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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PORTLAND PLACE HOA, INC., 1701 PORTLAND AVENUE NASHVILLE, TN 37212 ("PORTLAND PLACE")

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PORTLAND PLACE

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A Horizontal Property Regime with Private Elements (This Is a Planned Unit Development Pursuant to Tennessee Code Annotated 66-27-103(B))

This Declaration of Covenants, Conditions and Restrictions, hereinafter sometimes referred to as the "Declaration," is entered into by 1701 Portland LLC (herein referred to, together with any successors, heirs, and assigns, as "Developer");

WHEREAS, Developer is the legal title holder in fee simple of a certain tract of real estate located in the County of Davidson County, State of Tennessee, more particularly described on attached **Exhibit A,** which is herein incorporated by this reference thereto (the "Property");

WHEREAS, Developer intends to and does hereby submit the above-described Property to the provisions of the Tennessee Horizontal Property Act as codified as 66-27-101, et seq., of the Tennessee Code Annotated and thereby cause a planned unit development to be organized and developed under Tennessee law pursuant to the Act; and

WHEREAS, Developer further desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the Property or any part thereof, and intends that all future owners, occupants, mortgagees and any other persons hereafter acquiring any interest in the Property shall hold said interest subject to, certain rights, easements and privileges in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, all as more particularly hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of ownership and use of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

NOW, THEREFORE, Developer, as the legal titleholder of the Property, and for the purposes above set forth, declares as follows:

ARTICLE 1
DEFINITIONS

As used herein, unless the context otherwise requires:

1.1. "Act" means the Tennessee Horizontal Property Act (T.C.A. § 66-27-101 et seq.). All capitalized terms not otherwise defined herein but defined in the Act, shall be deemed to have the meaning ascribed to them in the Act.

1.2. "Association" is a non-profit Tennessee corporation known as Portland Place HOA, Inc. which includes as members all of the Unit Owners.

1.3. "Board" means the Board of Directors of Portland Place HOA, Inc., the administrating body of the Association.

1.4. "Building" or "Buildings" means the buildings located on the Parcel and forming part of the

Property and containing the Units. The "Building" or "Buildings" are and shall be delineated on the Site Plan that is attached hereto and incorporated within as **Exhibit B.**

1.5. "By-Laws" means the By-Laws of Portland Place HOA, Inc. attached hereto as **Exhibit C** and by this reference made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Declaration dealing with the administration and maintenance of the Property shall be deemed to be part of the By-Laws.

1.6. "Community" refers to that certain real property described in **Exhibit A,** attached hereto, and such additions thereto as may be made by any supplementary declaration, as provided herein.

1.7. "Common Elements" means all real and personal property within the Property other than the Units (which include the Private Elements within the Units), which are now or hereafter owned by the Association. The Common Elements shall be held by the Association for the common use and enjoyment of the Unit Owners. The Common Elements shall include, but not be limited to, any common use grassy or lawn areas, streets, roadways, bridges, recreation area and equipment thereupon, culverts, parking areas, drainage structures and facilities, ponds, waterways, fences, sidewalks, curbs, gutters, signs, lights, utilities, electric or utility meters and other improvements, or any other area designated by the Board as being a Common Element. Common Elements, and all subsequent phases added to the provisions of this Declaration, shall be transferred to the Association. "Common Elements" as used herein shall also mean "General Common Elements" as set forth in the Act.

1.8. "Declaration" means this instrument, as hereinafter provided as such declaration may be amended from time to time.

1.9. "Developer" means 1701 Portland, LLC its successors and assigns, provided such successor or assigns are designated in writing by Developer as a successor or assign of the rights of Developer set forth herein.

1.10. "Limited Common Elements" means any Common Elements contiguous to and serving, exclusively, a single Unit, or a certain number of Units to the exclusion of other Units, as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit or Units either in this Declaration, on the Site Plan, or by later decision of all the Unit Owners.

1.11. "Majority" or "Majority of the Unit Owners" means the owners of more than fifty (50%) percent of the voting rights of the Unit Owners then eligible to vote.

1.12. "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

1.13. "Parcel" means the parcel or tract or real estate described in **Exhibit A** attached to this Declaration. Upon annexation of additional phases into the provisions hereof, Parcel shall also mean the additional property so annexed.

1.14. "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.15. "Private Elements" shall mean and include the Unit, the lot area upon which the Unit is located, and the improvements located thereon, as described herein, and for which fee simple ownership and exclusive use is reserved to that Unit only. The area of Private Elements is shown on the attached **Exhibit B** which is referred to for a more complete description and incorporated herein. Limited Common Elements located upon Private Elements shall be deemed to be Private Elements.

1.16. "Property" means all the land and space comprising the Parcel, and all improvements and structures thereon, now or hereafter erected, including the Buildings, and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners. Upon annexation of additional phases into the provisions hereof, Property shall also mean and include the additional area, if so annexed.

1.17. "Record" or "Recording" refers to the record or recording, pursuant to the laws of the state of Tennessee, in the Office of the Register of Deeds of Davidson County, Tennessee.

1.18. "Rules and Regulations" refer to the rules and regulations concerning the use of the Units and the Common Elements, as adopted from time to time by the Board in accordance with the Declaration and By-Laws.

1.19. "Site Plan" means the site plan of the Parcel submitted to the provisions of the Act showing the number of each Unit, expressing its area, location and other data necessary for identification, including but not limited to, the area of the Private Elements upon which a Unit is located. A copy of said Site Plan is attached hereto as **Exhibit B.** The Site Plan sets forth the numbers, areas and location of each Unit and other data as required by the Act.

1.20. "Unit" means that part of the Property intended for individual ownership and use. Each individual Unit shall consist of all the improvements and space therein within the boundary lines for that Unit, as set out on the Site Plan, attached hereto as **Exhibit B.**

1.21. "Unit Owner" means the Person or Persons whose estates, or interests, individually or collectively, aggregate fee simple ownership of a Unit, and shall be deemed the same as a "co-owner" under the Act. Unless specifically provided otherwise herein, the Developer shall be deemed a Unit Owner so long as the Developer is the titleholder of any Unit.

ARTICLE 2
PROPERTY SUBJECT TO THIS DECLARATION

2.1. Submission of Property to the Act. Developer, as the legal title holder in fee simple of the Parcel, does hereby submit and subject the Parcel and the Property to the provisions of the Horizontal

Property Act of the State of Tennessee, and does hereby establish a planned unit development as described in TCA Section 66-27-103 to be known as Portland Place.

2.2. Property Hereby Subjected to this Declaration. The real property which is, by the recording of this Declaration, subject to the covenants, conditions, restrictions and easements hereinafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and encumbered, subject to this Declaration, is the real property described in **Exhibit A**, attached hereto and by this reference made a part hereof.

2.3. Units. The legal description of each Unit shall consist of the identifying number or letter of such Unit as shown on the Site Plan, attached hereto as **Exhibit B**. Every deed, lease, mortgage, deed of trust or other instrument shall legally describe a Unit by its identifying number or letter as shown on the Site Plan, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any manner cause such Owner's Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Site Plan.

