall be deemed to have acknowledged and agreed, that Townhome Parcel Owner and Developer have no involvement in the determination or designation of flood zone designations for any portion of the Townhome Parcel.

31. Provisions Relative to Mortgagee's Rights and to Federal Home Loan Mortgage. If required by written regulations of the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA"), the following provisions shall apply:

(a) A first mortgagee, and any insurer or guarantor of any mortgage or deed of trust, under a Townhome at such party's request is entitled to a financial statement of the Townhome Association for the preceding fiscal year.

(b) Any first mortgagee, or other transferee, of a Townhome who comes into possession of the Townhome pursuant to the remedies provided in the mortgage, deed of trust, foreclosure of the mortgage or deed of trust, or deed in lieu of foreclosure shall take the property free of any claims for unpaid assessments or charges against the mortgaged Townhome, which accrue prior to the time such holder comes into possession of the Townhome.

(c) Unless two thirds (2/3) of the first mortgagees (based upon one (1) vote for each mortgage owned), and Townhome Owners (other than Developer and Townhome Parcel Owner) have given their prior written approval, the Townhome Association shall not be entitled to:

(i) Change the percentage interests of ownership of all or any Townhome or Townhome Owners.

(ii) Partition or subdivide any Townhome or the Townhome Common Elements.

(iii) By act or omission seek to abandon the horizontal property regime or status of the Townhome Parcel, or encumber, mortgage, sell or transfer the Townhome Common Elements, except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the Townhome Common Elements.

(iv) Use hazard insurance proceeds for losses to any property (whether to individual Townhomes or Townhome Common Elements) for other than the repair, replacement, or reconstruction of such improvements, except as provided in Tenn. Code Ann., Section 66-27-118, in case of substantial loss to the Townhomes and/or Townhome Common Elements to the horizontal property regime.

(d) Townhome Owners, first mortgage holders, and insurers or guarantors of any first mortgage shall have the right to examine the books, records, current copies of the Townhome Declaration and Townhome Board, and rules and regulations of the Townhome Association during normal business hours and upon request.

(e) An adequate reserve fund for maintenance, repair, and replacement of Townhome Common Elements, shall be funded and replenished on a periodic basis by regular monthly payments rather than by special assessments. A working capital fund shall be funded by contributions in amounts to be established by the Board of Directors from time to time, to be paid by Townhome purchasers upon the initial sale or resale of each Townhome, and to be collected and transferred to the Townhome Association at the time of closing of each Townhome sale and maintained in an account for the use and benefit of the Townhome Association.

(f) As set forth in Tenn. Code Ann. Section 66-27-120, all taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Tennessee shall relate only to the individual Townhome and not to the horizontal property regime as a whole.

(g) No Townhome Owner or any other party shall have priority over any rights of the first mortgagees of Townhomes and/or Townhome Common Elements and the lien of any assessment is subordinate to the lien of any first mortgage on a Townhome.

(h) Upon written request, the Townhome Association shall give to any mortgagee of a Townhome, the FHLMC, FNMA, any lending institution servicing such mortgages as are acquired by the FHLMC or FNMA, or any insurer or guarantor of a mortgage or deed of trust on a Townhome, timely notice in writing of any loss to or the taking of the Townhome Common Elements if such loss or taking exceeds $50,000.00, or of any other condemnation or casualty loss that affects either a material portion of the project or the Townhome securing its mortgage, a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Townhome Association, or any proposed action that requires the consent of a specified percentage of mortgagees. The Townhome Association may rely upon the information contained in the book entitled "Deeds of Trust on Townhomes" as must be established pursuant to the Townhome Board, for a list of mortgagees to be notified hereby.

(i) The interest of a first mortgagee in a mortgaged Townhome shall be superior to the security interests of any other person, group, partnership, corporation or entity of any kind, including any interest the Townhome Board, the Townhome Parcel Owner, Developer or any Townhome Owner may have in any portion of the premises, regardless of the nature of the interest or the manner in which it is acquired.

