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DECLARATION OF CONDOMINIUM

FOR

THE SOBRO, A CONDOMINIUM

Karen Johnson Davidson County
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TABLE OF CONTENTS

ARTICLE 1. NAME.. 2
ARTICLE 2. DEFINITIONS..... 2
ARTICLE 3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS 11
ARTICLE 4. UNITS AND BOUNDARIES 11
Section 4.1. Unit Description and Interests 11
Section 4.2. Unit Boundaries 11
ARTICLE 5. COMMON ELEMENTS 14
ARTICLE 6. LIMITED COMMON ELEMENTS..... 14
ARTICLE 7 ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES. 16
ARTICLE 8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.. 16
ARTICLE 9. ASSOCIATION RIGHTS AND RESTRICTIONS..... 16
ARTICLE 10. ASSESSMENTS..... 18
Section 10.1. Purpose of Assessments..... 18
Section 10.2. Types of Assessments 18
Section 10.3. Annual Budget and Annual Assessment..... 18
Section 10.4. Special Assessments 20
Section 10.5. Specific Assessments..... 20
Section 10.6. Payment of Assessments 20
Section 10.7. Creation of the Lien and Personal Obligation for Assessments 21
Section 10.8. Non-Payment of Assessments..... 21
Section 10.9. Surplus Funds and Common Profits 22
Section 10.10. Statement of Account..... 23
ARTICLE 11. INSURANCE..... 23
Section 11.1. Generally..... 23
Section 11.2. Property Insurance. 24
Section 11.3. Liability Insurance 25
Section 11.4. Annual Review and Allocation of Costs Between Units 26
Section 11.5. Coverage Requirements..... 27
Section 11.6. Other Required Insurance 28
Section 11.7. Liability Insurance Maintained by Unit Owners 28
Section 11.8. Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies..... 30
Section 11.9 Insurance Requirements for Contractors 32
Section 11.10. Application of Deductibles 32
ARTICLE 12. REPAIR AND RECONSTRUCTION..... 32
Section 12.1. General... 32
Section 12.2. Cost Estimates..... 32
Section 12.3. Source and Allocation of Proceeds..... 32

Section 12.4. Floor Plans and Specifications 33
Section 12.5. Encroachments 33
Section 12.6. Construction Fund 34
Section 12.7. Delegation 34

ARTICLE 13. ARCHITECTURAL CONTROLS. 34

Section 13.1. Alterations to a Unit 34
Section 13.2. Signs and Flags 35
Section 13.3. Encroachments onto Common Elements 37
Section 13.4. Subdivision of a Unit 37
Section 13.5. Relocation of Boundaries 37
Section 13.6. Applications and Appeals 38
Section 13.7. Condition of Approval 42
Section 13.8. Limitation of Liability 42
Section 13.9. No Waiver of Future Approvals 42
Section 13.10. Enforcement 42
Section 13.11. Approval of Contractors 43
Section 13.12. Standards of Work, Reconstruction and Maintenance 43

ARTICLE 14. USE RESTRICTIONS 45

Section 14.1. Use of the Units 45
Section 14.2. Prohibited Uses 45
Section 14.3. Rubbish, Trash, and Garbage 47
Section 14.4. Ventilation of Cooking Apparatus 47
Section 14.5. Use of the Roofs 47
Section 14.6. Limitation of Damage, Nuisance, Noise, and Vibration 48
Section 14.7. Use of Limited Common Elements 48
Section 14.8. Abandoned Personal Property 49
Section 14.9. Loading Dock 49
Section 14.10. Garage 49
Section 14.11. Pest Control 52
Section 14.12. Sidewalk Areas 52
Section 14.13. Limitations on Use of Certain Shared Rooms 53
Section 14.14. No Smoking 53

ARTICLE 15. MAINTENANCE AND SERVICE RESPONSIBILITY 54

Section 15.1. Maintenance By Unit Owner 54
Section 15.2. Maintenance By Association 55
Section 15.3. Utility and Service Systems 56
Section 15.4. Life-safety Systems 56
Section 15.5. Sidewalk Areas 56
Section 15.6. Failure to Maintain 56
Section 15.7. Mold Disclosure and Waiver 57
Section 15.8. Association Inspection Obligations 58
Section 15.9. Unit Owner Inspection Rights 59

ARTICLE 16. MORTGAGEE RIGHTS 59

Section 16.1 Consent Required 59
Section 16.2. Assessments 60
Section 16.3. Notices 60
Section 16.4. Duplicative Notices 60
Section 16.5. No Priority 61
Section 16 6. Notice to Association 61
Section 16.7. Failure of Mortgagee to Respond 61
Section 16 8. Cure Rights 61
Section 16.9. No Invalidity of Mortgage Lien 61
Section 16.10. Construction 61

ARTICLE 17. DEFAULT AND REMEDIES 62

Section 17.1. Remedies Cumulative 62
Section 17.2. Authority and Enforcement 62
Section 17.3. Fining and Suspension Procedure 62
Section 17.4. Self-Help Rights 64
Section 17.5. Conditions of Self-Help Rights 64

ARTICLE 18. COMPLIANCE WITH LAWS AND ZONING 65

Section 18.1. Compliance with Laws and Covenants 65
Section 18.2. Environmental 66
Section 18 3. Unit Owner's Indemnity 66
Section 18.4. Zoning Compliance 67

ARTICLE 19. GENERAL PROVISIONS 68

Section 19.1. Dispute Resolution 68
Section 19.2. Declarant Services 68
Section 19.3. Enforcement 69
Section 19.4. Parking Spaces and Vehicles 69
Section 19.5. No Third Party Beneficiaries 69
Section 19.67 Successor-in-Title 70
Section 19.8. Notices 70
Section 19.9. Security 70
Section 19.10. Disclosures 71
Section 19.11. Conflict 71

ARTICLE 20. EMINENT DOMAIN 71

Section 20.1. Common Elements Taken 71
Section 20.2. Unit Taken 72
Section 20.3. Mortgagee Notice 72

ARTICLE 21. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS 72

Section 21.1. Utilities - Blanket Easement 72
Section 21.2. Surface Water Drainage and Runoff 73
Section 21.3. Utility and Service Systems - Blanket Easement 73
Section 21.4. Blanket Easement for Lateral and Subjacent Support; Utility and

Service Systems; Party Walls and Encroachments 73
Section 21.5. Emergency - Blanket Easement 75
Section 21.6 Access Easements Benefiting the Association 75
Section 21.7. Commonly Metered-Used Items 75
Section 21.8. Cooperation 75
Section 21.9. Damages Resulting From the Exercise of Easement Rights 76
Section 21.10. Easements Affecting the Garage Unit 76
Section 21.11 Easements Related to Valet Services 76

ARTICLE 22. AMENDMENT 76
ARTICLE 23. SEVERABILITY 77

EXHIBITS

SUBMITTED PROPERTY - "A"

PERCENTAGE INTERESTS- "B"

FLOOR PLANS AND PLAT - "C"

DISCLOSURES - "D"

PARKING REGULATIONS – "E"

BYLAWS - "F"

SPECIAL COST ALLOCATION – "G"

SPECIAL CONTRACTUAL ARRANGEMENTS – "H"

BUILDING UTILITY AND SERVICE SYSTEMS – SCHEDULE 2.12

LIMITED COMMON ELEMENTS – SCHEDULE 2.42

UNIT UTILITY AND SERVICE SYSTEMS – SCHEDULE 2.69

DECLARATION OF CONDOMINIUM

FOR

THE SOBRO, A CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM FOR THE SOBRO, A CONDOMINIUM (the "Declaration") is made the date set forth below by **205 D OWNER, LLC**, a Delaware limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property located in Davidson County, Tennessee and is described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"), upon which is located improvements (the "Building") consisting of (i) three hundred thirteen (313) multifamily dwelling units containing in the aggregate approximately Three Hundred Five Thousand Seven Hundred Thirty-Three (305,733) square feet (the "Residential Component"), (ii) four (4) separate and distinct spaces within the Building devoted to commercial retail operations (the "Retail Component"), and (iii) a multi-level parking garage containing approximately five hundred three (503) parking spaces and approximately One Hundred Eighty-Eight Thousand Three Hundred Twenty-Nine (188,329) square feet (the "Garage Component"); and

WHEREAS, it is the intent of Declarant to create a condominium with six (6) units consisting of (i) a master residential unit that will include all of the portions of the Building that comprise the Residential Component (the "Master Residential Unit"); (ii) a retail unit being that portion of the Building and Retail Component identified on the Plat (defined below) as Retail Unit A ("Retail Unit A"); (iii) a retail unit being that portion of the Building and Retail Component identified on the Plat as Retail Unit B ("Retail Unit B"); (iv) a retail unit being that portion of the Building and Retail Component identified on the Plat as Retail Unit C ("Retail Unit C"); (v) a retail unit being that portion of the Building and Retail Component identified on the Plat as Retail Unit D ("Retail Unit D", and together with Retail Unit A, Retail Unit B and Retail Unit C collectively the "Retail Units"); and (vi) a parking garage unit being that portion of the Building and the Garage Component identified on the Plat as the Garage Unit (the "Garage Unit"); and

WHEREAS, a plat of survey for the Condominium prepared by Barge Design Solutions ("Barge") dated December 6, 2024 is attached hereto as Exhibit "C" and incorporated herein; and

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

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto, including the improvements thereon, to the provisions of this Declaration and to the Tennessee Condominium Act; and

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements located and to be located thereon, is hereby submitted and made subject to the form of ownership set forth in the Tennessee

Condominium Act, and is hereby subjected to the provisions of this Declaration. By virtue of the recording of this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the provisions of the Tennessee Condominium Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth and/or described in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all Persons having any right, title or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors in title and assigns, and shall be for the benefit of all owners of the property subject to this Declaration.

ARTICLE 1. NAME

The name of the condominium is The SoBro, A Condominium (hereinafter referred to as the "Condominium", as further defined herein), which condominium is hereby submitted to the Tennessee Condominium Act of 2008.

ARTICLE 2. DEFINITIONS.

Generally, terms used in this Declaration, the Bylaws, and the Charter shall have their normal, generally accepted meanings or the meanings given in the Act or the Tennessee Nonprofit Corporation Act Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws, and the Charter shall be defined as follow:

Section 2.1. Act shall mean the Tennessee Condominium Act of 2008, Section 66-27-201, *et seq* , Tenn. Code Ann., as may be amended from time to time.

Section 2.2. Annual Assessment shall mean the assessment to be uniformly levied by the Board against each Unit as more particularly described in Section 10.3 hereof.

Section 2.3. Appeal Professional shall mean an architect, engineer, or other professional having the appropriate skills and knowledge to review appeals as contemplated in Section 13.6(b)(vii) hereof. The Person entitled to appoint an Appeal Professional shall take into consideration the subject matter and circumstances of the applicable appeal in determining the appropriate type of professional to appoint for such appeal.

Section 2.4. Appeal Professional Appointment Deadline Date shall have the meaning set forth in Section 13.6(b) below.

Section 2.5. ARC or Architectural Review Committee shall mean that certain committee composed of six (6) members responsible for reviewing applications as provided in this Declaration, with the Owner of each Unit entitled to appoint and remove one (1) member (it being expressly understood that the same individual may represent one or more Units on the ARC, with any such individual member of the ARC being entitled to the voting rights allocated to the Units represented by such individual member). The voting rights of each member of the ARC shall be in accordance with the number of votes allocated to the Owner represented by such member as set forth Exhibit "B" of this Declaration.

Section 2.6. ARC Appeal Notice shall have the meaning set forth in Section 13.6(a) below.

Section 2.7. ARC Architect Appointment Deadline Date shall have the meaning set forth in Section 13.6(a) below.

Section 2.8. Association shall mean The SoBro Condominium Association, Inc., a Tennessee nonprofit corporation, its successors or assigns.

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

Section 2.10. Board or Board of Directors shall mean the board of directors of the Association, which shall be the body responsible for management and operation of the Association.

Section 2.11. Building shall have the meaning set forth in the Recitals, as located on the Condominium and as more particularly shown on the Floor Plans and Plat.

Section 2.12. Building Utility and Service Systems shall mean those Utility and Service Systems in the Condominium that are not a Unit Utility and Service System. Without limiting the generality of the foregoing, Building Utility and Service Systems include, without limitation, the Utility and Service Systems set forth on Schedule 2.12 attached hereto.

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

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

Section 2.15. Common Elements shall mean those portions of the Condominium other than the Units and Limited Common Elements, including specifically those shown on the Floor Plans as "Common Element." Without limiting the generality of the foregoing, the Common Elements include, without limitation, Life-safety Systems, mechanical closets, gas or other utility lines that provide gas or other utility services to all Units in the Building, sump pumps and exhaust fans; unless, however, any of the aforesaid items are identified as being a part of a Unit or Limited Common Elements on the Floor Plans.

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

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

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

Section 2.19. Condominium Instruments shall mean this Declaration, all exhibits to this Declaration, and the Plat and Floor Plans, all as may be supplemented or amended from time to time.

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

Section 2.21. Declarant shall mean 205 D Owner, LLC, a Delaware limited liability company, its successors and assigns and any other Person as further set forth in Section 66-27-203(10) of the Act, provided such successors and/or assigns are designated in writing by Declarant as a successor and/or assign of the rights of Declarant set forth herein.

Section 2.22. Effective Date shall mean the date on which this Declaration is recorded in the Official Records.

Section 2.23. Electronic Document shall mean information created, transmitted, received or stored by electronic means and retrievable in human perceivable form, including, but not limited to e-mail, web pages, electronic documents and facsimile transmissions.

Section 2.24. Electronic Signature shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature

Section 2.25. Emergency shall have the meaning ascribed thereto in Section 17.3(a) of this Declaration

Section 2.26. Emergency CapEx Expenditures shall have the meaning ascribed thereto in section 10.3(e) of this Declaration.

Section 2.27. Environmental Laws shall mean and include all present and future federal, state or local laws, rules orders ordinances and regulations pertaining to environmental regulation or the use, processing, storage disposal, generation or transportation of Hazardous Substances or any contamination, cleanup or disclosure related thereto, including, but not limited to, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C § 9601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. and such regulations as may be promulgated with respect thereto, including, but not limited to the regulations contained in 40 CFR Part 280.

Section 2.28. Essential Expenditures shall have the meaning ascribed to such term in Section 10.3(c) of this Declaration.

Section 2.29. External Sidewalk Area shall mean any sidewalk area adjacent to the Submitted Property (and not part of the Submitted Property) upon which an Owner obtains permission from the municipality or other governmental entity owning such sidewalk adjacent to the Submitted Property to utilize such area for outdoor seating, display of merchandise, and/or other commercial purposes

Section 2.30. Floor Plans shall mean the floor plans for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein.

Section 2.31. Garage Driveway shall mean the area or areas designated as the Garage Driveway on the Plat attached hereto as Exhibit "C".

Section 2.32. Garage Elevator Bank shall mean the two (2) elevators located in the elevator lobby on Lower Level 1 adjacent to the Garage Unit.

Section 2.33. Garage Unit shall have the meaning set forth in the Recitals of this Declaration and as described on the Plat.

Section 2.34. Hotel Guests shall mean Occupants of Hotel Rooms included in the Master Residential Unit.

Section 2.35. Hotel Rooms shall mean any dwelling units or rooms within the Master Residential Unit that are dedicated to or utilized by the Owner of the Master Residential Unit for rental to Hotel Guests for Hotel Operations.

Section 2.36. Hotel Operations shall mean and refer to the operation of a hotel facility in all or portions of the Master Residential Unit, as determined from time to time by the Owner of the Master Residential Unit.

Section 2.37. Hazardous Substances shall mean those substances now or hereafter included within (whether as a result of such substance's inclusion on a list, physical characteristics or otherwise) any of the definitions of "hazardous substances", "hazardous waste", "hazardous materials", "pollutant", "contaminant" or "toxic substance" under or otherwise regulated by, any Environmental Laws; including, but not limited to (a) mixtures containing listed Hazardous Substances and waste generated from the treatment, storage or disposal of Hazardous Substances, (b) asbestos, (c) polychlorinated biphenyls, (d) radioactive materials and (e) petroleum (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas and synthetic gas.

Section 2.38. Inner Sidewalk Area shall mean any sidewalk area within the Submitted Property, as shown on the Floor Plans.

Section 2.39. Insurance Shortfall Payment shall mean the amount of money assessed to one (1) or more of the Owners, as applicable, subsequent to a casualty, which damages and/or destroys all of any portion of the Condominium, as contemplated in Section 12.3 hereof.

Section 2.40. Legal Requirements shall mean all applicable federal, state and local laws, orders, rules and regulations.

Section 2.41. Life-safety Systems shall mean those systems designed to protect the Building and its Occupants from emergencies, including, but not limited to, pumps, control valves, smoke alarms, horns, strobes, emergency lighting, smoke evacuation or exhaust systems, sprinklers (including stand pipes, fire pumps and control valves, foremen's control and enunciator panels and related facilities), call boxes, emergency generators and other related improvements,

devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.42. Limited Common Element shall mean a portion of the Common Elements reserved for the exclusive use of less than all Units. The Limited Common Elements include, without limitation, the Limited Common Elements specified on Schedule 2.42 attached hereto.

Section 2.43. Major Decision means any action with respect to any matter coming before the Association or the Board, or initiated by the Association or an Owner relating to:(a) any matters, including without limitation, architectural or aesthetic changes to the exterior of the Building or structural changes to the Building, that could reasonably be expected to have a Material Adverse Effect on another Owner or another Owner's Unit;

(b) any capital expenditures, the cost of which will be charged to the affected Owner(s), unless such capital expenditures are required by Legal Requirements, have been authorized pursuant to the annual budget approved in accordance with Section 10.3 hereof, or are Emergency CapEx Expenditures;

(c) any expenditure(s) to be charged to the affected Owner(s), other than Essential Expenditures, expenditures authorized pursuant to the annual budget approved in accordance with Section 10.3 hereof, or expenditures required by Legal Requirements;

(d) the adoption of any rules and regulations inconsistent with the uses permitted or prohibited under this Declaration,

(e) the creation of any Building Utility and Service System(s), except for those that are either (i) approved by a Supermajority vote of impacted Owners or (ii) itemized on Schedule 2.12 attached hereto;

(f) any recharacterization of a Limited Common Element into a Common Element;

(g) any alteration to an Owner's Unit, Percentage Interest, ownership of Common Elements, or responsibility for Common Elements;

(h) any right of an Owner to appoint members of the Board or the ARC;

(i) subject to the easements set forth in Article 21 below, the granting of any easement or license or entering into any operating agreement (1) for the Common Elements or Limited Common Elements that has a Material Adverse Effect on another Owner or another Owner's Unit, or (2) for any portion of an Owner's Unit,

(j) entering into any contract(s) with a vendor having a total expenditure of $100,000.00 or more, or amending or modifying such contracts that are substantially different than market terms, the cost of which would be charged to more than one Owner, except to the extent authorized pursuant to the annual budget approved pursuant to Section 10.3 hereof;

(k) any decision by the Board or the Association that will have a Material Adverse Effect on a Unit or a disproportionate impact on such Unit in comparison to other Units, unless the disproportionately impacted Owner consents;

(l) borrowing money on behalf of the Association unless such borrowing is authorized and approved by a Supermajority vote of the Owners;

(m) suspending the voting privileges of an Owner, except as expressly set forth in Section 17.5 below;

(n) filing bankruptcy on behalf of the Association unless such filing is authorized and approved by a Supermajority vote of the Owners;

(o) agreeing to or acquiescing in the appointment of a receiver for the Association unless such appointment is authorized and approved by a Supermajority vote of the Owners;

(p) waiving any material obligation or breach by a Unit Owner under the Condominium Instruments without the approval of the non-defaulting Unit Owners by Majority vote of the non-defaulting Unit Owners, and

(q) entering into joint agreements and contracts with any Owner or its affiliate for the provision of services, including, without limitation, management, landscaping, porter, utilities, amenities, concierge and property monitoring services, without the approval of the disinterested Owners by a Majority vote of the disinterested Owners.

Section 2.44. Majority means more than fifty percent (50%) of the total eligible number.

Section 2.45. Master Residential Unit shall have the meaning set forth in the Recitals of this Declaration and as described on the Plat.

Section 2.46. Material Adverse Effect means any act, event, condition or circumstance that could materially and adversely affect the business, operations, condition (financial or otherwise), or value of a Unit. For avoidance of doubt, any work or activities performed solely within the confines of a Unit that is not otherwise in violation of this Declaration or any approvals issued by the Board and that does not impact any other Units or Common Elements will not be deemed to have a Material Adverse Effect

Section 2.47. Minimum Residential Parking Space Requirement shall mean and refer to one hundred (100) unreserved parking spaces maintained for use by the Master Residential Unit and its Permittees.

Section 2.49. Mold shall collectively mean mold, mildew, fungi, mycotoxins, and/or microbiological organisms.