ARTICLE 3
ASSOCIATION MEMBERSIHP AND VOTING RIGHTS

3.1. Association of Unit Owners and Administration and Operation of the Property.

(a) There has been formed an Association having the name Portland Place HOA, Inc., a Tennessee not-for-profit corporation, which Association shall be the governing body for all of the Unit Owners and shall be operated to provide for the maintenance, repair, replacement, administration, operation and care of the Property as provided in the Act, this Declaration and By-Laws. The Unit Owners shall each be members of the Association, with each Unit holding an undivided membership interest in the Association which shall be appurtenant to such Unit, each such membership interest appurtenant to a Unit being in an equal (pro rata) share, subject to the provisions concerning voting hereinafter set forth. The By-Laws for the Association shall be the By-Laws appended to this Declaration, as **Exhibit C** and made a part hereof. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the By-Laws. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time, as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the use and benefit of Unit Owners, and all funds received by the Association shall be held and applied by it for the use and benefit of the Unit Owners, in accordance with the provisions of the Act, the Declaration and the By-Laws. Each Unit Owner shall be a member of the Association so long as such Owner is a Unit Owner. A Unit Owner's membership shall automatically terminate when such Owner ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall automatically succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be divided among the respective Unit Owners with one (1) vote granted to each Unit (except that the Developer shall have three votes per Unit as provided in Section 3.1(b) below).

(b) Voting Membership.

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

Class B. The Class B member shall be the Developer and shall be entitled to three (3) votes for each Unit owned. The Class B membership shall cease and be converted to Class A membership when one hundred (100%) percent of the Units shown on **Exhibit B** have been sold by the Developer.

(c) Management of Property. The Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of paragraph 3.1(d) below. The Board shall require that such Managing Agent have fidelity bond coverage on its employees handling Association funds. The cost of such services shall be a common expense, as defined in Article 4 herein.

(d) Initial Management Contract. The first Board, appointed as provided herein, shall ratify and approve any management agreement between the Developer, on behalf of the Association, and a management entity for a term as approved by said first Board, but not to exceed two (2) years.

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

(f) Non-Liability of Directors, Board, Committee Members, Officers and Developer. To the extent permitted by law, neither the Directors, the Board, the individual members thereof, committee members, officers of the Association, nor the Developer shall be personally liable to Unit Owners for any mistake of judgment, or for any other acts or omissions of any nature whatsoever, except for any acts or omissions found by a court to constitute gross negligence or actual fraud. The Association and the Unit Owners shall indemnify and hold harmless each of the Directors, the Board, committee members, officers, and Developer and their respective heirs, executors, administrators, successors and assigns in accordance with the provisions of Article VII of the By-Laws.

(g) Interest of Association in Common Elements. Ownership of the Common Elements

shall be vested in the Association.

3.2. Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of the Declaration or By-Laws, the determination thereof by the Board shall be final and binding on each and all such Unit Owners.

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

ARTICLE 4
ASSESSMENTS

4.1. Purpose of Assessments. The Units shall be subject to Assessments, as provided by the By-Laws of the Association, which are attached to this Declaration, as **Exhibit C**. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Units, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

4.2. Common Expenses. Each Unit Owner shall pay his proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in accordance with this Declaration and the Bylaws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair of the Common Elements and any and all replacements and additions thereto. No Unit Owner shall be exempt from payment of his proportionate share of the common expense by waiver of his use or enjoyment of the Common Elements or Limited Common Elements or by abandonment of his Unit.

4.3. Enforcement. In the event any Unit Owner fails to maintain such Owner's Unit, including the Private Elements attributable to such Unit, and Limited Common Elements, exclusively serving such Unit, if any, or in the event any Unit Owner fails to pay such Owner's proportionate share of any common expense when such is due, then in any such event the Board may after ten (10) days' notice to the defaulting Unit Owner, perform such maintenance, advance and pay such sums, or do any other reasonable act necessary to cure such default. The Association shall have a lien

against the Unit of the defaulting Unit Owner securing payment of the sums expended or advanced, and shall be entitled to enforce such lien by filing suit in a court of competent jurisdiction. In the event the Association is successful in such suit, it shall be entitled to recover reasonable attorney fees and costs incurred in such suit and enforcement of its rights.

4.4. Mortgage and Deed of Trust. The lien for common expenses payable by Unit Owner shall be subordinate to the lien of a recorded mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the mortgagee or beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses its mortgage or deed of trust. This subparagraph (4.4) shall not be amended, changed, modified or rescinded without the prior written consent of all mortgagees and deed of trust beneficiaries of record.

4.5. Special Assessments. In addition to the annual assessments for common expenses authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Unit Owners.

4.6. Exemptions. Notwithstanding any provision to the contrary in this Declaration or the By-Laws attached hereto, The Developer shall not be required to expend from its own funds any sums of money for maintenance, improvements, or any other expenses of the administration of the Common Elements, and no Unit owned by the Developer shall be assessed for General Assessments, Special Assessments, or Specific Assessments, or otherwise, until such time as construction of such Unit is completed and occupied by a tenant of Developer, or is sold by the Developer. This paragraph may not be modified or amended without the unanimous written consent of all Unit Owners.

ARTICLE 5
MAINTENANCE; COMMON ELEMENTS

5.1. Association's Maintenance Responsibility. The Association shall maintain and keep in good repair the Common Elements. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated on the Common Elements. All maintenance performed by the Association pursuant to this Declaration, including, without limitation, shall be performed as determined in the sole discretion of the Board of Directors. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment. The Association shall not be responsible for maintaining, repairing and/or replacing the following: (i) HVAC or similar equipment

located outside the Units; (ii) foundations and footings, including waterproofing (whether above or below grade); (iii) fences installed by an Owner and/or by the Declarant or its agents at the request of an Owner; and (iv) pipes which serve only one (1) Unit whether located within or outside of the Unit's boundaries. The Board of Directors may promulgate rules setting forth the extent of maintenance to be performed by the Association and may assume responsibility for providing additional maintenance as long as Units have equal rights to maintenance. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association.

5.2. Owner Maintenance, Repairs and Replacements. Each Unit Owner, at his own expense, shall furnish and be responsible for all maintenance of, repairs to, and replacements within and to the exterior of his own Unit, Private Elements, and Limited Common Elements exclusively serving his Unit or the Board may cause the same to be done at the expense of the Unit Owner. Each Unit Owner shall be responsible for the maintenance, repairs to and replacements of Limited Common Elements and Private Elements attached to such Owner's Unit, including, but not limited to roof, roofing structure, windows, doors, patios, porches, decks, yards, gutters, heating or air-conditioning units, window boxes, landscaping, walls (interior and exterior) and the portions of the Building that are not Common Elements.

The authorized representatives of the Association, Board or of the Managing Agent, with approval of the Board, shall be entitled to reasonable access to the individual Units, Limited Common Elements and Private Elements as may be required in connection with the preservation of any individual Unit or Limited Common Elements or Private Elements in the event of an emergency, or in connection with any maintenance, repairs or replacements within the Common Elements, Limited Common Elements, Private Elements or any equipment, facilities or fixtures affecting or serving other Units, Common Elements, Private Elements and Limited Common Elements, or to make any alteration required by any governmental authority.

5.3. Decorations, Cleaning, Landscaping. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorations, landscaping and cleaning within his own Unit and the Limited Common Elements serving his Unit. The Board has the authority to and shall appoint and manage a landscaper to perform landscaping of the Common Elements and Limited Common Elements of Portland Place.

5.4. Waste Services Provider. Portland Place HOA, Inc. has the authorization to appoint and manage an exclusive waste service provider for the Portland Place community.

5.5. Party Walls. The following provisions shall apply to party walls within the Property, if any:

(a) Each wall which is built as a part of the original construction of a structure and placed on the dividing line between Units shall constitute a party wall. To the extent not inconsistent with the provisions of this section, general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

(b) The cost of reasonable repair and maintenance of a party wall shall be shared by the Unit Owners who make use of the wall in proportion to such use.

If a party wall is destroyed or damaged by fire or other casualty, any Unit Owner who has used the wall may restore it, and if other Unit Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Unit Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(c) Notwithstanding any other provision of this section, a Unit Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(d) The right of any Unit Owner to contribution from any other Unit Owner under this section shall be appurtenant to the land and shall pass to such Unit Owner's successors in title.