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

(k) A first mortgagee of a Townhome, upon written request, is entitled to written

notification from the Townhome Association of any default in the performance by such Townhome Owner of any obligation under this Townhome Declaration and/or Townhome Board which is not cured within sixty (60) days.

(l) The casualty and liability insurance and fidelity bond coverage required to be maintained by the Townhome Association shall meet the requirements specified in Part XII, Chapter 7 of the Fannie Mae Selling Guide.

IN WITNESS WHEREOF, the undersigned have executed this Declaration on this the 25th day of October, 2021.

DEVELOPER

BEAZER HOMES, LLC

By: _____
Matt Williams, Nashville Vice President of Land Development

STATE OF TENNESSEE)
COUNTY OF Cheatham)

Personally appeared before me, the undersigned, a Notary Public, Matt Williams, with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is Nashville Division Vice President of Land Development of Beazer Homes, LLC, a Delaware limited liability company, successor by conversion to Beazer Homes Corp., a Tennessee corporation, and is authorized to execute this instrument on behalf of Beazer Homes, LLC as its Nashville Division Vice President of Land Development.

WITNESS my hand, at office this 25 day of October, **2021**.

_____
Notary Public
My Commission Expires: 7/10/2024

AUGUSTA BURGESS
STATE OF TENNESSEE NOTARY PUBLIC
CHEATHAM COUNTY

TOWNHOME PARCEL OWNER

SEASIDE FLA, LLC

By: _____

Its: Authorized Agent

STATE OF Tennessee)
COUNTY OF Williamson)

Personally appeared before me, the undersigned, a Notary Public, J. Trent Lehman with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is Authorized Agent of Seaside FLA, a Florida limited liability company, and is authorized to execute this instrument on behalf of Seaside FLA, LLC as its Authorized Agent.

WITNESS my hand, at office this 7th day of October, **2021**.

_____
Notary Public
My Commission Expires: 9/13/24

WILLIAMSON COUNTY
STATE OF TENNESSEE NOTARY PUBLIC
KAYLA TABOR

"EXHIBIT A"