Section 2.49. Mortgage shall mean any deed of trust, deed to secure debt, mortgage or other similar instrument filed in the Official Records that encumbers a Units or all or a portion of any of the Units as reflected in the Official Records

Section 2.50. Mortgagee or Mortgage Holder shall mean the holder of any Mortgage.

Section 2.51. Notice of Application Completion shall mean that certain written notice to an applicant from the ARC or Association, as applicable, that a complete application and all required information has been received by the ARC or Association, as applicable.

Section 2.52. Occupant (or Occupants, in the plural) shall mean any Person, including any Unit Owner having a right to occupy or use all or any portion of a Unit for any period of time.

Section 2.53. Official Records shall mean the official land records of the Register's Office for Davidson County, Tennessee.

Section 2.54. Owner shall mean the record titleholder of a Unit but shall not include a Person who is only a Mortgagee. A Mortgagee who forecloses or otherwise takes ownership of a Unit shall be deemed an Owner upon the acquisition of such ownership. The term "Owner" shall refer to the owner of a particular Unit and the term "Owners" shall refer collectively to the owners of all of the Units. As used in this Declaration, the term "Unit Owner" shall have the same meaning as the term "Owner."

Section 2.55. Percentage Interests shall mean the undivided ownership percentage interest in the Common Elements appurtenant to each Unit as set forth in Exhibit "B" to this Declaration.

Section 2.56. Permitted Overnight Delivery shall mean delivery of any notice that satisfies the following:

(a) Such notice is delivered through the United States Postal Service or through a commercial firm which is regularly engaged in the business of document delivery or document and package delivery;

(b) The terms of the sender's engagement of the services of the United States Postal Service or commercial firm call for the document to be delivered not later than the next business day following the day on which it is received for delivery by the United States Postal Service or the commercial firm; and

(c) The sender receives from the United States Postal Service or the commercial firm a receipt acknowledging receipt of the document which receipt is signed by the addressee or an agent of the addressee.

Section 2.57. Permittee (or Permittees in the plural) shall mean any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contractor of an Owner, Occupant, or Declarant, as applicable.

Section 2.58. Person shall mean any individual, corporation, limited liability company, firm, association, partnership, trust or other legal entity.

Section 2.59. Plat shall mean the plat for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein.

Section 2.60. Property Monitoring and Access Systems shall mean those systems designed to control access and provide surveillance of the Condominium, including, without limitation, all card readers, closed-circuit televisions cameras, alarm sensors, control panels and related equipment, devices and improvements, and other related improvements, devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.61. Residential Elevator Bank shall mean the bank of three (3) elevators located on the Lobby Level.

Section 2.62. Retail Unit A shall have the meaning set forth in the Recitals of this Declaration and as described on the Plat.

Section 2.63. Retail Unit B shall have the meaning set forth in the Recitals of this Declaration and as described on the Plat.

Section 2.64. Retail Unit C shall have the meaning set forth in the Recitals of this Declaration and as described on the Plat.

Section 2.65. Retail Unit D shall have the meaning set forth in the Recitals of this Declaration and as described on the Plat.

Section 2.66. Retail Units shall have the meaning set forth in the Recitals of this Declaration.

Section 2.67. Review Standards shall mean the following standards: consistency with the first class quality, appearance and design of the Building in terms of the materials used, their arrangement in space, their relationship and consistency with the existing Building and their quality; and harmony with the external design of other structures in the vicinity of the Condominium.

Section 2.68. Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

Section 2.69. Signage Band shall mean and refer to any areas that are, as of the date of recording of this Declaration, utilized for signage on the exterior of the Building, together with any areas that are specifically reserved for signage as shown on the Floor Plans

Section 2.70. Special Assessment shall mean an assessment uniformly levied by the Board against all Units in accordance with their respective Percentage Interests to fund an expense of the Association not included in the annual budget or to otherwise fund a shortfall in the operating account of the Association.

Section 2.71. Specific Assessment shall mean an assessment levied by the Board against a Unit as permitted in Section 66-27-414 of the Act or elsewhere in the Act as provided below:

(a) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be specifically assessed against the Unit(s) to which that Limited Common Element is allocated;

(b) Any Common Expense or portion of the Common Expense benefiting fewer than all of the Units may be specifically assessed exclusively against the Unit(s) benefited in accordance with such Unit(s) Percentage Interest (as recalculated in proportion to the Percentage Interests of the applicable Unit(s) so that one hundred percent (100%) of the applicable Common Expense is assessed to the applicable Unit(s));

(c) The costs of insurance may be specifically assessed in proportion to risk and the factors in described in Section 11.4 below;

(d) The costs of any common utilities shall be specifically assessed in proportion to usage;

(e) If any Common Expense is caused by the misconduct of any Unit Owner, the Association may specifically assess that expense exclusively against the Owner's Unit; and

(f) Fines and other charges assessed against less than all the Units shall be deemed Specific Assessments.

Section 2.72. Special Cost Allocation shall mean and refer to any cost or expense included in the list of costs and expenses set forth in Exhibit "G" attached hereto that is and shall be allocated among the Owners (or the specified group of Owners) based upon percentages other than Percentage Interests of the Owners, as reflected in Exhibit "G."

Section 2.73. Supermajority means not less than sixty seven percent (67%) of the total eligible number.

Section 2.74. Submitted Property shall mean all that tract or parcel of land located in Nashville, Davidson County, Tennessee and being more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, and any improvements therein.

Section 2.75. Telecommunications Activity shall mean construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of Telecommunications Equipment.

Section 2.76. Telecommunications Equipment shall mean telecommunications equipment, including without limitation, broadcast antennae and related equipment, cell tower

equipment, or other wireless communication antennae and related equipment, cable or satellite television equipment and equipment for high-speed internet access.

Section 2.77. Unit shall mean those portions of the Condominium intended for separate ownership.

Section 2.78. Unit Utility and Service Systems shall mean those Utility and Service Systems exclusively serving one (1) Unit and not connected to any Utility and Service Systems that serves the Common Elements or another Unit. Without limiting the generality of the foregoing, Unit Utility and Service Systems include, without limitation, the Utility and Service Systems set forth on Schedule 2.69 attached hereto.

Section 2.79. Utility and Service Systems shall mean all systems and facilities for water, air, ventilation, smoke evacuation, emergency generator, air conditioning and heating (including, without limitation, refrigerant lines, chilled water lines, electric lines, thermostatic control lines and related facilities), natural gas, steam, electricity, energy, drainage, sewage, grease trap, communications, and other utilities and all chutes, flues, ducts, conduits, pipes, lines, utility meters, wiring and all similar components, or other conduit, raceways and other pathways relating to any of the foregoing (including, without limitation, closed circuit television lines, high speed internet lines and fiber optic cable lines). Property Monitoring and Access Systems and Life-safety Systems shall be deemed Utility and Service Systems.

Section 2.80. Valet Easement Areas shall mean those areas which may be designated on an updated version of the Plat pursuant to Section 21.12(a).

Section 2.81. Valet Provider shall mean any entity engaged in the business of providing Valet Services.

Section 2.82. Valet Services shall mean valet parking services as provided by a Valet Provider.

ARTICLE 3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS

The Submitted Property subject to this Declaration and the Act is located in Nashville, Davidson County, Tennessee, being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference. The Plat and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

ARTICLE 4. UNITS AND BOUNDARIES

Section 4.1. Unit Description and Interests. The Condominium shall be divided into six (6) Units and Common Elements, some which may be allocated as Limited Common Elements. Each Unit consists of its defined space together with an undivided Percentage Interest in the Common Elements appurtenant thereto.

Section 4.2. Unit Boundaries. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units shall have the following boundaries and are depicted on the Plat and the Floor Plans:

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be as follows:

(i) Except as otherwise provided herein, the perimetrical or vertical boundaries of each Unit shall be the vertical plane located on each side (the outermost line or boundary) of the applicable Unit as shown on the Plat perpendicular to the lower and upper horizontal planes, from the lower boundary of the applicable Unit to the upper boundary of the applicable Unit, as described below. For the avoidance of doubt, the perimetrical or vertical boundaries of a Unit located along an exterior wall of the Building shall be deemed to be the exterior surface of such exterior wall.

(ii) To the extent a Unit is bounded by glass exterior, glass windows or doors, the exterior glass windows or doors shall be deemed part of the Unit and the perimetrical or vertical boundaries of the Unit shall be the vertical plane formed by the outermost exterior surface of the glass surface (with the glass itself and window mullion constituting part of the Unit).

(iii) With respect to common walls between Units or between a Unit and Common Element interior improvements, the perimetrical or vertical boundary of the Unit served thereby shall be the centerline of such wall.

(b) Horizontal Boundaries. The horizontal boundaries of each Unit shall be as follows:

(i) Except as otherwise provided herein, the upper horizontal boundary of a Unit is the horizontal plane seventy-five (75) feet above the lowermost surface of the uppermost horizontal concrete slab on the level on which the Unit is located. Notwithstanding the foregoing, if a Unit (or a portion of such Unit) is located directly below the lower horizontal boundary of another Unit, the upper horizontal boundary for such Until shall be the lowermost surface of the uppermost horizontal concrete slab of the level on which such Unit is located. The lower horizontal boundary of a Unit is the horizontal plane formed by the uppermost surface of the lowermost horizontal concrete slab on the level on which the Unit is located, with any portion of the slab below the uppermost surface of such slab not constituting part of the Unit.

(ii) With respect to the portions of a Unit located on level 1 of the Building, the lower horizontal boundary of such portions of the Unit shall be the horizontal plane formed by the uppermost surface of the soil surface, with any concrete slab and flooring constituting part of such Unit

(iii) With respect to any portion of a Unit located directly below any roof of the Building, the upper horizontal boundary of such portion of the Unit is the uppermost exterior surface of the roof, with all roof materials constituting part of the Unit.

(iv) Notwithstanding anything to the contrary herein, in the event a portion of a Unit is located on a level of the Building directly above another portion of the same Unit located on the level below, there shall not be deemed to be any horizontal boundary between the portions of the same Unit.

(c) Additional Information to Interpret Unit Boundaries.

(i) Except as may be otherwise provided for herein, the Unit boundaries shall exclude any portion of the Common Elements that may be located within such Unit's boundaries as described in Section 4.2(a) and 4.2(b) above.

(ii) Any elevator (including, but not limited to elevator cab, elevator shafts, elevator pits, and all related mechanical and electrical rooms and/or systems) exclusively serving a Unit, as shown on the Floor Plans, shall be deemed part of such Unit. Notwithstanding the foregoing, and for the avoidance of doubt: (A) the Residential Elevator Bank shall be deemed to be Limited Common Elements appurtenant and exclusive to the Master Residential Unit; and (B) the Garage Elevator Bank shall be deemed to be Limited Common Elements appurtenant to the Garage Unit, the Master Residential Unit and Retail Unit D, subject, however to a Special Cost Allocation.

(iii) Any stairwell exclusively serving a Unit, as shown on the Floor Plans, shall be deemed part of such Unit.

(iv) The first through tenth floors of the stairwell located on the north side of the Building adjacent to the Garage Elevator Bank and shown on the Lobby Level sheet of the Floor Plans shall be deemed to be Limited Common Elements appurtenant to the Garage Unit, the Master Residential Unit and Retail Unit D, subject, however, to a Special Cost Allocation. All floors of such stairwell above the tenth floor shall be deemed to be Limited Common Elements exclusive to the Master Residential Unit.

(v) The entry vestibule from Demonbreun Street located on the north side of the Building between the sidewalk of the Building and the Garage Elevator Bank and shown on the Lobby Level sheet of the Floor Plans shall be deemed to be Limited Common Elements appurtenant to the Garage Unit, the Master Residential Unit and Retail Unit D, subject, however to a Special Cost Allocation.

(vi) Any entry door (including exterior glass doors) exclusively serving a Unit shall be deemed part of the Unit so served.

(vii) The Unit Utility and Service Systems exclusively serving one (1) Unit shall be deemed part of such Unit.

(viii) Structural elements, including but not limited to structural columns, that support more than one (1) Unit shall not be part of any Unit, but shall be Common Elements.

(ix) In the event that there is a conflict between the boundaries of a Unit as described in this Section 4.2 and as shown on the Plat and the Floor Plans, the Plat and the Floor Plans shall control. It is the express intent of Declarant that the property described as being part of a Unit shall for all purposes herein be treated as and constitute a lawfully described "Unit" as that term is defined in the Act. In the event that there is a final judicial determination by a court of competent jurisdiction that the boundaries of a Unit or any portion thereof are so indefinite and vague so as to not create a legally constituted "Unit" within the meaning of the Act, then that portion of the Unit that has not been adequately described shall be severed from the property deemed a part of the Unit (if the remainder of the Unit, excluding the severed portion thereof, constitutes a properly described Unit under the Act) and shall thereafter be deemed to be Limited

Common Elements reserved to the exclusive use of said Unit, subject to the rights and obligations of other Unit Owners with respect to said property.

ARTICLE 5. COMMON ELEMENTS

(a) The Common Elements consist of all portions of the Condominium not constituting a part of a Unit. The Common Elements shall include, without limitation: all items identified as Common Elements on the Floor Plans; Inner Sidewalk Areas; Building Utility and Service Systems, including, without limitation, the pathway, piping, piping enclosure, and other parts of the system for the emergency generator exhaust; cooling towers; structural elements, including without limitation columns, chiller plant; main electrical room; garage elevator lobby, emergency electrical room; emergency generator room; parking manager office; gas meter room; fire command room; and fire pump room that support more than one (1) Unit and/or Common Elements. Notwithstanding any provision to the contrary stated herein, any door or doors enclosing any of the above-listed rooms or serving more than one (1) Unit shall be deemed a part of the Common Elements.

(b) Ownership of the Common Elements shall be by the Owners as tenants-in-common. Each Owner shall own an undivided Percentage Interest in and to the Common Elements attributable to the Unit owned by such Owner. Such undivided Percentage Interest ownership may be altered only by the consent of all Owners and their respective Mortgagees expressed in a duly recorded amendment to this Declaration, except as provided in Section 13.5 below which shall not require approval of the non-affected Owners or Mortgagees.

(c) The Common Elements shall remain undivided and no Unit Owner or any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Unit Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Unit Owners.

(d) In the event emergency generator exhaust causes any damage to the roof of any Unit (including, but not limited to, soot or other debris), the Association shall promptly repair such damage as a Common Expense to be allocated in the same manner as other Common Expenses related to the operation of the emergency generator exhaust

ARTICLE 6. LIMITED COMMON ELEMENTS

(a) General.

(i) Any Inner Sidewalk Area parallel and immediately adjacent to a Unit, as shown on the Floor Plans, is allocated as a Limited Common Element to such Unit;

(ii) Any Building Utility and Service System, or portion thereof, exclusively serving a single Unit or one or more, but less than all of the Units, is allocated as a Limited Common Element to the Unit (or Units) so exclusively served;

(iii) Any portions of the Common Elements on which there is initially constructed any portion of the air conditioning, heating, plumbing, ventilating, exhaust, mechanical, electrical, elevator or telecommunication systems exclusively serving a particular Unit are allocated as Limited Common Elements to the Unit or Units so served. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote but subject to the written consent of any affected Unit Owner (which consent shall not be unreasonably withheld), relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical or telecommunication systems serving a particular Unit, provided that (A) after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation, (B) if the relocation is to primarily benefit one Owner and not the Condominium as a whole, the cost of the relocation shall be specially assessed against the benefitting Owner, and (C) the Association shall use diligent efforts to minimize disruption to the affected Owner's Unit in connection with such utility relocation;

(iv) The Board of Directors is hereby authorized to allocate and to reallocate Limited Common Elements and Common Elements not previously allocated, provided that any such allocation or reallocation shall be made in accordance with the provisions of the Act and this Declaration, and provided that any such allocation shall be deemed to be a Major Decision and shall require the approval of all impacted Owners. A Common Element not previously allocated as a Limited Common Element may be so allocated upon written application to the Association by the Unit Owner or Unit Owners for whose exclusive use such Common Element is requested; provided, however, that any such allocation shall be deemed to be a Major Decision and shall require the approval of all impacted Owners, and no such assignment shall be approved by the Board of Directors which would materially impair the rights of the other Unit Owners under this Declaration. A Limited Common Element may only be reallocated by the Board upon written application to the Association and written consent by the Unit Owner or Unit Owners to whose Unit the Limited Common Element appertains and the Unit Owner or Unit Owners to whose Unit the Limited Common Element is being reallocated, together with the approval of all impacted Owners. Upon such application and such approval by the Board and any applicable Unit Owners, the Association shall prepare and execute an amendment to this Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be consented to and executed by the Unit Owner or Unit Owners making such application. A Limited Common Element allocated to a Unit may not be reallocated by the Board without the prior written consent of the Owner of the Unit to which such Limited Common Element is allocated and any other impacted Owners.

(b) Limited Common Elements Assignments.

(i) Certain Limited Common Elements and the Units to which they are allocated, if any, are shown on the Floor Plans.

(ii) The loading dock, dock manager office, and exterior landscaping are Limited Common Elements appurtenant to the Master Residential Unit and the Retail Units.

(iii) The recycling room and mail room are Limited Common Elements appurtenant and exclusive to the Master Residential Unit.

(iv) Each Owner shall have the right to maintain one (1) dumpster near the Loading Dock located on the Lobby Level as depicted on the Floor Plans. Each dumpster located in this area shall be maintained for the exclusive use (and at the sole cost and expense) of the Owner of such Unit. The dumpster allocated to the Garage Unit shall hold not more than four (4) cubic yards of waste.

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

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit, excluding Persons holding such interest under a Mortgage, are members of the Association, and except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, the Unit Owner of each Unit shall be entitled to exercise the number of votes for each Unit as set forth in Exhibit "B" attached hereto and incorporated herein. Notwithstanding anything to the contrary contained in the Condominium Instruments, the rights of each impacted Owner with respect to Major Decisions shall be identical and each impacted Owner shall be entitled to consent to all Major Decisions, and neither the Association, the Board, the Declarant, or an Owner shall have the right or authority to act on any matter constituting a Major Decision, without the prior written approval of any and all impacted Owners.

ARTICLE 8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES; SPECIAL CONTRACTUAL ARRANGEMENTS.

Except as provided elsewhere in the Act or Condominium Instruments (including but not limited to Special Cost Allocation set forth on Exhibit "G" attached hereto), the amount of all Common Expenses shall be assessed against all the Units in accordance with the Percentage Interests.

Notwithstanding anything in this Declaration to the contrary, certain Unit Owners shall be subject to the special contractual arrangements set forth on Exhibit "H" attached hereto with respect to various issues related to the use, maintenance and operation of their respective Units. To the extent of any conflict or inconsistency between Exhibit "H" and any other provision of this Declaration or the other Exhibits attached hereto, the terms and conditions of Exhibit "H" shall control and prevail.

ARTICLE 9. ASSOCIATION RIGHTS AND RESTRICTIONS.

In addition to and not in limitation of all other rights it may have, the Association, acting through its Board of Directors, shall have the right and authority:

(a) to enter into Units for maintenance, emergency or life-safety purposes, which right may be exercised by the Board of Directors, officers, agents, employees, managers and all police officers, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only

during reasonable hours and after reasonable notice to the affected Unit Owner or Occupant. For the purposes of this paragraph (a), an emergency justifying immediate entry into Units shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong or foul odor, obvious insect infestation or sounds indicating that a person or animal might be injured or sick and require immediate medical attention. No one exercising the rights granted in this paragraph (a) shall be liable for trespass, damages or in any other manner by virtue of exercising such rights so long as such person uses reasonable efforts to minimize interference with the affected Unit, except as provided in the Act. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that the Association, acting through its Board of Directors, shall have no duty or obligation to enter Units.

(b) to make and to enforce uniform, non-discriminatory reasonable rules and regulations governing the use of the Condominium, including the Units, Common Elements and Limited Common Elements;

(c) to enforce use restrictions, provisions contained within the Declaration and Bylaws, and rules and regulations promulgated and adopted by the Association by the imposition of reasonable monetary fines and the suspension of Common Element use privileges, provided that the Association and the Board shall uniformly enforce such rules and regulations;

(d) to grant and accept permits, licenses, utility easements, leases and other easements, so long as any such rights are subject and subordinate to this Declaration;

(e) to control, manage, operate, maintain, improve and replace all portions of the Common Elements (except those Limited Common Elements for which this Declaration expressly make the responsibility of the Owners);

(f) to represent and act on behalf of the Unit Owners in the event of damage or destruction as a result of casualty loss in accordance with the provisions of the Act and Article 12 hereof;

(g) to represent and act on behalf of the Unit Owners in the event of any loss resulting from condemnation or eminent domain in accordance with the provisions of the Act and Article 20 hereof;

(h) to acquire, hold and dispose of tangible and intangible personal property and real property;

(i) to approve Contractors for which approval is required in accordance with Section 13.11 hereof;

(j) to collect from Contractors reasonable non-refundable fees for use of the loading docks and trash receptacles;

(k) to close temporarily any portion of the Common Elements upon five (5) business days prior notice to all Unit Owners (except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days

after the closing explaining the reason for the closing), provided, however, the Association shall, to the extent reasonably possible, limit the closure of any Limited Common Elements or any closure that would materially interfere with the business operations of a Unit or the use of which is reasonably necessary for access to or from a Unit, and provided further that neither the Association nor the Board may close access to the Garage Unit without the prior written consent of the Owner of the Garage Unit; and

(l) subject to 15.5 below, to maintain, improve, repair, and replace any sidewalks, landscaping, or other improvements located on government owned property adjacent to the Condominium, subject to compliance with applicable Legal Requirements and with a minimum of interference to the businesses using such sidewalks.