5.6. Electric or other Utility Meters. The Developer reserves the right to place, locate, or affix electric or other utility meters on the outside structural wall of any Unit or Units. Such electric or other utility meters shall service the entire Portland Place community and are considered a part of the Common Elements.

5.7. Encroachments. If any portions of any party wall, if any, or Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are shown by the Site Plan, there shall be deemed to be mutual easements in favor of the Owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.

5.8. Use of Common Elements. Except as hereinafter set forth, each Unit Owner shall have the right to use the Common Elements (except the Private Elements) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to each such Unit Owner, and such Owner's agents, servants, tenants, family members, customers, invitees and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Private Elements attributable to the Unit. Such rights to use the Common Elements shall be subject to and governed by the provisions of the Act, Declaration, By-Laws and any rules and regulations established by the Association. In addition, the Association shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of the Declaration and By-Laws.

5.9. Liability. Owners, Occupants and their guests shall use the Common Elements and all portions of the Community, not contained within a Unit, at their own risk, and shall assume sole responsibility for their personal belongings used or stored thereon. The Association, the Developer and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person while within the Community,

without limitation on any portion of the Common Elements, nor for loss or damage to personal belongings used or stored on the Common Elements or any other portion of the Community. The Association shall not be liable for injury or damage to any Person or property (a) caused by the elements or by an Owner or any other Person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or Occupant for loss or damage, by theft or otherwise, of any property of such Owner or Occupant.

ARTICLE 6
TAXES AND INSURANCE

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

6.2. Insurance Provided by Unit Owner. Each Unit Owner shall be responsible for obtaining his own insurance for his Unit (including the Private Elements), the contents of his own Unit, the Limited Common Elements serving his Unit, as well as his additions and improvements thereto, all decorations, furnishings and personal property therein, and any personal property stored elsewhere on the Property. The insurance policy shall afford, as a minimum protection against loss or damage by fire or other perils normally covered by the "Causes of Loss — Special Form Basis" endorsement, where such is available, and such policy shall be in an amount equal to 100% of current replacement cost of such individual Unit Building and all such alterations, additions, improvements or betterments thereto and any Limited Common Elements serving his Unit. Each Unit Owner shall also obtain his own comprehensive public liability insurance policy, insuring each Owner, mortgagee of record, if any, the Association, its officers, directors, Board and employees from liability in connection with such Unit Owner's individual Unit or any Limited Common Element serving his Unit.

6.3 Insurance Provided by Association. The Board shall have the authority to and shall obtain insurance for the Property, including the Units and Private Elements, Common Elements, exclusive of the additions within, improvements to and decorating of the Units by the Unit Owners, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Property and the Common Elements and the Units and the common party walls, and against such other hazards, and for such amounts as the Board may deem advisable. Such insurance shall, if possible, include all or any portion of all Limited Common Elements.

Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements, party wall(s), the Units, or any part thereof, to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board of the Association, as the trustee for each of the Unit Owners in direct ratio to said Unit Owner's respective percentage of ownership in the Association, as set forth in the Declaration, and for the holders of mortgages and deeds of trust on his Unit, if any. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for such Owner's Unit and such Owner's corresponding percentage of ownership in the Association. In the event of damage to or destruction of any Buildings or Common Elements as a result of fire or other casualty covered by insurance proceeds (unless more than two-thirds (2/3) of the Buildings require reconstruction) the Board shall, in its discretion, with the prior written approval of a majority of the mortgagees of the Units affected, determine and, without intervention of any Unit Owner, arrange for the prompt repair and restoration of the damaged portions of all Units and Common Elements substantially in accordance with the original plans and specifications thereof. Where the insurance indemnify is insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners directly affected by the damage, in proportion to each Unit's percentage of ownership in the Association. The Board shall not be responsible for the repair, replacement or restoration of any wall, ceiling or floor decorations or covering, or furniture, furnishings, fixtures, appliances or equipment installed in the Unit by a Unit Owner or Occupant unless insurance therefor is specifically provided for in the insurance policy obtained by the Board.

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

The Board shall also have the authority to and shall obtain comprehensive public liability

insurance, in such amounts as it deems desirable, and workman's compensation insurance and other liability insurance as it deems desirable, insuring each Unit Owner, mortgagees of record, if any, the Association, its officers, directors, Board and employees, the Developer, and the Managing Agent, if any, from liability in connection with the Property and the Common Elements. The premiums for such insurance shall be a common expense, however, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for such Owner's corresponding percentage of ownership in the Association. The Board shall retain in safekeeping any such public liability policy for six (6) years after the expiration date of the policy.

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

While the Association will obtain insurance for the building(s) of the Units, each Unit Owner shall be responsible for obtaining his own insurance for the contents of such Owner's Unit, as well as additions and improvements thereto, decorations, furnishings and personal property therein, and personal property stored elsewhere on the Property. In addition, in the event a Unit Owner desires to insure against such Owner's personal liability and loss or damage by fire or other hazards above and beyond the extent that such Owner's liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owner's as part of the common expenses, as above provided, said Unit Owner may, at such Owner's option and expense, obtain additional insurance.

ARTICLE 7
USE RESTRICTIONS AND RULES

7.1. Rules and Regulations. The Board of Directors may, from time to time, with the consent of Developer and without a vote of the members, promulgate, modify or delete rules and regulations applicable to the Community. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority of the total Association vote and the consent of Developer.

7.2. Vehicles: Parking. Regardless of local laws, vehicles shall be parked only in appropriate parking spaces serving the Unit or other designated areas, if any. All parking shall be subject to such rules and regulations as the Board may adopt. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, golf carts, trucks, campers, buses, vans and automobiles. The term "parking areas" shall refer to the number of garage parking spaces and the spaces located in the driveway of each Unit. Each Unit has two (2) garage parking spaces and there is no other assigned parking. If a vehicle is parked in a fire lane, is blocking another vehicle, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required, and

the Board or agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

7.3. Leasing; Short Term Rental. The leasing and short-term rental of Units is permitted so long as the Owner obtains all necessary permits and follows all Nashville City, Davidson County, Tennessee, and Federal permits, guidance, regulations, and laws. Leasing of Units shall be subject to all additional rules and regulations as the Board may adopt. This provision is subject to the Board of Directors' discretion as detailed in provision 7.5. Nuisance, to prevent any condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property.

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

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

7.4. Animals and Pets. Animals, which are household pets, and which are limited to dogs, cats, birds and fish may be raised, bred, kept or permitted on any Unit in accordance with all Nashville City, Davidson County, Tennessee, and Federal permits, guidance, regulations, and laws. No pot-bellied pigs, reptiles, rodents (mice, gerbils, hamsters), ferrets, livestock or poultry are allowed. An Owner shall not allow any animal waste to remain on the Common Property, Community open space, or any landscaped area maintained by the Association. This provision is subject to the Board of Directors' discretion as detailed in provision 7.5 Nuisance, to prevent any condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property.

7.5. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on a Unit. No property within the

Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition; nor shall any substance, thing or material be kept that will emit foul odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No activity that the Board of Directors determines to be noxious, or offensive shall be carried on within the Community, including activities causing excessive noise or vibrations in any Unit or upon Common Elements which interfere with the peace, rights, use and enjoyment of other Unit Owners and Occupants. No plants, animals, device or thing of any sort shall be maintained in the Community whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may, in the reasonable opinion of the Board of Directors, diminish or destroy the enjoyment of the Community by other Owners and Occupants.

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

7.7. Use and Occupancy Restrictions. Subject to the provisions of the By-Laws, no part of the Property may be used for purposes other than as allowed by municipal zoning laws.