Property Subjected to the Terms of the Townhome Declaration

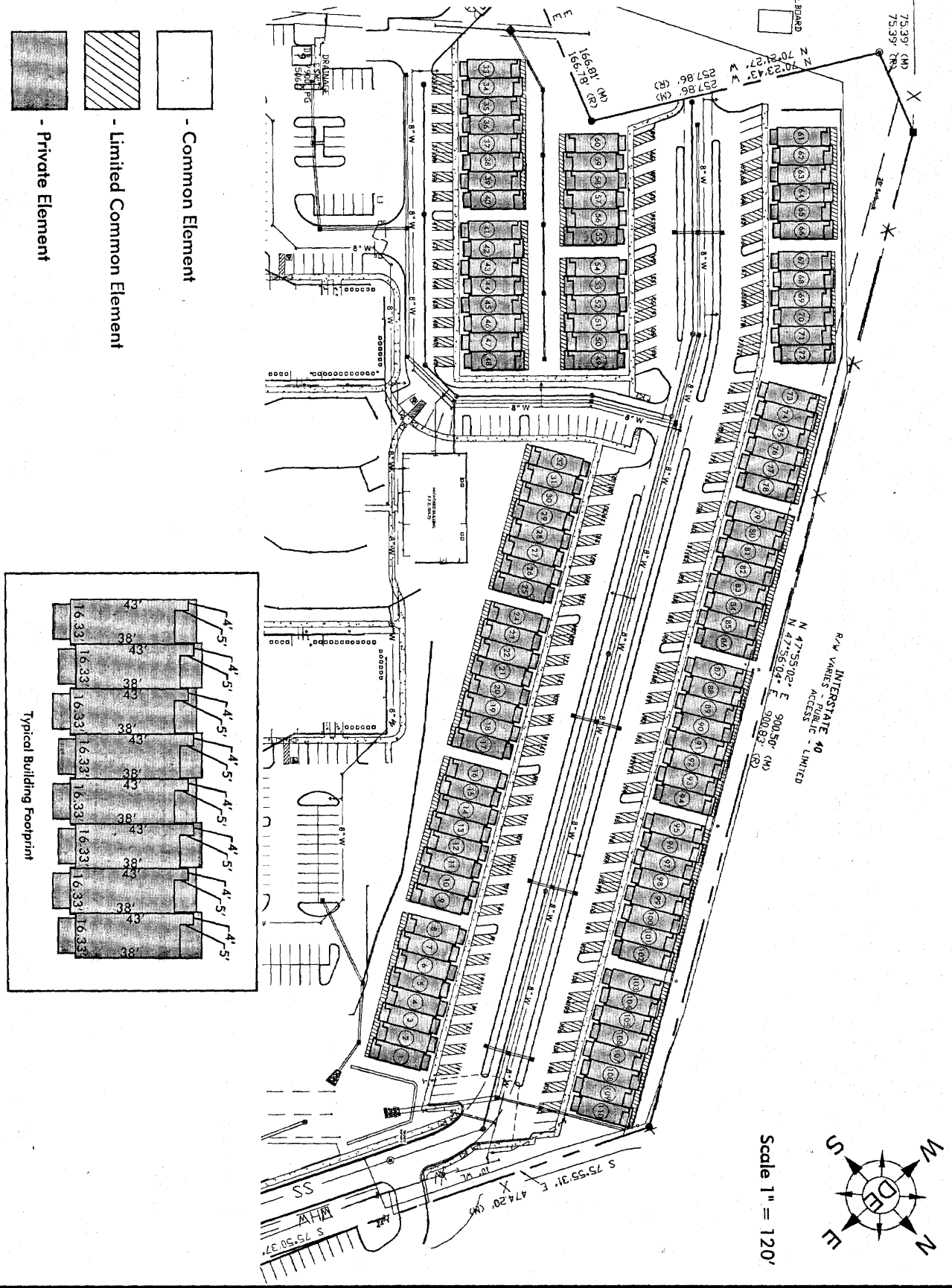
Being Lot 2 depicted on the plat of Harpeth Heights recorded as Instrument Number 20210519-0067525 in the Register's Office for Davidson County, Tennessee.

Being a portion of the same property conveyed to Seaside FLA, LLC by deed recorded as Instrument Number 20210115-0007394 in the Register's Office for Davidson County, Tennessee.

"EXHIBIT A-1"

Depiction of the Townhome Parcel





DEWEY ENGINEERING
2925 Berry Hill Drive Nashville, TN 37204

Harpeth Heights

Being Parcel 306 & 318 on Tax Map 114
Nashville, Davidson County, Tennessee

Date: August 2, 2021
Exhibit A-1 to the Declaration
Job # 21016

"EXHIBIT B"

Bylaws of Harpeth Heights Townhome Owners Association, Inc.



BYLAWS

OF

HARPETH HEIGHTS TOWNHOME OWNERS ASSOCIATION, INC.

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ARTICLE 1: DEFINITIONS

The words defined in the Declaration of Covenants, Conditions and Restrictions for Harpeth Heights Townhomes recorded in the Register's Office for Davidson County, Tennessee (hereinafter referred to as the "Townhome Declaration"), shall have the same meaning in these Corporate Bylaws.

ARTICLE 2: OFFICES

2.01. Registered Office. The address of the registered office of the corporation shall be c/o Ghertner & Company, 50 Vantage Way, #100, Nashville, Tennessee 37228.

2.02. Other Offices. The corporation may also have offices at such other places both within and without the State of Tennessee as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE 3: MEMBERS AND MEMBERSHIP PRIVILEGES

3.01. Membership. Each Townhome Owner shall be a Member of the corporation and no other person or entity shall automatically be entitled to membership. Developer may afford membership privileges in the form of access to the common amenities to owners of other developments of Developer in the vicinity of that certain residential real estate development known as HARPETH HEIGHTS TOWNHOMES in consideration of the payment of fees equal to the Assessments payable by a Townhome Owner or as specified in the Declaration. No person entitled to membership privileges shall be entitled to vote in the Townhome Association and shall not be considered a "Member" for any other purpose. No Member shall be required to pay any consideration whatsoever solely for his membership in the corporation. Members who are not in default in the payment of any assessment or other charge duly levied by the Townhome Association, and who are not in violation of any other provision of the Declaration, these Townhome Association Bylaws or the Rules and Regulations of the Townhome Association (the "Townhome Governing Documents") are Members in Good Standing.