ARTICLE 10. ASSESSMENTS.

Section 10.1. Purpose of Assessments. The Association shall have the power to levy assessments as provided herein. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Units as may be more specifically authorized from time to time by the Board.

Section 10.2. Types of Assessments. Each Owner of a Unit, by acceptance of a deed to a Unit whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following types of assessments with such assessments to be established and collected as hereinafter provided:

(a) Annual Assessments;

(b) Special Assessments; and

(c) Specific Assessments.

Section 10.3. Annual Budget and Annual Assessment.

(a) Preparation of Budget. For each fiscal year, the Board shall prepare an annual budget listing by category the estimated Common Expenses (including the establishment and maintenance of such reserves as the Board may consider appropriate) for such year. The Board shall cause the proposed annual budget and Annual Assessments roster based thereon to be delivered to each Owner not less than thirty (30) days prior to the beginning of the fiscal year to which the proposed annual budget and Annual Assessments roster relate and shall become effective (subject to the terms hereof) as of the first day of the next fiscal year. The annual budget shall not become effective unless and until it has been approved by a Supermajority vote of all Unit Owners.

(b) Annual Assessments. Each Owner shall pay an Annual Assessment based on the Percentage Interest allocated to the Owner's Unit (or such other allocation as may be set forth on Exhibit "G" hereto or as otherwise set forth in this Declaration). The amount of the Common Expenses paid as an Annual Assessment shall be based on the total Common Expenses as estimated in the annual budget, less the following:

(i) Any amounts in the budget to be funded by the payment of Specific Assessments; and

(ii) Undistributed and unreserved Common Profits.

(c) Failure to Establish Annual Budget. In the event the proposed annual budget is not approved by a Supermajority vote of all Unit Owners or the Board fails for any reason to determine the annual budget for the succeeding fiscal year, then and until such time as an annual budget shall have been determined as provided herein, the annual budget and Annual Assessments in effect for the then current year shall continue for the succeeding year, provided, however the annual budget and Annual Assessments shall be equal to the sum of (i) one hundred and three percent (103%) of the preceding year's annual budget, and (ii) any amounts necessary to address an increase in mandatory, non-controllable expenses (i.e., the premiums for any insurance the Association is required to obtain, utilities, taxes on any Common Elements owned by the Association, and any required governmental registration, filing, permit, or similar fees, and any other charges required by Legal Requirements) (the items described in (ii) above are collectively referred to herein as "**Essential Expenditures**").

(d) Budget Adjustments. The Board of Directors shall have the right to:

(i) not spend the full amount budgeted for any particular line item in the annual budget;

(ii) spend more than what has been budgeted to address Essential Expenditures;

(iii) shift revenues and expenses for realized cost savings within the annual budget from one line to another; and

(iv) adopt a revised annual budget during the fiscal year, provided, however, such proposed revised annual budget and Annual Assessment shall be delivered to the Owners at least thirty (30) days prior to the proposed effective date thereof and approved by a Supermajority vote of the Unit Owners.

(e) Capital Reserve Budget and Contribution; Emergency CapEx Expenditures. To the extent that capital expenditures are anticipated, the Board of Directors may prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost for the subsequent three (3) to five (5) year period. The Board may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal Annual Assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the annual budget and Annual Assessment as provided above. A copy of the capital reserve budget shall be distributed to each Owner and approved in the same manner as the annual operating budget. Without limiting the foregoing, the Board shall have the authority to levy assessments for capital expenditures to the extent necessary under the following circumstances (herein, "**Emergency CapEx Expenditures**")

(i) as a result of an Emergency, provided that any Emergency CapEx Expenditures in excess of $40,000.00 in any instance shall require the prior written consent of a Supermajority of Owners to be provided within one (1) business day following notice of such Emergency, which consent shall not be unreasonably withheld, conditioned or delayed (and which consent shall be deemed given if no response is provided within one (1) business day following notice of such Emergency; and/or

(ii) as otherwise required for compliance with Legal Requirements, provided that if required by any Owner(s) holding more than a 25% Percentage Interest whose Unit is disproportionately impacted in comparison to other Units, the Board shall have contested by appropriate legal proceedings the validity or application of such Legal Requirements to the Submitted Property (provided that the Board shall not be required to contest such Legal Requirements if the Submitted Property or any portion thereof is in danger of being sold or forfeited as a result of such Legal Requirements).

Section 10.4. Special Assessments. Subject to the approval of a Supermajority of Unit Owners, the Board shall have authority at any time to levy a Special Assessment against all Owners based on the Percentage Interests The Board shall send notice of any Special Assessment to all Owners.

Section 10.5. Specific Assessments. Subject to the approval of a Supermajority of impacted Unit Owners, the Board may, at any time and in addition to any other rights it may have, levy a Specific Assessment against such Units as, in its discretion, it shall deem appropriate. The Board shall send notice of which shall be sent to the applicable Owner(s). Failure of the Board of Directors to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority to assess as a Specific Assessment under this Section.

Section 10.6. Payment of Assessments.

(a) Annual Assessments. Unless otherwise provided by the Board of Directors, the Annual Assessments shall be paid in equal monthly installments due on the first day of each month.

(b) Special Assessment and Specific Assessments. The Board of Directors shall establish the date payment of any Emergency CapEx Expenditure, Special Assessment or Specific Assessment is due, which shall not be less than thirty (30) days following delivery of notice of such Special Assessment or Specific Assessment. In the Board's discretion, Emergency CapEx Expenditures, Special Assessments or Specific Assessment may be paid in installments.

(c) Exemptions. No Owner may exempt itself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to perform its obligations required hereunder

or an inconvenience or discomfort arising from the Association's performance of its duties Notwithstanding anything to the contrary stated herein, Declarant shall have no obligation to fund budgetary deficits of the Association, except to the extent of its obligations as a Unit Owner.

(d) No Charge to Garage for Roof. Notwithstanding anything in this Declaration to the contrary, in no event shall the Owner of the Garage Unit be liable for any Common Expenses, Annual Assessments, Emergency CapEx Expenditures, Special Assessments, Specific Assessments or other charges related to the construction, operation, maintenance, repair or replacement of the roof of the Building.

Section 10.7. Creation of the Lien and Personal Obligation for Assessments. All assessments, together with charges, interest, costs and reasonable attorneys' fees actually incurred, in the maximum amount permitted by this Declaration or the Act, whichever is less, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. The Association may foreclose the lien by judicial action or in like manner as a deed of trust with power of sale under Sections 35-5-101, et seq., Tenn. Code Ann., provided that the Association shall first give notice of its action to the Owner and to all lienholders of record prior to the first publication of notice as required under said section and the Act. The lien shall have priority to all other liens and encumbrances on a Unit except as to a first Mortgage recorded in the Official Records before the date on which the assessment sought to be enforced became delinquent and as to those other liens described in Section 66-27-415(b)(1)(A), (B), and (C) of the Act and said lien shall also be subject to the other provisions of Section 66-27-415 of the Act.

All assessments, together with charges, interest, costs and reasonable attorneys' fees shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due Each such Owner of a Unit and its grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

The equitable charge and lien provided for in this Section shall be in favor of the Association for the use and benefit of all Owners. Each Owner, by its acceptance of a deed to a Unit, vests in the Association or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose such liens. The Association shall have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same

Section 10.8. Non-Payment of Assessments. Any assessment and related charges that are due to the Association pursuant to this Declaration, or any portion thereof, that is not paid when due shall be delinquent and the non-paying Owner shall be in default. In the event of such default, without limitation, the Board (and any Unit Owner, in accordance with clause (f) below) may impose the following:

(a) If any assessment, any related charges or any portion thereof is not paid in full by the fifteenth (15th) day after the due date, a late charge equal to ten percent (10%) of the amount not paid may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per annum shall accrue from the due date.

(b) If part payment of the assessment and/or related charges is made, the amount received may be applied first to costs and reasonable attorneys' fees actually incurred, then to late charges, then to interest, then to delinquent assessments and then to current assessments.

(c) If any assessment, any related charges or any portion thereof remains delinquent and unpaid for a period greater than twenty (20) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than twenty (20) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the Annual Assessment for the then-current fiscal year and of any Special Assessment or Specific Assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall be obligated to pay the entire amount so accelerated.

(d) If assessments and other charges or any portion thereof remain unpaid for more than forty (40) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws, the Act and Tennessee law In the event of any litigation arising under this Declaration between the Association, the Board and/or any Owner(s), the prevailing party(ies) shall have the right to recover reasonable attorneys' fees from the non-prevailing party(ies).

(e) Not less than thirty (30) days after the Association sends notice by certified mail or Permitted Overnight Delivery, return receipt requested, to the Owner both at the address of the Unit and at any other address or addresses which the Owner may have designated to the Association in writing, the Association may foreclose its lien by an action, judgment, and foreclosure in the same manner as other liens for the improvement of real property pursuant to the provisions of this Declaration, the Bylaws, the Act and Tennessee law, unless the delinquent Owner pays all delinquent amounts owed prior to the date of such foreclosure.

(f) If any assessment, any related charges or any portion thereof remains delinquent and unpaid for a period greater than twenty (20) days from the notice of delinquency delivered pursuant to clause (c) above, then any Owner shall have the right, upon written notice to the Association and the delinquent Owner to pay such assessment or charges on behalf of the delinquent Owner, in which event the paying Owner shall be subrogated to the rights of the Association, and shall have the immediate right to recover such costs from the delinquent Owner via exercise of the rights set forth in this Section 10.8 and any other remedies available at law and/or in equity.

Enforcement under this Section is not dependent upon or related to other restrictions and/or other actions.

Section 10.9. Surplus Funds and Common Profits.

(a) Common Profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such Common Profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be

credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit or added to the Association's capital reserve account.

(b) If the Board of Directors reasonably determines that during a fiscal year there will likely be a surplus of assessments paid by an Owner at the end of such fiscal year (excluding amounts designated for reserves), the Board may, but shall not be required to, reduce the amount of the assessments to be collected from such Owner for the remainder of that fiscal year. Any Owner who has already paid such Owner's entire assessment obligation for the fiscal year at the time of such reduction shall, in the discretion of the Owner, either receive a refund of the overpayment or a credit of the amount of the overpayment towards the Owner's assessment obligation to the Association for the following fiscal year. Notwithstanding the above, the Association may first apply the amount of any overpayment toward any other amount the Owner may owe to the Association.

Section 10.10. Statement of Account. Any Person having executed a contract for the purchase of a Unit, any a lender considering a loan to be secured by a Unit, any Owner and any Mortgagee (the "**Estoppel Party(ies)**"), shall be entitled, upon written request, to a statement from the Association certifying as to (a) the amount of assessments due and unpaid, including any late charges, interest, fines or other charges against a Unit, (b) the Percentage Interest of each Owner, (c) the names and affiliations of the current Board members and officers and ARC members, (d) whether to the actual knowledge of the Association, without investigation or inquiry, the applicable Owner or Unit is currently in default or in violation of the Declaration, (e) whether the Association or the Board has notified the applicable Owner of a Unit of any default or violation under the Declaration (except to the extent any such default or violation has already been cured, (f) whether to the actual knowledge of the Association, without investigation or inquiry, the applicable Unit complies with the Declaration, (g) the current budget and financial statements of the Association, (h) a statement of any reserves held by the Association, (i) whether the Declaration has been amended and/or assigned and is in full force and effect, and (j) such other factual matters as may be reasonably requested, including, without limitation, responses to a Mortgagee with respect to such Mortgagee's request for confirmation of availability of specific rights or remedies in favor of such Mortgagee (it being expressly understood, however, that any such response to a Mortgagee shall only be required with respect to rights and remedies that are expressly and specifically articulated in the request made by the Estoppel Party or Estoppel Parties). The Association shall respond in writing within ten (10) days of receipt of the request for a statement; provided, however, that commencing with the third (3rd) such request by any given Estoppel Party in any given calendar year, the Association may require the payment of a reasonable administrative fee as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein and shall operate as a waiver by the Association of any claim or defense against the Estoppel Parties, and/or their respective successors and assigns, which would be based upon facts contrary to those certified in such statement of account.

ARTICLE 11. INSURANCE.

Section 11.1. Generally. The Association, acting through the Board of Directors, shall obtain as a Common Expense and maintain at all times, insurance which meets or exceeds the insurance requirements for condominium associations set forth in Section 66-27-413 of the Act

as amended. This insurance may consist of one or more stand-alone policies obtained by the Association or a master or group insurance policy or program available to a Unit Owner provided that such policy or program meets or exceeds the requirements set forth in this Article 11. All of the Association's insurance policies required under this Declaration shall be issued by insurance company or companies which are authorized to do business in the state of Tennessee and have a minimum A.M Best & Co. rating of "A", "X" unless otherwise agreed to by the Association. None of the insurance policies that the Association is required to maintain under this Declaration shall be cancelable or terminable (other than for non-payment of premiums) or subject to material change without at least thirty (30) days' prior written notice to each of the Unit Owners, nor shall those policies be subject to cancellation or non-payment of premiums without at least ten (10) days' prior notice to the other Unit Owners.

Section 11.2. Property Insurance.

(a) Scope of Property Coverage.

(i) Notwithstanding the minimum insurance requirements of the Act, the Association, acting by and through the Board of Directors, shall secure a blanket hazard insurance policy providing "special perils" coverage or its functional equivalent in an amount equal to the full insurable replacement cost, before application of deductibles, of all structures located on the Submitted Property, including a flood insurance policy meeting the requirements of the current guidelines of the Federal Emergency Management Agency in an amount not less than the maximum amount of insurance which is available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as amended. Subject to the provisions of this Declaration, the Association may additionally obtain such other property insurance as the Association may determine to be necessary or desirable. Any insurance policies obtained by the Association pursuant to this Section shall be a Common Expense.

(ii) For the purposes of this Section 11.2, the term "structures" to be insured by the Association shall include (except as may be provided elsewhere herein) all building structures, systems, improvements, personal property owned by the Association, conduits, pipes, finishes (including paint, wall coverings and floorings) and fixtures constituting the Condominium as shown on the Floor Plans and/or the construction plans used to obtain building permits for the Condominium. In the event such construction drawings do not adequately or fully depict the nature of structures comprising a Unit, then the Unit Owner shall submit to the Board appropriate plans certified by a registered architect or engineer appropriately depicting such structures. In the event such construction drawings do not adequately or fully depict the nature of structures comprising a Common Element, then the Board shall obtain appropriate plans certified by a registered architect or engineer appropriately depicting such structures.

(iii) In the event of any subsequent changes or alterations to structures that are Common Elements or other portions of the Condominium for which the Association is responsible to maintain, the Association shall procure and maintain property insurance adequately covering the changed or altered structures.

(iv) Notwithstanding any provision to the contrary contained herein, any Unit Owner may request in writing that the Association obtain property insurance for that Unit in excess of the requirements provided for above or to reflect changes or alterations to the "structures" as defined above. The Association can elect to obtain or not obtain such insurance after evaluating whether it can obtain such insurance at a reasonable cost, the increased risks to the Association, if any, of obtaining the insurance, the extent to which obtaining the requested insurance will create any administrative burdens, if any, for the Association and whether the insurance would be more logically obtained directly by a Unit Owner. Any such coverage shall be assessed against the Unit Owner as a Specific Assessment for whom such coverage is provided.

(b) Beneficiaries of Property Insurance. All property insurance obtained by the Association pursuant to this Declaration shall run to the benefit of the Association as the named insured, the Board of Directors, officers, all agents and employees of the Association, the Unit Owners, and their respective Mortgagees as their interests may appear with respect to the Common Elements or other portions of the Condominium for which the Association is responsible to maintain.

Section 11.3. Liability Insurance and Indemnity by the Association.

(a) Scope of Liability Coverage. The Association, acting through the Board of Directors, shall obtain and maintain commercial general liability insurance, including medical payments insurance, with single limit coverage for injuries to a single person and damage to property of not less than $5,000,000 per occurrence and $5,000,000 aggregate or such higher amounts required by the Act. The commercial general liability policy or policies shall cover occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Common Elements and other portions of the Condominium which the Association has the responsibility to maintain. The limits of insurance may be reached in combination with umbrella/excess coverage forms.

(b) Beneficiaries of Liability Insurance. All liability insurance obtained by the Association pursuant to this Declaration shall run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Unit Owners, and their respective Mortgagees, and all other Persons entitled to occupy a Unit, as their interests may appear. The liability insurance obtained by the Association shall name as an additional insured the Board of Directors, its officers, all agents and employees of the Association, the Unit Owners and their respective Mortgagees, as their interests may appear.

(c) Indemnification. The Association covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the Unit Owners, their respective Mortgagees, partners, beneficiaries, members, managers, stockholders, directors, officers, agents and employees (hereinafter referred to as the "**Owner Indemnitees**"):

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

(A) the Association's use or exercise of the easements and licenses granted hereunder;

(B) the Association's use or exercise of any Common Element or Limited Common Element;

(C) the Association's failure to perform any of its maintenance, repair, replacement, restoration or similar obligations hereunder in accordance with the terms and provisions of this Declaration; or

(D) the Association's breach or violation of its obligations under the terms of this Declaration; and

(ii) from and against all costs, reasonable attorney's fees actually incurred (including appeals of any judgment or order), expenses and liabilities incurred with respect to any Claim arising from the Association's aforementioned obligations.

In no event shall the Association have any indemnification obligation to the Owner Indemnitee to the extent occasioned by the negligent or wrongful acts or omissions of any Owner Indemnitee or its affiliates or its Permittees. Permittees of the Owner Indemnitee shall not have the right to directly enforce the Association's indemnification obligations under this Section 11.3; provided, however, that the Association shall be liable to the Owner Indemnitee with respect to any claims made against an Owner Indemnitee by any such Permittees to the extent that such claims arise out of any of the Association's indemnification obligations pursuant to this Section 11.3. In case any action or proceeding is brought against any Owner Indemnitee by reason of any such Claim, the Association, upon notice from any such Owner Indemnitee, covenants to resist or defend such Claim with attorneys reasonably satisfactory to such Owner Indemnitee and the Association's insurer. Any counsel for the insurance company providing insurance against such Claim shall be presumed reasonably satisfactory to each such Owner Indemnitee. The Association may not settle a Claim without the consent of each affected Owner Indemnitee, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding anything to the contrary contained herein, the foregoing indemnity obligations are in no way limited by the coverage limits of applicable insurance policies.

Section 11.4. Annual Review and Allocation of Costs Between Units. The Board of Directors shall, at least once every five (5) years, conduct an insurance review to determine if the policy or policies in force are adequate to meet the needs of the Association and to satisfy the minimum requirements of the Act and this Declaration. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent or insurance underwriter to verify that insurance policies in existence meet the needs of the Association and satisfy the minimum requirements of the Act and this Declaration. The property and liability insurance obtained by the Association will disproportionately benefit the different Units due to the scope and nature of: (a) the uses of each of the Units; (b) the differing nature of insurance risk associated with the use of each Unit; (c) the type and cost of the improvements and betterments within each Unit; (d) the size of each Unit; (e) any additional insurance or coverages benefiting less than all of the Units; and (f) any other factors which the agent or underwriter reasonably determines would affect the equitable allocation of the costs of the insurance policies.

Therefore, the Association shall hire no less than annually an independent insurance expert familiar with allocating the costs of property and liability insurance in similar communities to recommend an equitable allocation of the cost of the property and liability insurance policies being obtained by the Association between the different Units based on the factors referenced above. Subject to approval by a Supermajority of Owners, the Board shall then disproportionately assess the cost of this insurance against the different Units as Specific Assessments in accordance with the recommendations of the independent insurance expert. The initial allocation of insurance costs is set forth on Exhibit "G" attached hereto, which allocation shall not be modified without a Supermajority vote.

Section 11.5. Coverage Requirements.

(a) The Association shall use commercially reasonable efforts to obtain policies that will provide the following:

(i) the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent and the Unit Owners;

(ii) such policies must include a separation of insureds clause without any limitation or exclusion related to cross-liability,

(iii) any "other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;

(iv) the Association's policy shall be endorsed as primary and non-contributory with regard to the insurance the Association is required to carry under this Declaration;

(v) until the expiration of ten (10) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Unit Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;

(vi) the policies required in Sections 11.2 and 11.3 may not be canceled or substantially modified without at least thirty (30) days prior notice in writing to the Board of Directors, Unit Owners, and all Mortgagees, except for ten (10) days' notice for non-payment of premium; and

(vii) an agreed value endorsement in the Association's property insurance policy waiving co-insurance limitations.

