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DECLARATION

ESTABLISHING

LOFI LOFTS

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TABLE OF CONTENTS

DECLARATION ESTABLISHING

LOFI LOFTS

Page

ARTICLE I DEFINITIONS 1
- **Section 1.01 Definitions** 1

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION 6
- **Section 2.01 Description of Improvements and Identification of Units** 6
- **Section 2.02 Amendment of Condominium Plan** 6
- **Section 2.03 Easements and Restrictions** 7
- **Section 2.04 Ownership of Common Elements** 9
- **Section 2.05 Rights in or to Limited Common Elements** 9
- **Section 2.06 Designation and Repair and Maintenance of Limited Common Elements** 10
- **Section 2.07 Submission of a Unit to an Additional Declaration** 10
- **Section 2.08 Construction of Improvements within Units** 10
- **Section 2.09 Subdivision of Units** 10

ARTICLE III ORGANIZATION AND MANAGEMENT 10
- **Section 3.01 Management of the Condominium Property** 10
- **Section 3.02 Members** 10
- **Section 3.03 By-Laws** 11

ARTICLE IV ASSESSMENTS 11
- **Section 4.01 Liability, Lien and Enforcement** 11
- **Section 4.02 Assessments** 11
- **Section 4.03 Annual Budget** 11
- **Section 4.04 Omission of Assessment** 12
- **Section 4.05 Detailed Records** 12
- **Section 4.06 Payment of Common Expenses and Limited Common Expenses by Unit Owners** 12
- **Section 4.07 Default in Payment of Assessments** 13
- **Section 4.08 Election of Remedies** 14
- **Section 4.09 Power of Sale to Enforce Assessment Lien** 14

ARTICLE V MAINTENANCE AND OPERATION OF THE CONDOMINIUM PROPERTY 16
- **Section 5.01 The Association's Obligation to Repair** 16
- **Section 5.02 Each Owner's Obligation to Repair** 16
- **Section 5.03 Alterations, Additions and Improvements by the Association** 17

202404290030955

Section 5.04 Utilities 17

ARTICLE VI RESTRICTIONS ON USE OF UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS 17
Section 6.01 Rules and Regulations of the Association 17
Section 6.02 Restrictions on Use 18
Section 6.03 Limitation of Liability 19
Section 6.04 Abatement of Violations 19
Section 6.05 Failure of the Association to Insist on Strict Performance; No Waiver 20
Section 6.06 Use by Developer and Declarants Under Additional Declarations 20

ARTICLE VII RIGHTS OF MORTGAGEES 20
Section 7.01 Notification of Mortgagees Required 20
Section 7.02 Right of Inspection 20
Section 7.03 Priority of Mortgagees 20
Section 7.04 Request for Protection by Mortgagees 21

ARTICLE VIII CASUALTY LOSS AND INSURANCE 21
Section 8.01 Responsibility of Owners; Separate Insurance Coverage 21
Section 8.02 Insurance to be Maintained by the Association 22
Section 8.03 Governing Provisions 24
Section 8.04 Premiums 24
Section 8.05 Insurance Trustee 25
Section 8.06 Loss to Common Elements Only 25
Section 8.07 Loss to Units 26

ARTICLE IX CONDEMNATION 26
Section 9.01 Condemnation 26
Section 9.02 Partial Condemnation 26

ARTICLE X TERMINATION 27
Section 10.01 Termination under the Act 27

ARTICLE XI AMENDMENT 27
Section 11.01 Amendments by Developer 27
Section 11.02 Amendments by Unit Owners 27
Section 11.03 Effectiveness of Amendments 28

ARTICLE XII CONTROL OF THE ASSOCIATION 28
Section 12.01 Election of Board of Directors 28
Section 12.02 Notice of Meeting 28
Section 12.03 Status of Unsold Units 29
Section 12.04 Professional Management and Other Contracts 29

202404290030955

ARTICLE XIII RESERVED 29

ARTICLE XIV MISCELLANEOUS 29

Section 14.01 Rights and Powers of Successors and Assignees **29**
Section 14.02 Headings **29**
Section 14.03 Gender/Number **30**
Section 14.04 Exhibits **30**
Section 14.05 Invalidity and Severability **30**
Section 14.06 Interpretation **30**

EXHIBITS

Exhibit "A" Legal Description of Property

Exhibit "B" By-Laws of the Association

Exhibit "C" Charter

Exhibit "D" Plat of LoFi Lofts

Exhibit "E" Plans of LoFi Lofts

Exhibit "F" Percentage of Each Unit's Undivided Ownership Interest in the Common Elements and Voting Percentage

Exhibit "G" Easements and Restrictions of Record

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DECLARATION

ESTABLISHING

LOFI LOFTS

THIS DECLARATION is made this 26th day of April, 2024, by Pennock Avenue Holdings, LLC, a Tennessee limited liability company (the "Developer"), pursuant to the provisions of the Tennessee Condominium Act of 2008, Tenn. Code Ann. §§ 66-27-201 et seq. (the "Act"), for the purpose of forming a condominium and establishing certain easements, covenants and restrictions to run with the land:

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property located in Nashville, Davidson County, Tennessee, more particularly described on Exhibit A attached hereto (the "Property" or "Condominium Property");

WHEREAS, it is the desire and intent of the Developer, by recording this Declaration, to establish a Condominium (as defined in the Act) consisting of FOURTEEN (14) Units and certain improvements in accordance with the plat and plans of LoFi Lofts, a copy of each is included in Exhibit D attached to this Declaration, to be known as LoFi Lofts, a Condominium (as defined in the Act; and LoFi Lofts being sometimes referred to hereinafter as "the Condominium"), and to impose upon the Property mutually beneficial restrictions under a general plan for the benefit of all of the Condominium Units contained therein and the owners thereof;

NOW, THEREFORE, Developer, upon recording hereof, does submit the Property and all improvements thereon, to the provisions of the Act, to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and in any other manner utilized subject to the provisions of the Act and subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division thereof into condominium ownership and all of which shall run with the land and shall be binding on all parties (including Owners as hereinafter defined) having or acquiring any right, title or interest in the Property or any part thereof, and shall be for the benefit of each Owner of any portion of the Property or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest to the Owners thereof.

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. Certain terms as used in this Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefore:

(a) "Act" shall mean the Tennessee Condominium Act of 2008, Tenn. Code Ann. §§ 66-27-201 et seq., as the same may be amended from time to time.

(b) "Affiliate" shall mean any entity which directly or indirectly controls or is controlled by or is under common control with Developer.

(c) "Association" shall mean LoFi Lofts Owners' Association, Inc., a nonprofit corporation, formerly known as 1300 Pennock Ave Homeowners Association, organized pursuant to the Tennessee Nonprofit Corporation Act, Tenn. Code Ann. §§ 48-51-101 et seq. as the same may be amended from time to time, of which all Owners shall be members and which corporation shall administer the operation, management, maintenance, control and administration of the Condominium Property. The Association has been formed pursuant to the Charter filed with the Secretary of State of Tennessee.

(d) "Board of Directors" or "Board" shall mean the Board of Directors of the Association, elected pursuant to the By-Laws of the Association.

(e) "Business Day" shall mean week days, Monday through Friday, excluding legal holidays.

(f) "By-Laws" shall mean the set of By-Laws, a copy of which is attached hereto as Exhibit B, recorded simultaneously with this Declaration, providing for the self-governance of the Condominium Property by the Association, and such amendments thereto as may be recorded from time to time.

(g) "Charter" shall mean the Charter of LoFi Lofts Owners' Association, Inc., formerly known as 1300 Pennock Ave Homeowners Association, a copy of which is attached hereto as Exhibit C.

(h) "Common Elements" shall mean all portions of the Condominium other than the Units, including, but not limited to the following:

(i) The Land;

(ii) All foundations, exterior walls, bearing walls, roofs, columns, girders, beams and supports;

(iii) All gardens, plants, trees, yards and landscaping;

(iv) All paving, driveway areas, limited access gated entry system, parking areas, including parking spaces assigned or to be assigned to the Units as Limited Common Elements, lighting for said parking areas, and all other lighting or fixtures in or on any Common Element with respect to the Land;

(v) All corridors, breezeways, hallways, sidewalks, entrance areas, stairs and stairwells, central mail boxes, and all fixtures located therein;

(vi) The dumpster(s), and the like;

(vii) The electrical rooms and/or metering center, fire riser room, water meter room, and all fixtures located in any such areas;

(viii) All pipes, ducts, electrical panels, wiring, and conduits (except pipes, ducts, electrical panels, wiring, and conduits situated entirely within one Unit and serving only such Unit);

(ix) All personal property held and maintained for the joint use and enjoyment of all the Unit Owners, all assignable leases of personal property, and all assignable service contracts pertaining to the maintenance of the Common Elements;

(x) All other elements and improvements of the Land rationally of common use or necessary to the existence, upkeep and safety of the Condominium established by this Declaration; and

(xi) Other space designed to serve the Condominium as a whole.

(xii) All utilities or utility lines serving more than one Unit or the Common Elements which are not public utilities or lines;

(xiii) All easements, rights or appurtenances affecting or relating to the use of all of the Units or the Common Elements; and

(xiv) All other elements (other than the Units) desirable or rationally of common use or necessary to the existence, upkeep and safety of the Condominium.

(i) "Common Expenses" shall mean the expenses arising out of the ownership of the Common Elements for which the Owners are liable to the Association and shall include, but not be limited to, expenses of administration of the Condominium Property; expenses of insurance; expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation and betterment of the Common Elements; expenses required for the maintenance of the common ingress and egress easements shown on the Plat; any valid charge against the Condominium Property as a whole; and expenses declared to be Common Expenses by the provisions of the Condominium Documents, as the same may be amended, from time to time, in accordance with the provisions thereof.

(j) "Common Surplus" shall mean the excess of all the receipts of the Association including, but not limited to, assessments, rents, profits and revenues over the amount of the Common Expenses.

(k) "Condominium Documents" shall mean the Declaration and all Exhibits hereto, the By-Laws, the Charter of the Association, as the same shall be amended from time to time and the Rules and Regulations of the Association.

(l) "CPI Factor" shall mean the cumulative percentage increase, from the date of recording this Declaration, in *The Consumer Price Index* published by the Bureau of Labor Statistics of the United States Department of Labor, US City Average, All Items or if such index is not available a comparable index selected by the Board of Directors of the Association (the "CPI Factor).

(m) "Declaration" shall mean this instrument and all Exhibits hereto as it, from time to time, may be amended.

(n) "Developer" or "Declarant" shall mean 1300 Pennock Avenue Holdings, LLC, a Tennessee limited liability company, and its successors and assigns, who shall receive by assignment from the Developer all, or a portion of its rights hereunder as such Developer, by an instrument expressly assigning such rights as Developer to such assignee and recorded in the Register's Office for Davidson County, Tennessee.

(o) "Existing Common Access Easements" shall mean those easements existing at the time of recording of this Declaration which benefit the Land and are more particularly identified on the Plat and Plans.

(p) "Land" shall mean the real property described in Exhibit A to this Declaration.

(q) "Limited Common Element" shall mean a portion of the Common Elements designated as a Limited Common Element on the Plat and Plans, any amendment to the Plat or the Plans, or by the terms of this Declaration for the exclusive use of one or more but fewer than all of the Units.

(r) "Limited Common Expense" shall mean the expense arising from the maintenance or repair of a Limited Common Element for which the Unit Owners of the Units to which the Limited Common Element is appurtenant shall be liable to the Association. Limited Common Expense shall include, but not be limited to, the expense of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation, and betterment of a Limited Common Element; and expenses declared to be Limited Common Expenses by the provisions of the Condominium Documents, as the same may be amended, from time to time, in accordance with the provisions thereof.

(s) "Mortgage" shall mean a first lien Deed of Trust on one or more Units.

(t) "Mortgagee" shall mean a holder of a Mortgage who has given notice to the Association that it is the holder of a Mortgage affecting all or any part of the Condominium Property as hereinafter provided.

(u) "Occupant" shall mean any Person, including any Owner having a right to occupy or use all or any portion of a Unit for any period of time.

(v) "Owner" or "Unit Owner" shall mean and refer to every person or entity who is a record owner of a Unit.

(w) "Permittee" shall mean any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contactor of an Owner or Developer.

(x) "Person" shall mean one or more natural persons, corporations, partnerships, limited liability companies, firms, trusts, trustees, governments, governmental authorities or other entities.

(y) "Plat" shall mean the Plat showing the Units, the Common Elements and the Limited Common Elements of the Condominium Property attached hereto as Exhibit D, and made a part hereof for all purposes, as such Plat may from time to time be amended.

(z) "Plans" shall mean the Plans showing the Units, the Common Elements, and Limited Common Elements of the Condominium Property attached hereto as Exhibit E, and made a part hereof for all purposes, as such Plans may from time to time be amended.

(aa) "Property" or "Condominium Property" shall mean the Land, the Units and the Common Elements.

(bb) "Rules and Regulations" shall mean those Rules and Regulations adopted from time to time by the Board of Directors of the Association that are deemed necessary for the enjoyment of the Condominium Property, provided they are not in conflict with the Act or the Condominium Documents.

(cc) Reserved.

(dd) Reserved.

(ee) Reserved.

(ff) "Unit" shall mean the parts of the Condominium Property as set forth in the Plat and Plans intended for the exclusive ownership and possession by an Owner, together with the undivided interest in the Common Elements assigned to each Unit as herein provided. The Units are identified on the Plat and Plans and shall consist of the volumes or cubicles of space which lie between the lower, upper and lateral or perimetrical boundaries described as follows:

(i) *Upper and Lower Boundaries*: The upper and lower boundaries extended to their planer intersections with the perimetrical boundaries as follows:

1. The upper boundary shall be its highest ceiling,

2. The lower boundary shall be the upper unfinished surface of its floor (i.e., that surface directly beneath the carpeting or other floor covering),

3. The vertical boundaries (measuring the horizontal area of a Unit) shall be the interior finished surface of the perimeter walls.

(ii) Notwithstanding the definition of the boundaries of a Unit contained in subparagraph (i) above, in order to more precisely define the boundaries of a

Unit, the following shall govern in determining if an item is part of the Unit, a Limited Common Element, or a portion of the Common Elements:

1. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, carpet, finished flooring and any other materials constituting any part of the finished surfaces of the upper, lower and vertical boundaries, excluding windows, as part of the Unit, and all other portions of the walls, floors, or ceilings constituting part of such boundaries are a part of the Common Elements.

2. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

3. Subject to the provisions of the immediately preceding subparagraph 2, all spaces, interior partitions, or other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

4. All air conditioning and heating equipment, patios, terraces, balconies, exterior doors (including garage doors), windows, storm windows and screens, and all other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. In the event there is any question as to the allocation of any Limited Common Element, Developer retains the right to make such designation for a term of five (5) years or until Developer assigns such right to the Association, whichever event first occurs.

If any utility line, wire, pipe or conduit lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

Any improvements within a Unit shall be part of the Unit unless such improvement is a Common Element or Limited Common Element.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01 Description of Improvements and Identification of Units. The Condominium Property shall consist of the Units and Common Elements shown on the Plat and the Plans.

Section 2.02 Amendment of Condominium Plan. Developer reserves the right to change the boundaries of Units and to increase or decrease the number of Units so long as Developer or an Affiliate owns the Units so altered. Changes in the boundaries of Units shall be reflected by an amendment to the Plat and/or the Plans, and an amendment to this Declaration. An amendment to the Plat, the Plans, or the Declaration reflecting an alteration of the boundaries

of the Units owned by Developer need be signed and acknowledged only by the Developer and need not be approved by the Owners and Mortgagees. Developer also reserves the right (i) to convert all or any portion of any Unit owned by Developer to a Common Element or Limited Common Element and (ii) to convert any portion of a Common Element to a Limited Common Element or a portion of a Unit provided such conversion does not materially alter the rights of any Unit Owner other than Developer. Upon conversion of all or a portion of a Unit to a Common Element or a Limited Common Element or a portion of the Common Elements to a Unit, Developer shall record an amendment to the Plat, Plans, and the Declaration. No other party shall be required to approve or execute such amendments. Such amendment to Declaration shall revise the appurtenant interest in the Common Elements of any altered Unit to an appurtenant interest in the Common Elements pursuant to the formula set forth in Exhibit F. The ownership interests of any altered Units shall be computed to provide that the sum of the ownership percentage of the altered or new Units shall equal the ownership percentage of the altered Unit. The ownership percentage of the Unit being altered shall be allocated to the new or altered Units based upon the relative values of such new or altered Units as calculated pursuant to the formula set forth in Exhibit F. The percentage ownership of Units not being altered shall not be changed without the consent of the Owners of such Units. Developer shall pay all expenses in connection with amendments pursuant to this Section.