ARTICLE 4: MEETINGS OF MEMBERS

4.01. Place of Meetings. Meetings of the Members of the corporation may be held at a place to be determined by the Board of Directors within Davidson County, Tennessee, or such other place as the Board may reasonably determine.

4.02. Annual Meeting. The first regular annual meeting of the Members may be held,

subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, that the first meeting may (if necessary to comply with Federal Regulations) be held no later than the later of the following events: (a) four months after no Townhome is owned by either Townhome Parcel Owner or Developer; or (b) ten years following conveyance of the first Townhome by Developer to an Owner for the purpose of occupancy. Thereafter, an annual meeting of the Members of the corporation shall be on a date and at a time determined by the Board, at which time the Members shall elect a Board of Directors, and shall transact such other business as may properly be brought before the meeting.

4.03. Special Meeting. Special meetings of the Members, for any purpose or purposes, may be called by the president, the Board of Directors, or by Members having not less than ten (10%) percent of the total percentage values of those votes entitled to be cast at such meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of such meeting.

4.04. Notice. Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than fifteen (15) nor more than sixty (60) days before the date of the meeting. Delivery of the notice may be accomplished by any means permitted by this Bylaws or Tennessee law, by or at the direction of the president, the secretary, or the officer or person calling the meeting, to each Member of the corporation entitled to vote at such meeting.

4.05 Quorum. The presence in person or by proxy of more than ten (10%) percent of the percentage values of those votes entitled to be cast at a meeting of the Members and at least ten percent (10%) of the percentage values of each class of Members shall constitute a quorum at all meetings of the Members for the transaction of business. If a quorum is not present, the Members entitled to vote shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

4.06. Majority Vote; Withdrawal of Quorum. When a quorum is present at any meeting, the vote of the holders of more than fifty per cent (50%) of the percentage values of those votes entitled to be cast of Members qualified to vote and present in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which by express provision of the Declaration, the Charter of the corporation or these Bylaws, a different vote is required, in which case such express provision shall govern and control. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum.

4.07. Method of Voting; Proxies. Each Member in Good Standing (other than Developer or Townhome Parcel Owner while their respective weighted voting rights exist) shall be entitled to a vote for each Townhome owned by such Member.

TOWNHOME PARCEL OWNER AND DEVELOPER SHALL EACH HAVE FIVE (5) VOTES FOR EACH TOWNHOME OWNED UNTIL THE LATER OF (A) THE DATE WHEN ONE-HUNDRED PERCENT (100%) OF THE TOWNHOMES SUBJECTED TO THE DECLARATION OR BY ANY SUPPLEMENTARY DECLARATION ARE NOT OWNED BY EITHER DEVELOPER OR TOWNHOME PARCEL OWNER, (B) TEN (10) YEARS FROM THE LATER OF THE DATE THE TOWNHOME DECLARATION IS RECORDED OR THE DATE OF RECORDATION OF THE LAST SUPPLEMENTARY DECLARATION OR (C) WHEN, IN ITS DISCRETION, DEVELOPER SO DETERMINES.

No Member, other than the Developer and, shall be entitled to vote at any meeting of the corporation until such Member has presented evidence of ownership of a Townhome in HARPETH HEIGHTS TOWNHOMES to the corporation, if such evidence is demanded, the sufficiency of which shall be determined by the members of the Board present at the meeting. The vote of each Member may be cast by such Member in person, by a proxy given by such Member to his duly authorized representative bearing a date not more than eleven months prior to such meeting or by any other means allowable under the Tennessee Nonprofit Corporation Act, Tenn. Code Ann. §§ 48-51-101, *et seq.* or by any other means permitted by this Bylaws or Tennessee law. Proxies shall be filed with the secretary of the corporation prior to or at the time of the meeting. If title to a Townhome shall be in the name of two or more persons, all of such persons shall be Members of the corporation and are referred to herein as "Joint Co-owners." Any one of such Joint Co-owners may vote at any meeting of the Members of the corporation and such vote shall be binding upon such other Joint Co-owners who are not present at such meeting until written notice to the contrary has been received by the Board in which case the unanimous vote of all such Joint Co-owners shall be required to cast their vote as Members. If two or more of such Joint Co-owners are present at any meeting, their unanimous action shall be required to cast their vote as Members of the corporation.