ARTICLE 8
MORTGAGEE PROVISIONS

8.1. Provisions Relative to Mortgagee's Rights and to Federal Home Loan Mortgage Corporation and Federal National Mortgage Association Regulations. Notwithstanding anything to the contrary contained in this Declaration, or in the By-Laws which are attached hereto, all terms, conditions and regulations which are now existing, or which may be amended from time to time, by the Federal Home Loan Mortgage Corporation ("FHLMC") or the Federal National Mortgage Association, known as Fannie Mae ("Fannie Mae") pertaining to projects of this nature are hereby incorporated as terms and conditions of the Declaration and By-Laws and such shall be governing upon the Property, the Developer, and the Association, so long as such terms or conditions are not inconsistent with the laws of the State of Tennessee as found in Tennessee Code Annotated, Section 66-27-101, et seq., as such may be amended.

Specifically, without limitation upon the foregoing, the following provisions shall be fully effective and controlling over any terms of the Declaration or By-Laws which are in conflict. Any portions of such Declaration or By-Laws which are in conflict with this paragraph, or any portion of the FHLMC and Fannie Mae regulations pertaining to planned unit developments, are hereby deleted and the following rights of mortgagees are itemized as follows:

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

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

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

i. Change the percentage interests of ownership of all or any Unit or Unit Owners, except that percentage ownership of the Association may be reduced due to the addition of a phase or phases to the horizontal property regime as provided hereinabove.

ii. Partition or subdivide any Unit or the Common Elements.

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

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

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

(e) An adequate reserve fund for maintenance, repair and replacement of Common Elements, which must be replaced on a periodic basis, will be established and funded by regular monthly payments rather than by special assessments. A working capital fund for the initial months of operation equal to at least two (2) months' assessments for each Unit must be established, collected and transferred to the Association at the time of closing of sale by the Developer of each Unit and maintained in an account for the use and benefit of the Association.

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

(g) No Unit Owner or any other party shall have priority over any rights of the first mortgagees of Units and/or Common Elements.

(h) Any agreement for professional management of the horizontal property regime, whether it be by the Developer, its successors and assigns, or any other person or entity, may be terminated on ninety (90) days' written notice and the terms of any such contract shall so provide and shall not be of a duration in excess of two (2) years. Prior to passage of control from the Developer, the Association shall not be bound, directly or indirectly, to contracts or leases unless there is a right of termination of such upon not more than ninety (90) days' notice without penalty.

(i) Upon written request, the Association shall give to any mortgagee of a Unit, FHLMC, Fannie Mae, any lending institution servicing such mortgages, as are acquired by FHLMC or Fannie Mae, or any insurer or guarantor of a mortgage or deed of trust on a Unit, timely notice in writing of any loss to or the taking of the Common Elements, if such loss or taking exceeds $50,000.00, or of any other condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage, a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, or any proposed action that requires the consent of a specified percentage of mortgagees.

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

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

(l) A first mortgagee of a Unit Owner, upon written request, is entitled to written notification from the Association of any default in the performance by such Unit Owner of any obligation under this Declaration and/or By-Laws which is not cured within sixty (60) days.

(m) The casualty and liability insurance and fidelity bond coverage, if any, to be maintained by the Association shall meet the requirements specified in Fannie Mae Lending Guide, Chapter Three, Part 5, "Insurance Requirements."

ARTICLE 9
EASEMENTS

9.1. General. Each Unit shall be subject to those easements, if any, shown or set forth on the recorded subdivision plat for the Community, as amended from time to time as well as the easements now or hereafter established by the Developer in this Declaration or by any other document recorded in the Davidson County Register of Deeds, the Office of Superior Court of Davidson County, Tennessee, or any other controlling governmental agency or venue.

9.2. Easements for Use and Enjoyment. Every Owner shall have a right and easement of ingress and egress, use and enjoyment by the Owner and the Occupants of the Owners Unit in and to the

Common Elements which shall be appurtenant to and shall pass with the title to each Unit, subject to the following:

(a) The right of the Association, as provided in its By-Laws, to suspend the enjoyment rights of any member in the Common Elements for any period during which any Assessment remains unpaid;

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

(c) The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such diminution or dedication or transfer, nor any determination as to the purposes or conditions thereof, shall be effective unless Developer (or its successors or assigns) and members of the Association, entitled to cast two-thirds of the total votes of all classes of members entitled to vote thereon, have approved such dedication, transfer, purpose or condition; and the right of the Association to grant such licenses, permits, easements and rights-of-way to such utility companies or public agencies or authorities as it shall deem necessary for the proper servicing, maintenance and operation of the Common Elements and the individual Units;

(d) The right of Developer to amend this Declaration for the purpose of altering the boundaries between adjoining Units and changing the allocated percentage of ownership allocated to such Units owned by the Developer prior to the first conveyance of any such Units to a person other than the Developer;

(e) The right of Developer, at its sole expense, to relocate, expand, modify, reduce, enlarge or extend existing driveways, parking areas and yard and to construct, relocate, expand, modify, reduce, enlarge or extend sewers, utility lines or service connections in order to serve the existing Building;

(f) The right of the Developer to add any real estate to the Property and to create additional Units or Common Elements or Limited Common Elements; and

(g) The right of the Developer to make and record any necessary amendment to this instrument for the express purpose of completion of development or correction of clerical errors or as may be required to comply with the requirements of the Act, as required by an applicable government authority, the Federal National Mortgage Association, the Federal Housing Authority, the Federal Home Loan Mortgage Corporation, the Veteran's Administration or other mortgage lending programs that can afford financing for the purchase of Units.

9.3. Easement for Drainage. There is hereby reserved to the Developer and granted to the Association a blanket easement for creating and maintaining satisfactory drainage across the Community; provided however, such easement area shall not include any portion of a Unit upon which the

foundation of a dwelling is located. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. Neither the Developer, the Association nor any Unit Owner constructing according to plans and specifications approved hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction on a Unit.

9.4. Easement During Construction and Sale Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the By-Laws, Articles of Incorporation, use restrictions, rules and regulations, architectural guidelines, and amendments thereto, Developer reserves an easement across the Community for Developer to maintain and carry on, upon such portion of the Community as Developer may reasonably deem necessary, such facilities and activities as in the sole opinion of Developer may be required or convenient for Developer's development, construction and sales activities, including, but not limited to the following:

(a) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Unit;

(b) the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways;

(c) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community;

(d) the right to grant easements over, under, in or on the Community, including without limitation the Units, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community;

(e) the right to convert Units (with the consent of the Owner thereof) to Common Elements;

(f) the right to construct utilities and other improvements on Common Property;

(g) the right to carry on sales and promotional activities in the Community; and

(h) the right to construct and operate business offices, signs, construction trailers, model residences and sales offices.

Declarant may use Units, offices or other buildings owned or leased by Declarant as model homes. This Section shall not be amended without the Declarant's written consent until the Declarant's rights hereunder have terminated, as herein provided.

ARTICLE 10
GENERAL PROVISIONS

10.1. Remedies. In the event of any violation of the provisions of the Act, this Declaration, the By-Laws or the rules and regulations of the Board or the Association by any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit or any invitee or licensee thereof), the Association, or its successors or assigns, or the Board, or its agent, shall have each and all of the rights and remedies that may be provided for in the Act, this Declaration, the By-Laws or said rules and regulations, or that may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or other Occupant for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest, thereon at the maximum allowed rate by law per annum until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Association shall have a lien for all of the same, as well as for non-payment of his respective share of the common expenses, upon the Unit and ownership in interest in the Common Elements of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property; provided, however, that such lien shall be subordinate to the lien of a recorded first mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of said common expenses that become due and payable from and after the date on which the beneficiary of said mortgage or deed of trust either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security) or forecloses its mortgage or deed of trust. In the event of any such default by any Unit Owner, the Board and the manager or Managing Agent, if so authorized by the Board, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner and secured by the lien hereinabove provided. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of mortgage and deed of trust liens against Units whose respective interests appear of Record.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained shall give the Association, acting through the Board, the right, in addition to any other rights provided for in this Declaration to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

10.2. Amendment. The provisions of this Declaration may be changed, modified or rescinded by an instrument in writing, setting forth such change, modification or rescission, signed by not less than sixty-seven percent (67%) of the Unit Owners and acknowledged; provided, however, that all lien holders of Record shall have been notified by certified mail of such change, modification, or rescission and an affidavit by the secretary of the Association certifying to such mailing shall be made a part of such instrument.