Section 2.03 Easements and Restrictions. The Units, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be subject to the restrictions, easements, conditions and covenants prescribed and established in the Condominium Documents. Units, Common Elements and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the Condominium Property, which easements and restrictions are described on Exhibit G attached hereto. Additional easements established hereunder include the following:

(a) Utility Easements. Utility easements and easements for the construction of utility lines are reserved throughout the whole of the Property, including Units, as may be required for utility services (including, without limitation, water, sewer, gas, electricity, telephone, cable television and other technological services) in order to adequately serve the Condominium Property.

(b) Utility Equipment. There may be utility equipment which is appurtenant to the Units, but which is located on the Common Elements. An easement is hereby reserved in favor of each Unit for the purpose of placement, maintenance, repair and replacement of said utility equipment by Developer and the Owners of the Unit; provided that no utility equipment shall be placed on any part of the Common Elements or Limited Common Elements other than the present location unless the prior written approval of the Developer or the Association shall have been obtained.

(c) Easements for Ingress and Egress. The Common Elements and Existing Common Access Easements shall be, and the same are hereby declared to be subject to a perpetual nonexclusive easement of way over all roads, common parking areas, walkways and other common areas in favor of all Owners for all proper and normal purposes and for the furnishing of services and facilities for which the same are

reasonably intended for the enjoyment of all Owners, subject to all restrictions in the Condominium Documents.

(d) Easement for Use of Leased or Acquired Property. Each Unit Owner shall have a nonexclusive easement for use of any property hereafter acquired by the Association for the common benefit of the Owners by purchase, lease or otherwise for all normal and proper purposes for which the same are reasonably intended, subject to all restrictions in the Condominium Documents.

(e) Easements for Encroachments. To the extent that any Unit, Common Element or Limited Common Element encroaches on any other Unit, Common Element, or Limited Common Element, whether by reason of any deviation from the Plat or Plans in the original construction, repair, renovation, restoration or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement shall exist for the encroachment and/or the maintenance of the same, so long as the encroaching Unit, Common Element or Limited Common Element stands. This easement, however, shall not relieve an Owner of liability for his or his agent's negligence, intentional acts or willful and intentional misconduct in causing the encroachment. In the event any Unit, any adjoining Unit, or any adjoining Common Elements or Limited Common Elements shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then constructed, reconstructed or repaired, encroachment of parts of the Common Elements or Limited Common Elements upon any Unit, or encroachment of any Unit upon any other Units, Common Elements or Limited Common Elements resulting from such construction, reconstruction or repair shall be permitted, and valid easements for such encroachment and the maintenance thereof shall exist so long as the encroaching improvements shall stand.

(f) Easement of Support. Each Unit and the Common Elements and Limited Common Elements shall have an easement of support from every other Unit, Common Elements or Limited Common Elements which provide such support.

(g) Easement for Use of Limited Common Elements. Each Owner which has been allocated the use of Limited Common Elements shall have an easement for ingress and egress to and from such Limited Common Elements over the Common Elements, and to the extent such Owner has the duty to repair and maintain such Limited Common Elements, an easement to repair and maintain such Limited Common Elements. The Association is authorized to adopt rules and regulations regarding the use of such easements, including, but not limited to, the right to limit the areas of such easements and the time and manner of use.

(h) Easements Appurtenant to Units. The easements and other rights created herein for the Unit Owners shall be appurtenant to the Unit of that Owner and all conveyances of title of the Unit shall include a conveyance of the easements and rights herein provided even though no specific reference to such easements and rights appear in such instrument. The Owners do hereby designate the Developer and/or the Association

as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purpose of evidencing all such easements created by the provisions hereof.

(i) Construction Easements. Developer reserves for Developer and for the benefit of each Owner non-exclusive perpetual easements in, on and over the Common Elements for access and temporary encroachments by contractors and subcontractors during construction to the extent reasonably necessary to construct improvements on the Units or the Common Elements subject to Rules and Regulations of the Association.

(j) Dedication and Transfer of Easements for Utilities and Roadways. Developer, during the period Developer or an Affiliate owns a Unit, and thereafter, the Association shall have the exclusive right and power to convey or dedicate all or part of the utility lines, utility facilities or roadways serving the Condominium to public use and benefit or to any governmental authority or utility for such purpose and to grant easements over the Common Elements and Units for the purpose of installing, replacing, maintaining or repairing utilities or roadways. All Unit Owners hereby grant Developer and the Association a power of attorney for the purpose of executing all instruments and taking all actions on behalf of the Unit Owners required to accomplish the conveyance or dedication of utility lines, utility facilities or roadways as provided in this paragraph.

(k) Access Easements Benefiting the Association. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and its Permittees a perpetual, non-exclusive easement for access, ingress and egress to, from, over, under and through the entire Property for the performance of its obligations and duties hereunder.

Section 2.04 Ownership of Common Elements. Each Owner shall own an undivided interest in the Common Elements with all other Owners, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of the Unit as herein provided, without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run with the Units. The extent or amount of such ownership shall be expressed by a percentage relating to each Unit and shall remain constant, unless changed in accordance with the provisions of Section 2.02 hereof or by the unanimous approval of all Owners and Mortgagees affected hereby. The percentage ownership in the Common Elements relating to each Unit is set forth on Exhibit F attached hereto and has been calculated as described on Exhibit F.

Section 2.05 Rights in or to Limited Common Elements. The Limited Common Elements appurtenant to any Unit shall be as described in this Declaration or shown on the Plat and/or Plans. The description shall be expressed by identifying the type of Limited Common Elements which are appurtenant to the Unit, if any, and the Owners of such Units (whether one or more than one Unit) shall have the exclusive right to use such Limited Common Elements so designated or described unless changed by the Developer as permitted in Section 2.02 hereof or by the unanimous approval of the Owners of the Units to which Limited Common Elements are appurtenant and their respective Mortgagees. Each Owner of a Unit to which the Limited Common Element is appurtenant shall have the right to use the Limited Common Element for all purposes incident to the use and occupancy of such Unit as herein provided without hindering or

encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run with the Units to which the Limited Common Elements are appurtenant.

Section 2.06 Designation and Repair and Maintenance of Limited Common Elements.

(a) Limited Common Elements designated by the Terms of this Declaration include the following:

(i) Utility lines serving only one Unit are designated as Limited Common Elements of such Unit;

(ii) Balconies, patios or terraces immediately accessible from the applicable Unit;

(iii) Any designated parking spaces assigned to the applicable Unit;

(iv) Chutes, flues, wires, conduit, bearing walls, bearing columns, or any other fixture serving or located within only one particular Unit.

Section 2.07 Reserved.

Section 2.08 Construction of Improvements within Units. Owners may construct improvements within Units provided plans for such improvements are approved, if required pursuant to this Declaration.

Section 2.09 Reserved.

ARTICLE III
ORGANIZATION AND MANAGEMENT

Section 3.01 Management of the Condominium Property. Operation and administration of the Condominium Property shall be performed by the Association. The powers and duties of the Association shall include those set forth in the Act, the Tennessee Nonprofit Corporation Act, Tenn. Code Ann. §§ 48-51-101 et seq., this Declaration, the Charter and the By-Laws, as the same may be amended from time to time.

Section 3.02 Members. The members of the Association shall consist of all record Owners of the Units. Change of membership in the Association shall be established by recording in the Register's Office for Davidson County, Tennessee, the deed or other instrument establishing record title to a Unit in the Condominium Property, and the delivery to the Association of a certified copy of such instrument, the Owner designated by such instrument thereby becoming a record Owner and a member of the Association. Membership of the prior Owner shall thereby be terminated. All present and future Owners, tenants and occupants of the Units shall be subject to and shall comply with the provisions of the Declaration, the By-Laws and the Rules and Regulations, as the same may be amended from time to time. The votes for a Unit shall be cast by the record Owner thereof or the duly authorized proxy of the record Owner

in the manner provided in the By-Laws. Each Unit is allocated one vote of the Association as set forth in Exhibit F attached hereto.

Section 3.03 By-Laws. The By-Laws of the Association shall be in the form attached as Exhibit B to this Declaration, and may be amended from time to time as set forth therein.

ARTICLE IV
ASSESSMENTS

Section 4.01 Liability, Lien and Enforcement. The Association is given the authority to administer the operation and the management of the Condominium Property, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners of all Units. To provide the funds necessary for such proper operation, the Association is hereby granted the right to make, levy, and collect annual assessments against the Owners of all Units to pay Common Expenses and such other expenses which the Association is authorized to incur under the terms and conditions of this Declaration. The Association is also authorized to make, collect and levy assessments against Unit Owners for reimbursement of expenses the Association is caused to incur by reason of any act of the Owner, his guests, invitees or tenants for damages of any nature and for penalties for rules violations. In furtherance of said grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation and management of the Condominium Property, the following provisions shall be effective and binding upon the Owners of all Units.

Section 4.02 Assessments.

(a) All assessments for the payment of Common Expenses shall be levied annually against the Owners of all Units, and unless specifically otherwise provided for in this Declaration, each Owner of a Unit and the Unit shall bear the same percentage share of such assessment as the percentage share of ownership for the undivided interest in the Common Elements appurtenant to such Unit. The assessments for Common Expenses shall be payable over the course of the year in advance monthly installments commencing for all Units on the date determined by Developer after the date of sale of a Unit or in such other installments and at such times as may be determined by the Board of Directors of the Association.

(b) Assessments for the payment of Limited Common Expenses shall be levied against the Owners of those Units to which the Limited Common Elements are appurtenant unless the Board of Directors determines that it would be as equitable and more efficient to include certain Limited Common Expenses in Common Expenses. The assessments for Limited Common Expenses, if any, shall be payable in such installments and at such times as may be determined by the Board of Directors of the Association.

(c) Reserved.

Section 4.03 Annual Budget. Within sixty (60) days prior to the beginning of each calendar year, the Board of Directors of the Association shall adopt an annual budget for such calendar year, and such budget shall project the amount of funds for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium

Property, and may include reasonable allowances for contingencies and reserves for replacements. The reserve shall be in an amount equal to ten percent (10%) of the budget. The Association shall not be required to include reserves for repairs and replacement if the provision for such reserves will result in tax liability to the Association for such revenues in excess of expenses. The Association shall also have the right to refund any assessments in excess of actual expenditures to avoid tax liability on such excess amounts. The budget shall take into account any projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. Within thirty (30) days after adoption of such annual budget by the Board of Directors of the Association, copies of the budget shall be made available to each Unit Owner.

Should the Board of Directors at any time determine in the sole discretion of the Board of Directors that the assessments levied are or may prove to be insufficient for any reason including emergencies and non-payment of any Owner's assessment, the Board of Directors shall have authority to levy such additional assessments as it shall deem necessary in accordance with the applicable provisions of the Condominium Documents and the Act.

Section 4.04 Omission of Assessment. The omission by the Association, before the expiration of any year, to fix the assessments for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay assessments or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

Section 4.05 Detailed Records. The Association shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements, Limited Common Elements and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by any Owner or his representative at convenient hours of weekdays in Davidson County, Tennessee.

Section 4.06 Payment of Common Expenses and Limited Common Expenses by Unit Owners. All Unit Owners shall be obligated to pay any assessment for Common Expenses and Limited Common Expenses adopted by the Board of Directors pursuant to the terms of this Article IV. No Unit Owner may exempt himself from liability for his contribution toward Common Expenses or Limited Common Expenses by waiver of the use or enjoyment of any of the Common Elements, Limited Common Elements or by abandonment of his Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses or Limited Common Expenses assessed against his Unit subsequent to a sale or other conveyance by him of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter up to the time of conveyance without prejudice to the purchaser's right to recover from the selling Unit Owner the amounts paid by the purchaser therefor. Whenever any Unit may be sold or mortgaged by the Owner thereof, which sale shall be concluded only upon compliance with the other provisions of this Declaration, the Association, upon written request of the Owner or purchaser of such Unit, shall furnish to the Owner, the purchaser or any proposed Mortgagee, a statement verifying the status of the payment of any assessment which shall be due and payable to the Association by the Owner of

such Unit. Any purchaser or proposed Mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction and the Association shall be bound by such statement. In the event that a Unit is to be sold or mortgaged when any assessment is outstanding against the Owner of such Unit and such assessment due the Association is in default, the purchase or mortgage proceeds shall first be paid by purchaser or Mortgagee to the payment of any delinquent assessment or installment due the Association before the payment of the proceeds to or on behalf of the selling Unit Owner.

Section 4.07 Default in Payment of Assessments.

(a) The payment of any assessment or installment thereof due the Association shall be in default if such assessment or any installment thereof is not paid to the Association on or before the due date for such payment. When in default, the delinquent assessment or delinquent installment due the Association shall bear interest at the greater of (i) the maximum legal rate on judgments or (ii) 12%, but not to exceed the maximum rate allowed under applicable law (the "Interest Rate"), and such late fees and penalties provided in the Rules and Regulations of the Association, until such delinquent assessment or installment and all interest due thereon has been paid in full. The Association shall have a lien against Units for delinquent assessments. Such lien shall secure the monies due for all assessments then or thereafter levied against the Unit, and such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessment owing the Association. Such lien shall also secure all costs and expenses, including late penalties and attorneys' fees incurred by the Association in collecting delinquent assessments and enforcing the lien upon any Unit and its appurtenant undivided interest in the Common Elements. The lien granted to the Association may be foreclosed in the same manner as a deed of trust with power of sale in the State of Tennessee provided the Association gives notice as required by the Act to the Unit Owner and all lienholders of record. The lien granted to the Association shall further secure such advances for taxes and payment on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to protect and preserve its lien, and the Association shall further be entitled to interest at the Interest Rate on any such advance made for such purpose. Subject to the provisions of Section 4.07(b), all persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit or who may be given or acquire a mortgage, lien or other encumbrance thereon are hereby placed on notice of the lien rights granted to the Association and shall acquire such interest in any Unit expressly subject to the lien.

(b) Reserved.

(c) The lien herein granted to the Association shall be effective upon the recording of this Declaration in the Register's Office for Davidson County, Tennessee. To preserve the priority of the Association's lien as provided in the Act a notice of the lien should be recorded in the Register's Office for Davidson County, Tennessee. Such lien shall include assessments, late fees, penalties and other charges imposed by the Association for violations of this Declaration, the By-Laws and the Rules and

Regulations, and shall include interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided.

Section 4.08 Election of Remedies. Institution of a suit at law to collect payment of any delinquent assessments shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking enforcement of the collection by foreclosure of any sums remaining owing to the Association. Nor shall proceeding by foreclosure to effect such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association. The Association shall be entitled to bid at any sale held in connection with the foreclosure of the assessment lien and may apply as a cash credit against its bid all sums secured by the lien enforced.

Section 4.09 Power of Sale to Enforce Assessment Lien.

(a) For and in consideration of the privileges, protections, mutual enjoyment and use of the Common Elements and the Limited Common Elements, the assumption of the obligations of Unit Owners set forth in this Declaration by Unit Owners, their successors and assigns, the receipt of which is hereby acknowledged, and to secure the payment of assessments for Common Expenses, and other assessments, assessed against a Unit Owner by the Association as provided in this Declaration and By-Laws, interest, late charges and attorney fees as provided herein, hereinafter collectively referred to as the "Secured Charges," a lien is expressly retained in favor of the Association on each and every Unit Owner's Unit and pro rata interest in the Common Elements.

(b) For the purpose of better and more effectually securing the Secured Charges, rendering unnecessary court proceedings for the enforcement of said lien in the event of the nonpayment of the Secured Charges, and for the consideration of one dollar paid in cash, receipt of which is acknowledged, the Unit Owners, their heirs, successors, administrators, and assigns, hereinafter referred to as Trustors, hereby transfer and convey unto Andrew Noell, Trustee, a resident of Davidson County, Tennessee, whose address is 2010 21st Avenue South, Nashville, Tennessee, 37212, and his/her successors and assigns, their respective Units with the appurtenances, estate, title and interest thereto belonging upon the uses and trusts set forth in this Section 4.09 ("Trustee").

(c) Trustors agree (i) to pay the Secured Charges when due, as provided in this Declaration; (ii) to pay, discharge, or remove, any and all liens (except a first mortgage or deed of trust) which may be hereafter placed against their Unit and which shall adversely affect the lien of this instrument or enforcement of the terms and provisions hereof; (iii) to keep their respective Units in good repair and preservation; (iv) to comply with all of the terms and conditions of this Declaration and By-Laws and all rules and regulations of the Association; and (v) to pay upon demand of Trustee or the Association, all the costs and expenses, together with reasonable attorneys' fees, of any court appearance or other proceedings required by Trustee, his successors or the Association to enforce any provision of this Declaration and By-Laws or any rule and regulation of the Association. If any Trustor fails to do any of these things, then Trustee or the Association may do any or all of these things, and the amounts so paid shall bear interest at the highest rate allowed under

applicable laws in effect from time to time from the day of payment and shall become a part of the Secured Charges secured hereby.