(b) All policies of insurance shall be written with a company authorized to do business in the State of Tennessee. The company shall agree to provide insurance certificates to each Unit Owner and Mortgagee upon request.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors; provided, however, no Mortgagee having an

interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

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

(e) Nothing contained herein gives any Unit Owner or other party a priority over any rights of Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Unit Owner and the Mortgagee as the case may be. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

Section 11.6. Other Required Insurance. In addition to the insurance required hereinabove, the Association shall obtain as a Common Expense (which will be allocated to each Unit pursuant to Exhibit "G" hereto or otherwise in accordance with the Percentage Interests appurtenant to each Unit as set forth on Exhibit "B" hereto) the insurance set forth below:

(a) worker's compensation insurance if and to the extent necessary to meet the requirements of law;

(b) officers' and directors' liability insurance in such amounts as the Association may determine; and

(c) crime insurance or fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such crime insurance or bonds, if reasonably available, shall be in an amount consistent with the business judgment of the Board of Directors, but in no event less than three (3) months' assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the policy or bond, as applicable; provided, however, coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following forms:

(i) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association;

(ii) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or

(iii) two (2) members of the Board of Directors must sign any checks written on the reserve account.

Section 11.7. Insurance Maintained by Unit Owners. In addition to the specific coverage requirements set forth in this Section 11.7, each Unit Owner shall at its expense obtain

and maintain liability insurance as is typically and customarily maintained by similarly situated owners, provided that no such insurance shall decrease the amount of insurance maintained by the Association or the Board pursuant to this Declaration, and in no event shall any Unit Owner be required to maintain property insurance in duplication of the property insurance maintained by the Association pursuant to Section 11.2 above. Without limiting the foregoing, each Owner shall be required to maintain the following insurance and shall provide to the Association or the other Owners promptly after a written request Certificates of Insurance evidencing the required insurance under this section:

(a) Liability Insurance.

(i) Each Owner shall insure against public liability claims and losses on a commercial general liability form of insurance, with broad form coverage endorsements covering claims for personal or bodily injury or death, or property damage occurring in, on, under, within, upon or about the Submitted Property owned by such Owner, or as a result of operations thereon (including contractual liability covering insurable obligations created by this Declaration including, but not limited to, indemnity obligations contained herein), but in all events for limits, as to each Owner and its portion of not less than $10,000,000 with such limit applying separately to the Owner's Unit, combined single limit for personal and bodily injury and death and property damage.

(ii) Limits of insurance may be reached in combination with Umbrella/excess coverage forms.

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

(iv) Notwithstanding any provision to the contrary contained herein, any Unit Owner may request in writing that the Association obtain liability insurance for that Unit Owner in accordance with the requirements provided for above. The Association can elect to obtain or not obtain such additional insurance after evaluating whether it can obtain such insurance at a reasonable cost, the increased risks to the Association, if any, of obtaining the insurance, the extent to which obtaining the requested insurance will create any administrative burdens, if any, for the Association and whether the insurance would be more logically obtained directly by a Unit Owner. Any such coverage shall be specially assessed against the Unit Owner for the Unit Owner for whom such coverage is provided.

(b) Other Insurance Maintained by Owners.

(i) Real and Personal Property. Each Owner shall separately insure on an "all risk" basis loss of rental income (if applicable) or use caused by business interruption or extra expense incurred to reduce such loss of income covering a minimum period of one (1) year resulting from interruption of business caused by the occurrence of any of the risks insured against under the "all risk" property insurance and shall pay all premiums for such coverage. Each Owner may, at its sole cost and expense, obtain additional insurance in such amounts and covering such perils as it may determine in its sole discretion, provided that such insurance shall be supplemental

to and non-contributory with any other insurance maintained pursuant to this Declaration, and the proceeds of such supplemental insurance shall be payable solely to the Owner electing to carry such supplemental insurance. In the event that the Association is unable to procure property insurance on behalf of a Unit Owner due to the unavailability of such insurance, each Unit Owner shall be responsible for obtaining and maintaining property insurance required in Section 11.2(a)(i) for its respective Unit.

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

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

(iv) All above policies shall be issued by insurance company or companies which are authorized to do business in the state in which the Submitted Property is located and have a minimum A.M. Best & Co. rating of "A", "X" and as reasonably acceptable to the Association. All such insurance shall be issued on a primary and non-contributory basis (subject to Section 11.5(a)(iv) above), contain a Waiver of Subrogation in favor of the Association and other Owners as additional insureds and not be cancelable, terminable or subject to material change without thirty (30) days' prior written notice to the Association. All such insurance, with the exception of Worker's Compensation, shall name the other Owners and the Association and their respective parents, subsidiaries and affiliates as additional insureds. A Certificate of Insurance, in form and substance reasonably satisfactory to the Association and evidencing the required coverages, shall be provided to the Association upon the Owner's acquisition of its Unit and renewal certificates shall be provided prior to each subsequent policy renewal date.

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

(d) In the event that any Unit Owner fails to obtain insurance as required by this Section 11.7, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of Specific Assessments under Article 10 hereof.

Section 11.8. Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies.

(a) Property Monitoring Services. The Unit Owner or Occupant of any portion of a Unit who has hired a property monitoring service for part or all of such Unit shall require such property monitoring service to keep in force, at all times, such commercial general liability insurance policies issued by responsible insurance companies licensed to do business in the State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss incurring in connection with the operation of such property monitoring service. Such insurance shall have limits for bodily injury to or personal injury to or death of any person. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than One Million Dollars ($1,000,000) combined single limit per occurrence/aggregate. The Garage Unit Owner and its Parking Manager shall not be required to maintain the coverages described in this Section 11.8(a) to the extent such coverages are not reasonably available for parking operations.

(b) Restaurants and Establishments Serving Alcoholic Beverages. The Unit Owner or Occupant of any portion of a Unit which operates a business that serves alcoholic beverages for consumption on or off the Submitted Property to members of the public shall keep in force at all times a liquor liability insurance policy issued by responsible insurance companies licensed to do business in the State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss incurring in connection with the operation of such business. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Three Million Dollars ($3,000,000) combined single limit per occurrence/aggregate.

(c) Waste Service Company. The Unit Owner or Occupant of any portion of a Unit who has hired a waste service company to remove trash, garbage or debris from such Unit shall require such company to keep in force at all times such commercial general liability insurance policies issued by responsible insurance companies licensed to do business in the State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss incurring in connection with the operation of such waste removal services. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than One Million Dollars ($1,000,000) combined single limit per occurrence/aggregate.

(d) Coverage Requirements. If commercially reasonably available, the insurance required pursuant to this Section 11.8 shall: (A) provide that the policy may not be canceled or reduced in amount or coverage below the requirements hereof, without at least ten (10) days prior written notice by the insurer to the insured and to the additional insured; (B) provide for severability of interests; (C) provide that an act or omission of the insured or the additional insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other insured; and (D) name each of the Association, the other Unit Owners, and the other Persons referenced above as an additional insured. All relevant Unit Owners to whom this Section 11.8 applies shall furnish the Association upon request with a certificate affirming that such insurance is in full force and effect, that the premiums have been paid in full, and that each of the provisions listed herein is included in the policy.

Section 11.9. Insurance Requirements for Contractors. All Contractors shall obtain and maintain such insurance as required by the Board.

Section 11.10. Application of Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one (1) Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Unit Owner's portion of the total cost of repair. Notwithstanding the foregoing, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Unit Owner or Unit Owners fail to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Unit Owner or Unit Owners as a Specific Assessment.

ARTICLE 12. REPAIR AND RECONSTRUCTION.

Section 12.1. General. Subject to the terms of Section 12 7 hereof, in the event of damage to or destruction of all or any part of the Submitted Property as a result of fire or other casualty, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the Submitted Property. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the damage and nothing in these documents shall be construed to afford a priority to any Unit Owner with respect to the distribution of proceeds to any such Unit, and the proceeds of such insurance shall be disbursed first for the repair or restoration of the damaged portion of the Submitted Property, except as set forth in Section 66-27-413(h)(1) of the Act.

Section 12.2. Cost Estimates. Promptly after a fire or other casualty causing damage to the Submitted Property, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Submitted Property (including any damaged Unit) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

Section 12.3. Source and Allocation of Proceeds. In the event that the net insurance proceeds (i.e. the remainder obtained by subtracting the property insurance policy insurance proceeds actually and unconditionally received by or on behalf of the Association) from the total amount of the "hard" and "soft" costs required to restore, replace or repair the damage or destruction resulting from an insured loss with respect to all or any portion of the Submitted Property) made available for reconstruction or repair are insufficient to satisfy all of the costs and expenses of reconstruction and repair, each of the Owners, to the extent the Owners have an interest in the Submitted Property affected by casualty, shall pay, and shall be obligated for, its applicable Insurance Shortfall Payment. The Insurance Shortfall Payment shall be calculated as follows:

(a) in the event that the damage and/or destruction from the casualty affects only one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owner of the Unit that is affected exclusively and solely by the casualty damage and/or destruction;

(b) in the event that the damage and/or destruction from the casualty affects more than one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owners of the Units that are affected by the casualty damage and/or destruction in proportion to each affected Owner's portion of the total cost of reconstruction and repair as allocated by the insurer;

(c) in the event that the damage and/or destruction from the casualty affects a Limited Common Element allocated to only one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owner of the Unit to which such Limited Common Element is allocated;

(d) in the event that the damage and/or destruction from the casualty affects a Limited Common Element allocated to more than one (1) Unit, the Insurance Shortfall Payment shall be assessed as a Specific Assessment against the Owners of the Units to which the Limited Common Element is allocated in proportion to each affected Owner's portion of the total cost of reconstruction and repair as allocated by the insurer; and

(e) in the event that the damage and/or destruction from the casualty affects the Common Elements (other than Limited Common Elements), the Insurance Shortfall Payment shall be assessed against all the Owners in accordance with the Percentage Interests.

Aside from its obligation to pay assessments for the Units that it owns, Declarant shall have no obligation to fund any deficit arising from insufficiency of insurance proceeds. If there are surplus funds after repair and reconstruction is completed, any surplus attributable to overpayments of Insurance Shortfall Payments shall be rebated to the Owner(s) that paid the Insurance Shortfall Payments on an equitable basis and any other surplus funds shall be credited to the next Annual Assessment (or installment thereof) chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit.

Section 12.4. Floor Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the Floor Plans and specifications under which the Building and other improvements on the Submitted Property was originally constructed to standard finish so as to exclude any upgrades made to Units, except where changes are necessary to comply with current applicable building codes or other Legal Requirements or where improvements not in accordance with the original Floor Plans and specifications are approved by the Board of Directors.

Section 12.5. Encroachments. Any necessary or inadvertent encroachments upon or in favor of the Units that may be created as a result of such reconstruction or repair (including, but not limited, as a result of requirements to comply with amended building code or other Legal Requirements) shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was

substantially in accordance with the Floor Plans and specifications under which the Building and other improvements on the Submitted Property was originally constructed or later approved in accordance with this Declaration. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

Section 12.6. Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be (i) held in escrow by the Association, in the event that the net insurance proceeds collected to repair such casualty and the cost to repair such casualty are each less than Two Million Five Hundred Thousand Dollars ($2,500,000), or (ii) held in escrow by an insurance trustee designated by the Association and approved in writing by each applicable Mortgagee, in the event that the net insurance proceeds collected to repair such casualty and the cost to repair such casualty are each equal to or greater than Two Million Five Hundred Thousand Dollars ($2,500,000), and such proceeds shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section to be disbursed by the Association or the insurance trustee (as applicable) in reasonably appropriate progress payments to such contractor(s), supplier(s) and personnel performing the work or supplying materials or services for the repair and reconstruction of the Submitted Property as are designated by the Board of Directors. No progress payments shall be disbursed until the Association has adopted procedures it deems reasonable and appropriate for the disbursement of such payments (subject to the requirements regarding an insurance trustee set forth in the immediately preceding sentence, if applicable), provided that in no event shall the Association permit any materialmen's or mechanic's lien to be filed against any Unit in connection with any such construction. Any insurance trustee appointed pursuant to this Section 12.6 shall be a depository institution or trust company, insured by the Federal Deposit Insurance Corporation, (a) the short term unsecured debt obligations or commercial paper of which are rated at least A-1 by S&P, P-1 by Moody's and F-1+ by Fitch in the case of accounts in which funds are held for thirty (30) days or less, or (b) the long term unsecured debt obligations of which are rated at least "A+" by Fitch and S&P and "A1" by Moody's in the case of letters of credit or accounts in which funds are held for more than thirty (30) days.

Section 12.7. Delegation. In the event that any damage to or destruction as a result of fire or other casualty relates exclusively to all or any part of a single Unit, the Board of Directors shall delegate to the affected Unit Owner, subject to the rights and/or responsibilities in this Article 12 related to the repair or reconstruction of such Unit In the event of such delegation, the Unit Owner shall perform such delegated duties in a manner consistent with all Legal Requirements and this Article 12, so long as the Unit Owner has received adequate insurance proceeds from the Association's master insurance policy. Notwithstanding the foregoing, anything to the contrary herein contained, in the event that the affected Unit Owner fails to promptly repair or restore such damage or destruction, the Board may elect to utilize self-help and perform such repair or restoration in accordance with the self-help terms and conditions set forth in Section 17.4 and Section 17.5 of this Declaration.

ARTICLE 13. ARCHITECTURAL CONTROLS.

Section 13.1. Alterations to a Unit.

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

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

(i) reduction in the number of parking spaces in the Garage Unit below the Minimum Residential Parking Space Requirement;

(ii) the modification of any access, ingress or egress points into the Garage Unit, which in any event shall require the prior written consent of Garage Unit Owner;

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

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

(v) any alteration to, placing anything on, making any encroachment onto or across any portion of the Common Elements (including the Limited Common Elements unless otherwise provided herein);

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

(vii) connecting to any existing Building Utility and Service System.

(c) Exceptions. Except as otherwise expressly provided in Section 13.1(a) or 13.1(b) above or elsewhere in this Declaration, the Owner of a Unit shall be expressly permitted to make and/or permit changes, alterations, replacements, modifications, or improvements to the interior portions of their respective Units (including changes which are visible from the exterior of the Units) and Unit Utility and Service Systems without the prior approval of the ARC or the Association.

Section 13.2. Signs and Flags.

(a) General. Except as may be provided for herein or as may be required by Legal Requirements, no signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies shutters of any kind, or other similar items visible from the exterior of a Unit shall be erected, placed or permitted to remain on the Condominium (except for such items existing as of the Effective Date) without the prior approval of the ARC. The Board shall have the right to erect reasonable and appropriate signs or lighting of any kind on the Common Elements on behalf of the Association. No Owner shall seek any approval from the applicable governmental entity for any signage that will result in reducing or otherwise materially limiting the signage that the other Owner would otherwise be eligible to install or maintain hereunder without the advance written consent of such other Owner. Furthermore, no Owner shall

seek any approval from the applicable governmental entity for any signage that will unreasonably block the visibility from any street or sidewalk of the existing signage for any other Unit.

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

(i) All signage shall comply with all applicable local and municipal ordinances and other applicable Legal Requirements;

(ii) All signage affixed on a Signage Band shall pertain to the businesses conducted within the Unit to which such Signage Band is allocated;

(iii) No signage shall contain, consist of, or include flashing lights, neon, moving parts, or audible sounds (other than sounds attendant to the operation of such sign), except that neon signs shall be permitted on the Signage Bands of the Master Residential Unit provided that the same are allowed under all applicable City of Nashville ordinances and other applicable Legal Requirements; and

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

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

(i) All signage shall comply with all applicable local and municipal ordinances and other applicable Legal Requirements;

(ii) All signage affixed on a Signage Band shall pertain to the businesses conducted within the Unit to which such Signage Band is allocated;

(iii) No signage shall contain, consist of, or include flashing lights, neon, moving parts, or audible sounds (other than sounds attendant to the operation of such sign), except that neon signs shall be permitted on the Signage Bands of the Retail Units located adjacent to Demonbreun Street, 2nd Avenue South and 3rd Avenue South, provided that the same are allowed under all applicable City of Nashville ordinances and other applicable Legal Requirements; and

(iv) The Owner of such Retail Unit shall maintain, repair, and replace all signage or other improvements erected pursuant to this Paragraph (c).

(d) Garage Unit Signage. Notwithstanding anything to the contrary herein, and regardless whether designated on the Signage Band(s) depicted on the Plat, without the prior approval of the ARC or Association, but subject to the conditions set forth in clauses (i)-(iv) below, the Owner of the Garage Unit, on behalf of itself or its Permittees, shall be permitted to place (A)

signage on any exterior portion of the Garage Unit and on any Signage Band allocated to the Garage Unit, (B) an LED sign on the façade of the Building facing 2nd and/or 3rd Avenue South, subject to all applicable City of Nashville ordinances and other applicable Legal Requirements, (C) blade signs affixed to the exterior of the Garage Unit along 2nd Avenue South subject to all applicable City of Nashville ordinances and other applicable Legal Requirements, (D) directional and wayfinding signage in the Garage Unit and on the exterior of the Garage Unit, and (E) at no additional cost to Garage Unit Owner, a prominently-located panel on any monument sign installed on or around the Property, provided that:

(i) All signage shall comply with all applicable local and municipal ordinances and other applicable Legal Requirements;

(ii) All signage affixed on a Signage Band shall pertain to the businesses conducted within the Garage Unit (other than advertising signage for third parties);

(iii) No signage shall contain, consist of, or include flashing lights, neon, moving parts, or audible sounds (other than sounds attendant to the operation of such sign), except that neon and/or LED signs shall be permitted on the Signage Bands of the Garage Unit located adjacent to 2nd Avenue South and/or 3rd Avenue South, provided that the same are allowed under all applicable City of Nashville ordinances and other applicable Legal Requirements; and

(iv) The Owner of the Garage Unit shall maintain, repair, and replace all signage or other improvements erected pursuant to this Paragraph (d).

(e) For Lease or For Rent Signs. Notwithstanding anything to the contrary herein except as provided in Section 13.2(b) or 13.3(c) above, no "for lease" or "for sale" (or similar nomenclature) signs are permitted on the exterior façade of the Building or any interior portion of a Unit that is visible from the exterior of the Building unless such sign is approved in writing by the ARC. The ARC shall permit signage indicating that a Retail Unit or a portion of the Master Residential Unit is available to be leased based upon a standard approved by the ARC.

(f) Grandfathered. Notwithstanding anything to the contrary stated herein, any and all signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies or shutters that are in existence as of the date of the recording of this Declaration shall be deemed to be "grandfathered" and shall not be removed without the written consent of the benefited Owner or Occupant of the applicable Unit.

Section 13.3. Encroachments onto Common Elements. The Board of Directors, subject to this Article 13, may permit Owners to make encroachments onto the Common Elements and enclosures of same as it deems acceptable.

Section 13.4. Subdivision of a Unit. An Owner shall not subdivide such Owner's Unit. The total units in the Condominium shall be limited to six (6). Furthermore, no Unit shall be submitted to an additional declaration of condominium to create a new condominium as provided in Section 66-27-322 of the Act or otherwise.

Section 13.5. Relocation of Boundaries.

(a) Boundaries between adjoining Units may be relocated only in accordance with the provisions of Section 66-27-312 of the Act and this Declaration.

(b) The Owners seeking to relocate the boundaries of their Units must submit an application to and obtain the prior written consent of the Board of Directors in order to relocate the boundaries of such Units.

(c) An amendment to this Declaration shall identify the Units involved and shall state that the boundaries between those Units are being relocated by agreement of the Owners thereof. The Owners of the Units involved shall specify in their written application to the Board of Directors either: (i) the reallocations between the Units involved of the aggregate Percentage Interests attributable to the relocated Units (which shall equal the combined total previously allocated to the Units), or (ii) state that there shall be no such reallocation of the aggregate Percentage Interests attributable to the relocated Units. The amendment to the Declaration shall reflect such reallocations or the absence thereof if deemed reasonable by the Board of Directors. If the reallocations specified by the Owners of the Units involved or the absence thereof is deemed unreasonable by the Board of Directors, it shall so notify such Owners and permit them to amend their written application so as to specify reallocations acceptable to the Board of Directors.

Section 13.6. Applications and Appeals.

(a) ARC Applications and Appeals.

(i) Applications for approval by the ARC required hereunder shall be in writing and shall include such information as the ARC may reasonably require, which may include, but shall not be limited to, plans for the proposed improvements or modifications.

(ii) Once an application and all required information is received by the ARC, the ARC shall stamp the application as being complete, and shall then forward to the applicant a Notice of Application Completion.