4.08. Cumulative Voting Not Permitted. Cumulative voting for Directors shall not be permitted.

4.09 Electronic Communications; Virtual Meetings; Electronic Voting.

(a) Notwithstanding any other provision of these Bylaws or the Declaration to the contrary, the Townhome Association, the Board and the Members may cast votes, deliver proxies and communicate on any subject required or permitted by the Bylaws or the Declaration using email or any other electronic means of communication approved in writing by the Board.

(b) Notwithstanding any other provision of these Bylaws or the Declaration to the contrary, a Member or proxy holder may participate in any meeting of Members via conference telephone or other means of multi-way remote communication approved in writing by the Board. In addition, at the sole and absolute discretion of the Board, any meeting of the Members may be conducted wholly or in part via reasonably available audio and/or video technology so long as:

(i) all Members participating in the meeting have reasonable access to such technology;
(ii) the technology affords all persons participating in the meeting the ability to communicate with all other persons participating in the meeting;
(iii) the technology allows the Board to ascertain whether a quorum is present; and
(iv) the technology allows Members to vote and the Board to collect and count votes, and to verify the authenticity of a vote transmitted by electronic means.

(c) The Board may also utilize an online voting system under the following conditions:

(i) Members receive written notice of the opportunity to vote through the online voting system;
(ii) the Board establishes procedures and deadlines for Members to consent, in writing, to online voting; and
(iii) the Board establishes procedures and deadlines for Members to revoke their previous consent to utilize the online voting system

(d) After the Board establishes such procedures, a Member may cast their vote on any issue or item brought up for a vote through an internet-based online voting system if:

(i) the Member consents in writing, to online voting;
(ii) the Townhome Association provides each Member with the means to authenticate the Member's identity within the online voting system;
(iii) the Townhome Association provides each Member with the means to confirm at least fourteen (14) days prior to the date of the vote or the voting deadline, that the Member is able to successfully utilize the online voting system;
(iv) the online voting system is able to
  (1) authenticate the Member's identity;
  (2) authenticate the validity of each electronic vote to ensure that the vote is not altered in transit;
  (3) transmit a receipt from the online voting system to each Member who casts an electronic vote;
  (4) permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific Member (this provision only applies to secret ballots); and
  (5) store and keep electronic ballots accessible to election officials for recount, inspection, and review.

(e) A Member voting electronically pursuant to the provisions of these Bylaws shall be counted as present at a meeting for purposes of determining a quorum.

(f) A Member's right to vote by traditional means shall not be abridged by the foregoing provisions regarding electronic and online voting. A Member's consent to online voting shall remain valid until the Member revokes their consent in a writing delivered to the Townhome Association.

(g) the Board may adopt reasonable rules and regulations regarding electronic communications, online voting and virtual meetings including without limitation rules for who may participate in meetings, whether meeting participants must connect individually or whether participants may connect in a group of two (2) or more, how participants seek recognition from the floor, how motions are made, time limits on participants' speaking at the meeting, and the manner in which votes are submitted, counted and/or verified.

ARTICLE 5: DIRECTORS

5.01. Management. The business and affairs of the corporation shall be managed by its Board who may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute, the Townhome Declaration, the Townhome Association Charter, or these Townhome Association Bylaws, directed or required to be exercised or done by the Members. Such Board powers include without limitation the following: (a) the power to adopt reasonable rules and regulations governing the residents, visitors and property within the Townhome Properties; (b) the power to adopt a system of fines for violation of the Townhome Governing Documents; and (c) the power to cure violations of the Townhome Declaration, Rules or Regulations by "self-help" including without limitation the power to tow vehicles within the Townhomes Properties which are parked or otherwise in violation of the Townhome Declaration or any rule properly adopted by the Board.