(d) If a Trustor shall pay the Secured Charges when due, then this trust conveyance shall be of no further force or effect with respect to such Trustor's Unit. If the Secured Charges with respect to any Unit or any portion thereof are not paid promptly when due, this trust conveyance shall remain in full force and effect, and the said Trustee, or his successor in trust, is hereby authorized and empowered, upon giving notices required by the Act and under Tennessee law and upon giving twenty days' notice by three publications in any newspaper, daily or weekly, published in Davidson County, Tennessee to sell said Unit, subject to the provisions of Section 4.07(b) hereof, at the front door of the Court House in said County to the highest bidder for cash, at public outcry, free from the statutory right of redemption, the equity of redemption, homestead, dower and all exemptions and rights of every kind, which are hereby expressly waived; and the said Trustee, or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Association may bid at any sale under this trust conveyance. The Association may, at any time after default in the payment of any of the Secured Charges, enter and take possession of said property, and shall only account for the net rents actually received by it. It is further agreed that, in the event the Association fails, before instructing Trustee to sell said Unit, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said property. In case of sale hereunder, the proceeds will be applied by the Trustee as follows:

(i) First, to the payment of all costs, charges and expenses of executing this conveyance and enforcing said lien as herein provided, including reasonable attorneys' fees and expenses incurred for instituting or defending any litigation which may arise on account of the execution of this conveyance, or the enforcement of said lien;

(ii) Second, to the payment of all unpaid Secured Charges with respect to such Unit;

(iii) Third, the residue, if any, will be paid to the Unit Owner of such Unit, his order, representatives or assigns;

(e) In the case of the death, absence, inability, or refusal to act of said Trustee at any time when action under the foregoing power and trusts may be required or for any other reason, the Association is hereby authorized and empowered to name and appoint a successor to the Trustee by an instrument in writing to be recorded in the Register's Office for Davidson County, Tennessee, and the title herein conveyed to the above named Trustee shall be vested in said successor.

ARTICLE V
MAINTENANCE AND OPERATION OF THE CONDOMINIUM PROPERTY

Section 5.01 The Association's Obligation to Repair.

(a) The Association acting through the Board of Directors shall be responsible for the maintenance, repair and replacement of the following, the cost of which shall be charged to all Unit Owners as a Common Expense:

(i) The Common Elements and any Limited Common Elements required to be maintained by the Association pursuant to the terms of this Declaration.

(ii) Incidental damage caused to a Unit by any work done by the Association.

(b) If a Unit Owner fails to maintain and repair his Unit or any Limited Common Element as required by this Declaration, the Association may perform such maintenance and repair and assess the Unit Owner for all expenses incurred, together with up to a twenty percent (20%) service charge for the Association's services.

(c) The Association shall inspect the Common Elements at least annually for repair and maintenance requirements, and shall promptly undertake the repair and maintenance thereof.

(d) To the maximum extent permitted by law, the Developer, Smith Gee Studio (the "Architect"), and any of Architect's consultants or contractors which Architect hired in the development of the Condominium, shall not be liable for any claims or damages which arise due to the Association's failure to follow the maintenance obligations, and the completion of any recommended maintenance resulting from the performance of these obligations, provided for by this Declaration. The Association waives any and all claims against Developer, Architect, and Architect's consultants or contractors which may arise as a result, and further agrees to protect, defend, indemnify and hold Developer, Architect, and Architect's consultants and contractors, harmless from and against any and all such claims arising due to failure to perform maintenance or follow maintenance recommendations, except to the extent that an indemnified party instructed or advised the Association against performing said maintenance.

Section 5.02 Each Owner's Obligation to Repair.

(a) Each Owner shall, at such Owner's expense, maintain his Unit in good tenantable condition and repair, and shall be responsible for the repair and maintenance of his Unit.

(b) The Owner of a Unit shall also maintain and repair any Limited Common Elements appurtenant to such Unit unless this Declaration specifies the maintenance of a particular Limited Common Element to be performed by the Association.

Section 5.03 **Alterations, Additions and Improvements by the Association**. Except in the case of loss or damage to the Common Elements or Limited Common Elements as contemplated by Article VIII of the Declaration, the Association shall not make any material structural alterations, capital additions or capital improvements to the Common Elements or Limited Common Elements with a cost in excess of twenty-five thousand dollars ($25,000.00), such sum to be increased by the CPI Factor, other than for the purpose of replacing, restoring or rehabilitating portions of the Common Elements or Limited Common Elements in accordance with the Declaration, unless the same is authorized by the Board of Directors of the Association and ratified by the affirmative vote of the voting members casting not less than seventy-five percent (75%) of the total votes of the members of the Association present at any regular or special meeting of the Unit Owners called for that purpose at which a quorum is present. The cost of the foregoing shall be assessed against the Owners of Units as provided in Article IV hereof except as otherwise provided in this Section 5.03. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, then the cost of such alterations or additions shall be assessed against and collected solely from the Unit Owners exclusively, or substantially exclusively, benefiting therefrom, and the assessment shall be levied in such proportions as may be determined to be fair and equitable by the Board of Directors of the Association. Where such alterations or additions exclusively, or substantially exclusively, benefit Unit Owners requesting the same, said alterations and additions shall be made only when authorized by the Unit Owners exclusively, or substantially exclusively, benefiting therefrom. Alterations, improvements or repairs of an emergency nature may be made upon authorization by a vote of the majority of the Directors available for consultation if the same is necessary and in the best interest of the Unit Owners.

Section 5.04 **Utilities**. Each Unit Owner shall be required to pay all charges for utilities serving his Unit, including electricity, water, sewer, gas, cable television, telephone service, and other technological services used or consumed in his Unit. The utilities only serving the Common or Limited Common Elements shall be separately metered or sub-metered to the extent reasonably practical, and paid by the Association as a Common or Limited Common Expense.

Section 5.05 **Notice to Architect After Discovery of Defect**. Before any Unit Owner, or the Association, undertakes any action (including repairs provided for by this Article V) or makes any claim related to a defect discovered in the design or construction of the Condominium, or of any of the Units, Common Elements, or Limited Common Elements, the Board of Directors shall be notified of said defect (if discovered by a Unit Owner), and the Board of Directors shall notify the Architect, in writing, of the defect, and provide the Architect with no less than thirty (30) days to undertake an investigation and (if appropriate) to cure such defect.

Section 5.06 **Reserved**.

ARTICLE VI
RESTRICTIONS ON USE OF UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 6.01 **Rules and Regulations of the Association**. The Association is authorized to promulgate, amend and enforce Rules and Regulations concerning the operation and use of the Condominium; provided that such Rules and Regulations are not contrary to or

inconsistent with the Act and the Condominium Documents. A copy of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner or if the Unit has been submitted to another declaration, the association established under such declaration, prior to the time they become effective. All present and future Unit Owners, tenants, and occupants of the Units and any person who uses any part of the Condominium Property in any manner, are subject to, and shall comply with the provisions of the Condominium Documents and the Rules and Regulations. The acquisition, rental or occupancy of a Unit or the use of any part of the Condominium Property by any person shall constitute his agreement to be subject to and bound by the provisions of the Condominium Documents and the Rules and Regulations, and such provisions shall be deemed to be enforceable as equitable servitudes and covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated in full in each and every deed of conveyance or lease thereof. The Association may promulgate enforcement provisions for violation of any Rule or Regulation by a Unit Owner, their family members, guests, invitees, lessees or renters, including the payment of penalties for such violations.

Section 6.02 Restrictions on Use. The use of the Condominium Property is subject to the following restrictions:

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

(b) No Owner shall permit anything to be done or kept in his Unit or in the Common Elements or Limited Common Elements which will result in any increase of fire or hazard insurance premiums or the cancellation of insurance on any part of the Condominium Property, or which would be in violation of any law. No waste shall be committed to the Common Elements or Limited Common Elements.

(c) No sign of any kind shall be displayed to the public view on or from any part of the Condominium Property, without the prior written consent of the Board of Directors of the Association, except (i) signs temporarily used by the Developer or Project Developers in the selling or leasing of the Units or (ii) signs in other locations on the Condominium Property approved by Developer and in compliance with applicable law.

(d) No Owner shall cause or permit anything to be placed on the Common Elements or Limited Common Elements immediately surrounding his Unit unless approved in writing by the Board of Directors.

(e) Without limiting the generality of the foregoing, except as otherwise specifically provided in this Section 6.02(e), no part of the Units, may be used for any of the following purposes: (A) skating rink; (B) shooting gallery, carnival, (C) massage parlor, except for day spas that are approved by the Board of Directors; (D) facility that

hosts nude, semi-nude or other erotic performances; (E) establishment where sexually explicit, obscene, pornographic or "adult" materials or paraphernalia, including, but not limited to, movies, videotapes, DVDs, devices, novelties, books, magazines, or other related items are sold or displayed; (F) "head shops" or other facilities used for the sale, display or advertisement of any paraphernalia used in the preparation or consumption of controlled substances or marijuana; (G) funeral home or store selling caskets; (H) mortuary; (I) processing or rendering plant; (J) lumber yard; (K) central laundry, dry cleaning plant, or laundromat (except this prohibition shall not include any dry cleaning service only providing for pick-up and drop-off and not performing any cleaning on premises); (L) any service station, car wash, or automotive repair facility, including without limitation any tire, battery and accessory facility; (M) veterinary office, animal hospital or animal raising or boarding facilities; (N) thrift store, pawn shop, liquidation outlet, or similar establishment; (O) sale, storage or processing of marijuana; (P) church, or other house of worship; (Q) day labor service, or other enterprise or organization that offers laborers for hire on a daily basis.

(f) No immoral, improper, offensive or unlawful use shall be made of any Unit, Common Elements or Limited Common Elements, or any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction over the Condominium Property shall be observed.

(g) No noxious or offensive activities shall be carried on, nor shall anything be done, on any part of the Condominium Property which in the judgment of the Board of Directors of the Association, may be or become an unreasonable annoyance or nuisance to the other Owners.

Section 6.03 Limitation of Liability. The Association shall not be liable for any failure of water or power supply, telephone, security, fire protection or other service to be obtained by the Association or paid for out of the Common Expense funds, for problems resulting from the operation or lack of operation of sewer lines servicing the Condominium Property, or for injury or damage to a person or property caused by the natural elements or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Elements, Limited Common Elements or from any wire, pipe, drain, conduit, appliance or equipment.

Section 6.04 Abatement of Violations. The violation of any Rule or Regulation adopted by the Board of Directors of the Association or breach of the provisions of the Condominium Documents, shall give the Developer, the Association or any Unit Owner the right, in addition to any other right or remedy elsewhere available, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach. All expenses of such actions or proceedings against a defaulting Owner, including court costs, attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the highest lawful rate on judgments until paid, shall be charged to and assessed against such defaulting Owner, and the Association shall have a lien for all of the same upon the Unit of such defaulting Owner. Nothing herein contained shall prevent an Owner from maintaining such an action or proceeding against the Association and the expense of any action

to remedy a default of the Association shall be a Common Expense if a court of competent jurisdiction finds the Association to be in default as alleged in such action or proceeding.

Section 6.05 Failure of the Association to Insist on Strict Performance; No Waiver. Failure of the Association to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment from the future performance of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed to be a waiver of such breach and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and approved by the action of the Board of Directors of the Association.

Section 6.06 Reserved.

ARTICLE VII
RIGHTS OF MORTGAGEES

Section 7.01 Notification of Mortgagees Required. Upon written request to the Association identifying the name and address of the Mortgagee and the Unit, any Mortgagee shall have the right to be given written notification by the Association of (a) any sixty (60) day default by the Owner of the Unit covered by the Mortgage in the payment of assessments or in any other provision of the Condominium Documents; (b) any material loss to or taking of the Common Elements or Limited Common Elements; (c) material damage to a Unit covered by the Mortgage; (d) any condemnation of all or a portion of the Condominium Property; (e) a lapse or cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (f) any proposed action that requires the consent of a specified percentage of Mortgagees, including proposed amendments to any of the Condominium Documents which would be of a material adverse nature to Mortgagees, if such Mortgagee has given notice to the Association of its interest in the Condominium.

Section 7.02 Right of Inspection. Mortgagees shall have the right to examine the Condominium Documents, the books and records of the Association or the Condominium Property and to receive annual reports, other financial data, and, upon request, an annual statement, within ninety (90) days following the end of any fiscal year of the Association.

Section 7.03 Priority of Mortgagees.

(a) Any lien which is or may be created hereunder upon any Unit, including, but not limited to, the lien created for assessments under Section 4.07 hereof and the right to foreclose the same is and shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any first Mortgage (whether such holder forecloses or accepts a deed in lieu of foreclosure) upon such interest made in good faith and for value and recorded, provided that after the foreclosure of any such mortgage or acceptance of a deed in lieu of foreclosure, there may be a lien created pursuant to Section 4.07 hereof on the interest of the purchaser as an Owner after the date

of such foreclosure sale or deed in lieu, to secure all assessments hereunder. After the date of such foreclosure sale or deed in lieu, said lien, if any, shall be claimed and shall have the same effect and be enforced in the same manner provided herein.

Notwithstanding the above, the lien created pursuant to Section 4.07 hereof is prior to any first Mortgage to the extent of the Common Expense assessments based on the annual budget which would have become due in absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien. Also, such lien shall be prior to any Mortgage to the extent of amounts secured by such lien prior to the recording of the Mortgage. Such priority of the Association's lien is subject to the terms and provisions of the Act.

(b) No provision of this Declaration, the Charter, the By-Laws or the Rules and Regulations shall be construed to grant to any Unit Owner or to any other party any priority over any rights of the Mortgagees of the Units pursuant to their Mortgages in the case of distribution to Unit Owners of the insurance proceeds or condemnation awards for losses or a taking of Units, the Common Elements, the Limited Common Elements or any portion thereof.

(c) As provided in the Act, all assessments, property taxes and other charges imposed by any taxing authority which may become liens prior to a Mortgage, shall be separately assessed against and collected on each Unit as a single parcel, and not on the Condominium Property as a whole.

(d) No breach of the covenants, conditions or restrictions herein contained shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or otherwise.

Section 7.04 Request for Protection by Mortgagees. Whenever the holder of any Mortgage desires the benefit of the provisions of this Article VII to be applicable to it, it shall serve written notice of such fact upon the Association, by registered or certified mail, addressed to the Association, and actually mailed to its address stated herein, identifying the Unit upon which it holds a Mortgage or identifying any Units owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it. Said notice shall designate the place to which the notices are to be given by the Association to such Mortgagee.

ARTICLE VIII
CASUALTY LOSS AND INSURANCE

Section 8.01 Responsibility of Owners; Separate Insurance Coverage.

(a) The Owner of each Unit may, at said Owner's expense, obtain property insurance coverage for loss of or damage to any furniture, furnishings, personal effects, improvements and/or additions to the Unit made by the Owner after the initial sale of the Unit, and other property belonging to such Owner, and may, at his expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such Owner's Unit or upon the Common Elements or Limited

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Common Elements. Risk of loss of or damage to any furniture, furnishings, and/or personal property belonging to or carried on the person of the Owner, or which may be stored in any Unit, or in or upon the Common Elements or Limited Common Elements, shall be borne by the Owner of each Unit. All furniture, furnishings, and personal property constituting a portion of the Common Elements or Limited Common Elements and held for the joint use and benefit of all Owners of Units shall be covered by such property insurance as shall be maintained in force and effect by the Association as hereinafter provided. Each Owner shall be required to notify the Association of all improvements made by the Owner to the Owner's Unit, when the improvement is of a value in excess of five thousand dollars ($5,000.00). All insurance obtained by the Owner of each Unit shall, whenever such provisions shall be available, provide that the insurer waives its right of subrogation as to any claims against other Owners, the Association or Declarant, and their respective agents, employees, and guests.

(b) Any Owner who obtains an individual insurance policy covering any portion of the Condominium Property other than the personal property belonging to such Owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance. In the event property insurance maintained by an Owner causes a decrease in the amount of insurance coverage maintained by the Association for the benefit of all Owners on a casualty loss to the Condominium Property by reason of proration or otherwise, the Owner so maintaining such insurance shall be deemed to have assigned to the Association the proceeds collected on such policy for loss or damage to the Condominium Property and such proceeds shall be paid directly to the Association by the insurer. Any such insurance proceeds shall be applied and distributed by the Association in accordance with this Article VII.

Section 8.02 Insurance to be Maintained by the Association.