(iii) The ARC shall be authorized to retain an engineer, architect or other consultant to review an application and related documentation and plans. All reasonable third-party costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the ARC until such time as all reasonable costs and expenses related to the review of an application have been paid by the applicant.

(iv) The ARC shall be the sole arbiter of the application and may withhold approval for any reasonable reason, including, but not limited to the Review Standards.

(v) The ARC shall use commercially reasonable efforts to timely review each complete application within a reasonable period. If the ARC or its designated representative fails to approve or to disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, the ARC shall be deemed to have denied the application in question Whether approved or denied, nothing herein shall authorize anyone to make any alteration, replacement, addition, modification, or improvement that is in violation of this Declaration, Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable building codes, zoning or other Legal Requirements

(vi) An application shall be deemed denied unless approved by a Majority vote of the members of the ARC. If the ARC denies approval of an application, the applicant may appeal the decision within thirty (30) days of the receipt of notice of denial in accordance with the following:

(A) The applicant shall deliver written notice of the applicant's election to appeal ("ARC Appeal Notice") to the ARC within said thirty (30) day period. If the ARC does not receive such written notification within said time period, the decision of the ARC shall be deemed final and all rights of appeal shall terminate and thereafter be void.

(B) The appeal shall be initially reviewed by two (2) third party registered architects, with the ARC and the applicant Owner each entitled to appoint one (1) architect. The standard of review for the architects on appeal shall be whether the application is consistent with the Review Standards. The ARC and the applicant Owner shall each deliver written notice of its appointed architect to the other party on or before the date being fifteen (15) days of its receipt of the ARC Appeal Notice ("ARC Architect Appointment Deadline Date"). If the ARC or the applicant Owner does not appoint an architect on or before the Architect Appointment Deadline Date, such party shall be deemed to have waived its right to appoint an architect hereunder and the decision of the architect appointed by the other party shall prevail. If the two (2) architects are unable to reach a unanimous decision as to the matter on appeal within twenty (20) days of the Architect Appointment Deadline Date, a third registered architect shall be jointly appointed by the two (2) architects, and said third architect unaffiliated with the applicant, either Owner, the Association, or the ARC shall render a final decision. All architects appointed under this Section 13.6(a)(vi) shall be licensed architects in the State of Tennessee in good standing and have a minimum of five (5) years' experience involving commercial real estate.

(C) The decision of the architects in accordance with this Section 13.6(a)(vi) shall be deemed final and binding upon the applicant, Association, Board, Owners and the ARC and no further appeals process shall be available to the applicant. The Owners shall each bear the fees of their respective architect appointed, and, if in the event a third architect is appointed, the Owners shall each pay one-half of the fees for the third architect. The third architect shall have the right (but not obligation) to reallocate the costs of the architects in the event the third architect determines that either party has acted unreasonably.

(b) Association Applications and Appeals.

(i) The Board of Directors, or its designee (which may include, without limitation, the property manager or building engineer), shall review and render a decision on any application required to be submitted to the Association.

(ii) Applications for approval by the Association required hereunder shall be in writing and shall include such information as the Association may reasonably require, which may include, but shall not be limited to, the following documentation: (i) if the proposed work potentially affect or impairs the structural soundness or integrity of the Building or any of the Units, a report or drawing prepared and certified by a structural engineer licensed in the State of Tennessee, which report or drawing shall demonstrate that such proposed work will not in any way affect or impair the structural soundness or integrity of the Building or any of the Units; (ii)

plans for the proposed improvements or modifications; (iii) if alterations to any Unit require the penetration of the concrete floor or ceiling slab, a report prepared and certified by a structural engineer licensed in the State of Tennessee confirming that an x-ray analysis or other analysis acceptable to the Association has been performed for the purposes of verifying that such penetration of the concrete floor or ceiling slab will not impair the structural integrity of such concrete floor or ceiling slab or result in the severing of any structural post-tension system; and (iv) evidence that all building code requirements and other Legal Requirements will be complied with and all necessary permits and approvals secured.

(iii) Once an application and all required information is received by the Association, the Association shall stamp the application as being complete, and shall then forward to the applicant a Notice of Application Completion

(iv) The Association shall be authorized to retain an engineer, architect or other consultant to review an application and related documentation and plans. All reasonable third-party costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the Association until such time as all reasonable costs and expenses related to the review of an application have been paid by the applicant.

(v) The Association shall be the sole arbiter of the application and may withhold approval for any reasonable reason, including, but not limited to the Review Standards. Any disapproval shall describe the reasons for disapproval in reasonable detail.

(vi) The Association shall use commercially reasonable efforts to timely review each complete application within a reasonable period. If the Association or its designated representative fails to approve or to disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, its approval will not be required and this Section will be deemed complied with; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to make any alteration, replacement, addition, modification, or improvement that is in violation of this Declaration, Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable building codes, zoning or other Legal Requirements.

(vii) If the Association denies approval of an application, the applicant may appeal the decision within thirty (30) days of the receipt of notice of denial in accordance with the following:

(A) The applicant shall deliver written notice of the applicant's election to appeal ("Association Appeal Notice") to the Association within said thirty (30) day period. If the Association does not receive such written notification within said time period, the decision of the Association shall be deemed final and all rights of appeal shall terminate and thereafter be void.

(B) The appeal shall be initially reviewed by two (2) third party Appeal Professionals, with the applicant entitled to appoint one (1) Appeal Professional and the Association entitled to appoint one (1) Appeal Professional. The standard of review for the Appeal Professionals on appeal shall be whether the application is consistent with the Review Standards.

The Association and applicant shall each deliver written notice of its appointed Appeal Professional to the other on or before the date being fifteen (15) days of the Association's receipt of the Association Appeal Notice ("Appeal Professional Appointment Deadline Date"). If the applicant or Association does not appoint an Appeal Professional on or before the Appeal Professional Appointment Deadline Date, the applicant or Association, as applicable, shall be deemed to have waived its right to appoint an Appeal Professional hereunder and the decision of the Appeal Professional appointed by the other shall prevail. If the two (2) Appeal Professionals are unable to reach a unanimous decision as to the matter on appeal within twenty (20) days of the Appeal Professional Appointment Deadline Date, a third registered Appeal Professional shall be jointly appointed by the two (2) Appeal Professional, and said third Appeal Professional unaffiliated with the applicant, either Owner, the Association, or the ARC shall render a final decision. All Appeal Professionals appointed under this Section 13.6(b)(vii) shall be licensed for their respective qualified trade in the State of Tennessee in good standing and have a minimum of five (5) years' experience.

(C) The decision of the Appeal Professionals in accordance with this Section 13.6(b)(vii) shall be deemed final and binding upon the applicant, Association, Board, and Owners and no further appeals process shall be available to the applicant. The applicant and the Association shall each bear the fees of their respective Appeal Professional appointed, and, if in the event a third Appeal Professional is appointed, the applicant and the Association shall each pay one-half of the fees for the third Appeal Professional. The third Appeal Professional shall have the right (but not obligation) to reallocate the costs of the Appeal Professionals in the event the third Appeal Professional determines that either party has acted unreasonably.

(c) Pre-Application Meetings.

(i) Before submitting a complete application to the ARC or the Association as required in Section 13.6(a) or 13.6(b) above, the applicant may (but shall not be obligated to) request meetings with the ARC or Association. The purpose of such meetings shall be to provide preliminary feedback to facilitate the submission of a complete application that will garner approval from the ARC or Association, as applicable.

(ii) The applicant may request up to four (4) meetings per application with either the Association and/or the Owner of the other Units' appointed members of the ARC, as applicable, that correspond to the following stages of the planning and design process: (A) concept design; (B) schematic design; (C) design development; and (D) preliminary engineering drawings.

(iii) The Association shall make reasonable efforts to schedule any meeting requested hereunder during regular business hours within fourteen (14) days of the Association's receipt of written request for such a meeting from the applicant. If the Association fails to schedule or attend any such meeting, the applicant may provide an additional written request for such a meeting and the Association shall thereafter make reasonable efforts to schedule the meeting within fourteen (14) days of the Association's receipt of such subsequent written request for such a meeting. The Association may schedule any meeting contemplated herein in person at a location in the City of Nashville or via telephone or electronic communication.

(iv) The Owner of any Unit's appointed member of the ARC shall make reasonable efforts to schedule any meeting requested hereunder during regular business hours within fourteen (14) days of such person's receipt of written request for such a meeting. If the Owner of the applicable Unit's appointed member of the ARC fails to schedule or attend any such meeting, the applicant may provide an additional written request for such a meeting and the Owner of such Unit's appointed member of the ARC shall thereafter make reasonable efforts to schedule the meeting within fourteen (14) days of his or her receipt of such subsequent written request for such a meeting. The Owner of the any Unit's appointed member of the ARC may schedule any meeting contemplated herein in person at a location in the City of Nashville or via telephone or electronic communication.

(v) The meetings contemplated in this Section 13.6(c) hereof are intended to foster a timely and efficient process for the review and submission of applications to the ARC or the Association. However, notwithstanding anything to the contrary herein, the failure of the Owner of any Unit's appointed member of the ARC or the Association to attend or schedule the meetings contemplated in this Section 13.6(c) shall not entitle the applicant, any Owner or any other Person to any legal remedy and shall not waive or otherwise modify in any way the obligations for the submission and approval of applications otherwise set forth in this Declaration.

Section 13.7. Condition of Approval. As a condition of approval of an application, the ARC or Association, as applicable, may require a Unit Owner, on behalf of itself and its successors-in-interest, assume all responsibilities for maintenance, repair, replacement and insurance of such modification. In the discretion of the ARC or Association, as applicable, a Unit Owner may be required to verify such condition of approval by written instrument in recordable form acknowledged by such Unit Owner. The ARC and Association also may establish such other reasonable conditions of approval as the ARC and Association determine necessary or appropriate.

Section 13.8. Limitation of Liability. Neither the ARC, Association, nor the Board shall bear any responsibility for ensuring the design quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other Legal Requirements. The Association, the Board of Directors, the ARC, or members of the foregoing shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications.

Section 13.9. No Waiver of Future Approvals. The members of the ARC, Association, and Board of Directors will change from time to time and therefore the interpretation, application and enforcement of the Review Standards may vary accordingly. Approval hereunder shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whenever subsequently or additionally submitted for approval or consent.

Section 13.10. Enforcement.

(a) Any construction, alteration or other work done or maintained in violation of this Article 13 shall be deemed to be nonconforming. Upon written request from the Association or the ARC, a Unit Owner shall, at his/her/its own cost and expense, promptly remove or cause

the removal of any non-conforming construction, alteration or other work and shall restore the property to substantially the same condition as existed prior to the non-conforming construction. Should the Owner fail to do so, the Association or its designees shall have the right to enter the property and do so. All costs thereof, including reasonable attorney's fees actually incurred, shall be a Specific Assessment and lien against such Unit Owner. In addition, the Association may impose a fine in accordance with Article 17 hereof. Moreover, if any Unit Owner or Occupant makes any change, alteration or construction (including landscaping) upon the Common Elements in violation hereof, such Unit Owner or Occupant does so at that Unit Owner's or Occupant's sole risk and expense and subject to possible removal by the Association at any time. The Board may require that the change, alteration or construction remain on the Common Element without reimbursement to the Unit Owner or Occupant for any expense incurred in making the change, alteration or construction.

Section 13.11. Approval of Contractors. Prior to performing any work in a Unit or any other portion of the Condominium that requires the submission of an application and approval from the ARC or Association hereunder, the applicable Contractor must first be approved in writing by the Board or its designee. The requirements and procedures for approval may include, without limitation: financial stability of the Contractor; history of compliance with the Condominium Instruments and rules and regulations promulgated and adopted by the Association; and familiarity and experience with the Utility and Service Systems. Moreover, the Board shall not approve any Contractor unless the Contractor has provided to the Board evidence of insurance acceptable to the Board.

Section 13.12. Standards of Work, Reconstruction and Maintenance. Any construction (which construction work, as used in this Section shall include, without limitation, the reconstruction of the improvements on the Submitted Property and any alterations, restoration, maintenance, repair, modernization, expansion, demolition, razing of existing improvements on the Submitted Property) which shall or may be performed by the Owner of any Unit shall be subject to and performed in accordance with the following requirements and standards:

(a) Upon commencement of any construction, the party performing such construction shall diligently prosecute such construction to completion.

(b) All construction shall be performed in a good and workmanlike manner and in accordance with all Legal Requirements.

(c) The Owner of each Unit shall perform its respective construction so as not to:

(i) cause any unnecessary increase in the cost of construction of others;

(ii) unreasonably interfere with the construction of others and/or any other construction being performed on the Submitted Property or any part thereof;

(iii) unreasonably impair the use or occupancy of the Submitted Property or any part thereof by the Unit Owner and/or its Occupants of the other Unit; or

(iv) cause disputes with labor unions that interfere with the construction of others or the use, occupancy, enjoyment or operation of the Submitted Property or any portion thereof.

(d) The Owner of each Unit shall use commercially reasonable efforts to cause its Contractors to cooperate and coordinate its construction with Contractors of the other Unit to the extent reasonably practicable to achieve the objectives set forth in this Section in such a manner so as not to cause any unnecessary interruption of or undue interference with the business or the occupancy of any portion of another Unit and to ensure that the vehicular, pedestrian and utility connections between the Units are constructed in accordance with first-class construction practices.

(e) The Owner of each Unit will at all times:

(i) take any and all safety measures reasonably required to protect those using the easements established by this Declaration from injury or damage caused by or resulting from the performance of its construction;

(ii) indemnify, hold harmless and defend the Association, Board, ARC, and the Owners of the other Unit from and against all claims, demands, suits, costs, expenses and liabilities arising from or in respect to the death, accidental injury, loss or damage cause to any natural person or the property of any person as shall occur by virtue of its construction; and

(iii) indemnify and hold the Association, Board, ARC, and the Owners of the other Unit harmless from and against mechanics, materialmen's and/or laborer's liens and all costs, expenses and liabilities arising from its construction

Before commencing construction or maintenance work of any kind (including use of a suspended crane) on or in a Unit owned by another Unit Owner (hereinafter referred to as the "Affected Unit Owner"), the Unit Owner performing the work (hereinafter referred to as the "Responsible Unit Owner") shall provide the Association and the Affected Unit Owner with acceptable assurances of completion of performance and evidence of liability and worker's compensation insurance from reputable, financially solvent insurance companies with coverage and limits comparable to the coverage and limits generally required or carried by institutional lenders or investors in real estate in the City of Nashville naming the Association and the Affected Unit Owner as an additional insured and otherwise reasonably satisfactory to the Association and the Affected Unit Owner. In addition, the Association and/or the Affected Unit Owner may require the Responsible Unit Owner to provide evidence reasonably satisfactory to the Association and/or Affected Unit Owner that the Responsible Unit Owner has sufficient funds available to it to complete and pay for the work or maintenance in question before permitting the Responsible Unit Owner to commence such work or maintenance on the Unit of the Affected Unit Owner.

(f) The Association may adopt and modify, from time to time, master maintenance and inspection standards and procedures applicable to the Submitted Property, which standards and procedures may be amended by a Majority of the votes held by the members of the Board of the Association.

ARTICLE 14. USE RESTRICTIONS

Section 14.1. Use of the Units. All portions of the Units shall be used only for such purposes that are lawful and permitted by applicable zoning ordinances and other Legal Requirements and shall be subject to all of the use restrictions set forth in this Declaration. Notwithstanding the foregoing, no activity shall be conducted on any portion of the Units that constitutes a public or private nuisance or hazardous or threatens the life-safety of other Unit Owners or Occupants of the Condominium, as may be determined in the reasonable discretion of the Board of Directors, provided that in no event shall parking or Permitted Storage in the Garage Unit be deemed to be a public or private nuisance or hazardous or a threat to life-safety of any kind. For purposes hereof, "Permitted Storage" shall mean self-storage and commercial storage of personal property within the Garage Unit, which (a) does not reduce parking available to the Master Residential Unit below the Minimum Residential Parking Space Requirement, (b) does not obstruct the free flow of pedestrian or vehicular traffic in the Garage Unit, and (c) is or may be located in one or more areas within the Garage Unit segregated from parking areas and labeled with signage for storage use.

Section 14.2. Prohibited Uses. Except as otherwise provided in this Declaration, no part of any Unit may be used for any of the following purposes (the "Prohibited Uses"):

(a) bowling alley;

(b) skating rink;

(c) shooting gallery;

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

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

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

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

(h) facilities used for the operation of any liquor store, package store, or other store primarily selling and/or manufacturing alcoholic beverages (except this restriction shall not apply to any restaurant, food service, bar or other similar use located in and ancillary to the operations of the Residential Component);

(i) tattoo parlor;

(j) funeral home or store selling caskets;

(k) mortuary;

(l) automotive supplies and parts, other than electrical charging stations and car washing and detailing in the Garage Unit;

(m) warehouse operation (not including Permitted Storage, or storage incidental to the operation of any otherwise permissible business);

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

(o) industrial operation (not including Permitted Storage);

(p) processing or rendering plant;

(q) lumber yard;

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

(s) any service station, car wash, or automotive repair facility, including without limitation any tire, battery and accessory facility (providing the foregoing shall not be deemed to prohibit the foregoing in the Garage Unit to the extent provided as an ancillary service or amenity to persons parking vehicles in the Garage Unit);

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

(u) thrift store, pawn shop, consignment shop, liquidation outlet, flea market, or similar establishment (except this prohibition shall not apply to any establishments selling or trading artwork);

(v) betting or other gaming establishment, facility or operation, including, but not limited to, off-track or sports betting parlor, table games such as black-jack or poker, slot machines, video poker/black-jack/keno machines or similar devices (this prohibition shall not apply to governmental sponsored gambling activities, or charitable gambling activities so long as such governmental and/or charitable activities are incidental (i.e., less than ten percent (10%) of gross sales) to a permitted business operation being conducted in the Unit);

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

(x) dance or music hall, "disco", nightclub, or discotheque (but excluding any traditional bar or pub where patrons may dance));

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

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

(aa) any employment office, day labor service, or other enterprise or organization that offers laborers for hire, provided, however, the foregoing shall not be applicable to any executive, technical, professional or administrative search or placement firm;

(bb) fortune-telling, psychic, or similar activity related to the art of professing to reveal future events (except this prohibition shall not include any economic, business, or financial forecasting activity); or

(cc) any bail bonds business or similar service that acts as a surety and pledges money or property as bail for the appearance of criminal defendants.

Section 14.3. Rubbish, Trash, and Garbage. Each Owner shall regularly remove all rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for removal from such Limited Common Elements) and no Owner shall allow rubbish, trash, and garbage to accumulate therein. No garbage or trash shall be placed on the Common Elements, temporarily or otherwise, except in trash chutes, trash compactors, or trash facilities designated by the Association. Each Owner shall dispose of rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for such disposal from such Limited Common Elements) in sealed bags and either place such in the trash chutes, trash compactors, or other designated trash facilities designed for collection or remove such from the Submitted Property.

Section 14.4. Ventilation of Cooking Apparatus. Unless otherwise approved in writing by the Board of Directors, cooking exhaust from cooking apparatus located within any Unit must be filtered through a commercially designed exhaust system and vented through vents that exit through (a) the exterior walls of the applicable Unit, or (b) roof of the Building.

Section 14.5. Use of the Roofs.

(a) Except (i) for the uses as shown on the Floor Plans, (ii) for any Telecommunications Equipment and/or Telecommunications Activities that are located on the roof of any of the Buildings as of the recording of this Declaration, or (iii) as expressly provided in this Declaration, there shall be no use of the roof of the Building by the Owners or their Permittees without the written consent of the Board. An Owner that takes title to a Unit shall be entitled to presume that the Board shall have approved any Telecommunications Equipment and/or Telecommunication Activity or other items that are located on the roof of its Unit as of the date that the Owner takes title to its Unit. The Association, and its designated agents and Contractors, shall have access to the roof for performing its maintenance and repair responsibility, if any.

(b) Notwithstanding the foregoing, the Owners of the Master Residential Unit and Retail Unit D shall otherwise have sole and exclusive possession of their respective portions of the roof of the Building, as shown on the Floor Plans.

(c) The Owner of the Master Residential Unit shall have the right to install, remove, modify, maintain, repair, replace and use Telecommunications Equipment for Telecommunications Activity on the roof of the Building.

Section 14.6. Limitation of Damage, Nuisance, Noise, and Vibration.

(a) Without the prior written consent of the Board of Directors, nothing shall be done or kept by any Person on the Submitted Property, or any portion thereof (other than those activities or things reasonably expected to be associated with a permitted use) that would be in violation of any Legal Requirements or materially increase the Common Expenses.

(b) Furthermore, except to the extent permitted above in this Section and except for the prior written consent of the Board of Directors: (i) noxious, destructive or offensive activity shall not be carried on within any portion of the Submitted Property; and (ii) no Owner or its Permittees may use or allow the use of the Unit or any portion of the Submitted Property at any time, in any way or for any purpose which may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the reasonable discretion of the Board of Directors, a public or private nuisance.