5.02. Number; Qualifications; Election; Term. The initial Board shall consist of three (3) Directors, each of whom shall be a Member of the Association or a person appointed by the Developer, its subsidiaries or affiliates. Each Director on the initial Board shall serve a term of two (2) years or until his/her successor shall be elected and qualify. The Directors shall be appointed by the Developer until the later of (a) the conveyance of one hundred percent (100%) of the Townhomes to Townhome Owners other than Developer or Townhome Parcel Owner (b) ten years after the date the Declaration or the last Supplementary Declaration is recorded or (c) when Developer, in its sole discretion, so determines. Directors shall serve without compensation. After transfer of control to the Townhome Owners as provided in the Declaration, the Members shall elect five (5) Directors each of whom must be a Member in Good Standing (as defined above). The initial Member-elected Directors shall serve the following terms: the Director receiving the most votes shall serve a term of three (3) years; the two (2) Directors receiving the second most votes and third most votes shall each serve a term of two (2) years; and the remaining two (2) Directors shall

each serve a term of one (1) year. After the expiration of the term of each Director elected following initial transfer of control to the Townhome Owners, all Directors shall be elected for terms of two (2) years.

5.03. Removal; Change in Number; Vacancies. Any Director may be removed either for or without cause, at any special meeting of the Members of the corporation by the affirmative vote of a majority of the Members present in person or by proxy at such meeting and entitled to vote, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting. If any vacancy occurs in the Board of Directors, caused by death, resignation, retirement, disqualification or removal from office of any Director or otherwise, the remaining Board members may appoint a successor who shall serve until the next annual meeting of the Members at which time, a successor shall be elected to serve the remaining unexpired term of his predecessor in office, if any. Any Directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting of Members or at a special meeting of Members called for that purpose.

5.04. Place of Meetings. The Directors of the corporation shall hold their meetings, both regular and special within Davidson County, Tennessee, or such other place as the Board may reasonably determine.

5.05. Annual Meetings. The annual meeting of each newly elected Board shall be held without further notice immediately following the annual meeting of Members of the corporation, and at the same place, unless by unanimous consent of the Directors then elected and serving such time or place shall be changed.

5.06. Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by the Board.

5.07. Special Meetings. Special meetings of the Board of Directors may be called by the president on a three (3) days notice to each Director, either personally or by mail; special meetings shall be called by the president or secretary in like manner and on like notice on the written request of two (2) Directors. Except as may be otherwise expressly provided by statute, the Charter or these Bylaws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in a notice or waiver of notice.

5.08. Quorum. At all meetings of the Board of Directors the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

5.09. Committees Having Board Authority. The Board of Directors may, by resolution approved by vote or written consent by a majority of the whole Board, designate an Architectural

Control Committee, a Nominating Committee for members of the Board of Directors and such other committees as deemed necessary to consist of two (2) or more of the Directors of the corporation. Any such committee, to the extent provided in said resolution, shall and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by statute or the Charter. The Board may remove any member of any committee at any time with or without cause.

5.10. Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by the president if he is authorized by a like resolution of the Board of Directors. Membership on such committees may, but need not be, limited to Directors or Members of the corporation.

5.11. Procedure. All committees shall keep regular minutes of their proceedings and shall report the same to the Board when required.

5.12. Managing Agents. The Board of Directors may employ for the corporation a management agent at a compensation established by the Board of Directors and such management agent shall perform such duties and services with respect to HARPETH HEIGHTS TOWNHOMES development as the Board of Directors shall authorize, and the Board of Directors may delegate to such management agent such duties with respect to management, repair and maintenance of HARPETH HEIGHTS TOWNHOMES development which are not by statute, the Declaration, the Charter or these Corporate Bylaws, required to be performed by or have the approval of the Board of Directors or the Members of the corporation, or some other person or entity.