(a) Hazard Insurance. In addition to the insurance in subsection (b) below, the Association shall, if the Condominium Property is located in an area identified by the Secretary of Housing and Urban Development as having special flood hazards, the Board shall, to the extent obtainable, insure the insurable property included in the Condominium Property against the perils of flood under the National Flood Insurance Act of 1968 and acts amendatory thereto. The amount of insurance coverage shall be determined on a replacement cost basis in an amount not less than 100% of the then current replacement cost of the improvements which constitute the Condominium Property, including the Units as initially transferred, Common Elements, and Limited Common Elements (but excluding land, foundation, excavation, road ways, and other items usually excluded from such insurance coverage). Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association or the Insurance Trustee (hereinafter defined), as trustee for the use and benefit of the individual Owners (without naming them), and their Mortgagees, as their interest may appear. Periodically, prior to the renewal of any such policy or policies of insurance, the Association may obtain an opinion or an appraisal from a qualified appraiser for the purpose of determining the full replacement cost of the insurable portion, if any, of the Common Elements, Limited Common Elements, and the Units for the amount of insurance to be obtained pursuant

hereto. The cost of any such opinion or appraisal shall be a Common Expense. All such policies of insurance shall comply with the provisions of Section 8.03 hereof and shall (i) contain standard mortgagee clause endorsements in favor of the Mortgagee or Mortgagees of each Unit, if any, as their respective interest may appear; and (ii) provide that the insurance shall not be invalidated by any act or neglect of any Owner.

(b) Public Liability and Property Damage Insurance. The Association shall obtain and maintain at all times comprehensive general public liability insurance against claims for bodily injury, death or property damage in a combined single limit of not less than one million dollars ($1,000.000.00). The limit of such insurance shall be subject to review by the Association and shall be increased every five years from the date of the recording of this Declaration by the CPI Factor. Additionally, the Association shall to the extent reasonably available obtain such property damage insurance for the Units (not including any improvements made by the Owners of such Units), Common Elements, and Limited Common Elements, in such amounts and in such form as shall be deemed appropriate by the Board of the Association for the Condominium Project, insuring against such risks of a similar or dissimilar nature as are customarily covered with respect to other condominium projects similar in construction, design, and use, in an amount equal to at least eighty percent (80%) of the total replacement cost (as established at the time the insurance is obtained, and to be updated upon each renewal of the policy) of the Units, Common Elements, and Limited Common Elements (not including the Land, excavations, foundation, Owners' improvements to their Units, and other items typically excluded from insurance policies). Additionally, the Association may obtain such further insurance as it deems necessary after taking into consideration the nature and insurability of any personal property owned by the Association or any improvements or betterments which are made to the Common Elements or Limited Common Elements for which the Association is responsible to maintain property insurance. Such policy shall provide coverage for bodily injury and property damage resulting from the operation, maintenance or use of the Common Elements and Limited Common Elements and for legal liability resulting from employment contracts to which the Association is a party. The Owners shall be insureds under such policy with respect to liability arising out of their interest in the Common Elements or membership in the Association. In the event that the insurance described in this section (b) is not available, the Association shall promptly cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Owners.

(c) Workmen's Compensation Insurance. The Association shall obtain and maintain at all times any workmen's compensation insurance required to meet the requirements of the laws of the State of Tennessee.

(d) Fidelity Bonds. The Association shall obtain and maintain fidelity bonds for any person who either handles or is responsible for funds held or administered by the Association naming the Association as the obligee. The amount of the fidelity bond should cover the maximum funds that will be in the custody of the Association, but not less than the sum of three months' assessments on all Units.

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(e) Directors and Officers. The Association shall obtain directors and officers liability coverage insuring the directors and officers of the Association.

(f) Other Insurance. The Association shall obtain and maintain such other insurance coverage as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interest of the Association and the Owners of all Units.

Section 8.03 Governing Provisions. All insurance obtained and maintained by the Association as provided in Section 8.02 above shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of Tennessee and, to the extent practical and available, holding a financial rating of Class V or better and a general policyholders rating of "A" or better by Best's Insurance Reports or other then comparable rating.

(b) Exclusive authority to adjust all claims under the policies obtained by the Association shall be vested in the Association or its authorized representatives.

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

(d) The Association shall be required to make every effort to secure insurance policies that will provide for the following:

(i) A waiver of subrogation by the insurer as to any claims against the Association, the Board of Directors, the Developer or the Owners;

(ii) An agreement by the insurer that the insurance coverage cannot be terminated or materially changed without thirty (30) days prior written notice to the Association and the Mortgagee of each Unit;

(iii) The insurance coverage will be primary, even if a Unit Owner has other insurance that covers the same loss; and

(iv) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

Section 8.04 Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and the cost shall be a Common Expense, except that the amount of increase over the usual premium occasioned by the use, misuse, occupancy, or abandonment of a Unit or its appurtenances or of the Common Elements or Limited Common Elements shall be assessed against that Owner. The cost of any other insurance shall be allocated to the Units on the basis of the respective cost of such insurance to the extent such allocation may be determined by the Association. All other insurance costs shall be assessed as Common Expenses; except that the amount of increase over the usual premium occasioned by

the use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements or Limited Common Elements by an Owner shall be assessed against that Owner.

Section 8.05 Insurance Trustee. The Association may engage the services of a bank or trust company authorized to do trust business in the State of Tennessee and having a capital and surplus of not less than $20,000,000.00 (Twenty Million Dollars) to act on its behalf as an insurance trustee ("Insurance Trustee") and to receive and disburse the insurance proceeds with respect to Common Elements in accordance with the provisions of this Declaration. In the event the lowest of two bids from reputable contractors for making all repairs required by any such loss shall exceed $500,000.00, as increased by the CPI Factor, the Association upon written demand of the Mortgagee of any Unit shall engage the services of a bank or trust company to act as Insurance Trustee as aforesaid. The Association, as a Common Expense, shall pay a reasonable fee to said Insurance Trustee for its services rendered hereunder, and shall pay such costs and expenses as said Insurance Trustee may incur in the performance of any duties and obligations imposed upon it hereunder. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then for only such money which comes into the possession of the Insurance Trustee. Whenever the Insurance Trustee may be required to make distribution of insurance proceeds to Owners of Units and their Mortgagees, as their respective interests may appear, or to any other party for repair, replacement or reconstruction of property, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath, which certificate will be provided to said Insurance Trustee upon request made to the Association. Such certificate is to certify unto said Insurance Trustee the name of the Owner of each such Unit, the name of the Mortgagee who may hold a Mortgage encumbering each such Unit, and the respective percentages of any distribution which may be required to be made to the Owner of any such Unit, and his respective Mortgagee, as their respective interests may appear, or to certify the name of the party to whom payments are to be made for repair, replacement or reconstruction of all or a portion of the Common Elements. The rights of the Mortgagee of any such Unit under any standard mortgage clause endorsement to such policy shall, notwithstanding anything to the contrary therein or in any Mortgage contained, at all times be subject to the provisions hereof with respect to the application of insurance proceeds to reconstruction of the damaged Common Elements. No provision hereof shall entitle an Owner or any other party to any priority over a Mortgagee with respect to the distribution of any insurance proceeds with respect to any such Unit.

Section 8.06 Loss to Common Elements Only. In the event of the loss of or damage to only Common Elements, real or personal, by reason of fire or other casualties, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or the Insurance Trustee, as the case may be, to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of such Common Elements, then such excess insurance proceeds shall be paid by the Insurance Trustee to the Owners of all Units, the distribution to be separately made to the Owner of each Unit and his respective Mortgagee, as their interests may appear, in such proportion that the share of such excess insurance proceeds paid to the Owner of each Unit and his Mortgagee shall bear the same ratio to the total excess insurance proceeds as the undivided interest in the Common Elements appurtenant to each Unit bears to the total undivided interest in the Common Elements appurtenant to all Units. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds

covering the fire or casualty loss or damage payable to the Association or the Insurance Trustee are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then the Association shall pay, or shall deposit with the Insurance Trustee, as the case may be, a sum, which together with the insurance proceeds received or to be received, if any, will enable said Insurance Trustee to completely pay for the repair, replacement or reconstruction of any loss or damage, as the case may be. The Association may levy and collect an assessment against the Owners of all Units in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction.

Section 8.07 Loss to Units. In the event of loss or damage to Units by fire or other casualty, the Owner of the Unit shall elect to rebuild or not to rebuild the damaged improvements. If the Owner elects not to rebuild, it shall promptly demolish the damaged improvements, remove or clean up all rubbish and debris, grade and landscape the surface area of the ground constituting the Unit and thereafter maintain such area in a good and attractive condition in compliance with any Rules and Regulations of the Association. If the Owner elects to rebuild, it shall proceed with due diligence to repair or restore the improvements pursuant to the original plans and specifications of such improvements or pursuant to plans and specifications approved pursuant to Article XIII.

ARTICLE IX
CONDEMNATION

Section 9.01 Condemnation. In the event of the taking of all or a portion of a Unit, the condemnation proceeds shall be paid to the Unit Owner. In the event of a partial taking, the Unit Owner must restore the balance of the Unit to a good condition and the plans for such restoration must be approved pursuant to Article XIII. If any Unit or portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Mortgagee of such Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition as provided in Section 7.01, and no provision hereof shall entitle the Owner of such Unit or other party to priority over such Mortgagee with respect to the distribution of any award or settlement to the Owner of the Unit.

Section 9.02 Partial Condemnation.

(a) In the event that the Condominium Property is not to be terminated and one or more Units are taken in whole or in part, then the share of the Common Elements appurtenant to such Unit shall be equitably reduced by reducing such share by the percentage reduction in land area taken in such condemnation proceeding and then re-computing the shares of all Owners in the Common Elements as percentages of the total of their shares as reduced by the taking.

(b) Changes in the ownership of the Common Elements and in the share of liability for Common Expenses which are affected by eminent domain, shall be evidenced by an amendment of this Declaration which must be approved only by a majority of the Board of Directors of the Association.

ARTICLE X
TERMINATION

Section 10.01 Termination under the Act. The Condominium may be terminated pursuant to the provisions of the Act, as amended from time to time.

Section 10.02 Termination by Consent. Except as provided in Section 10.01, this Declaration and said plan of condominium ownership may only be otherwise terminated by the consent of all of the Owners of all Master Units and all parties holding Mortgages, liens or other encumbrances, against any of said Units, in which event the termination of the Condominium Property shall be evidenced by an instrument executed in writing by all of the aforesaid parties in recordable form, and such instrument shall be recorded in the Register's Office for Davidson County, Tennessee.

ARTICLE XI
AMENDMENT

Section 11.01 Amendments by Developer. Without limiting the rights of the Developer to alter the plans as described in Section 2.02 above, and notwithstanding any other provision herein contained, the following provisions shall be deemed to be in full force and effect, none of which shall be construed as to relieve the Developer from any obligations as a Unit Owner to pay assessments as to Units owned by it in accordance with the Condominium Documents.

(a) The Developer reserves the right to amend the By-Laws of the Association until such time as Developer relinquishes control of the Association as provided in Section 12.01 below.

(b) The Developer reserves the right to amend this Declaration so long as there is no Unit Owner other than the Developer.

(c) The Developer reserves the right at any time to amend this Declaration without the consent of other Owners if required by any Mortgagee as a condition of making a loan secured by an interest in a Unit; provided that any such changes or amendments requested by a Mortgagee shall not materially affect the rights of the Unit Owners or the value of the Unit or the undivided interest in the Common Elements attributable to each Unit Owner.

Section 11.02 Amendments by Unit Owners. At such time as there is a Unit Owner other than the Developer, then, in addition to the amendments permitted under Section 2.02 and Section 11.01 above, the Declaration may be amended in the following manner:

(a) A proposal to amend this Declaration may be considered at any meeting of the members of the Association called for that purpose in accordance with the provisions of the By-Laws; provided that the Association provides prior written notice of such meeting to the Mortgagees if required in Section 7.01 above. The proposal to amend the Declaration must be approved by the affirmative vote of the members representing not less than sixty-seven percent (67%) of the total allocated votes of the Association.

(b) Notwithstanding the foregoing, no amendment to the Declaration under this Article XI shall:

(i) change a Unit, including the ownership in Common Elements, responsibility for Common Expenses and voting rights, or prohibit the leasing of any Unit without the prior written approval of the Unit Owner or Owners so affected and prior written approval of the holders of record of any mortgage or other liens on the Unit or Units so affected; or

(ii) change, impair or prejudice the rights of Developer or change the provisions of this Declaration with respect to the Developer's rights hereunder without Developer's prior written approval.

Section 11.03 Effectiveness of Amendments. A copy of each amendment so adopted shall be certified by the President or a Vice President and Secretary or Assistant Secretary of the Association as having been duly adopted, and shall be effective when recorded in the Register's Office for Davidson County, Tennessee.

Section 11.04 Mortgagees' Rights. In the event that a proposed amendment to this Declaration, or to any of the Condominium Documents, is of a material adverse nature to the Mortgagees, then in order to be effective (and in addition to the other terms and requirements for amendment provided in this Article XI and elsewhere in the Condominium Documents), said proposed amendment must be agreed to by such Mortgagees which represent a majority of the votes of the Units which are subject to mortgages.

ARTICLE XII
CONTROL OF THE ASSOCIATION

Section 12.01 Election of Board of Directors. Developer, its successors or assigns, shall elect the members of the Board of Directors of the Association, and in the event of vacancies, the Developer shall fill the vacancies until the earlier of the following ("Termination of Control"):

(a) One hundred twenty (120) days after conveyance of 75 percent (75%) of the Units to Unit Owners other than Developer; or

(b) Five (5) years after the conveyance of the first Unit to a purchaser other than Developer or an Affiliate of Developer; or

(c) Developer voluntarily surrenders its right to control the Association.

Not later than one hundred twenty (120) days after conveyance of 25 percent (25%) of the Units to Unit Owners other than Developer or its Affiliates, at least one member of the board must be elected by Unit Owners other than Developer.

Section 12.02 Notice of Meeting. No later than Termination of Control of the Association by the Developer, the Association shall have called a special meeting for the purpose

of electing the members of the Board of Directors of the Association. Such meeting shall be called and the notice given in accordance with the By-Laws.

Section 12.03 Status of Unsold Units.

(a) Developer shall be deemed to be the Owner of each Unit which has not been conveyed to a person other than the Developer. Unless otherwise provided in the Condominium Documents, the Developer shall be entitled to all rights and privileges available to, and shall be subject to any and all obligations and duties imposed upon, the Owner of any such Unit under the Condominium Documents.

(b) Any person having a first mortgage lien against any Unit which has not been conveyed to a person other than Developer, whether under a blanket mortgage affecting the Condominium Property generally or under a mortgage on one or more specific Units, shall be deemed to be a Mortgagee with respect to any such Unit, and shall be entitled to all rights and privileges available to a Mortgagee of any such Unit under the Condominium Documents so long as the Mortgagee has given notice to the Association that it is a Mortgagee.

Section 12.04 Professional Management and Other Contracts. Any agreement entered into by the Association prior to the Termination of Control (including contracts for professional management of the Condominium Property, whether it be the Developer, its successors and assigns, or any other person or entity) shall provide the following:

(a) The Association shall have the right of termination which is exercisable without penalty any time upon not more than ninety (90) days' written notice to the other party thereto; and

(b) The Association shall have a right of termination for cause which is exercisable without penalty at any time upon not more than thirty (30) days' written notice to the other party thereto.

ARTICLE XIII
RESERVED

ARTICLE XIV
MISCELLANEOUS

Section 14.01 Rights and Powers of Successors and Assignees. The rights and powers reserved to or exercisable by the Developer under the Condominium Documents or the Act may be exercised by any successor or assignee of the Developer to whom the Developer specifically assigns such rights and powers by written instrument recorded in the Register's Office for Davidson County, Tennessee.

Section 14.02 Headings. The captions herein are used solely as a matter of convenience and shall not define, limit or expand any term or provision of this Declaration.

Section 14.03 Gender/Number. Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

Section 14.04 Exhibits. Exhibits A, B, C, D, E F, and G attached to this Declaration are an integral part of this Declaration.

Section 14.05 Invalidity and Severability. It is the intention of the Developer that the provisions of this Declaration are severable so that if any provision is invalid or void under any applicable federal, state or local law or ordinance, decree, order, judgment or otherwise, the remainder shall be unaffected thereby.

Section 14.06 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

ARTICLE XV
RESOLUTION OF CONSTRUCTION DISPUTES.

Section 15.01 Disputes Defined. "Construction Dispute" means any claim, grievance or other dispute involving Declarant or any Affiliate of Declarant, including any construction company which has been engaged by the Declarant or an Affiliate of the Declarant to construct any Improvements, and arising out of or relating to the engineering, design or construction of the Property, including the interpretation or enforcement of any warranty.