(c) Except as provided for above in this Section, no Owner, Occupant or Permittee of such Owner or Occupant shall conduct any business which, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or safety of the Submitted Property or any structure created thereon or impair any easement or other interest in real property thereto.

(d) No damage to or waste of the Common Elements, or any portion thereof, shall be permitted by any Owner or Occupant. Each Owner shall indemnify, defend, and hold harmless the Association, Board, ARC, and the other Owners from and against all claims, demands, suits, costs, expenses and liabilities resulting from any such damage or waste caused by such Owner or its Permittees.

(e) Except for performances that are ancillary to the operations of the Retail Units and the Master Residential Unit, no sound shall emanate from any Unit, including, but not limited to sounds from music (live or recorded) or any other equipment, speakers, microphones, or television that exceeds eighty-five (85) decibels when measured from a distance of 100 feet from the exterior boundary of any portion of such Unit.

(f) No unreasonable odors, disturbances or activities not commensurate with first class retail or food service facilities shall occur in any such portion of the Retail Units if such odors, disturbances or activities are detectable, visible or audible in the main lobby that is within or serving the Master Residential Unit. In the event of any violation of this Section 14.6(f), prior to pursuing any enforcement action, the Association shall first provide written notice to the Owner of the offending Retail Unit and thereafter provide the Owner of such Retail Unit a reasonable period to utilize diligent efforts to cure the violation. The Association and Owner of the Master Residential Unit shall reasonably cooperate with any such efforts by the Owner of the applicable Retail Unit to cure the violation.

Section 14.7. Use of Limited Common Elements. Except as otherwise provided herein, the use of the Limited Common Elements allocated to the Units is restricted exclusively to the Owners of the Unit or Units to which such Limited Common Elements are allocated and said Unit Owner's Permittees. The Limited Common Elements are reserved for exclusive use but shall not

be construed or interpreted to be separate and apart from the Common Elements in general, except as expressly stated otherwise.

Section 14.8. Abandoned Personal Property. Personal property, other than vehicles as permitted herein, shall not be kept, or allowed to remain upon any portion of the Common Elements, other than on a Limited Common Element, without prior written permission of the Board of Directors. If the Board determines that a violation exists, then, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The Board shall send the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed. Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 14.9. Loading Dock. The Association shall be responsible for managing the use of the loading docks that serve the Units. The Association may designate certain docks primarily for the use of one (1) or more Units In allocating the use of such docks, the Association shall take into account safety, order, and such other relevant factors as it determines appropriate. The Unit Owners and their Permittees shall reasonably cooperate with the Association in scheduling deliveries and pick-ups from the loading dock to facilitate the cooperative use of the loading docks. The Association may close and shall not be obligated to operate the loading dock during hours set by the Association, provided, however, the Association shall reasonably accommodate requests to operate the loading dock during other hours for pre-scheduled deliveries or uses (including, without limitation, scheduled grease trap cleaning).

Section 14.10. Garage Unit.

(a) Operation and Administration.

(i) So long as any of the Owners or Occupants of the Master Residential Unit and the Retail Units are open and operating, the Owner of the Garage Unit shall be required to open and operate no less than the minimum number of parking spaces required in the Garage Unit pursuant to Section 13.1(b)(i) above in a good and workmanlike manner and commercially reasonable standard of care seven (7) days a week and twenty-four (24) hours a day; provided, however, the Owner of the Garage Unit may temporarily close any portion of the Garage Unit (A) to the extent required by casualty, force majeure and/or Legal Requirements, and/or (B) to perform maintenance and repair with fifteen (15) days' prior notice to the Owners of the Master Residential Unit and the Retail Units, except that, in Emergency situations requiring a temporary closing, prior notice shall not be required. Such repairs and maintenance shall be performed at a time and in a manner reasonably calculated to minimize disruption and inconvenience to the Occupants of the Master Residential Unit and the Retail Units and their respective Permittees. In the event that any portion of the Garage Unit is temporarily closed, the Owner of the Garage Unit shall make all commercially reasonable efforts to keep each entrance into the Garage Unit open, and in all events, a Garage Driveway shall not be blocked (other than reasonable access controls) in a manner that impedes or prohibits access to the open portions of the Garage Unit.

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

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

(iv) The Owner of the Garage Unit shall have the right, but not the obligation, to employ, at their sole expense, parking attendants ("Garage Attendants") to administer and monitor the use of parking in the Garage Unit The Owner of the Garage Unit may also issue identifying cards, stickers, tokens or the like as reasonably necessary to monitor, enforce, and regulate parking in the Garage Unit and to charge a fee to offset the actual cost of such items. In the event that the Owner of the Garage Unit elects to install and/or replace any gate equipment associated with the operation of the Garage Unit (the "Gate Equipment"), such Gate Equipment shall be installed by the Owner of the Garage Unit in such a manner that access will be permitted by the Master Residential Unit Owner, the Owners of the Retail Units and any of their respective Permittees or Occupants, all to the extent of their applicable parking rights (if any) pursuant to Exhibit E. The costs of such Gate Equipment, and the installation, maintenance, repair, and replacement of the same shall be borne solely by the Owner of the Garage Unit.

(v) Notwithstanding anything to the contrary stated in this Declaration, the Garage Unit Owner shall be permitted after the recordation of this Declaration to enter into an agreement separate from this Declaration with any other Unit Owner(s) to provide for the sharing of all or part of the responsibility and costs of operation, administration, and maintenance of the Garage Unit so long as it does not result in a Material Adverse Effect to the Owners of other Units not party to such agreement.

(vi) Notwithstanding anything to the contrary contained in this Declaration, the Garage Unit may be used for vehicular parking, Permitted Storage and/or ancillary uses expressly permitted by this Declaration. Permitted Storage shall be allowed within the Garage Unit so long as the Permitted Storage (A) is conducted in accordance with all Legal Requirements, and (B) the Minimum Residential Parking Space Requirement is maintained, and such spaces remain available to the Master Residential Unit in accordance with Exhibit E attached hereto.

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

(i) The right, but not the obligation, of the Owner of the Garage Unit (at its expense) to: (A) reasonably regulate and control access to, over, across and through the Garage Driveway (but subject to the easement right of the Owners of the Units and their respective Occupants and Permittees to have access to, over, and across the Garage Driveway), including without limitation the installation of fast roll gates, security cameras, mirrors, speed bumps, and

speed limit notices; (B) modify from time to time the configuration of the vehicular traffic flow within the Garage Driveway and the Garage Unit; (C) use any other technologies now or hereafter existing in order to conduct its business operations in the Garage Unit, including access controls to stairs and elevators; and (D) require Persons exercising their easement rights to: (1) post an identifying decal at a particular location on their vehicles; (2) show identification to an attendant, if any; and/or (3) enter a code or swipe card or depress an automatic gate opener to raise a gate, mechanical arm, or other device which controls or restricts access to, over, across and through the Garage Driveway.

(ii) Except as may be set forth in the Parking Agreements (as defined on Exhibit E), and except for the cost of identifying cards, stickers and tokens as set forth in Section 14.10(a)(iv) above, the Owner of the Garage Unit shall be responsible for the cost of decals, swipe cards, identification cards, automatic gate openers and similar equipment kept in a vehicle or by any Person to obtain access, to, over, across and through the Garage Driveway and into the Garage Unit.

(c) Parking Regulations. Subject to the easements and covenants set forth in this Declaration (including those set forth in Exhibit E attached hereto), the Owner of the Garage Unit shall have the authority to make, modify, repeal and enforce reasonable parking rules and regulations on a nondiscriminatory basis to the Occupants and their Permittees, governing the conduct, use, and enjoyment of the Garage Unit, including, without limitation, the right to authorize the towing or booting of vehicles illegally or improperly parked in the Garage Unit; provided, however: (i) copies of all such parking rules and regulations shall be furnished to the Occupants and their Permittees and conspicuously displayed on the interior walls of the Garage Unit; and (ii) any subsequent modifications to such parking rules and regulations shall not be binding upon the other Owners until the Garage Unit Owner shall have furnished a copy of such modifications to such other Owners. The Master Residential Unit Owner and the Retail Owners shall cause their respective Occupants and their Permittees to comply with the provisions set forth in this Subsection and/or the parking rules and regulations adopted by the Owner of the Garage Unit, and any lack of compliance therewith shall entitle the Owner of the Garage Unit to take action to enforce the provisions set forth in this Subsection.

(d) Additional Parking Rules and Regulations. Exhibit "E" attached hereto sets forth and identifies certain other rules, regulations, reserved parking privileges and other covenants regarding the use of the Garage Unit by the Owners, Occupants and Permittees of the Master Residential Unit and the Retail Units.

(e) Self-Help Rights. Notwithstanding anything to the contrary herein contained, in the event a Garage Unit Owner does not comply with its obligation to maintain, repair or replace its Garage Unit, and if such non-compliance impairs the operation of the Master Residential Unit or any Retail Unit in any material way (as determined by the impacted Owner in such Owner's reasonable determination), the Owner of the Master Residential Unit, the affected Retail Unit, or the Association, as applicable, may, but in no event shall be obligated to, elect to utilize self-help and perform such maintenance, repair or replacement subject to the following conditions:

(i) If self-help is going to be undertaken, the aggrieved Owner shall send a written notice to the Garage Unit Owner and the Association giving the Garage Unit Owner not less than ten (10) business days within which to commence to cure such violation (except in the event of an Emergency in which case the requirement of ten (10) business days written notice shall not apply and only such notice as is reasonable under the circumstances shall be required). Such notice shall describe the violation and the Garage Unit Owner's obligations under this Declaration in reasonable detail. The aggrieved Owner shall not thereafter perform the self-help if the Garage Unit Owner or the Association commences to cure the violation within such ten (10) business day period and thereafter diligently continues the actions necessary to cure such violation.

(ii) After such ten (10) business day period, not less than five (5) days prior written notice shall be given to the Garage Unit Owner (except in the event of an Emergency in which case the requirement of notice shall not apply and only such notice as is reasonable under the circumstances shall be required) that the Owner or its duly authorized agent anticipates performing such work, together with notification of the proposed scope and location of such work and the anticipated date of start and completion of such work.

(iii) Such work shall be performed in such a manner as not to cause any unnecessary interruption of or undue interference with the operation of the Garage Unit.

(iv) Such work shall be diligently pursued to completion, and upon completion, the Association or aggrieved Unit Owner (as applicable) shall restore, at the expense of the Garage Unit Owner, the relevant portion of the Garage Unit as closely as is practicable to the condition that existed immediately before the commencement of such work (except for change to remedy the condition necessitating the self-help work).

(v) The Association or the Master Residential Unit Owner (as applicable) shall indemnify and hold the Garage Unit Owner and any other Owner harmless from and against any and all expenses, liabilities, obligations, damages, penalties, claims, actions, costs and expenses, including reasonable attorneys' fees actually incurred, in connection with loss of life, bodily injury and/or damage to property caused by the Association or the Master Residential Unit Owner (as applicable), its employees or agents in connection with the performance of such work, except to the extent the same was caused by the negligence or misconduct of the Garage Unit Owner or any other Owner, or their respective employees, licensees or invitees.

(f) Violations. If a Permittee of a Unit commits a violation of any rules governing the operation of a Garage Unit, the Board of Directors shall be permitted to fine the Owner of such Unit and the violating Permittee as provided in Article 17 below, in addition to Garage Unit Owner's remedies against the applicable Unit Owner for the actions of its Permittees.

Section 14.11. Pest Control. Each Owner shall have regular extermination of insects, pests, and vermin performed in the Owner's Unit. Unless otherwise agreed by the Owners, the Association shall manage pest control in the Common Elements.

Section 14.12. Sidewalk Areas. The use of any Inner Sidewalk Area and External Sidewalk Area shall be subject to the following:

(a) Compliance with all applicable Legal Requirements and obtaining and maintaining all necessary permits.

(b) No Owner may use an Inner Sidewalk Area or External Sidewalk Area for outdoor seating, the sale or display of merchandise, or any similar purpose except such portion of an Inner Sidewalk Area or External Sidewalk Area that is parallel and adjacent to the exterior façade of such Owner's Unit. An Owner shall obtain the prior written consent of the other Owners (which approval, except for Limited Common Elements assigned to the other Owner's Unit, shall not be unreasonably withheld or delayed) if such Owner desires to utilize any other portion of an Inner Sidewalk Area or External Sidewalk Area for outdoor seating, the sale or display of merchandise, or any similar purpose.

(c) No Inner Sidewalk Area or External Sidewalk Area may be used as a bar or exclusively for alcoholic beverage service.

(d) Alcohol may only be served in an Inner Sidewalk Area or External Sidewalk Area if meals are also served.

(e) No grills or cooking equipment are permitted in any Inner Sidewalk Area or External Sidewalk Area.

(f) Intercom, microphone and other forms of voice amplification systems used for any purpose, including, but not limited, to paging customers, guests, patrons or invitees, shall be prohibited from outdoor use at all times unless approved in writing by the Association.

(g) No improvements shall be erected or installed in any Inner Sidewalk Area or External Sidewalk Area without the written consent of the Owner of the Master Residential Unit except umbrellas, patio tables and chairs, and temporary enclosures consistent with first class retail establishments and providing cover during rainfall or cold weather.

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

(i) No outdoor furniture is permitted in any Inner Sidewalk Area or External Sidewalk Area unless the outdoor furniture is consistent with outdoor furniture located in first class retail establishments.

Section 14.13. Limitations on Use of Certain Shared Rooms. There are certain Common Element rooms such as the mechanical and electrical rooms, designed to be locked at all times when a natural person is not physically in the room. Neither Owner shall disturb the other Owner's equipment in such shared rooms. Each Owner may replace or add to its equipment in such rooms provided that it does not impair access to such room, materially and adversely affect the equipment of the other Owner or prevent the other Owner from expanding in a similar manner.

Section 14.14. No Smoking. No smoking (including the use of any form of e-cigarette, electronic cigarette, personal vaporizer or electronic nicotine delivery system) shall be

permitted in the Condominium (including the interior of a Unit) except in the areas, if any, designated by the Association. An Owner or Occupant shall not be deemed to be in breach of this Declaration if any Permittee of such Owner or Occupant smokes if the Owner or Occupant has made and consistently makes commercially reasonable efforts to prohibit smoking in the Unit, or portion thereof, of such Owner or Occupant, and the Garage Unit Owner shall be deemed to have complied with this paragraph so long as it has posted no-smoking signs in the Garage Unit.

ARTICLE 15. MAINTENANCE AND SERVICE RESPONSIBILITY

Section 15.1. Maintenance By Unit Owner. Except in the event of casualty or condemnation or as otherwise expressly provided in this Declaration, the Owners shall each operate and fully maintain, repair and, when necessary, replace, at each Owner's respective cost and expense, the following items so that the same are at all times in good order, condition and repair, consistent with property of similar stature to that of the Unit in the Nashville, Tennessee metropolitan area:

(a) Each Owner shall be responsible for all portions of each Owner's Unit;

(b) Each Owner shall be responsible for the Unit Utility and Service Systems serving its Unit (including, the obligation to utilize approved Contractors if required by Section 13 11 hereof);

(c) Each Owner shall be responsible for all exterior glass surfaces and glass doors (together with all components thereof, including without limitation, glass or other transparent materials, hardware, locks, gliders, frames, door or window casings and weather stripping thereof) that are part of such Owner's Unit;

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

(e) Each Owner shall be responsible for any and all decorative fascia, canopies, awnings, signage, flags, banners and similar items that are located on or attached to such Owner's Unit;

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

(g) Each Owner shall be responsible for any Inner Sidewalk Area allocated as a Limited Common Element to such Owner's Unit to the extent provided in Section 15.5 below; and

(h) Each Owner shall also be responsible for any item which the Owner is expressly obligated to operate, maintain, repair and replace as provided elsewhere in this Declaration.

The foregoing obligation by each Owner to operate, maintain, repair and, when necessary, replace, shall include, without limitation: (i) keeping all portions of the Unit and any other item for which the Owner is expressly obligated to operate, maintain, repair and replace in a clean,

unlittered orderly and sanitary condition; (ii) removing, to the extent practicable, snow, ice and surface waters (provided that, for the avoidance of doubt, the Association shall have sole responsibility for the removal of snow, ice and surface waters from all External Sidewalk Areas and Inner Sidewalk Areas, as well as the Garage Driveway between the Garage Unit and Second Avenue South); and (iii) keeping all marking and directional signs, if any, within the Unit clear, distinct and legible. Notwithstanding anything to the contrary stated herein, the Owners shall be permitted to enter into an agreement separate from this Declaration to provide for the sharing of all or part of the responsibility and costs of operation, administration, and maintenance of the Owners' Units and Limited Common Elements allocated to such Units.

Section 15.2. Maintenance By Association. The Association shall operate and fully maintain, repair and, when necessary, replace, the following, the costs of which shall be assessed to the Owners in accordance with their respective Percentage Interests:

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

(b) all Building Utility and Service Systems.

Subject to the maintenance responsibilities herein provided, and except as provided to the contrary herein, including without limitation, the provisions provided to the contrary of Section 17 4 below dealing with self-help, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property: caused by the elements; caused by the Owner of any Unit or any of its Permittees or other Persons; or resulting from any interruption, unavailability, or malfunction of utility services; flooding, sewer overflow, rain, snow or ice which may leak or flow from any portion of the Common Elements or any Unit or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner or Occupant of a Unit has put the Association on written notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to any Owner of any Unit or such Owner's Occupant or Permittee for loss or damage, by theft or otherwise, of any property, which may be stored in or upon any of the Common Elements or any Unit. The Association shall not be liable to any Owner or any Owner's Occupant or Permittee, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association or from any action taken by the

Association to comply with any Legal Requirement or with any order or directive of any municipal or other governmental authority.

Section 15.3. Utility and Service Systems. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote or consent of any affected Owner, relocate any portion of any Utility and Service System serving a particular Unit or Units, provided that after such relocation, the Utility and Service System serving the Unit or Units functions at least as well and at no greater cost to the Owner as existed prior to the relocation. In performing any such relocation work, the Association shall provide reasonable prior notice to any affected Owner and shall not materially interfere with the business operations of a Unit or reasonable access to or from a Unit.

Section 15.4. Life-safety Systems. The Association shall, as frequently as reasonably appropriate for similar facilities (but in no event less frequently than annually) and at its cost (but subject to reimbursement as a Common Expense), engage a firm to thoroughly test the Life-safety Systems and issue reports respecting same, copies of which shall be promptly furnished to all Owners. The Owners agree to cooperate and communicate with each other in respect of the testing, reconfiguration, disengagement (while repairs or reconfiguration are on-going) and alarms of the Life-safety Systems, with a view toward minimizing interruption and disruption to the Occupants of the Condominium and maximizing the prompt dissemination of information regarding emergency situations.

Section 15.5. Sidewalk Areas.

(a) Except as provided in Section 15.5(b) below, the Association shall maintain, improve, repair, and/or replace all External Sidewalk Areas and Inner Sidewalk Areas (including without limitation providing snow and ice removal) subject to compliance with applicable Legal Requirements and with a minimum of interference to the businesses using such sidewalks. The costs of such shall be allocated in accordance with Percentage Interests.

(b) In the event an Owner obtains permission from the municipality or other applicable governmental entity to utilize any External Sidewalk Area or Inner Sidewalk Area assigned as a Limited Common Element to such Owner's Unit for outdoor seating, display of merchandise and/or other commercial purposes, the Owner may by providing writing notice to the Association thereafter assume the right and obligation to maintain, improve, repair, and/or replace such External Sidewalk Areas and Inner Sidewalk Areas (including without limitation providing snow and ice removal). In the event the Owner subsequently ceases using any External Sidewalk Area or Inner Sidewalk Area for outdoor seating, display of merchandise and/or other commercial purposes, the Owner may relinquish the foregoing obligation to maintain, improve, repair, and/or replace by providing written notice to the Association and thereafter the Association shall assume such obligation as provided in Section 15.5(a) above.

Section 15.6. Failure to Maintain. Notwithstanding the foregoing obligations to maintain, repair and replace, if any Owner or those claiming by, through or under it, abuses, misuses or fails to operate, maintain, repair or replace in the manner provided in this Declaration any item for which it is responsible hereunder or otherwise creates a situation in any portion of the Submitted Property with respect to which non-exclusive easements and licenses have been

granted by this Declaration such that said areas require maintenance, repair or replacement in excess of what would be required by normal use of said areas for their intended purposes, the Owner causing the excess use shall be responsible for the excess costs of operating, maintaining, repairing and replacing said areas. Without limiting the foregoing, the Association shall also have the right to exercise self-help as provided in Section 17.4 below. Each Owner shall maintain and promptly upon request, from time to time, make available to any other Owner maintenance records for its Unit with respect to which easement rights exist under this Declaration. As to any items (such as exterior painting) that require coordination or cooperation as to timing, materials, payment or the like, the parties shall be reasonable in so cooperating and coordinating.