Notwithstanding the foregoing, if the Act, this Declaration or the By-Laws require the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all Unit Owners or all lien holders or both as required by the Act or this Declaration. The change, modification or rescission, shall be effective upon the Recording of such instrument; provided, however, that no provisions in the Declaration may be changed, modified or rescinded so as to conflict with the provisions of this Act.

10.3. Notices. Notices provided for in the Act, this Declaration or the By-Laws shall be in writing, and shall be addressed to the Association, the Board or any Unit Owner, as the case may be. The Association or Board may designate alternate address(es) for notices by written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by the United States registered or certified mail, or when delivered in person with written acknowledgement of the receipt thereof.

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

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

10.5. Rights and Obligations. All future Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the Property, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every such deed of conveyance or contract for conveyance.

All present and future Unit Owners, tenants and occupants of a Unit shall be subject to, and shall comply with, the provisions of the By-Laws, as amended from time to time. The acceptance of a deed of conveyance, devise of or lease to a Unit, or the entering into occupancy of any Unit, shall constitute an agreement that the provisions of the By-Laws and any rules and regulations

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

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

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

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

10.8. Captions. The captions herein are inserted only as a matter of convenience, and in no way define, limit or describe the scope of these provisions or the intent of any provision hereof.

10.9. Gender and Number. The use of the masculine or neuter gender in this Declaration and in the By-Laws shall be deemed to include the masculine, feminine and neuter gender whenever the context so requires, and the use of the singular shall be deemed to include the plural whenever the context so requires, and vice versa.

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed this 25th day of July, 2024.

1701 PORTLAND, LLC

By: CHARLOTTE AVENUE PARTNERS, LLC, its sole member

By: _____
Joshua Hunt Ritter, Managing Member

By: Roddy Story
Roddy Story, Member

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, the undersigned Notary Public in and for said County and State aforesaid, personally appeared **Joshua Hunt Ritter**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Managing Member of Charlotte Avenue Partners, LLC, the sole Member of **1701 Portland, LLC**, and being so authorized to do so, executed the foregoing instrument.

Witness my hand and official seal this the 25th day of July, 2024.

_____
Notary Public

My Commission Expires: 3/20

MARTIN AKIN
NOTARY PUBLIC
TENNESSEE
COUNTY OF DAVIDSON

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, the undersigned Notary Public in and for said County and State aforesaid, personally appeared **Roddy Story**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a Member of Charlotte Avenue Partners, LLC, the sole Member of **1701 Portland, LLC**, and being so authorized to do so, executed the foregoing instrument.

Witness my hand and official seal this the 25th day of July, 2024.

State of: Texas County of: Waller

Notary Public, State of Texas
_____
Notary Public

My Commission Expires: 07/06/2025

Shelbi Falcon
ID NUMBER
133202461
COMMISSION EXPIRES
July 6, 2025

Electronically signed and notarized online using the Proof platform.

EXHIBIT A

Legal Description

Map & Parcel: 10412027400

Address: 1701 PORTLAND AVENUE, NASHVILLE, TENNESSEE 37212

Legal Description:

Land in Davidson County, Tennessee, being Lot No. 34 on the Plan of Lennox Place of record in Book 161, page 171, Register's Office for said County, to which Plan reference is hereby made for a more complete description.

Being the same property conveyed to Robey H. Franklin and wife, Hazel Anne Franklin, by Warranty Deed from Mary G. Higginbotham, unmarried, dated January 22, 1959, recorded January 23, 1959, of record in Book 2863, page 451, said Register's Office.

The said Robey H. Franklin has since died on or about March 26, 1990, leaving Hazel Anne Franklin, as the surviving tenant by the entirety.

By Quitclaim Deed, dated August 22, 1990, recorded August 27, 1990, of record in Book 8183, page 30, said Register's Office, the said Hazel Anne Franklin conveyed a one-twentieth (1/20) undivided right, title and interest in subject property to the following eight individuals as tenants in common: Mary Ann McMillen, in her individual capacity; Martha F. Thompson, in her individual capacity; Michael J. McMillen in his individual capacity; Berry Hartley Thompson, in his individual capacity; Mary Ann McMillen, as Trustee of the Jennifer E. McMillen Trust; Mary Ann McMillen, as Trustee of the Eric T. McMillen Trust; Martha F. Thompson, as Trustee of the Stuart C. Thompson Trust; and Martha F. Thompson, as Trustee of the Marina G. Thompson Trust.

The said Hazel Anne Franklin has since died, testate, on or about October 30, 1990. Pursuant to the terms of her will of record in Will Book 172, page 792, in the Chancery Court for Davidson County, Tennessee, Probate Division, Docket No. 96256, the property was devised to Mary F. McMillen and Martha F. Thompson.

By Executor's Quitclaim Deed, dated September 27, 1993, recorded September 27, 1993, of record in Book 9092, page 567, said Register's Office, Mary F. McMillen and Martha F. Thompson, Executors, conveyed subject property to Mary F. McMillen and Martha F. Thompson.

Berry H. Thompson a/k/a Berry Hartley Thompson has since died, testate, on or about February 15, 2010. Pursuant to the terms of his will of record in the Chancery Court for Davidson County, Tennessee, Probate Division, Docket No. 10P-1690, the property was to be administered as part of the probate estate, Martha F. Thompson, being appointed Executor. By Executor's Quitclaim Deed, dated February 8, 2011, recorded February 11, 2011, of record in Instrument No. 20110211-0012141, said Register's Office, Martha F. Thompson, Executor of the Estate of Berry H. Thompson conveyed all of the right, title and interest of the decedent and the decedent's estate (said interest being a one-twentieth (1/20) tenant in common interest) to Martha F. Thompson, Trustee of the Berry H. Thompson Tennessee Bypass Trust.

(Exhibit A, Legal Description Continued)

By Quitclaim Deed, July 3, 2012, recorded July 27, 2012, of record in Instrument No. 20120727-0066517, said Register's Office, Marina G. Puinno conveyed her interest in subject property to Martha F. Thompson.

By Quitclaim Deed, dated March 16, 2024, recorded March 26, 2024, of record in Instrument No. 20240326-0020914, said Register's Office, Mary F. McMillen (formerly Mary Ann McMillen), as Trustee of the Jennifer E. McMillen Trust, conveyed subject property to Jennifer E. McMillen.

By Quitclaim Deed, dated March 16, 2024, recorded March 26, 2024, of record in Instrument No. 20240326-0020915, said Register's Office, Mary Ann McMillen as Trustee of the Eric T. McMillen Trust conveyed subject property to Eric T. McMillen.

By Quitclaim Deed, dated March 16, 2024, recorded March 26, 2024, of record in Instrument No. 20240326-0020916, said Register's Office, Martha F. Thompson, as Trustee of the Stuart C. Thompson Trust, conveyed subject property to Stuart C. Thompson.