"Dispute" means any claim, grievance or other dispute, other than a Construction Dispute, arising out of or relating to: (a) any conflict or dispute arising between or among the Association and one or more Owners (including any conflict or dispute relating to a major decision) to the extent that such conflict or dispute relates to the Property; (b) the proper party to bear a maintenance cost or expense or a capital expenditure or the proper amount of the expense, fee or Assessment to be charged or collected pursuant to the Condominium Documents; (c) the rights, obligations and duties of any Owner or Declarant under the Condominium Documents; (d) the authority of the Association or Declarant under any legal requirement or under the Condominium Documents to: (i) require any Owner to take any action or not to take any action involving such Owner's Master Unit; or (ii) alter, subtract from or add to the Common Elements; or (e) the failure of the Association, in accordance with the legal requirements and the Condominium Documents to: (i) properly conduct elections, (ii) give adequate notice of meetings or actions, (iii) properly conduct meetings, or (iv) allow inspection of the Association's books or records. The following shall not be considered "Disputes" unless all parties shall otherwise agree to submit the matter to the dispute resolution provisions of Article 15 of this Declaration: (1) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary to maintain the status quo and preserve the Association's ability to enforce the provisions of the Condominium Documents; (2) any action permitted under Article 4 of this Declaration in connection with the enforcement of any Owner's obligation to pay Assessments under this Declaration or collection of any past due or unpaid Assessments; (3) any suit between Owners that does not include Declarant or the Association or

if such suit asserts a dispute that would constitute a cause of action independent of any of the Condominium Documents; (4) any disagreement that primarily involves title to any Unit or the Common Elements; or (5) any suit in which the applicable statute of limitations would expire within one-hundred eighty (180) days of the giving of notice as provided in Article 15 of this Declaration unless the persons against whom the Dispute is made agree to toll the statute of limitations for a period of time necessary to comply with Article 15 of this Declaration.

Section 15.02 Disputes

(i) **Mediation.** All Disputes, except those relating to equitable remedies, which are not resolved within thirty (30) days after same have arisen (unless such greater time is provided elsewhere in the Condominium Documents) shall be submitted for, or determined by, non-binding mediation as a condition precedent to the arbitration required by this Article 15. Mediation of any Dispute shall be initiated by any Owner making a written demand therefor to the other Owner or Owners involved in such Dispute and the Association. With respect to such mediation, the parties shall, within ten (10) days after delivery of such written notice to the Association, agree upon a mediator who is: (i) a reputable Person actively engaged in the commercial real estate industry for a continuous period of not less than ten (10) years; and (ii) is not an Affiliate of, **or** has had material business dealings with any Owner or any member of the Association. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by the American Arbitration Association office in Nashville, Tennessee. Such mediation shall occur within thirty (30) days after the mediator has been agreed upon or appointed and shall occur at a mutually acceptable location in Nashville, Tennessee. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Dispute is not resolved pursuant to such mediation, the provisions of Subsection 15.04(a) of this Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation and arbitration under this Article 15.

(ii) **Final Offer Mediation**. If the parties reach an impasse at mediation, as determined by the mediator in the mediator's sole and absolute discretion, and are unable to resolve any Dispute within thirty (30) days of such mediation session, the Dispute shall be submitted to mandatory, binding arbitration, which may be initiated by either party (as the exclusive remedy with respect to a Dispute under this Declaration) by making a written demand therefor to the other parties involved in such Dispute no later than forty-five (45) days after the mediator declares that the parties have reached an impasse at mediation or the mediation otherwise fails. The parties agree to select a single impartial arbitrator from a list taken from the American Arbitration Association of commercial arbitrators within fifteen (15) days of submitting the Dispute to arbitration, and if they cannot agree on an arbitrator, each party shall select a person and those two so selected shall then select the single impartial arbitrator who shall thereafter serve as arbitrator with respect to the Dispute. The issues in dispute shall be submitted as "baseball" or final-offer arbitration, whereby each party shall submit what it deems to be its

most reasonable position to the arbitrator and the arbitrator shall select one of those two positions. The arbitrator shall have no discretion to select or award a position other than to select one of those submitted by the parties. To the extent rules governing arbitration are deemed necessary by the arbitrator (or by agreement of the parties), the current Rules for Commercial Mediation and Arbitration promulgated by the American Arbitration Association shall apply. The decision of the arbitrator shall be rendered no later than ten (10) days from the initiation of the arbitration procedure.

Section 15.03 Construction Disputes.

(i) **Mediation**. Any Construction Dispute not resolved within thirty (30) days after same has arisen shall be submitted for, or determined by, non-binding mediation as a condition precedent to arbitration. Mediation of any Construction Dispute shall be initiated by any party making a written demand therefore to all other parties involved in such Construction Dispute. Any mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the time the Construction Dispute arises. With respect to such mediation, the parties shall, within fifteen (15) days after demand is filed, agree upon a mediator who is: (i) a reputable Person actively engaged in the construction industry or a lawyer experienced in the practice of construction law for a continuous period of not less than ten years; and (ii) not an Affiliate of, or has had material business dealings with any Owner, any member of the Master Association, or any other party, including Declarant or an Affiliate of Declarant, involved in the mediation. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by the American Arbitration Association office in Nashville, Tennessee. Such mediation shall occur within thirty (30) days after the mediator has been agreed upon or appointed and shall occur at a mutually acceptable location in Nashville, Tennessee. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Construction Dispute is not resolved pursuant to such mediation, the provisions of Subsection 15.04(a) of this Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation and arbitration hereunder.

(ii) **Arbitration**. If the parties reach an impasse at mediation, as determined by the mediator in the mediator's sole and absolute discretion, and are unable to resolve any Construction Dispute within thirty (30) days of such mediation session, any party to the Construction Dispute may initiate binding arbitration (as the exclusive remedy with respect to a Construction Dispute under this Master Declaration) by making a written demand therefor to the other parties involved in such Construction Dispute no later than forty-five (45) days after the mediator declares that the parties have reached an impasse at mediation or the mediation otherwise fails. The parties agree that the arbitration shall be governed by the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. The parties agree to select a single impartial arbitrator within fifteen (15) days of submitting the Construction Dispute to arbitration. If the parties cannot agree upon an arbitrator, a demand for arbitration shall be filed in writing with the American Arbitration Association at the office in the county where the Property is located with copies to all parties.

Arbitration shall be conducted with a single arbitrator unless the claim, demand, or amount in controversy exceeds $500,000, in which case a panel of three arbitrators shall be used. If the amount in controversy exceeds $500,000 and the parties cannot mutually agree upon three panel members, the parties shall be required to obtain a list of proposed neutral parties through the American Arbitration Association office in the locality where the Property is located. The parties shall then proceed with the selection of panel members in accordance with the American Arbitration Association Construction Industry Arbitration Rules. Any arbitrator utilized, whether appointed or agreed, must: (i) be a reputable Person actively engaged in the construction industry or as a lawyer experienced in the practice of construction law for a continuous period of not less than ten years; and (ii) not be an Affiliate of, or have had material business dealings with any Owner, any member of the Association, or any other party, including Declarant or an Affiliate of Declarant, involved in the arbitration. The arbitrator shall establish reasonable procedures and requirements for the production of relevant documents and require the exchange of information concerning witnesses to be called. The parties shall be entitled to discover all documents and information reasonably necessary for a full understanding of any legitimate issue raised in the arbitration and the parties may use all methods of discovery available under the Tennessee Rules of Civil Procedure and shall be governed thereby. There shall be a prehearing meeting between the parties at which the arbitrator shall make and set schedules for discovery and hearings consistent with their powers as set forth herein. The Tennessee Rules of Evidence shall be applied by the arbitrator but liberally construed to allow for the admission of admissible evidence that is helpful in resolving the controversy. Rulings on the admission of evidence made by the arbitrator at the hearing shall be final and not subject to any appeal. At the time of the award, the arbitrator shall prepare and provide to the parties a reasoned, detailed, award with an explanation of the facts and legal principles supporting the award.

Section 15.04 General.

(a) **Procedure and Award.** In no event shall a Construction Dispute be initiated after the date when institution of legal or equitable proceedings based on such Construction Dispute would be barred by the applicable statute of limitations. With respect to any Construction Dispute, all demands and all answering statements thereto which include any monetary claim, counterclaim or cross-claim must state the monetary amount being sought. If the monetary amount is unliquidated or has not been fully determined, the demand or answering statement seeking such recovery shall state, in good faith, the minimum amount of such monetary claim, exclusive of interest and attorneys' fees. In any arbitration of a Construction Dispute, the party or parties whose position is not selected or awarded shall be responsible for all attorneys' fees, costs and expenses (incurred in connection with the mediation and arbitration of a Dispute under this Article 15) of the party whose position is selected or awarded for the arbitration of the Dispute under this Article 15. In any arbitration of a Construction Dispute, the arbitrator(s) shall determine the prevailing party and award to such prevailing party, in addition to any other relief to which such party is entitled to recover, its reasonable attorneys' fees, expert witness fees, costs, and other reasonable expenses incurred in connection with the mediation and/or arbitration of such Construction Dispute under this Article 15. The parties may resort to any court of competent jurisdiction for enforcement of, or any other action relating to, the arbitrator's award.

(b) **Consolidation**. A Construction Dispute may be consolidated with similar proceedings and resolved pursuant to the dispute resolution procedures contained in this Article 15 to include participation of the contractors, designers, or any other person or entity if such proceedings involve common issues of law or fact.

(c) **Sole Remedy**. With respect to any Dispute or Construction Dispute it is agreed that the dispute resolution provisions of this Article 15 shall be the sole remedy of the parties involved in such Dispute or Construction Dispute. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties shall be specifically enforceable under prevailing arbitration law in any court having jurisdiction thereof. The foregoing agreement to arbitrate shall not constitute an agreement or consent to arbitration of any dispute, claim, controversy or matter that does not constitute a Dispute or Construction Dispute, as applicable. The foregoing agreement to arbitrate any Dispute or Construction Dispute shall not constitute an agreement or consent to arbitration with any Person not named or described in this Declaration; provided that any arbitration proceeding initiated under the terms of Section 15.03 of this Declaration may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties of the Dispute or Construction Dispute, as applicable, and the subject of such other proceedings arise out of common or interrelated factual occurrences. Except to the extent permitted by applicable law, any award of the arbitrator shall be final, binding and non-appealable upon the parties involved in the Dispute or Construction Dispute and judgment thereon may be entered by any court having jurisdiction.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Developer has executed this Declaration on the day and year first above written.

Pennock Avenue Holdings, LLC,
a Tennessee limited liability company

By:_____
Name: Hemel Surati
Title: President

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Hemel Surati, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself/herself to be President of Pennock Avenue Holdings, LLC, a Tennessee limited liability company, the within named bargainor, and that he/she as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself/herself as President.

Witness my hand and seal, this 26th day of April, 2024.

Mary Charles Davis
NOTARY PUBLIC

My Commission Expires: 5-9-2026

MARY CHARLES DAVIS
STATE OF TENNESSEE NOTARY PUBLIC
COUNTY OF DAVIDSON
My Commission Expires May 09, 2026

EXHIBIT A

LEGAL DESCRIPTION

Land in Davidson County, Tennessee, being Lot No. "E" and 271, 272 and 273 on the Plan of Highland Land Company's Subdivision of record in Plat Book 421, Page 14, in the Register's Office for Davidson County, Tennessee, and being more particularly described as follows:

Said Lot No. "E" fronts 15 feet on the Westerly side of Pennock Avenue and runs back between parallel lines, with the Northerly margin of Ligon Avenue, 175 feet to an alley. Said Lot Nos. 271, 272 and 273 front 25 feet each on the Westerly side of Pennock Avenue and run back between parallel lines 175 feet to an alley.

Included in the above described description, but expressly excluded in this conveyance is that property conveyed to Metropolitan Government of Nashville and Davidson County, Tennessee, of record in Book 8216, Page 372, said Register's Office.

Being the same property conveyed to RSC, LLC, a Tennessee Limited Liability Company by Warranty deed from Cumberland Advisory Group, LLC, a Tennessee limited liability company of record in Instrument No. 20190205-0010871 Register's Office for Davidson County, Tennessee, dated January 31, 2019 and recorded on February 05, 2019.

Being the same property conveyed to Pennock Avenue Holdings, LLC, a Tennessee Limited Liability Company by Warranty Deed from 1300 Pennock Avenue Holdings, LLC, a Tennessee Limited Liability Company of record in Instrument No. 20221018-0113754 Register's Office for Davidson County, Tennessee, dated October 14, 2022 and recorded on October 18, 2022.

EXHIBIT B

BY-LAWS
LOFI LOFTS OWNERS' ASSOCIATION, INC.

ARTICLE I

Members
(Unit Owners)

Section 1. Eligibility. The members of LoFi Lofts Owners' Association, Inc., a Tennessee not-for-profit corporation (the "Association"), shall consist of the respective Unit Owners (the "Owners") of the Property known as LoFi Lofts, a Condominium (as defined in the Act) located in 1300 Pennock Avenue, Nashville, Tennessee 37207 (the "Property"), in accordance with the respective percentages of ownership interest in the Common Elements of the Property owned by the respective Unit Owners (these and other terms are used in these By-Laws as they are defined in the Declaration for LoFi Lofts Owners' Association, Inc., which Declaration is recorded in the Register's Office for Davidson County, Tennessee. The words "member" or "members" as used in these By-Laws means and shall refer to "Unit Owner" as defined in the Declaration). If an Owner is a trust, then the member shall be a beneficiary of such trust, and if an Owner or such a beneficiary is a corporation, partnership or limited liability company, the member may be an officer, partner, manager, member or employee of such Owner or beneficiary.

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

Section 3. Regular Meetings. The annual meeting of Owners may be held, subject to the terms hereof, on any date, at the option of the Board. All such meetings of Owners shall be held at such place in Davidson County, Tennessee, and at such time as specified in the written notice of such meeting which shall be delivered to all Owners at least ten (10) days prior to the date of such meeting.

Section 4. Special Meetings. Special Meetings of the Owners may be called by the President or by a majority of the directors of the Board, or by Owners having at least fifty percent (50%) of the votes entitled to be at such meeting. Special Meetings shall be called by delivering written notice to all Owners not less than ten (10) days prior to the date of said meeting, stating the date, time and place of the Special Meeting and the matters to be considered.

Section 5. Delivery of Notice of Meetings. Notices of meetings may be delivered either (i) personally, (ii) by mail to an Owner at the address given to the Board by such Owner for such purpose, or to the Owner's Unit, if no address for such purpose has been given to the Board, (iii) by email to an email address given to the Board by such Owner for such purpose, or (iv) by facsimile transmission to a number provided by such Owner to the Board for such purpose.

Section 6. Voting. The aggregate number of votes for all Owners of a Unit shall be one (1).

No Owner of a Unit in default in the payment of his assessments hereunder shall be entitled to exercise his right to vote hereunder until he has cured such default. A Unit Owner shall be deemed to be in default if he has not paid his assessments to the Board, or their agent, within fifteen (15) days after receipt of notice of assessment. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

Section 7. Quorum. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person, by proxy or by authorized representative and holding sixty-seven percent (67%) of the votes entitled to be cast at such meeting.

ARTICLE II

Board of Directors

Section 1. Number, Election and Term of Office. The Board of Directors of the Association shall consist of three (3) members (hereinafter referred to as "directors"). Directors shall be elected at the regular annual meeting of Association members by the vote of the Unit Owners, except that the first directors (hereinafter called "members of the First Board") and any vacancies occurring in the First Board shall be appointed by the Developer. The First Board shall serve until the Termination of Control as provided in Section 12.01 of the Declaration. After the Termination of Control, the Board shall consist of three (3) directors selected by the Unit Owners. Every director shall hold office until his successor shall be selected as provided in this Section 1. Except for the First Board, the directors shall serve for a term of two (2) years.

Section 2. Qualification. Directors are not required to be Owners of Units.

Section 3. Vacancies. Any vacancy occurring in the Board (except vacancies in the first Board or a vacancy in any other Board position which Developer has the right to appoint which shall be filled by a person appointed by the Developer) shall be filled by the Unit Owners.

Section 4. Meetings. A regular annual meeting of the Board shall be held within seven (7) days following the regular annual meeting of Unit Owners. Special Meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than twenty-four (24) hours notice in writing to each director, delivered personally or by mail or email. Any director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A director's attendance at a meeting shall constitute his waiver of notice of said meeting.

Section 5. Removal. Any director (except a director appointed by Developer) may be removed, either with or without cause, at any time by a two thirds vote of all votes present and entitled to vote at a meeting of Unit Owners at which a quorum is present. Directors appointed by Developer may be removed at any time by Developer.

Section 6. Compensation. Directors shall receive no compensation for their services as directors, unless expressly provided for in resolutions duly adopted by the Owners.

Section 7. Quorum. A majority of the directors shall constitute a quorum of the Board.