Section 15.7. Mold Disclosure and Waiver.

(a) MOLD IS PRESENT IN SOIL, AIR AND ELSEWHERE IN THE ENVIRONMENT. MOLD CAN PROLIFERATE IN VARIOUS ENVIRONMENTS, INCLUDING, AMONG OTHERS, DAMP AREAS SUCH AS BATHROOMS AND WITHIN WALLS AND PARTITIONS. CONCERNS HAVE BEEN EXPRESSED ABOUT THE POSSIBLE ADVERSE EFFECTS ON HUMAN HEALTH FROM EXPOSURE TO MOLD. ACCORDING TO THE CONSUMER PRODUCT SAFETY COMMISSION AND THE AMERICAN LUNG ASSOCIATION, SOME DISEASES OR ILLNESSES HAVE BEEN LINKED WITH BIOLOGICAL POLLUTANTS IN THE INDOOR ENVIRONMENT, INCLUDING SOME FORMS OF MOLD. HOWEVER, IT IS BELIEVED THAT MANY OF THESE CONDITIONS MAY ALSO HAVE CAUSES UNRELATED TO THE INDOOR ENVIRONMENT. THEREFORE, AS OF THE EFFECTIVE DATE, IT IS UNKNOWN HOW MANY POTENTIAL HEALTH PROBLEMS RELATE PRIMARILY OR EXCLUSIVELY TO INDOOR AIR QUALITY OR MOLD. DECLARANT AND THE ASSOCIATION ARE NOT QUALIFIED AND HAVE NOT UNDERTAKEN TO EVALUATE ALL ASPECTS OF THIS VERY COMPLEX ISSUE. DECLARANT AND THE ASSOCIATION HAVE NOT PERFORMED ANY TESTING OR EVALUATION OF, AND MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE PAST, CURRENT OR FUTURE PRESENCE OR ABSENCE OF MOLD IN ANY OF THE UNITS, THE LIMITED COMMON ELEMENTS APPURTENANT TO THE UNITS, ANY UNFINISHED PERIMETER WALLS LOCATED WITHIN A UNIT OR ANY OTHER COMMON ELEMENTS, OR WITHIN THE VICINITY OF THE SUBMITTED PROPERTY. DECLARANT AND THE ASSOCIATION RECOMMEND THAT EACH OWNER CONDUCT ITS OWN INVESTIGATION AND CONSULT WITH SUCH EXPERTS AS THE OWNER DEEMS APPROPRIATE REGARDING THE OCCURRENCE AND EFFECTS OF MOLD, AND THE POTENTIAL SENSITIVITY OR SPECIAL RISK THAT THE OWNER AND HIS, HER OR ITS OCCUPANTS, WHO WILL OCCUPY OR USE THE UNIT, MAY BE SUBJECT TO.

(b) WHEN EXCESSIVE MOISTURE OR WATER ACCUMULATES INDOORS, MOLD GROWTH CAN AND WILL OCCUR, PARTICULARLY IF THE MOISTURE PROBLEM REMAINS UNADDRESSED. THERE IS NO PRACTICAL WAY TO ELIMINATE ALL MOLD IN AN INDOOR ENVIRONMENT. THE KEY TO CONTROLLING INDOOR MOLD GROWTH IS TO CONTROL MOISTURE. EACH OWNER SHALL MAINTAIN THEIR RESPECTIVE UNITS IN SUCH A MANNER AS TO REDUCE THE POTENTIAL FOR INCREASED MOLD FORMATION OR GROWTH, INCLUDING,

WITHOUT LIMITATION, MAINTAINING AND REPAIRING ALL HEAT, VENTILATION, AND AIR CONDITIONING SYSTEMS SERVING SUCH OWNER'S UNIT IN GOOD CONDITION AND USING AND OPERATING SUCH SYSTEMS AT REASONABLE LEVELS, KEEPING VENTS AND/OR FANS CLEAR AND FUNCTIONING AND PREVENTING AND REPAIRING PLUMBING, WINDOW AND OTHER LEAKS AND SOURCES OF MOISTURE. EACH OWNER SHALL CONDUCT PERIODIC INSPECTIONS OF THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, FOR THE PRESENCE OF MOLD OR CONDITIONS WHICH MAY INCREASE THE ABILITY OF MOLD TO PROPAGATE WITHIN THE UNIT OR OTHER PORTIONS OF THE CONDOMINIUM. FURTHERMORE, EACH OWNER SHALL MONITOR THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, ON A CONTINUAL BASIS FOR EXCESSIVE MOISTURE, WATER OR MOLD ACCUMULATION. IF WATER OR MOISTURE IS DISCOVERED IN OR AROUND SUCH AREAS, THE OWNER SHALL IMMEDIATELY SEEK TO ELIMINATE THE SOURCE OF THE WATER OR MOISTURE. FAILURE TO ELIMINATE THE SOURCE OF MOISTURE CAN RESULT IN ADDITIONAL DAMAGE AND THE GROWTH OF MOLD, AND DECLARANT SHALL NOT BE RESPONSIBLE FOR SUCH DAMAGES. EACH OWNER, BY TAKING TITLE TO A UNIT, HEREBY WAIVES ALL RIGHTS TO DAMAGES AND SUBROGATION OF DAMAGES RESULTING FROM MOLD IN THE UNIT. EACH OWNER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT AND THE ASSOCIATION FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, COSTS, EXPENSES AND LIABILITIES, INCLUDING ALL CASES OF PERSONAL INJURY OR PROPERTY DAMAGE, CAUSED BY THE PRESENCE OF MOLD AND/OR WATER OR MOISTURE IN THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, TO THE EXTENT THAT THE DAMAGES ARE CAUSED BY: (I) THE OWNER'S NEGLIGENCE OR FAILURE TO PROPERLY MAINTAIN AND MONITOR SUCH AREAS; OR (II) THE OWNER'S FAILURE TO PROMPTLY TAKE APPROPRIATE CORRECTIVE MEASURES AND MINIMIZE ANY DAMAGE CAUSED BY WATER OR MOISTURE (INCLUDING, WITHOUT LIMITATION, FAILURE TO PROMPTLY NOTIFY AND ENGAGE THE HELP OF APPROPRIATE PROFESSIONALS OR EXPERTS).

Section 15.8. Association Inspection Obligations.

(a) Contract for Services. In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations otherwise set forth in this Declaration) or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair and physical condition it has for the Condominium.

(b) Inspection Responsibilities. The inspectors shall inspect component parts of the Condominium in accordance with the rules or requirements of the Associations. The

Association shall be responsible for meeting all inspection requirements adopted by the Association or the Board.

(c) Schedule of Inspections. Such inspections shall take place at least annually or as otherwise recommended by the Association. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. Subject to the provisions of the Declaration below, the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(d) Notice to Declarant. For a period of ten (10) years after the conveyance of the last Unit in the Condominium, or any portion thereof, to a Unit Owner other than Declarant or its affiliates, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

Section 15.9. Unit Owner Inspection Rights. Each Owner shall have the right, but not the obligation, to inspect the physical condition and operation of the Utility and Service Systems serving such Owner's Unit. In conjunction with such right, each Unit Owner shall have a non-exclusive easement to enter any portion of the Submitted Property necessary to facilitate such inspection, provided, however, a Unit Owner desiring to access another Unit shall provide written notice to the applicable Unit Owner (with respect to its Unit) or the Association (with respect to the Common Elements) at least three (3) business days before desiring entry to another Unit or the Common Elements (except in the event of an emergency in which case no advance notice shall be required).

ARTICLE 16. MORTGAGEE RIGHTS

Section 16.1. Consent Required. Unless each of the Owners of a Unit and their respective first Mortgagees give their consent, the Association or the membership shall not:

(a) By act or omission seek to abandon or terminate the Condominium;

(b) Change the Percentage Interests or obligations of any individual Unit for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (ii) determining the Percentage Interest of ownership of each Unit in the Common Elements;

(c) Partition or subdivide any Unit in any manner inconsistent with the provisions of this Declaration;

(d) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or

(e) Use hazard insurance proceeds for losses to any portion of the Submitted Property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such portion of the improvements on the Submitted Property.

Section 16.2. Assessments. Where a Mortgage Holder obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit that became due prior to such acquisition of title unless provided otherwise in the Act Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such Mortgage Holder, its successors and assigns. Additionally, such Mortgage Holder shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all pro-rata charges for the days in the month in which title is passed.

Section 16.3. Notices. Upon written request to the Association, identifying the name and address of the holder and the Unit, any Mortgage Holder will be entitled to timely written notice of the following:

(a) any condemnation loss or any casualty loss which affects a material portion of the Submitted Property or any Unit on which there is a first Mortgage held by such Mortgage Holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Mortgage Holder which remains unsatisfied for a period of ten (10) days and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within ten (10) days;

(c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action that would require the consent of a specified percentage of Mortgage Holders, as specified herein;

(e) any proposed amendment of the Condominium Instruments effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto; (iii) the number of votes in the Association appertaining to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted; or

(f) any proposed termination of the Condominium.

Section 16.4. Duplicative Notices. Upon written request to the Association, identifying the name and address of the holder and the Unit, a Mortgage Holder shall be entitled to simultaneously receive any and all written notices that are sent by the Association to the Owner of the Unit to which the Mortgage Holder has a secured interest.

Section 16.5. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Unit Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

Section 16.6. Notice to Association. Upon request, each Unit Owner shall be obligated to furnish to the secretary of the Association the name and address of any Mortgagee encumbering such Owner's Unit.

Section 16.7. RESERVED.Cure Rights. Any Mortgagee shall have the right, but not the obligation, at any time prior to the termination of the Condominiums Instruments, and without payment of any penalty, to do any act or thing required by the Condominium Instruments of any Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee. All payments so made and all things so done and performed by any Mortgagee shall be deemed the same as if would have been made, done and performed by any Unit Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee hereto instead of by said Mortgagee. Additionally, if any Mortgagee wishes to cure the default of a Unit Owner whose Unit is encumbered by such Mortgagee, then, except in the event such uncured default relates to an Emergency, such Mortgagee shall have ten (10) days in addition to any applicable cure period set forth in the Condominium Instruments to cure such default.

Section 16.9. No Invalidity of Mortgage Lien. No violation of the Condominium Instruments, by, or enforcement of the Condominium Instruments against, any party shall impair, defeat or render invalid the lien of any Mortgage.

Section 16.10. Construction. Nothing contained in this Article 16 shall be construed to reduce the percentage vote that must otherwise be obtained under the Condominium Instruments or Tennessee law for any of the actions set forth in this Article 16.

Section 16.11. Right to Mortgage. Each Owner shall have the right to grant one or more Mortgages on its Unit without the consent of the Association or any other Owner so long as such Mortgage or Mortgages are expressly subordinate to the terms, obligations, liens and conditions of this Declaration.

Section 16.12. Insurance. In the event the Association fails to obtain and maintain any of the insurance required under this Declaration, then the Association shall be deemed to have granted a proxy to each Mortgagee, as their interests may appear, to obtain such insurance, upon three (3) Business Days' notice to the Association and all Owners and their respective Mortgagees at the expense of the Association, which premiums shall be repaid to such Mortgagee in full (to the extent such premiums are not paid to such Mortgagee upon cancellation as set forth below) In the event the Association (or any Owner exercising its self-help rights on behalf of the Association) thereafter obtains the insurance required to be maintained by the Association, the insurance obtained by such Mortgagee shall be cancelled and any unearned premiums shall be refunded to such Mortgagee. As used herein, "Business Day" shall mean any day that is not a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to remain closed

Section 16.13. Right to Inspect Books and Records. Each Mortgagee shall have the right to inspect the financial books and records of the Association from time to time upon not less than fifteen (15) days written notice to the Association. The Association shall provide each Mortgagee reasonable prior notice of any meetings to be held by or on behalf of the Association and/or the Board with respect to the Condominium, and each Mortgagee shall have the right to attend any such meetings (including through telephone or video conference or other similar means, as applicable).

Section 16.14 Conflicts. In the event of any conflict or inconsistency between this Article 16 and any other provision of this Declaration, this Article 16 shall control and prevail.

ARTICLE 17. DEFAULT AND REMEDIES

Section 17.1. Remedies Cumulative. The remedies set forth in this Article 17 for breach of the provisions set forth in the Condominium Instruments shall be in addition to and not in substitution for any other remedies available to any Unit Owner or the Association for breach of the Condominium Instruments set forth in this Declaration or available at law, in equity or otherwise, all of which are intended to be cumulative.

Section 17.2. Authority and Enforcement. The Submitted Property shall be used only for those uses and purposes set out in this Declaration. Every Owner and its Permittees shall comply with this Declaration, Bylaws and rules and regulations promulgated and adopted by the Association and any lack of compliance therewith shall entitle the Association and, if the Association fails to enforce such compliance, one (1) or more aggrieved Owners, to take action to enforce the terms of this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association. The Board of Directors shall have the power to impose reasonable fines, which fines shall constitute a lien upon the Owner's Unit for violation of any duty imposed under this Declaration, the Bylaws or any rules and regulations promulgated and adopted by the Association; provided, however, nothing herein shall authorize the Association or the Board to limit the use of Common Elements or voting rights and the Association and Board shall not be permitted to do so. In the event that any Owner of a Unit violates this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association and a fine is imposed, notice of such violation shall be sent to such Owner and the fine shall be an assessment and a lien against the Unit until paid. The failure of the Board to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 17.3. Fining and Suspension Procedure The Board shall not impose a fine unless and until the Association has sent or delivered written notice to the violating Owner as provided in this Section 17.3. Any such fine or fines may be effective or commence upon the sending of a Notice of Uncured Violation as set forth in Section 17.3(b) below or such later date as may be set forth in such Notice of Uncured Violation, notwithstanding the violator's right to request a hearing before the Board to challenge such fine or fines under Section 17.3(c) below.

(a) Notice to Cure. If any provision of this Declaration or the Bylaws or any rule or regulation of the Association is violated, the Board shall send the violating Unit Owner a

written notice to cure identifying the violation(s) and fine(s) to be imposed in the event that the violation(s) is not fully cured by the end of the "Cure Period." The "Cure Period" shall be: (a) five (5) business days, if the violation can be cured or remedied solely by the payment of money or cessation of an activity; or (b) thirty (30) days, as to any other violation; provided, however, that (1) in the case of an emergency involving either imminent danger of personal injury or imminent danger of material damage to property or the interruption of utility services or other critical services to any Unit (an "**Emergency**"), the Cure Period shall be such time as is reasonably necessary in light of the circumstances if curative action is promptly commenced and (2) except in the case of such an emergency, if the nature of the failure is such that it is not subject to cure or remedy solely by the payment of money and if the failing Unit Owner has commenced appropriate curative action prior to the expiration of the Cure Period and thereafter has diligently pursued the completion of such cure and is continuing to do so, then the Cure Period shall be extended for such additional period of time, but not more than sixty (60) days, as shall be required to cure such failure with appropriate, diligent and continuous action. Nothing contained in this Section 17.3(a) shall be construed to give rise to any default on the part of any Owner under this Declaration based on any interruption of utility services or other critical services if the cause or cure of such interruption is not within the reasonable control of such Unit Owner.

(b) Failure to Cure After Notice. If the violating Unit Owner fails to timely cure the violation(s) specified in the written notice to cure, the Board shall send the violating Unit Owner a written notice of Notice of Uncured Violation identifying the uncured violation(s) and the fine(s) being imposed and further advising the violating Unit Owner of the right to request a hearing before the Board to contest the violation(s) or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence seven (7) days from the date on which the violating Unit Owner receives said written Notice of Uncured Violation or such later date specified in such Notice of Uncured Violation, notwithstanding the violator's right to request a hearing before the Board to challenge the fine, but the collection of any such fine shall be suspended during any period of appeal by the violating Owner as set forth below. In the event of a continuing violation, fines may be imposed by the Association for each day the violation continues or occurs again up to the maximum amount set forth in Section 17.3(d) below without further notice to the violating Unit Owner.

(c) Hearing. If a written request for hearing is received from the violating Unit Owner within ten (10) days of the date of the notice of Notice of Uncured Violation provided above, then the Board shall schedule and hold in executive session a hearing affording the violating Unit Owner a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish uniform, nondiscriminatory rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time.

(d) Maximum Fine. The Board of Directors on behalf of the Association may impose a fine in an amount not to exceed Five Hundred Dollars ($500.00) per day for any one violation of this Declaration or the Bylaws or any rule or regulation of the Association, up to a maximum amount of Seven Thousand Five Hundred Dollars ($7,500) for any one (1) continuing violation of this Declaration or the Bylaws or any rule or regulation of the Association. Under no circumstance shall this maximum fine provision limit or prevent the Association from pursuing all other legal and equitable remedies available to enforce the provisions of this Declaration.

Section 17.4. Self-Help Rights.

(a) Notwithstanding anything to the contrary herein contained, but subject to the notice and cure provisions set forth in Section 17.3 above, the Board may elect to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 17.3 above, but with the obligation to comply with the procedures set forth in this Section 17.4(a) and in Section 17.5 below. In any such action, the prevailing party shall have the right to recover its reasonable attorneys' fees and court costs from the non-prevailing party. If self-help is going to be undertaken, the Association or its duly authorized agent shall send a written notice to the violating Unit Owner giving such violating Unit Owner not less than ten (10) days within which to cure such violation (except in the event of an emergency in which case the requirement of ten (10) days written notice shall not apply and only such notice as is reasonable under the circumstances shall be required). Such notice shall describe the violation and the violating Unit Owner's obligations under this Declaration in reasonable detail and request that the violating Owner thereafter diligently commence and continue the actions necessary to cure such violation.

(b) Notwithstanding anything to the contrary herein contained, in the event the Association fails to perform its obligations under this Declaration, each Owner may elect to enforce any provision of this Declaration by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, subject to compliance with the procedures set forth in this Section 17.4(b) and in Section 17.5 below. In any such action, the prevailing party shall have the right to recover its reasonable attorneys' fees and court costs from the non-prevailing party. If self-help is going to be undertaken, the applicable Owner or its duly authorized agent shall send a written notice to the Association giving the Association not less than ten (10) days within which to cure such violation (except in the event of an emergency including but not limited to any failure by the Association to maintain the insurance required by Article 11 above, in which case the requirement of ten (10) days written notice shall not apply and only such notice as is reasonable under the circumstances shall be required). Such notice shall describe the violation and the violating Unit Owner's obligations under this Declaration in reasonable detail and request that the violating Owner thereafter diligently commence and continue the actions necessary to cure such violation.

(c) It is expressly provided that in the event of any conflict between the self-help provisions of this Section 17.4 and the self-help provisions of Section 14.10 (with respect to the Garage Unit), the provisions of Section 14.10 shall control.

Section 17.5. Conditions of Self-Help Rights. The right of the applicable Owner or the Association (each an "**Exercising Owner**") or its duly authorized agent to perform any work under the foregoing Section 17.4 shall be subject to the following conditions and requirements:

(a) Not less than five (5) days prior written notice shall be given to the violating party (except in the event of an emergency in which case the requirement of notice shall not apply and only such notice as is reasonable under the circumstances shall be required) that the Exercising Owner or its duly authorized agent anticipates performing such work, together with notification of

the proposed scope and location of such work and the anticipated date of start and completion of such work.

(b) Such work shall be performed in such a manner as not to cause any unnecessary interruption of or undue interference with the business of the violating party and/or its Occupants.

(c) Such work shall be diligently pursued to completion and, upon completion, the Exercising Owner or its duly authorized agent shall restore the relevant portion of the Common Elements or violating Owner's Unit (as applicable) as closely as is practicable to the condition that existed immediately before the commencement of such work (except for changes to remedy the condition necessitating the self-help work).

(d) The Exercising Owner shall indemnify and hold the violating party harmless from and against any and all expenses, liabilities, obligations, damages, penalties, claims, actions, costs and expenses, including reasonable attorneys' fees actually incurred, in connection with loss of life, bodily injury and/or damage to property caused by the Exercising Owner, its employees or agents in connection with the performance of such work, except to the extent the same was caused by the negligence or misconduct of the violating party, its employees, licensees or invitees.

(e) If the Exercising Owner or its duly authorized agent is performing this self-help work, the Exercising Owner shall pay for all costs and expenses as and when it incurs them in connection with any such work performed, but shall be (i) permitted to collect all such amounts as a Specific Assessment from the violating Owner (if the Association is the Exercising Owner) or (ii) entitled to reimbursement upon demand from the violating party, and in any event the prevailing party in such collection action shall have the right to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

Section 17.6 Loss of Voting Rights. Any Owner in default in the payment of assessments shall not be entitled to exercise the right to vote until such default is cured. An Owner shall be deemed to be in default if assessments are not paid within fifteen (15) days after receipt of notice of assessment and such non-payment continues for an additional period of fifteen (15) days after written notice of non-payment from the Association. An Owner may protest the amount of the assessment, but the assessment must be paid during the pendency of the protest. An Owner shall not lose its voting rights based on any non-monetary default under this Declaration.