Being the same property conveyed to 1701 Portland, LLC, a Tennessee limited liability company, by a Special Warranty Deed from Mary F. McMillen; Martha F. Thompson; Michael J. McMillen; Martha F. Thompson, Trustee of the Berry H. Thompson Tennessee By Pass Trust; Jennifer E. McMillen; Eric T. McMillen; and Stuart C. Thompson, dated March 16, 2024, recorded March 26, 2024, of record in Instrument No. 20240326-0020917, Register's Office for Davidson County, Tennessee.

EXHIBIT B

Site Plan

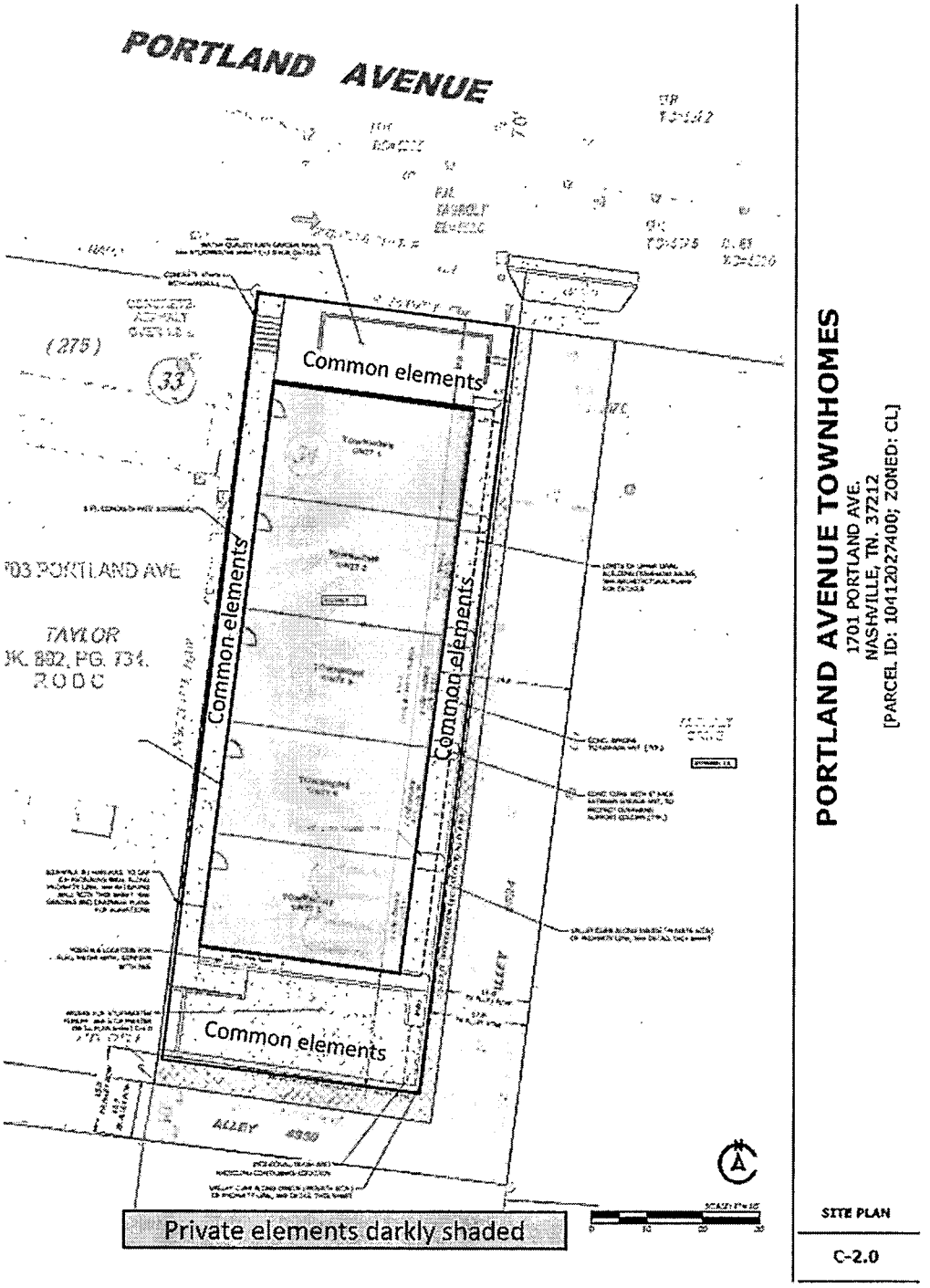


EXHIBIT C

BY-LAWS OF PORTLAND PLACE HOA, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is Portland Place HOA, Inc., hereinafter referred to as the "Association." The principal office of the Association shall be located at 4914 Charlotte Avenue., Nashville, TN 37209, but meetings of members and directors may be held at such places within the State of Tennessee, County of Davidson, as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

2.1. "Association" shall mean and refer to the non-profit Tennessee corporation known as Portland Place HOA, Inc., its successors and assigns.

2.2. "Board" means the Board of Directors of the Portland Place HOA, Inc., a Tennessee non-profit corporation.

2.3. "Common Elements" shall mean all real and personal property within the Property other than the Units (which include the Private Elements within the Units), which are now or hereafter owned by the Association. The Common Elements shall be held by the Association for the common use and enjoyment of the Unit Owners. The Common Elements shall include, but not be limited to, any common use grassy or lawn areas, streets, roadways, bridges, recreation area and equipment thereupon, culverts, parking areas, drainage structures and facilities, ponds, waterways, fences, sidewalks, curbs, gutters, signs, lights, utilities, electric or utility meters, and other improvements or other areas designated by the Board as being a Common Element. Common Elements, and all subsequent phases added to the provisions of this Declaration, shall be transferred to the Association. "Common Elements" as used herein shall also mean "General Common Elements" as set forth in the Act.

2.4. "Declarant" shall mean and refer to 1701 Portland, LLC, a Tennessee limited liability company, its heirs, successors and assigns.

2.5. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions & Restrictions applying to the Horizontal Property Regime with Private Elements located at 1701 Portland Avenue, Nashville, TN 37212, known as Portland Place, applicable to the Properties recorded in the Register's Office of Davidson County, Tennessee.

2.6. "Developer" means 1701 Portland, LLC, its successors and assigns, provided such successor or assigns are designated in writing by Developer, as a successor or assign of the rights of

Developer set forth herein.

2.7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

2.8. "Parcel" means the parcel or tract, or real estate attached to the Declaration of Covenants, Conditions & Restrictions applying to the Horizontal Property Regime with Private Elements located at 1701 Portland Avenue, Nashville, TN 37212, known as Portland Place, as **Exhibit A**. Upon annexation of additional phases into the provisions hereof, Parcel shall also mean the additional property so annexed.

2.9. "Private Elements" shall mean and include the Unit, the lot area upon which the Unit is located, and the improvements located thereon, and for which fee simple ownership and exclusive use is reserved to that Unit only. The area of the Private Elements is shown on the Site Plan attached as **Exhibit B** to the Declaration of Covenants, Conditions & Restrictions applying to the Horizontal Property Regime with Private Elements located at 1701 Portland Avenue, Nashville, TN 37212, known as Portland Place.

2.10. "Property" shall mean all the land and space comprising the Parcel, and all improvements and structures thereon, now or hereafter erected, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act. Upon annexation or additional phases into the provisions hereof, Property shall also mean and include the additional area so annexed.

2.11. "Site Plan" shall mean the site plan of the Parcel submitted to the provisions of the Act showing the number of each Unit, expressing its area, location and other data necessary for identification, including but not limited to, the area of the Private Elements upon which a Unit is located. A copy of said Site Plan being attached as **Exhibit B,** to the Declaration of Covenants, Conditions & Restrictions applying to the Horizontal Property Regime with Private Elements located at 1701 Portland Avenue, Nashville, TN 37212, known as Portland Place.