5.13 Electronic Communications; Virtual Meetings. Notwithstanding any other provision of these Bylaws or the Declaration to the contrary, the Board may meet, communicate and cast votes on any matter coming before the Board by any electronic means of communication approved by the Board which is reasonably affordable and available to all Directors.

ARTICLE 6: NOTICES

6.01. Method. Whenever notice is required to be given to any Director or Member, and no provision is made as to how such notice shall be given, notice may be given by any means permitted under these Bylaws or Tennessee law. Any notice required or permitted to be given by mail shall be deemed to be given at the time when the same is deposited in the United States mail addressed to the recipient at the address shown on the records of the Association.

6.02. Waiver. Whenever any notice is required to be given to any Member or Director of the corporation a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be deemed equivalent to the giving of

such notice.

ARTICLE 7: OFFICERS

7.01. Number; Titles. The officers of the corporation shall be elected by the Directors from among the members of the Board of Directors and shall be a president, a secretary and a treasurer. Any two (2) or more offices may be held by the same person except the offices of president and secretary shall not be held by the same person.

7.02. Election. The Board of Directors at its first meeting after each annual meeting of Members shall choose a president, a secretary, and a treasurer, all of whom shall be members of the Board.

7.03. Other Officers. The Board of Directors may appoint such other officers and agents as it shall deem necessary, who shall be appointed for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

7.04. Salaries. Officers shall serve without compensation.

7.05. Term of Office; Removal. Each officer of the corporation shall hold office until the annual meeting of the Board of Directors next following his election and thereafter until his successor is chosen and qualified in his stead or until his death or until his resignation or removal from office. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. If the office of any officer become vacant for any reason, the vacancy may be filled by the Board of Directors.

7.06. President. The president shall be the chief executive officer of the corporation; he shall preside at all meetings of the Members and the Board of Directors, shall have general and active management of the affairs of the corporation, shall see that all orders and resolutions of the Board are carried into effect, and shall perform such other duties as the Board of Directors shall prescribe.

7.07. Secretary. The secretary shall attend all sessions of the Board of Directors and all meetings of the Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for any committees when required. He shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or president, under whose supervision he shall be.

7.08. Treasurer. The treasurer shall have the custody of the corporate funds and securities, shall keep full and accurate accounts of receipts and disbursements of the corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in

such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, shall render to the president and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the corporation, and shall perform such other duties as the Board of Directors may prescribe. If required by the Board of Directors, he shall give the corporation a bond in such form, in such sum, and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his office and for the restoration to the corporation, in case of his death, resignation, retirement, or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.01. Reserves. There may be created by resolution of the Board of Directors such reserve or reserves as the Directors from time to time, in their discretion, think proper to provide for contingencies, or to repair or maintain any portion of HARPETH HEIGHTS TOWNHOMES or for such other purposes as the Directors shall think beneficial to the corporation, and the Directors may modify or abolish any such reserve in the manner in which it was created.

8.02. Checks. All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

8.03. Fiscal Year. The fiscal year of the corporation shall be the calendar year unless otherwise fixed by resolution of the Board of Directors.

8.04. Seal. The corporate seal, if any, shall be in such form as may be determined by the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

8.05. Indemnification. The corporation shall indemnify any Director, officer, or employee, or former Director, officer, or employee of the corporation, against expenses actually and necessarily incurred by him, and any amount paid in satisfaction of judgments, in connection with any action, suit or proceeding, whether civil or criminal in nature, in which he is made a party by reason of being or having been such a Director, officer, or employee (whether or not a Director, officer or employee at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters as to which he shall be adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. The corporation may also reimburse to any Directors, officer or employee the reasonable costs of settlement of any such action, suit or proceedings, if it shall be found by a majority of a committee of the Directors not involved in the matter of controversy, whether or not a quorum, that it was to the interests of the corporation that such settlement be made and that such Director, officer or employee was not guilty of gross negligence or willful misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, officer, or employee may be

entitled by law or under bylaw, agreement, vote of Members or otherwise.

8.06. Inconsistencies. In the event these Bylaws shall be inconsistent with the Declaration, then the Declaration shall be controlling.