Section 8. Powers and Duties. The Board shall have the following powers and duties:

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

(b) to administer the affairs of the Association as hereinafter provided;

(c) to engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Owners, upon such terms and for such compensation and with such authority as the Board may approve;

(d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;

(e) to adopt rules and regulations, with written notice thereof to all Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;

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

(g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

(h) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(i) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

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

(k) to enter into any lease agreement for lease of any Unit owned or leased by the Association upon such terms as the Board may approve;

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

(m) to exercise all other powers and duties of the Board or Unit Owners as a group referred to in the Act, and all powers and duties of the Board referred to in the Declaration or these By-Laws.

Section 9. Non-Delegation. Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Unit Owners. Except as expressly authorized by the Act or the Declaration or these By-Laws, the directors and officers may not enter into any contractual agreement, or bind the Association or any Unit Owner, or sue or be sued in any capacity other than in its operating or management capacity.

ARTICLE III

Officers

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

(a) a President, who shall be a director and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Association;

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

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

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

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

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

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members at a Special Meeting of the Board. Any officer elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he

succeeds. Any officer may be removed for cause at any time by vote of two-thirds (2/3) of the total membership of the Board at a special meeting.

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

ARTICLE IV

Assessments

Section 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be shall also be taken into account. The annual budget shall provide for a reserve for contingencies for the year in an amount of ten percent (10%) of the budget as determined by the Board. The Board shall not be required to maintain replacement reserves for replacement or repair of Common Elements if such reserves will constitute income taxable to the Association.

Section 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as his respective monthly assessment for the Common Expenses, one-twelfth (1/12) of his proportionate share of the Common Expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with his respective ownership interest in the Common Elements. The Board may determine different allocations with respect to a part of such charges whenever it appears to the Board that such an allocation would be unfair. The allocations shall be applied uniformly to all Owners of like situations. The allocation of the Board shall be final and binding upon all parties. The Board shall allocate Limited Common Expenses and other costs as provided in the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment as last determined. Each Unit Owner shall pay his monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of his obligation to pay his assessment by abandoning or not using his Unit, the Common Elements, or the Limited Common Elements.

Section 3. Partial Year or Month. For the first fiscal year, the annual budget shall be as approved by the First Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the

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date of recording the deed to a Unit, each Unit Owner shall pay the assessment for the following month or fraction of a month, which assessment shall be in proportion to his respective ownership interest in the Common Elements and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be as computed by the Board.

Section 4. Annual Report. Within forty-five (45) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses and limited common expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for the proportionate share of such supplemental budget.

Section 6. Contracts. The Board shall not enter into any contract for professional management without the right to cancel such contract upon ninety (90) days or less notice without penalty.

Section 7. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the Common Expenses and Limited Common Expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

The Board shall, upon receipt of ten (10) days written notice to it or the Association and upon payment of a reasonable fee, furnish to any Unit Owner a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such party.

Section 8. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

Section 9. Holding of Funds; Refund of Excess. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners in the ownership percentages of

the Unit Owners in the Common Elements as from time to time existing. The Association shall have the right to refund any assessments in excess of actual expenditures to avoid tax liability on such excess amounts.

ARTICLE V

Contractual Powers

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

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

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

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

ARTICLE VI

Amendments

These By-Laws may be amended or modified from time to time as provided in the Declaration and by action or approval of Unit Owners holding two-thirds (2/3) of the total ownership of the Common Elements. Such amendments shall be recorded in the Register's Office for Davidson County, Tennessee. Provided, however, this Article VI shall be subject to Section 11.04 of the Declaration with regard to any proposed amendment which is of a material adverse nature to any mortgagee of a Unit.

ARTICLE VII

Indemnification

Section 1. General. The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the Declaration or By-Laws of the Association, and the Board and Developer, against all contractual and other

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liabilities to others arising out of contracts made by or other acts of such directors, Board, officers, committee members or Developer, on behalf of the Unit Owners, or arising out of their status as directors, Board, officers, committee members or Developer, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, Board, committee member or Developer may be involved by virtue of such persons being or having been such director, officer, Board, committee member, or Developer; provided, however, that such indemnity shall not be operative with respect to:

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

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

Section 2. Success on Merits. To the extent that the Developer or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article VII, Section 1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article VII.

Section 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees, or Developer, or out of the aforesaid indemnity in favor of the directors, Board, officers, members of such committees, or Developer, shall be limited to such proportion of the total liability hereunder as such Unit Owner's percentage of interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the directors, Board, officers, members of such committees, Developer or by the Managing Agent on behalf of the Unit Owners shall provide

that the directors, Board, officers, members of such committees, Developer or the Managing Agent, as the case may be, are acting only as agents for the Unit Owners' and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. The indemnification provided by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Developer or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.

ARTICLE VIII

Mortgages

Section 1. Notice to Board. A Unit Owner who mortgages his Unit shall notify the Board of the name and address of his mortgagee and shall file a conformed copy of the deed of trust or mortgage with the Board; the Board shall maintain such information in a book entitled "Mortgages of Units".

Section 2. Notice of Unpaid Common Charges. The Board whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from, or any other default by the owner of the mortgaged Unit.

Section 3. Notice of Default. The Board, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board.

Section 4. Examination of Books. Each Unit Owner and each mortgagee of a Unit shall be permitted to examine the books of account of the Condominium at reasonable times, on business days, but not more often than once a year.

ARTICLE IX

Definition of Terms

The terms used in these By-Laws, to the extent they are defined therein, shall have the same definition as set forth in the Declaration Establishing LoFi Lofts Owners' Association, Inc., which Declaration is recorded in the Register's Office for Davidson County, Tennessee.

The term "member" as used in these By-Laws, means "Unit Owner" as defined in the Declaration.

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ARTICLE X

Conflicts

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

ARTICLE XI.

Miscellaneous

Noise; Indemnification. Each Owner understands that concrete and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise. Further, each Owner understands that that no guarantee or warranty is made by the Developer, or any contractor or designer involved in the construction of the Condominium Property regarding the sound transmission class (STC) ratings for each Unit or any Common Element, or otherwise concerning the architectural acoustics of any Unit or of any Common Elements. No Owner shall perform any act, carry on any practice, or allow any use of his or her Unit or Limited Common Elements that may result in vibration or loud noise (including the use of loudspeakers) which disturbs the peace and quiet of the Condominium Property or constitutes a nuisance or menace to any other Owner or other person in the Condominium Property. Each Owner shall also refrain from any act or use of his Unit or its Limited Common Elements that could reasonably cause annoyance, embarrassment, or nuisance to neighboring Units. To constitute a violation of this section, noises or activities claimed to be a nuisance shall constitute a violation of a specific Nashville, Davidson County ordinance in effect at the time of the occurrence complained of or otherwise specifically prohibited by the Declaration, Bylaws, Condominium Documents, or rules and regulations of the Association approved by the Declarant and thereafter the Board. To the extent permitted by law, and in accordance with the provisions and within the limits of the Governmental Tort Liability Act, Tennessee Code Annotated Sections 29-20-101, *et. Seq.*, as amended from time to time, and subject to the other terms of these Condominium Documents, **EACH OWNER EXPRESSLY AGREES AND UNDERSTANDS THAT UNDER NO CIRCUMSTANCES SHALL DEVELOPER, ANY GENERAL CONTRACTOR, OR DESIGNER INVOLVED WITH THE CONSTRUCTION OF THE CONDOMINIUM PROJECT, BE LIABLE FOR ANY CLAIM ARISING OUT OF VIOLATION DUE TO NOISE OR ANY OTHER CLAIM ARISING OUT OF NOISE OR DISTURBANCE IN AN ADJACENT UNIT, AND THE ASSOCIATION AND/OR ANY OWNER CAUSING SAID DISTURBANCE SHALL FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE DEVELOPER, GENERAL CONTRACTOR, OR DESIGNER IN THE EVENT OF SUCH CLAIM. THIS INDEMNIFICATION OBLIGATION SHALL SURVIVE THE ASSIGNMENT OF THE PROPERTY TO A NEW HOMEOWNERS' ASSOCIATION AND SHALL BE IN FULL FORCE FOR THE EXISTENCE OF THE CONDOMINIUM PROJECT.**

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EXHIBIT C

CHARTER
OF
LOFI LOFTS OWNERS' ASSOCIATION, INC.
(formerly known as 1300 Pennock Ave Homeowners Association)

001372352

CHARTER
NONPROFIT CORPORATION

SS-4418

Tre Hargett
Secretary of State

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

Filing Fee: $100.00

For Office Use Only

-FILED-

Control # 001372352

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

1. The name of the corporation is: 1300 Pennock Ave Homeowners Association

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

3. This company has the additional designation of: None

4. The name and complete address of its initial registered agent and office located in the State of Tennessee is:
RUDY WINSTEAD TURNER, PLLC
2010 21ST AVE S
NASHVILLE, TN 37212-4314
DAVIDSON COUNTY

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

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

7. The corporation is not for profit.

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

9. The complete address of its principal office is:
MARY MARGO TURNER
2010 21ST AVE S
NASHVILLE, TN 37212
DAVIDSON COUNTY

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

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B1305-6418 11/30/2022 1:47 PM Received by Tennessee Secretary of State Tre Hargett

CHARTER
NONPROFIT CORPORATION

SS-4418

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

Filing Fee: $100.00

Tre Hargett
Secretary of State

For Office Use Only

-FILED-

Control # 001372352

The name of the corporation is: 1300 Pennock Ave Homeowners Association

10. The complete mailing address of the entity (if different from the principal office) is:
MARY MARGO TURNER
2010 21ST AVE S
NASHVILLE, TN 37212

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

Title	Name	Business Address	City, State, Zip
Incorporator	Mary M Turner	2010 21ST AVE S	NASHVILLE, TN 37212

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

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

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

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

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

14. Other Provisions:

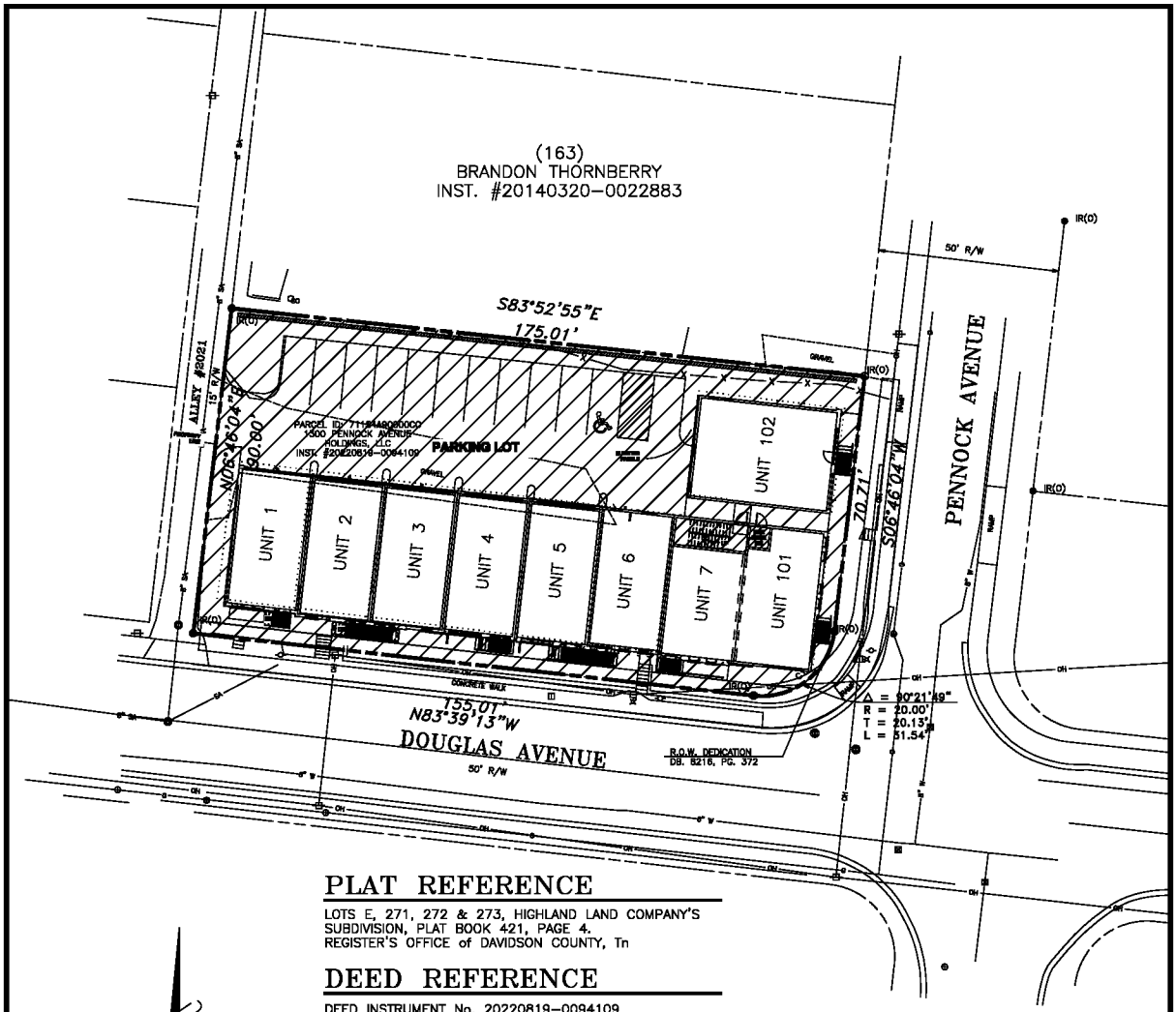
(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

Electronic	Incorporator
Signature	Title/Signer's Capacity
Mary M Turner	Nov 30, 2022 1:47PM
Printed Name	Date

B1305-6419 11/30/2022 1:47 PM Received by Tennessee Secretary of State Tre Hargett

EXHIBIT D

THE PLAT OF LOFI LOFTS



PLAT REFERENCE

LOTS E, 271, 272 & 273, HIGHLAND LAND COMPANY'S SUBDIVISION, PLAT BOOK 421, PAGE 4.
REGISTER'S OFFICE of DAVIDSON COUNTY, Tn

DEED REFERENCE

DEED INSTRUMENT No. 20220819-0094109
REGISTER'S OFFICE of DAVIDSON COUNTY, Tn
OWNER OF RECORD: 1300 PENNOCK AVENUE HOLDINGS, LLC

GRID

STATE PLANE
COORDINATE SYSTEM

Private Elements

Common Elements

Limited Common Elements

40 0 20 40

GRAPHIC SCALE: 1"=40'

MICHAEL H. CHARETTE
4-18-24
TENNESSEE NO. 2048

Michael H. Charette R.L.S. # 2048

I hereby certify that this survey and the information shown hereon is true and correct to the best of my knowledge and belief. I further certify that this plat complies with the requirement set forth in Section 66-27-309 of the Tennessee Condominium Act of 2008.

CHERRY LAND SURVEYING, INC.
622 WEST IRIS DRIVE
NASHVILLE, TENNESSEE 37204
(615)269-3972 FAX:(615)269-9345
E-MAIL: cherryls@comcast.net

TOTAL AREA

15,727 Sq. Ft. (0.36 ACRES ±)

PROPERTY EXHIBIT
OF
1300 PENNOCK AVENUE
PARCEL ID#: 071154A90000CO

INSTRUMENT #:20220819-0094109
LOTS E, 271, 272 & 273, HIGHLAND LAND COMPANY'S SUBDIVISION, PLAT BOOK 421, PAGE 4.
NASHVILLE, DAVIDSON COUNTY, TENNESSEE
SCALE: 1"=40' DATED: april 18, 2024
JOB NUMBER: 22109EX MHC

202404290030955

EXHIBIT E
PLANS OF LOFI LOFTS

1300 PENNOCK AVENUE
NASHVILLE, TN 37207

202404290030955

I certify that, to the best of my knowledge, information, and belief, the attached plan of LoFi Lofts, a condominium, contains all the information required by Section 66-27-309 of the Tennessee Condominium Act.