2.12. "Unit" means that part of the Property intended for individual ownership and use. Each individual Unit shall consist of all the improvements and space therein within the boundary lines for that Unit, as set out on the Site Plan, attached as **Exhibit B** to the Declaration of Covenants, Conditions & Restrictions applying to the Horizontal Property Regime with Private Elements located at 1701 Portland Avenue, Nashville, TN 37212, known as Portland Place.

2.13. "Unit Owner" means the entity, person or persons whose estates, or interests, individually or collectively, aggregate fee simple ownership of a Unit, and shall be deemed the same as a "co-owner" under the Act. The Developer shall be deemed a Unit Owner so long as the Developer is the titleholder of any Unit.

ARTICLE III
MEETING OF MEMBERS

Section 1: Eligibility. The members of Portland Place HOA, Inc., a Tennessee mutual benefit not-for-profit corporation (the "Association"), shall consist of the respective Unit Owners of Portland Place, a Horizontal Property Regime with Private Elements (the "Property").

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

Section 3: Annual Meeting. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held 30 days prior to August 1st of each year. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following, which is not a legal holiday. At the annual meeting, the Unit Owners shall elect Directors, receive report on the activities and financial condition of the Association, and transact such other business as may properly come before the meeting.

Section 4. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors or upon written request of the Members entitled to cast twenty-five (25%) percent of the votes of the Class A membership.

Section 5. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by hand delivery to the Member's residence or by mailing a copy of such notice, postage prepaid, at least five (5) days before said meeting to each Member entitled to vote. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the general purpose of the meeting.

Section 6. Quorum. Unless otherwise required by law, the presence at the meeting of Members entitled to cast, or of proxies entitled to cast, at least ten (10%) percent of the total votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 7. Voting Membership.

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

Class B. The Class B member shall be the Developer and shall be entitled to three (3) votes for each Unit owned. Class B membership shall cease and be converted to Class A membership when one hundred (100%) percent of the Units have been sold by the Developer.

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

Section 8. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of the Member's Unit.

Section 9. Voting Requirements. Except as otherwise provided in these By-Laws, the Declaration or the Act, action on any matter voted upon at a meeting of the Unit Owners is approved if a majority of the Unit Owners vote in favor of the action. However, Directors shall be elected by a plurality of the votes cast by the Unit Owners entitled to vote in the election at a meeting of the Unit Owners at which a quorum is present. Unit Owners shall vote in person or by proxy executed in writing by the Unit Owner. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Unit Owner of his Unit. No proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Unit Owner's vote shall be cast by the President of the Unit Owner corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation. Voting on all matters except the election of directors shall be by voice vote or by show of hands unless a majority of the Unit Owners present at the meeting shall, prior to the voting on any matters, demand a ballot vote on that particular matter. Where such directors or officers are to be elected by the Unit Owners, the official solicitation of proxies for such elections may be conducted by mail.

Section 10. Action by Written Consent. Action which is required or permitted to be taken at a meeting of the Unit Owners may be taken without such a meeting if all Unit Owners entitled to vote on the action consent to taking such action without a meeting. If all of such Unit Owners consent, the affirmative vote of the number of votes that would be necessary to authorize or take such action at a meeting shall be the act of the Unit Owners, except as otherwise provided in these By-Laws. Such consent (or counterpart(s) thereof) shall describe the action taken, be in writing, be signed by each Unit Owner entitled to vote on the action, indicate each signing Unit Owner's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes or Association records.

Section 11. Action by Written Ballot. Any action, which may be taken at any annual or special meeting of the Unit Owners, may be taken without a meeting, if the Association delivers a written ballot to every Unit Owner entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for, or against, each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total

number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

(a) Indicate the number of responses needed to meet the quorum requirements;

(b) State the percentage of approvals necessary to approve each matter other than election of Directors; and

(c) Specify the time by which the ballot must be received by the Association in order to be counted.

ARTICLE IV
BOARD OF DIRECTORS, TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors.

Section 2. Term of Office. The initial Board of Directors shall consist of three (3) directors and should be appointed by the Developer and shall serve terms of one year each. At the first annual meeting after the termination of Class B Membership, or such earlier time as the Developer determines in writing by notice to the Association, the members shall elect five (5) directors for varying terms as follows: two being elected for a one-year term, two being elected for two-year terms, and the third elected for a three-year term. After said initial election by the homeowner members, the term of each subsequently elected director shall be for a period of two years in order to allow experienced directors to remain on the Board.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Board of Director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for the actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of **all** the directors. Any action so approved shall have the same effect as being taken at a meeting of the directors.

ARTICLE V
NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a

Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than, the number of vacancies that are to be filled. Notwithstanding the above, the first nominating committee shall not be formed or begin to undertake its duties until within ninety (90) days of the expiration of the initial three-year term of directors.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI
MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held annually without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. 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 and the Property;

(c) To engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer, care, provide upkeep, surveillance and operate the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such

authority as the Board may approve; provided, however, that the first Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act a Managing Agent, for the Property for a term as approved by said first Board, but not to exceed two (2) years, and in accordance with the Declaration; provided further, that the Board shall not have the authority to adopt any form of management of the Property which excludes professional management by an independent agent without prior approval of a majority of all first mortgagees of Units;

(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 Unit 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 the maintenance, repair, and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the 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, but only as allowed by law;

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

(k) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Unit Owners (as said majority is defined in the Declaration), as expressed in a resolution duly adopted at any annual or special meetings of the Unit Owners;

(l) To resolve or mediate disputes, conflicts or problems between Unit Owners;

(m) When necessary, to interpret the rules and regulations of the Association and the Declaration;

(n) To exercise all other powers and duties of a board of administration as referred to in the Horizontal Property Act of the State of Tennessee and all powers and duties of the Board of Directors,

referred to in the Declaration or these By-Laws;

(o) To appoint and manage a landscaper to perform landscaping of the Common Elements and Limited Common Elements of Portland Place;

(p) To appoint and manage an exclusive waste service provider for Portland Place; and

(q) Nothing 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.

Section 2. Indemnification.

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

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

(c) Officer. With respect to claims or liabilities arising out of service as an officer of the Board of Directors of the Association, the Association shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as not in effect and as hereafter adopted or amended.

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

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

Section 3. Immunity. To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

ARTICLE VIII
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be chosen by the Board of Directors and shall be a President, a secretary, and such other officers as the Board may deem necessary.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The Officers of this Association shall be elected annually by the Board, and each shall hold office for one (1) year unless he/she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors, and of the Members and shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds and other written instruments, and shall sign all checks and promissory notes.

(b) Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members, shall serve notice of meetings of the Board of Directors and of the members, shall keep appropriate current records showing the members of

the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

(d) Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, and shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the members. If approved by the President, the Treasurer shall sign checks and promissory notes.

ARTICLE IX
COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose. Committees shall keep regular minutes of their meetings and shall report to the Board when required.

ARTICLE X
BOOKS AND RECORDS

Section1.Books and Vouchers. The Board shall keep detailed and accurate records in a book in chronological order of the receipts and expenditures affecting the Property, specifying, and itemizing the expenses incurred. Payment vouchers may be approved in such manner as the Board may determine. Said book and the vouchers shall be available for examination by all Unit Owners at convenient hours on working days which shall be set and announced for general knowledge.

Section 2. Statement of Account. 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 account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 3. Meetings and Actions Without Meetings. The Association shall keep as permanent records minutes of all meetings of its Unit Owners and Board of Directors, a record of all actions taken by the Unit Owners or Board of Directors without a meeting and all appropriate accounting records.