8.07. Amendment of Bylaws. So long as Developer and/or Townhome Parcel Owner own any Townhome or other property within the Properties, Developer may each unilaterally amend or repeal these Bylaws without the joinder or approval of any Member. These Bylaws may also be amended or repealed by the affirmative vote of at least two-thirds (2/3) of the percentage values of those votes entitled to be cast by Members qualified to vote. Notwithstanding the foregoing, if so required by applicable and effective federal law or regulations, for so long as the Developer and/or Townhome Parcel Owner maintain a weighted vote as described in the Declaration, any and all amendments to these Bylaws shall be subject to the veto of HUD/VA.

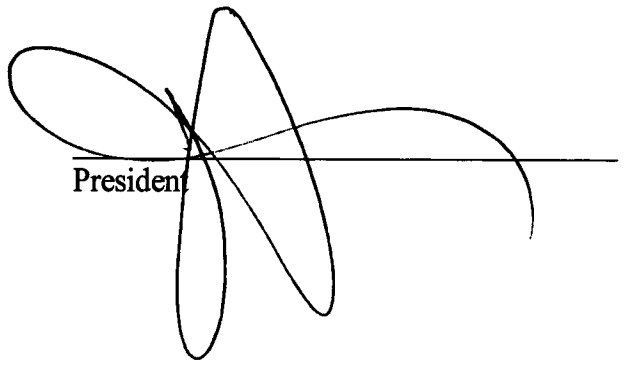
8.08. Table of Contents; Headings. The table of contents and headings used in these bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

8.09. Care and Upkeep; Collection of Common Expenses; Personnel; Changes to Administration of the Development. The following shall all be governed and determined (as the case may be) in accordance with the terms of the Declaration: (1) care, upkeep and surveillance of Harpeth Heights Townhomes, the Townhomes therein and the Townhome Common Elements thereon; (2) the manner of collecting assessments for payment of the Common Expenses; and (3) the designation and dismissal of a property manager and other such personnel as are necessary for the administration of HARPETH HEIGHTS TOWNHOMES.

8.10. Rules and Regulations; Fines. The Board, without a vote of the Owners, may adopt reasonable rules and regulations governing the use and occupancy of the Common Area and the Townhomes. Such rules and regulations shall become effective upon publication to Owners and residents by any reasonable means (or combination thereof) including distribution by mail, or email, posting on the Townhome Association's website and/or recordation with the Davidson County Register of Deeds. The Board's rule-making authority shall include without limitation the authority to adopt a program for administering leases of Townhomes and homes within HARPETH HEIGHTS TOWNHOMES and the authority to charge a fee to each Owner leasing their Townhome to defray the expense to the Townhome Association of the lease administration program. The Board shall also have the authority to levy fines against Owners and residents of HARPETH HEIGHTS TOWNHOMES for violations of the rules, regulations, the Declaration or these Bylaws. Fines shall be in amounts to be reasonably determined by the Board, in its sole discretion. The Board may adopt and amend from time to time a schedule of fines which shall be published to Owners and residents by any reasonable means.

CERTIFICATION

I hereby certify that the foregoing Bylaws were adopted by the Harpeth Heights Townhome Owners Association, Inc. on the 7 day of October, 2021.



President

EXHIBIT C

Attorney Certification



prepared by:

LAW OFFICE OF
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November 5, 2021

Re: *Harpeth Heights Townhomes; Davidson County, Tennessee*

To Whom It May Concern:

I am an attorney licensed to practice in the State of Tennessee. I have prepared legal documents required by Tenn. Code Ann. § 66-27-101, *et seq.* for the creation of the planned unit development known as Harpeth Heights Townhomes, including the Charter and corporate bylaws of Harpeth Heights Townhome Owners Association, Inc., and the Declaration of Covenants, Conditions and Restrictions for Harpeth Heights Townhomes recorded or to be recorded with the Davidson County Register of Deeds. Such documents are compliance with said statute and a planned unit development is created thereunder. This opinion is given for the limited purpose of complying with Tenn. Code Ann. § 66-27-103(b).

Sincerely,

Alvin L. Harris