By: _____

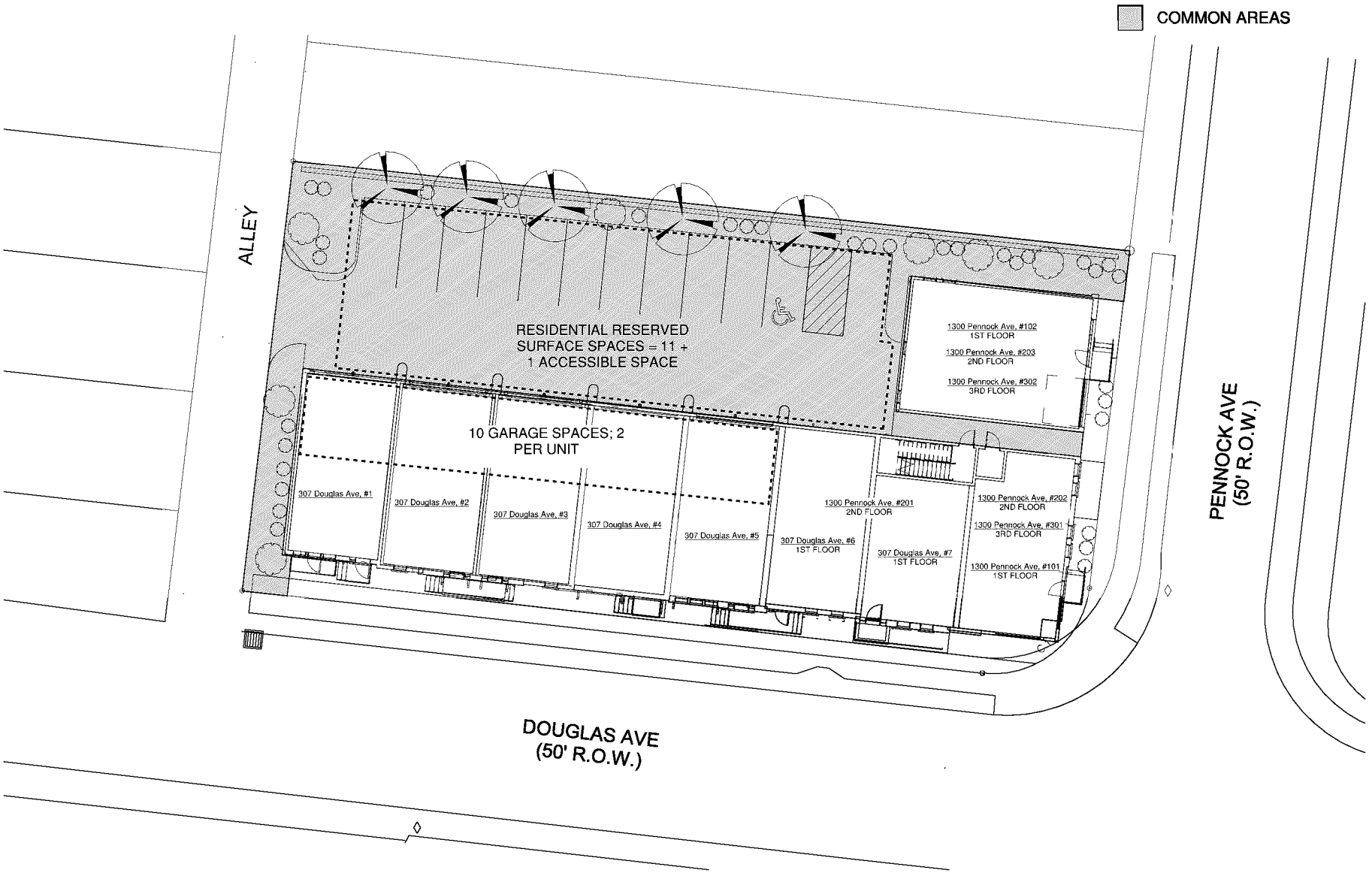
Name: Andy Berry, AIA

Date: April 16, 2024

License No.: TN 102922

COVER SHEET

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024



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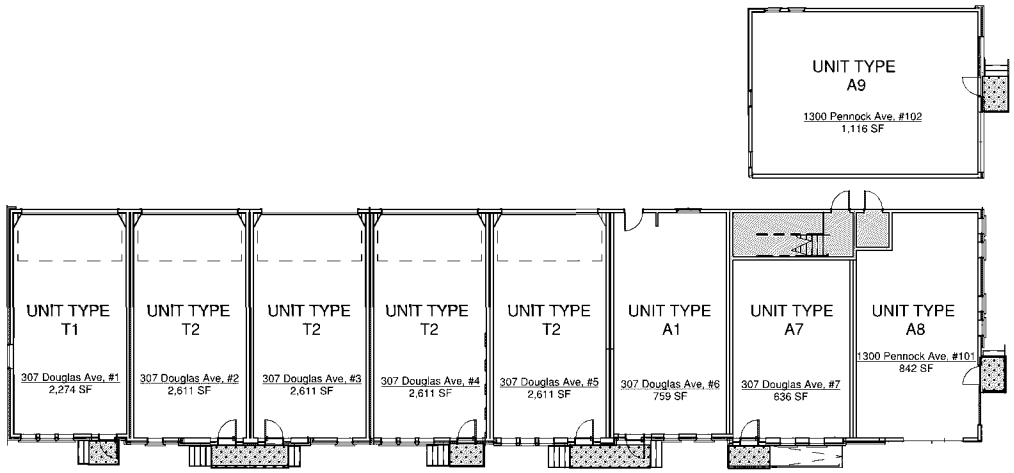
1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

20240429003095

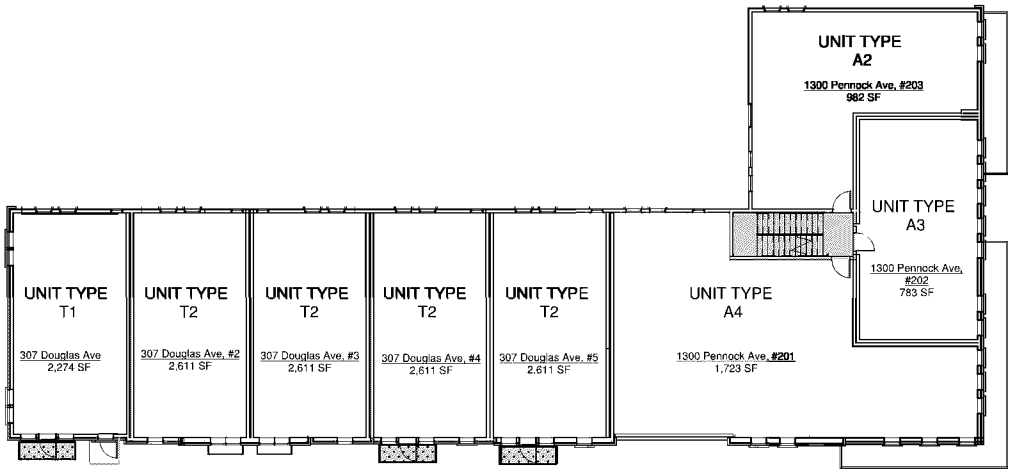
COMMON AREAS

LIMITED COMMON AREAS



1ST FLOOR PLAN
SCALE: 1/32" = 1'-0"

0' 16' 32'

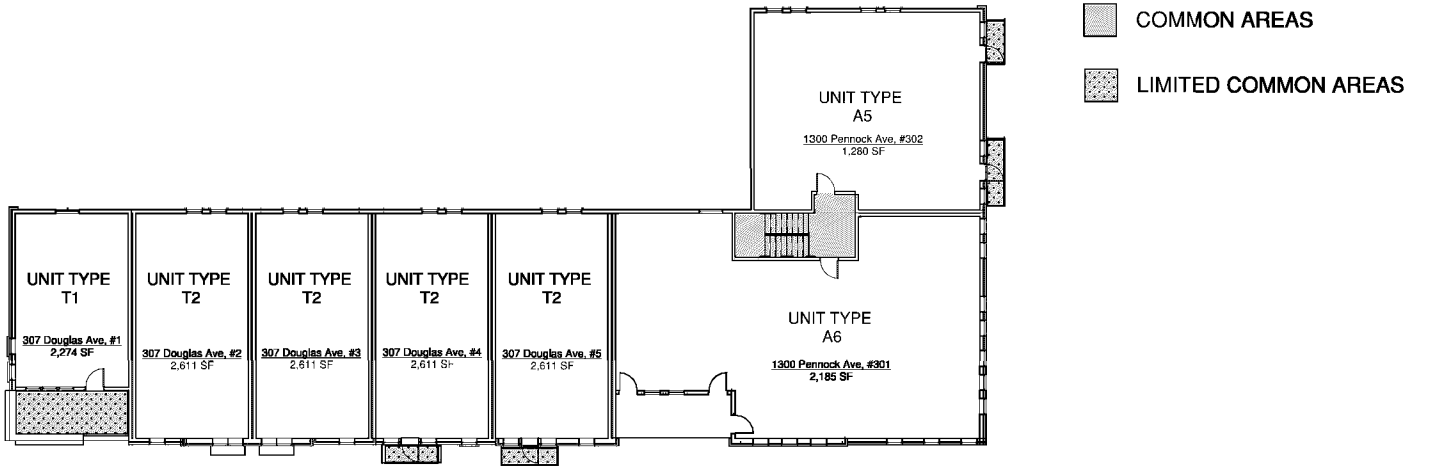


2ND FLOOR PLAN
SCALE: 1/32" = 1'-0"

0' 16' 32'

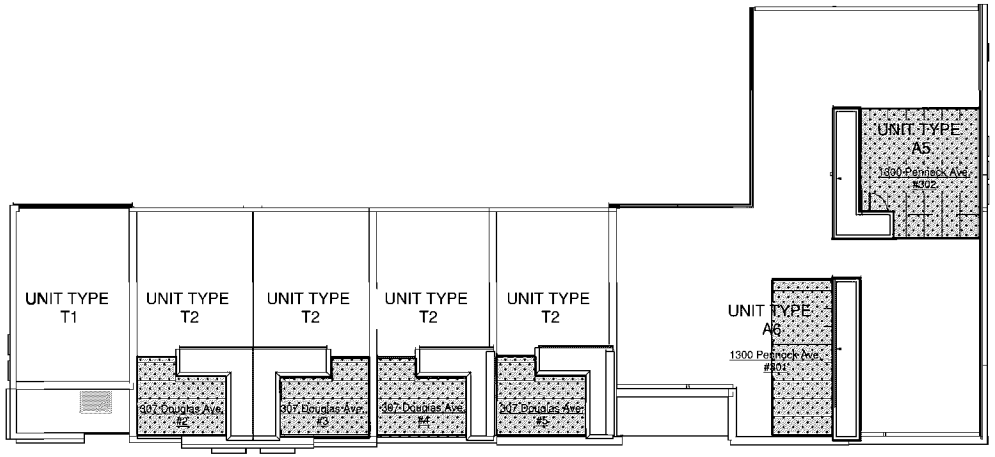
1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024



3RD FLOOR PLAN
SCALE: 1/32" = 1'-0"

0' 16' 32'



ROOF PLAN
SCALE: 1/32" = 1'-0"

0' 16' 32'

1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

20240429003095



EAST ELEVATION
SCALE: 1/32" = 1'-0"
0' 16' 32'



NORTH ELEVATION
SCALE: 1/32" = 1'-0"
0' 16' 32'



WEST ELEVATION
SCALE: 1/32" = 1'-0"
0' 16' 32'

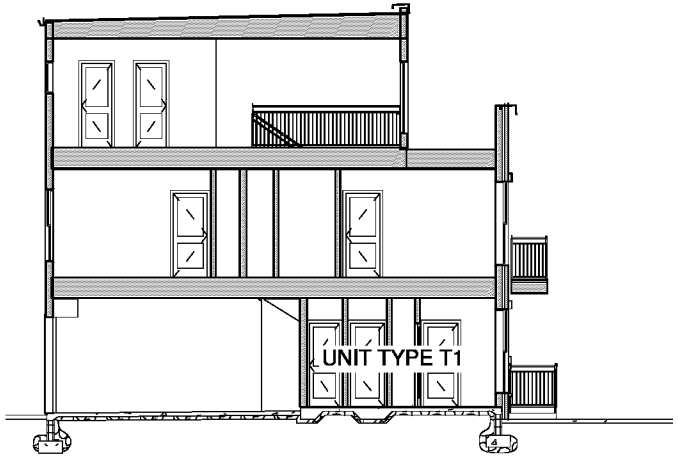


SOUTH ELEVATION
SCALE: 1/32" = 1'-0"
0' 16' 32'

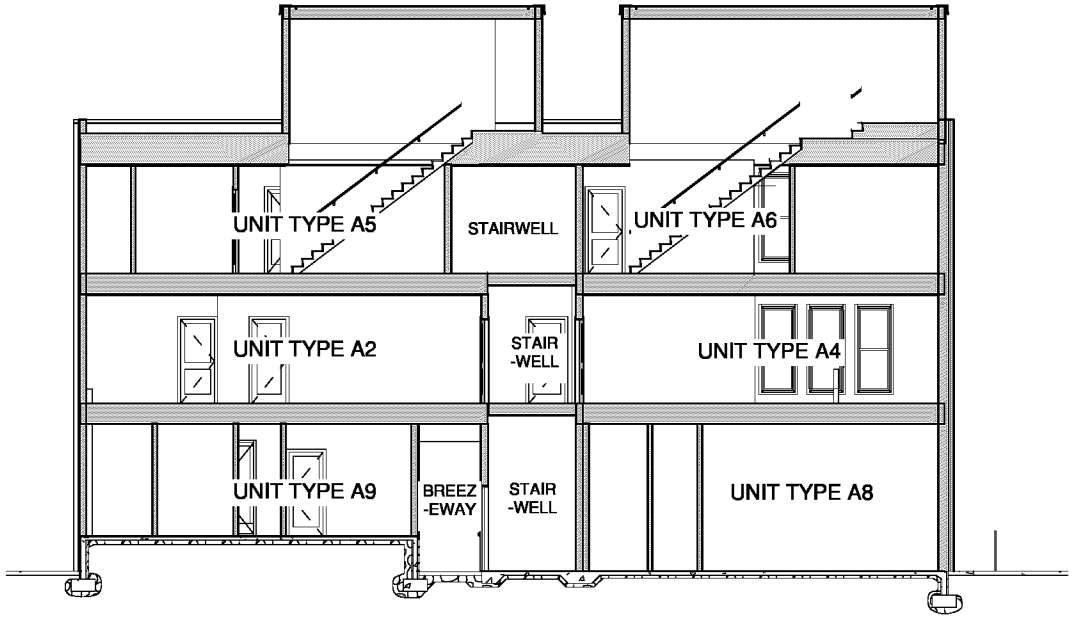
20240429003095

1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024



BUILDING SECTION
SCALE: 1/16" = 1'-0"
0' 8' 16'

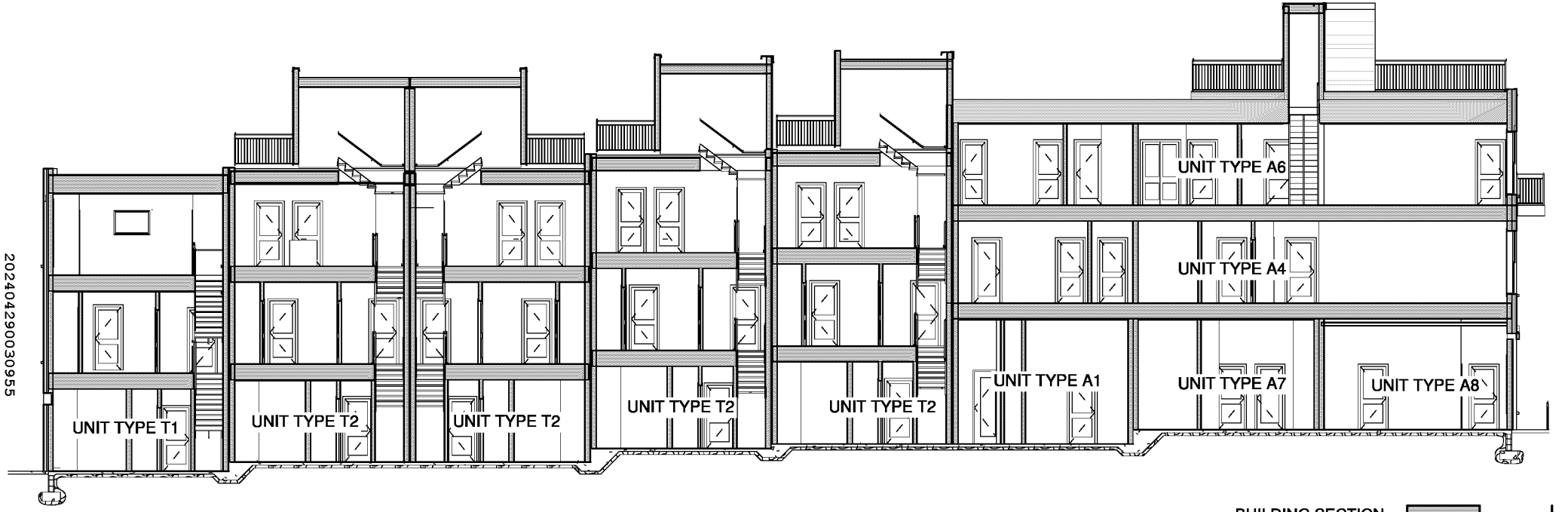


BUILDING SECTION
SCALE: 1/16" = 1'-0"
0' 8' 16'

20240429003095

1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024



BUILDING SECTION
SCALE: 1/16" = 1'-0"