ARTICLE XI
ASSESSMENT

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, trash, landscaping, insurance, fuel, power and all other common expenses. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account any estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

Section 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as such Owner's respective monthly assessment for the common expenses, one-twelfth (1/12) of such Owner's proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with the proportion the Unit (as one unit) owned by such Unit Owner bears to the total number of Units subject to this Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of such Owner's respective monthly assessment as last determined. Each Unit Owner shall pay such Owner's monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Unit, the Common Elements, or the Private Elements. Nothing herein shall prohibit the Association from requiring said monthly assessments to be collected in advance on a quarterly, semi-annually or annual basis.

The Board of Directors of the Association shall fix the commencement date for monthly or annual assessments on the first day of the month following the conveyance of the first Unit from Developer to an Owner and shall provide for a partial assessment between the commencement date and the end of the calendar year next following. Thereafter, monthly or annual assessments shall be levied by the Board of Directors of the Association, by action taken on or before December 1 of each year for the ensuing year. The Board, in its discretion, may provide for the periodic payment of such assessments at some intervals other than monthly. Special assessments may be levied in any year for the purpose of defraying, in whole or part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Areas, if any, including fixtures and personal property related thereto; provided that the same are first approved by affirmative vote of Members entitled to cast at least two-thirds (2/3) of the votes at a meeting of the Members duly held for that purpose. Written notice of the monthly, annual or special assessment shall be mailed (by U.S. first class mail) to every Unit Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner, but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

The Assessments provided for herein shall be allocated according to Units. The Association at its option

may allow the payment of the annual assessment on a monthly or quarterly basis. From and after one year from the date hereof, the maximum annual assessment may be increased by the Board of Directors each year by an amount up to, but not in excess of ten (10%) percent of the maximum annual assessment for the previous year without a vote of the membership.

Notwithstanding any provision to the contrary in these By-Laws or the Declaration to which they are attached, and except for the contribution required in this paragraph, the Developer and any Successor Developer shall be exempt from the payment of assessments for any Units owned by the Developer, and any Successor Developer, until such time as the weighted voting rights provided by Section 3.1(b) of the Declaration no longer provide an automatic majority to the Developer or any Successor Developer. During the time that the Developer and any Successor Developer is exempt from the payment of assessments, the Developer, and any Successor Developer shall fund and pay any shortfall between the annual budget for the Association and the actual costs of operating and maintaining the Common Area and administering the Association. In order to secure payment of any such shortfall, there shall arise a continuing lien and charge in favor of the Association against all of the property owned by the Developer within the Property, the amount of which shall include interest at the maximum effective rate allowed by the law, costs and reasonable attorney's fees to the extent permissible by law. Said obligation to fund shortfalls, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Developer or Successor Developer at the time the shortfall occurred. The lien shall survive any transfer of title and the property shall remain subject to levy and execution. The Developer's, and any Successor Developer's, obligation to fund any such shortfall shall terminate at such time as the Developer's, and any Successor Developer's, weighted voting rights no longer provide an automatic majority to the Developer or any Successor Developer.

Section 3. Partial Year or Month. For the first fiscal year and thereafter until the first Board is elected, the annual budget shall be approved by the Interim 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. Each Unit Owner shall pay such Owner's assessment for the following month or fraction of a month, which assessment shall be in proportion to the Owner's respective ownership interest in the Association and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

Section 4. Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner, and to any other party required by the Declaration, a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 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 common expenses and limited common expenses for the remainder of such year, will be inadequate, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency of the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon, a supplemental assessment shall be made to each Unit Owner for such Owner's proportionate share of such supplemental budget.

Section 6. Lien. It shall be the duty of every Unit Owner to pay such Owner's proportionate share of the common expenses and limited common expenses, as provided in the Declaration, and as assessed in the manner herein provided.

If any Unit Owner shall fail or refuse to make any such payment of the common expenses or limited common expenses when due, the amount thereof, together with interest thereon at the rate of ten (10%) percent per annum shall be due, together with a one time (per payment or per month) late fee in a minimum amount of $25.00, or such higher amount as the Association may determine, said late fee being assessed upon any payment received more than ten (10) days after its due date. Such overdue payment shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit Owner in the Property, provided, however, that such lien shall be subordinate to the lien of the recorded deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses and limited common expenses which are due and payable from and after the date on which such deed of trust beneficiary either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or forecloses on its deed of trust. The provisions of this paragraph of this Section 6 shall not be amended, changed, modified or rescinded in any way without the prior written consent of all such lien holders of record. The Association or its successors and assigns, and the Board or its agents, shall have the right to enforce the lien as provided in this Declaration, and there shall be added to the amount due the costs of any suit maintained to enforce the lien and other fees and expenses, together with legal interest and reasonable attorney's fees. Furthermore, if any Unit Owner shall fail or refuse to pay when due such Owner's proportionate share of the common expenses or limited common expenses and such Unit Owner withholds possession of such Owner's Unit after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Unit. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Horizontal Property Act, the Declaration or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

Section 7. 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 ownership. When fewer than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorney's fees, incurred by reason of such lien.

Section 8. Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners.

ARTICLE XII
CORPORATE SEAL

The Association shall have no corporate seal.

ARTICLE XIII
AMENDMENTS

Section 1. Amendment. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of not less than sixty-seven percent (67%) of the Unit Owners at a meeting duly called for such purpose, provided, however, that the contents of these By-Laws shall always contain those particulars that are required to be contained herein by the Act; and provided, however, that no modification or amendment to these By-Laws shall be valid unless set forth in an amendment to the Declaration.. These By-Laws may also be amended unilaterally by the Declarant at any time within ten years of the date of the execution of these By-Laws, or so long as Declarant owns any Units within the Property, whichever is longer. Any amendment to these By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

Section 2. Conflict. In the case of any conflict between the Declaration of Covenants, Conditions and Restrictions and these By-Laws, the Declaration of Covenants, Conditions and Restrictions shall control.

The foregoing constitutes the By-Laws of Portland Place HOA, Inc. as adopted and in full force and effect on the 25th day of JULY, 2024.

1701 PORTLAND, LLC

By: CHARLOTTE AVENUE PARTNERS, LLC, its sole member

By: _____
Joshua Hunt Ritter, Managing Member

By: Roddy Story
Roddy Story, Member

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STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, the undersigned Notary Public in and for said County and State aforesaid, personally appeared **Joshua Hunt Ritter**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Managing Member of Charlotte Avenue Partners, LLC, the sole member of **1701 Portland, LLC**, and being so authorized to do so, executed the foregoing instrument.

Witness my hand and official seal this the 25TH day of June, 2024.

Notary Public

My Commission Expires: 3/29/26

MARTIN AKIN
TENNESSEE
NOTARY
PUBLIC
COUNTY OF DAVIDSON

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, the undersigned Notary Public in and for said County and State aforesaid, personally appeared **Roddy Story**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a Member of Charlotte Avenue Partners, LLC, the sole member of **1701 Portland, LLC**, and being so authorized to do so, executed the foregoing instrument.

Witness my hand and official seal this the 25th day of July, 2024.

Notary Public

State of: Texas County of: Waller

My Commission Expires: 07/06/2025

NOTARY PUBLIC STATE OF TEXAS

Shelbi Falcon
ID NUMBER
133202451
COMMISSION EXPIRES
July 6, 2025

Electronically signed and notarized online using the Proof platform.

EXHIBIT D

ATTORNEY'S OPINION

As an attorney licensed to practice law in the State of Tennessee, I hereby state in my opinion, all legal document requirements required under the terms of the Tennessee Horizontal Property Act for creation of a planned unit development are being recorded as of the date of recording of this opinion. Having recorded said documents, a planned unit development is deemed to have been properly organized under the terms of the Horizontal Property Act, T.C.A. § 66-27-101 et seq.

Witness my hand this 25th day of July, 2024.

IVEY TITLE, LLC

By: Margaret H. Taylor
Margaret H. Taylor, Attorney