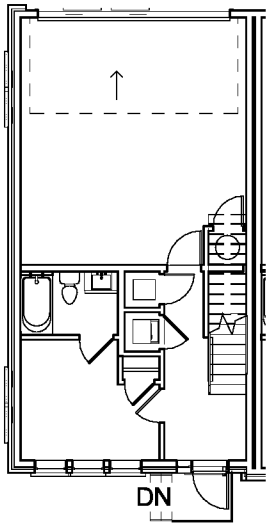
0' 8' 16'

20240429003095

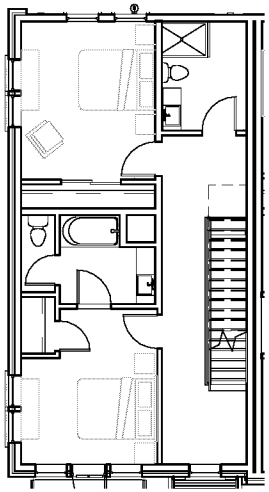
1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

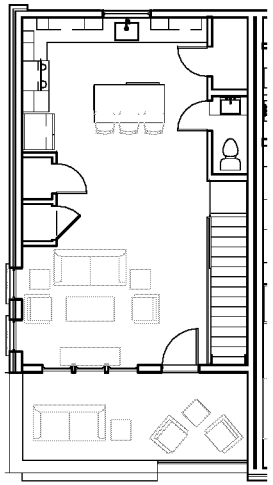
20240429003095



1 **UNIT T1 - 1ST FLOOR PLAN**
1/16" = 1'-0"



2 **UNIT T1 - 2ND FLOOR PLAN**
1/16" = 1'-0"

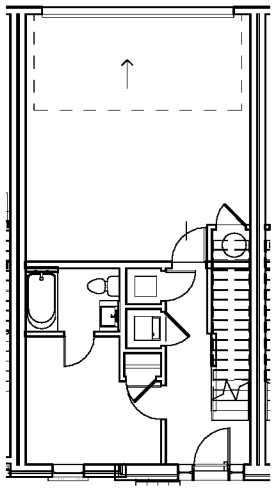


3 **UNIT T1 - 3RD FLOOR PLAN**
1/16" = 1'-0"

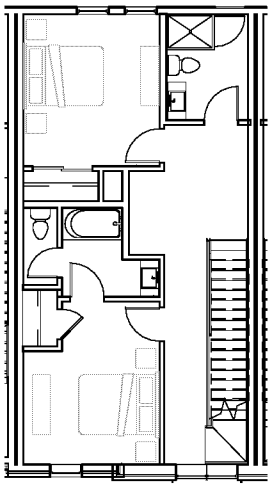
1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

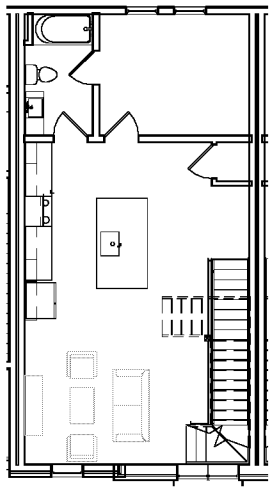
20240429003095



1 **UNIT T2 - 1ST FLOOR PLAN**
1/16" = 1'-0"



2 **UNIT T2 - 2ND FLOOR PLAN**
1/16" = 1'-0"

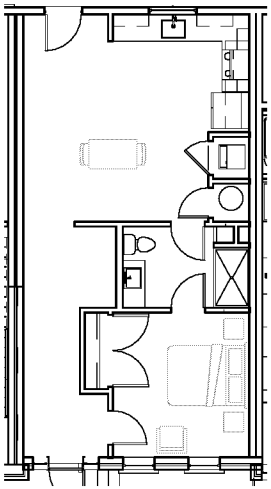


3 **UNIT T2 - 3RD FLOOR PLAN**
1/16" = 1'-0"

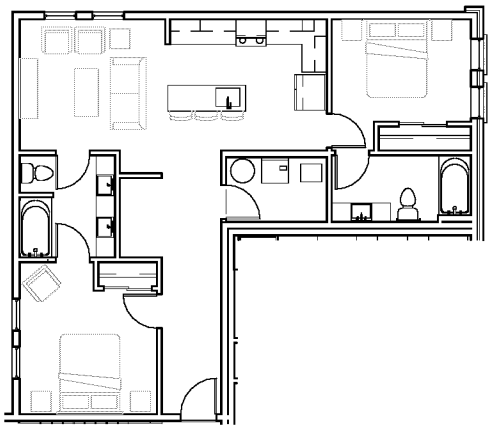
1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

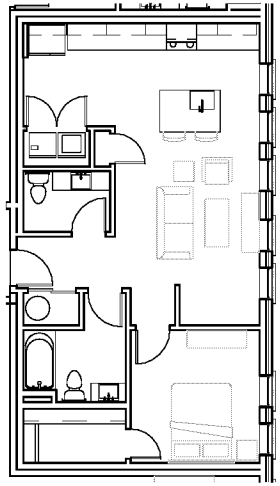
202404290030955



1 **UNIT A1 - FLOOR PLAN**
1/16" = 1'-0"



2 **UNIT A2 - FLOOR PLAN**
1/16" = 1'-0"

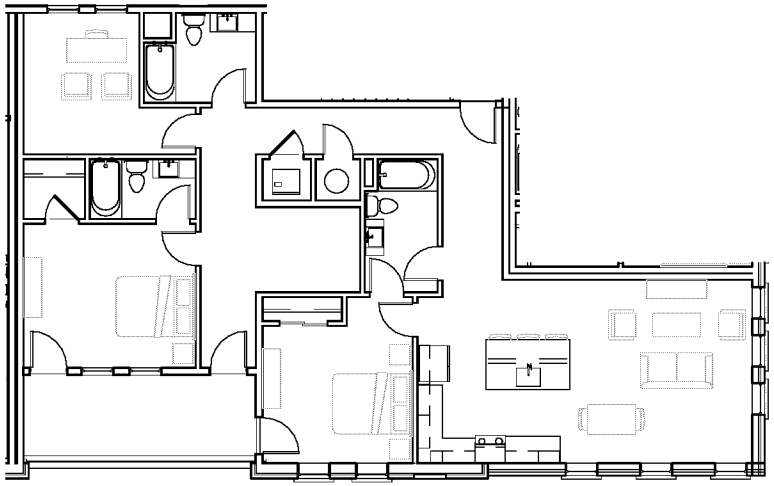


3 **UNIT A3 - FLOOR PLAN**
1/16" = 1'-0"

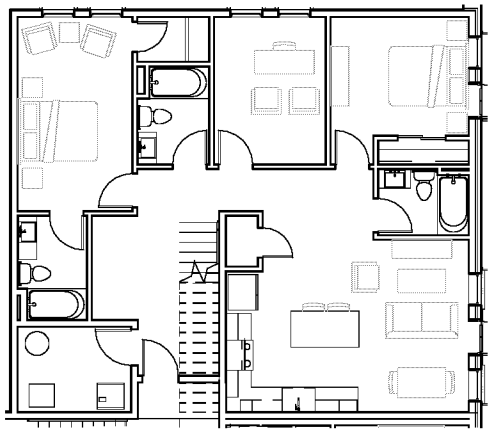
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1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

20240429003095



1 **UNIT A4 - FLOOR PLAN**
1/16" = 1'-0"

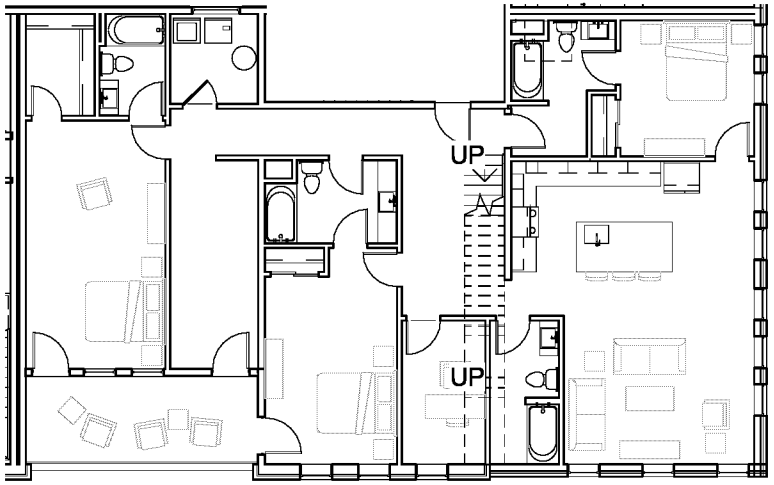


2 **UNIT A5 - FLOOR PLAN**
1/16" = 1'-0"

1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

20240429003095

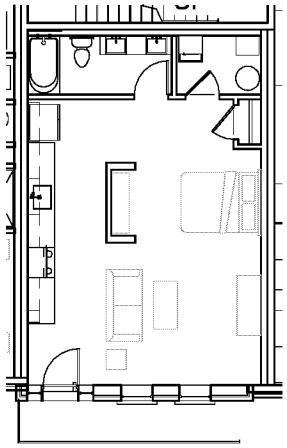


1 **UNIT A6 - FLOOR PLAN**
1/16" = 1'-0"

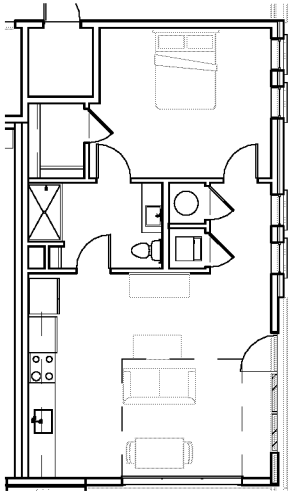
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1300 Pennock Avenue
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April 16, 2024

20240429003095



1 **UNIT A7 - FLOOR PLAN**
1/16" = 1'-0"

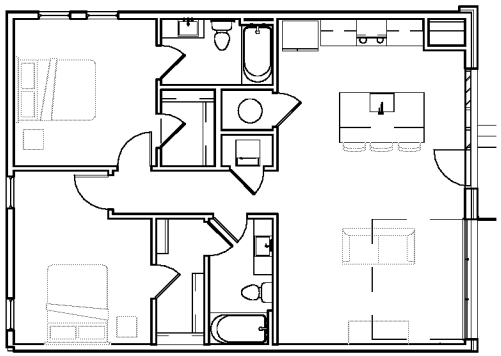


2 **UNIT A8 - FLOOR PLAN**
1/16" = 1'-0"

1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

20240429003095



1 **UNIT A9 - FLOOR PLAN**
1/16" = 1'-0"

1300 PENNOCK AVENUE - MULTIFAMILY

1300 Pennock Avenue
Nashville, TN 37207
April 16, 2024

EXHIBIT F

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP INTEREST IN THE COMMON ELEMENTS AND VOTING PERCENTAGE

Unit Address	SQ. FT.	Ownership Percentage	Votes in Association
307 Douglas Ave., #1	2,274	9.9%	1
307 Douglas Ave., #2	2,611	11.3%	1
307 Douglas Ave., #3	2,611	11.3%	1
307 Douglas Ave., #4	2,611	11.3%	1
307 Douglas Ave., #5	2,611	11.3%	1
307 Douglas Ave., #6	759	3.3%	1
307 Douglas Ave., #7	636	2.8%	1
1300 Pennock Ave., #101	842	3.7%	1
1300 Pennock Ave., #102	1,116	4.8%	1
1300 Pennock Ave., #201	1,723	7.5%	1
1300 Pennock Ave., #202	783	3.4%	1
1300 Pennock Ave., #203	982	4.3%	1
1300 Pennock	2,185	9.5%	1

Ave., #301			
1300 Pennock Ave., #302	**1,280**	**5.6%**	**1**
Total - 14	**23,024**	**100.00000%**	**Total - 14**

CALCULATION OF OWNERSHIP PERCENTAGES

The ownership percentages of each Unit were determined by using the area in square feet of each Unit as shown on the Plat and Plans and dividing such area by the total area of all Units.

EXHIBIT G

EASEMENTS AND RESTRICTIONS OF RECORD

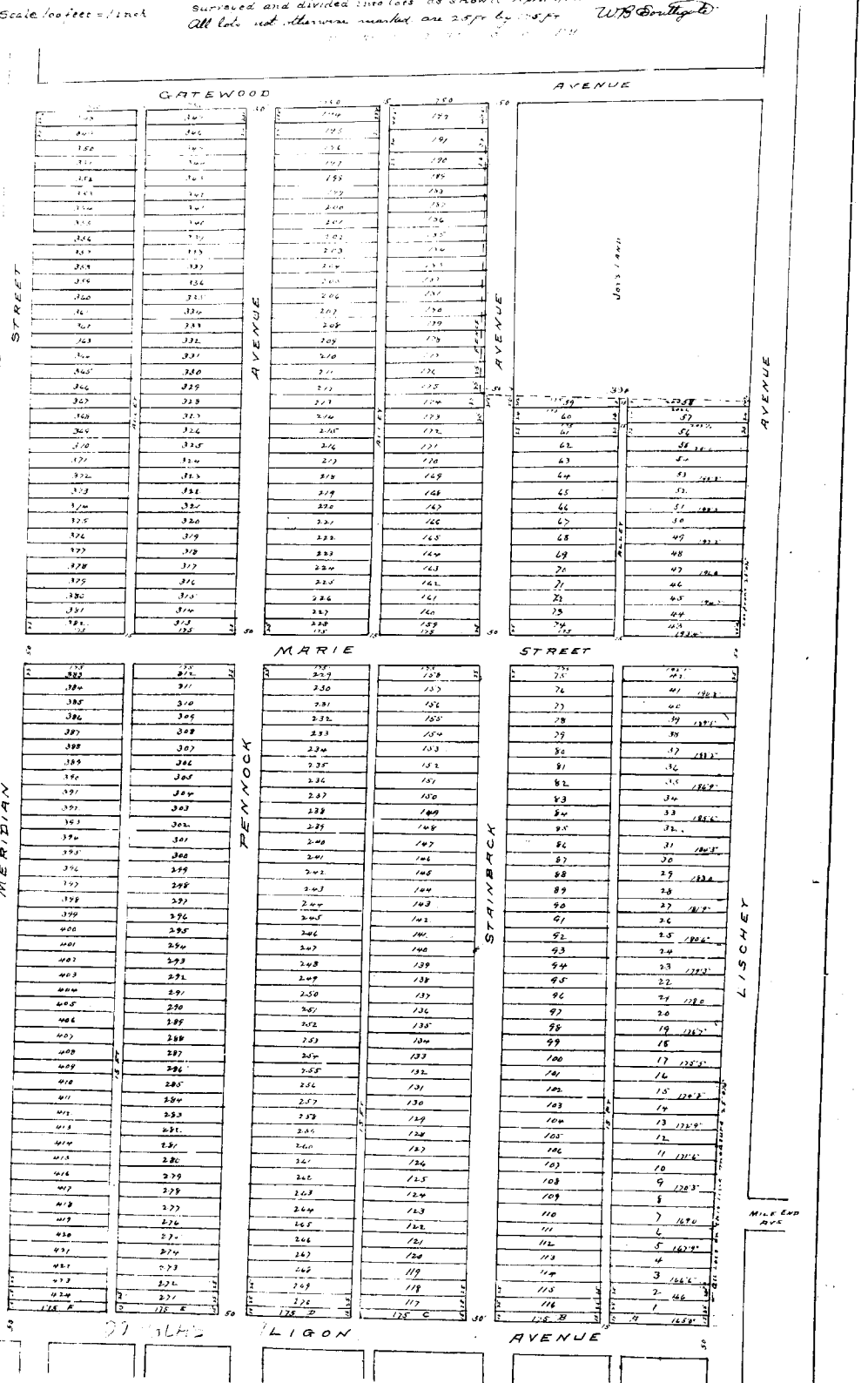
Matters shown on the Plan of record in Plat Book 421, page 14 in the Register's Office for Davidson County, Tennessee (said plat attached on the next page)

PLAT OF
THE HIGHLAND LAND Co's
SUBDIVISION

Scale 100 feet = 1 inch

Surveyed and divided into lots as shown April 1, 1912.
All lots not otherwise marked are 25 ft by 125 ft

W.B. Douthyl C.E.



202404290030955

Tennessee Certification of Electronic Document

I, Andrew Noell, do hereby make oath that I am a licensed attorney and/or the custodian of the original version of the electronic document tendered for registration herewith and that this electronic document is a true and exact copy of the original document executed and authenticated according to law on April 26, 2024 (date of document).

Andrew Noell
Affiant Signature

4/26/2024
Date

State of TENNESSEE

County of DAVIDSON

Sworn to and subscribed before me this 26th day of APRIL, 2024.

Mary Charles Davis
Notary's Signature

MY COMMISSION EXPIRES: 5-9-2026

NOTARY'S SEAL