ARTICLE 18. COMPLIANCE WITH LAWS AND ZONING

Section 18.1. Compliance with Laws and Covenants. Each Unit Owner and its Permittees shall, with respect to such Unit Owner's Unit, be responsible for complying with all Legal Requirements now or hereafter enacted or promulgated by the United States of America, State of Tennessee, County of Davidson, City of Nashville and any other governmental entity or agency now or hereafter having jurisdiction over the Condominium or any portion thereof. Notwithstanding the foregoing, the obligations of each Unit Owner to insure compliance with Legal Requirements pursuant to this Section 18.1 shall not be deemed a breach or violation of the

terms of this Declaration unless the failure to comply with the applicable Legal Requirement has resulted in a Material Adverse Effect on another Unit.

Section 18.2. Environmental.

(a) No Owner, Occupant or other Permittee shall generate, treat, reclaim, transport, handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its agents, employees, contractors or invitees to generate, treat, reclaim, transport, handle, store, deposit, use, process, manufacture, dispose of or release any Hazardous Substance of any kind at, from, on, in, under or in the air above any part of a Unit or the Condominium, including, but not limited to, any surface waters or groundwater located thereon or into public sanitary or storm sewer systems or any sump pumps serving the Unit or Condominium. Notwithstanding the above, this prohibition shall not apply to the presence, use, or storage on the Condominium in compliance with Environmental Laws of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal hotel, office, residential, retail, restaurant, and parking uses and to maintenance and operation of the Condominium (including, but not limited to, Hazardous Substances in consumer products), including air emissions and discharges to sewer systems made in compliance with all Environmental Laws of such permitted Hazardous Substances.

(b) Each Owner and Occupant of a Unit, or any portion thereof, shall be responsible for and shall pay all costs and expenses related to the disposal or release by such Owner or Occupant of any Hazardous Substances in, on, under or in the air above such Unit, which costs and expenses shall include, but not be limited to, closure, removal, remediation, cleanup, containment and other response costs, injuries to persons, damages to property, legal expenses and interest paid to any governmental entity.

(c) No Owner or other Occupant of a Unit, or any portion thereof, shall handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its Permittees to handle, store, deposit, use, process, manufacture, dispose of or release any explosives, or any flammable, odorous, noxious, corrosive, or pollutant materials or any other goods that would cause danger or nuisance to a Unit or any portion of the Condominium. Furthermore, areas located within a Unit or the Condominium shall not be used for any purposes unlawful or contrary to any Legal Requirements.

(d) The provisions of this Section 18.2 do not affect the rights, liabilities or obligations of any Person under Environmental Laws or other applicable laws, except as may otherwise be expressly provided herein.

Section 18.3. Unit Owner's Indemnity. Except to the extent insured against under valid and collectible insurance policies maintained by the Indemnifying Unit Owner (defined below), each Owner (hereinafter referred to as the "**Indemnifying Unit Owner**") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the Association and the other Unit Owners, their respective Mortgagees, partners, beneficiaries, members, managers, stockholders, directors, officers, agents and employees (hereinafter referred to as the "Indemnitee"):

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

(i) the Indemnifying Unit Owner's use of the Indemnifying Unit Owner's Unit, Limited Common Elements, Common Elements, Utility and Service Systems, or activities therein or arising out of the Indemnifying Unit Owner's use or exercise of the easements and licenses granted hereunder;

(ii) the Indemnifying Unit Owner's failure to perform any of its maintenance, repair, replacement, restoration or similar obligations hereunder in accordance with the terms and provisions of this Declaration; or

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

(b) from and against all costs, reasonable attorney's fees actually incurred (including appeals of any judgment or order), expenses and liabilities incurred with respect to any Claim arising from the Indemnifying Unit Owner's aforementioned obligations.

In no event shall the Indemnifying Unit Owner have any indemnification obligation to the Indemnitee to the extent occasioned by the grossly negligent or wrongful acts or omissions of any Indemnitee or its affiliates or its Permittees. Permittees of the Indemnitee shall not have the right to directly enforce the Indemnifying Unit Owner's indemnification obligations under this Section 18.3; provided, however, that the Indemnifying Unit Owner shall be liable to the Indemnitee with respect to any claims made against an Indemnitee by any such Permittees, to the extent such claim relates to an Indemnifying Unit Owner's indemnification obligation under this Section 18 3. In case any action or proceeding is brought against any Indemnitee by reason of any such Claim, Indemnifying Unit Owner, upon notice from any such Indemnitee, covenants to resist or defend such Claim with attorneys reasonably satisfactory to such Indemnitee and the Owner's insurer. Any counsel for the insurance company providing insurance against such Claim shall be presumed reasonably satisfactory to each such Indemnitee. Indemnifying Unit Owner may not settle a Claim without the consent of each affected Indemnitee, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding anything to the contrary contained herein, the foregoing indemnity obligations are in no way limited by the coverage limits of applicable insurance policies.

Section 18.4. Zoning Compliance. Without limiting the provisions of this Section 18.4, and except to change a permitted zoning non-conformity to a zoning conformity, no Owner shall: (a) alter, modify or limit the maximum density allowed for another Unit or the permitted land uses of the Submitted Property; (b) use the Submitted Property for any use other than those permitted under the zoning classification for the Submitted Property in effect on the Effective Date, (c) seek a special use permit for any use not otherwise permitted by this Declaration, or (d) make any alterations or allow any use of its respective Unit or take or fail to take any action that would violate the provisions of the City of Nashville Zoning Ordinance (hereinafter collectively referred to as "Zoning Change"). In the event any Owner desires to seek a Zoning Change, such Owner must receive the prior written consent of all Owners, which consent may be granted or

denied in the sole discretion of each of the respective Owners. Such consent by the other Owners shall be deemed proper authorization for the Owner seeking the Zoning Change to act on behalf and as the limited lawful agent of the other Owners to seek and obtain said Zoning Change, whereupon the other Owners shall do all things as may be reasonably requested to obtain approval of the Zoning Change, at no cost or expense to the Owners not seeking the change. The aforementioned authorization to act as the limited lawful agent shall be limited to the purposes expressly contemplated herein and any attempt to use the authorization in violation of this Declaration shall be deemed null and void.

ARTICLE 19. GENERAL PROVISIONS

Section 19.1. Dispute Resolution.

(a) Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered or by Permitted Overnight Delivery to any member of the Board of Directors or the property manager, if any, of the Association. The Owner shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Unit Owner's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) or more than twenty-one (21) days from the date of receipt of the request.

(b) All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or allegedly sustaining such damage.

(c) All Owners hereby acknowledge and agree that no Owner shall be entitled to institute any legal action against anyone which is based on any alleged defect in the Common Elements, but rather, that all such actions shall be instituted by the Association on behalf of the Owners.

Section 19.2. Declarant Services.

(a) Each Owner acknowledges that Declarant and its affiliates may provide services utilized by developments such as this Condominium including, but not limited to, management services. Each Unit Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates, provided that all such services and service contracts shall be consistent with market rates and arm's length transactions.

(b) A company affiliated with Declarant may enter into management or other service agreements with the Association and the Owner of a Unit (which may be Declarant). In such circumstances, the company affiliated with Declarant may reasonably allocate related costs

between the Association and the other Owner or applicable party, provided that all such services and costs shall be consistent with market rates and arm's length transactions.

(c) Any Unit Owner shall have the right, by at least thirty (30) days' prior notice to the Association and the other Unit Owners, to request approval from the Association to take over the management of any contract and payment for services performed pursuant to such contract (herein, a "Service Contract") which, as of and prior to the date of such request, has been managed by the Association and included in the Association's annual budget The Association shall not withhold its consent to such request so long as (a) the applicable Service Contract is for services that are exclusive to the Unit owned by the requesting Unit Owner, (b) approval of such request does not violate any terms or conditions of the applicable Service Contract; and (c) the requesting Unit Owner shall pay any and all termination, transfer or other fees associated with the transfer, modification, alteration or other change to the applicable Service Contract. From and after the date during the time that the applicable Unit Owner takes over any such Service Contract, the Association's bills with respect to Assessments payable by such Unit Owner shall not include line items for the Service Contract that has been assumed by the Unit Owner in accordance with this provision, and the applicable Unit Owner shall not be obligated to pay amounts for such Service Contract as part of its payment of assessments (including Annual Assessments, Special Assessments, and Specific Assessments).

Section 19.3. Enforcement. A breach by a Unit Owner of the agreements set forth herein would cause irreparable and continuing injury to the other Unit Owners and, in the event of such breach, monetary damages may be insufficient to compensate such other Unit Owners for its injury. Accordingly, in the event of any breach or threatened breach of this Declaration by a Unit Owner, each affected other Unit Owner shall have the right (without the necessity of posting bond except as otherwise required under Tennessee law) to injunctive relief or to the issuance of an order to compel performance to enforce the provisions set forth herein; provided, however, such right shall be cumulative of any other rights and remedies under this Declaration, at law or in equity

Section 19.4. Parking Spaces and Vehicles. Neither the Association, nor Garage Unit Owner, nor Garage Manager, nor Declarant shall be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or otherwise, including, but not limited to, any loss or damage from calcium deposits, water or acid damage to any property placed or kept in any parking space in the Garage Unit, unless such loss or damages arises from or is occasioned by the willful misconduct of the Association, Garage Unit Owner, Garage Manager or Declarant, as applicable. Each Unit Owner or Occupant, and their Permittees, with use of a parking space, who places or keeps a vehicle and/or any personal property in the vehicle, does so at his or her own risk The foregoing shall not, however, prevent recovery of insurance proceeds by Declarant, Garage Manager, the Association, or any Unit Owner suffering loss or damage to the extent that such loss or damage relates to or arises from an event or casualty that is insured under an insurance policy or policy maintained by an Owner or the Association pursuant to the terms of this Declaration.

Section 19.5. No Third Party Beneficiaries Except as expressly provided herein, nothing contained in this Declaration shall be deemed to create any rights or benefit in favor of any Person other than the Unit Owners, their successors, successors-in-title and assigns

Section 19.6. Successor-in-Title. The provisions of this Declaration shall apply to, inure to the benefit of and be binding upon the entirety of the Submitted Property, as applicable, and the Unit Owner from time to time of any portion of the Submitted Property including, without limitation, any Mortgagee acquiring an interest in any portion of the Submitted Property or any improvements thereon by reason of foreclosure, deed or assignment in lieu of foreclosure or purchase at foreclosure sale; provided, however, Mortgagee shall not incur or be required to assume any obligation under this Declaration unless and until such Mortgagee has so acquired an interest in any portion of the Submitted Property or any improvements thereon. The failure or default by a Unit Owner to comply with any provision hereof shall not affect the validity of any Mortgage, lien or other similar security instrument that may then be existing on such Owner's Unit. Whenever in this Declaration a reference to a Unit Owner is made, such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of such owner or party.

Section 19.7. Notices. Each notice concerning the subject matter of this Declaration shall be in writing and shall be deemed to have properly been given or served by Permitted Overnight Delivery by a reputable overnight commercial courier with receipt for delivery obtained by courier properly addressed to the last known address of the addressee of such notice. Each notice may also be served by a commercial courier service addressed as hereinafter provided. Each notice shall be effective upon being deposited with any authorized courier service as aforesaid, but any time frames for responding to any such notice shall run from the date of actual receipt of such notice as indicated by the return receipt of the records of any courier service used. Refusal to accept a notice or communication or the inability to deliver a notice or communication hereunder due to a changed address of which a party has not been notified shall be deemed actual receipt of such notice or communication. For the purposes of this Section, the address of each Unit Owner shall be reflected in the books and records of the Association and maintained by the officers of the Association.

(a) Upon the occurrence of any of the following with respect to an Owner's Unit, such Owner ("Notifying Owner") shall provide prompt written notice to the Association:

(i) The commencement of any eminent domain or condemnation proceedings affecting the Notifying Owner's Unit; or

(ii) The receipt by the Notifying Owner of any written notice from a governmental entity: (A) alleging any violation of Environmental Laws by the Notifying Owner or its Permittees related to a condition on the Condominium; or (B) requiring the remediation or clean-up of any environmental condition on the Condominium.

Section 19.8. Security.

(a) The Association shall engage a reputable and experienced security services firm to provide security services (including roving patrol) through the Condominium, the cost of which shall be a Common Expense charged to the Unit Owners as set forth on Exhibit "G" attached hereto.

(b) SUBJECT TO SECTION 19.8(a) ABOVE, THE GARAGE UNIT OWNER, THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE SECURITY ON THE SUBMITTED PROPERTY; HOWEVER, EACH OWNER AND OCCUPANT, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, INVITEES, AND OTHER PERMITTEES, ACKNOWLEDGES AND AGREES THAT NEITHER ANY OWNER, THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NO SUCH PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE SUBMITTED PROPERTY. FURTHERMORE, NEITHER THE DECLARANT, THE ASSOCIATION NOR ANY OWNER GUARANTEES THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE SUBMITTED PROPERTY AND COMMIT CRIMINAL ACTS ON THE SUBMITTED PROPERTY NOR DOES THE DECLARANT, THE ASSOCIATION OR ANY OWNER GUARANTEE THAT CRIMINAL ACTS ON THE SUBMITTED PROPERTY WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER AND OCCUPANT TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER AND OCCUPANT. NEITHER THE DECLARANT, THE ASSOCIATION NOR ANY OWNER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF MEASURES UNDERTAKEN.

Section 19.9. Disclosures. Each Owner and Occupant acknowledges and understands the disclosures set forth in Exhibit "D" hereto.

Section 19.10. Conflict.

(a) In the event of a conflict between the provisions of this Declaration and the provisions of Tennessee law, then to the extent that the provisions of Tennessee law cannot be waived by agreement, Tennessee law shall control.

(b) In the event of a conflict between the provisions of this Declaration, the Bylaws, the Charter, or any rules and regulations, then the provisions of this Declaration, the Charter, the Bylaws, and the rules and regulations in that order, shall prevail.

ARTICLE 20. EMINENT DOMAIN

Section 20.1. Common Elements Taken. If any portion of the Common Elements is taken by eminent domain, the award therefor shall be allocated to the Owners in proportion to their respective Percentage Interests or deposited into the Association's operating account or reserve account to be applied to Common Expenses, at the option of the Board; provided, however, that the portion of the award attributable to the taking of any Limited Common Element permanently allocated to one (1) Owner shall be allocated to the Owner of the Unit to which such Limited Common Element was so allocated at the time of the taking. If any Limited Common Element is permanently allocated to more than one Unit at the time of the taking, the portion of the award attributable to the taking thereof shall be allocated in equal shares to the Owners of the Units to which it was so allocated.

Section 20.2. Unit Taken. If one (1) or more Units are taken by eminent domain, the Percentage Interests pertaining to any such Units shall then pertain to the remaining Units to be allocated to them in proportion to their respective Percentage Interests. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby. If a portion of any Unit is taken by eminent domain, the Board shall determine the fair market value of the portion of such Unit not taken (based on a determination by a court having jurisdiction over such eminent domain proceeding, or otherwise based on a report prepared by an independent appraiser); and the Percentage Interests pertaining to any such Unit shall be reduced, in the case of each such Unit, in proportion to the diminution in the fair market value of such Unit resulting from the taking. The portion of Percentage Interests thereby divested from the Owner of any such Unit shall be reallocated among that Unit and the other Units in the Condominium in proportion to their respective Percentage Interests. Any Units partially taken shall participate in such reallocation on the basis of their Percentage Interests as reduced in accordance with the preceding sentence. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

Section 20.3. Mortgagee Notice. Each Eligible Mortgage Holder shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Owner in the distribution of proceeds to such Unit.

ARTICLE 21. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS

Declarant does hereby establish and create perpetual, non-exclusive (except as and to the extent provided to the contrary herein) easements in, to, over, across, under and through portions of Submitted Property for the purposes contemplated in this Article for the use and benefit of the respective Unit Owners and each of their respective Permittees, Mortgagees and successors and assigns. The scope, nature and extent of the easements described in this Article 21 shall be as follows:

Section 21.1. Utilities - Blanket Easement. Subject to the other provisions of this Declaration relating to specific existing or future utilities and the general conditions established in this Article 21, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement for access, ingress, egress to, from, under, through, over and across any portion of such other Units and the Common Elements upon which any existing or future utilities and related improvements are located and the portion of such other Units and the Common Elements reasonably necessary to access those areas where existing or future utilities and related improvements are located, including, but not limited to, electric power, water, fuel, storm drainage, sewer, natural gas, telephone, HVAC refrigerant lines, property monitoring and other telecommunications systems such as closed-circuit cable television and high-speed internet, and controlled access systems and all conduit, raceways and other pathways relating to any of the foregoing which benefit another Unit as of the Effective Date, for the purpose of maintaining, repairing, replacing and using such utilities, subject to the right of the Owner of the Unit (or, in the case of the Common Elements, the Association) upon which such utilities may be located to

relocate such utilities at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time

Section 21.2. Surface Water Drainage and Runoff. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) upon which any surface water drainage and runoff flow, which benefits another Unit as of the Effective Date, subject to the right of the Owner of the Unit on which such surface water drainage and runoff flow to collect and discharge same at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time; and provided that no Unit Owner benefited by such drainage may construct any new improvements or alter any existing or future improvements upon such Unit Owner's property or otherwise divert the flow of water from such Unit Owner's property onto another Unit such that the rate of flow of such drainage or runoff would materially adversely increase over the rate of flow presently existing as of the date hereof, without the prior consent of the affected Unit Owner which consent shall not be unreasonably withheld, conditioned or delayed. Nothing in this paragraph shall be deemed to permit the leaking of water from the Retail Units or the amenity deck on the Master Residential Unit into the Garage Unit, all of which shall be remedied immediately at the expense of the applicable Retail Unit Owner or Master Residential Unit Owner, as applicable. For purposes of the foregoing sentence, the phrase "leaking of water" shall mean and include the unnatural and unanticipated flow of water or other liquids from a broken pipe, utility line or other building system, but shall not include the natural flow or traversing of water over or through a Unit.

Section 21.3. Utility and Service Systems - Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and each Unit a perpetual, non-exclusive easement over and across any portion of the Submitted Property upon which any Utility and Service Systems are located as of the Effective Date for the purpose of maintaining, repairing, replacing, inspecting and using the Utility and Service Systems, subject to: (i) the specific maintenance, repair, replacement, and inspection obligations and assessment provisions set forth elsewhere in this Declaration; (ii) the right of the Owner of the Unit on which such systems may be located to relocate the same at its own cost and expense in a manner reasonably satisfactory to the benefited Owner and Association at any time; and (iii) the right of the Owner of the Unit upon which a Utility and Service Systems is located to modify or relocate the systems to meet with applicable Legal Requirements in a manner reasonably satisfactory to the Association at any time.

Section 21.4. Blanket Easement for Lateral and Subjacent Support; Utility and Service Systems; Party Walls and Encroachments. Subject to the other provisions of this Declaration relating to specific, existing or future utilities and the general conditions established in this Article 21, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) as follows:

(a) All portions of the Submitted Property that as of the Effective Date are utilized for lateral and subjacent support of any portion of Units (including, without limitation, footings, foundations, and the parking structure), to the extent located within any such Units and

benefiting the other Units, as same may from time to time be relocated, constructed or reconstructed in accordance with the terms of this Declaration.

(b) All portions of the Submitted Property as may be reasonably required for access to support columns (including, without limitation, footings, foundations, and the parking structure), beams, slabs, shear walls, vent and other shafts, mechanical rooms, party walls, ceilings and floors, utility, fire safety, communications, Property Monitoring and Access System, and similar facilities, emergency generator, sump pumps and lift stations, discharge wells, grease traps, HVAC equipment and other building components from time to time located within a Unit or Units and benefiting another Unit, together with the right to inspect, maintain, repair, reconfigure, shore, construct, reconstruct and replace same in accordance with the terms hereof. The foregoing easement for access shall also exist for the purposes of: (A) permitting each of the respective Unit Owners of Units reasonable access to portions of such Owner's Unit that abut portions of a Unit owned by another Unit Owner as may reasonably be required for such access; and (B) permitting the Unit Owners of Units to reasonably exercise the easements and other rights granted herein and elsewhere in this Declaration, so long as any Owner accessing another Owner's Unit shall use reasonable efforts to minimize interference with the other Owner's Unit.

(c) The Utility and Service Systems located within one (1) Unit and benefiting another Unit

(d) All portions of Units that consist of party walls, as same may be reconstructed; all portions of Units that encroach on the other (including, without limitation, balcony, terrace, canopy, awning, landscaping and roof projections and decorative fasciae); and all portions of Units on which unintentional encroachments arise from construction or reconstruction as permitted hereunder or caused by settling which may from time to time hereafter exist.

Notwithstanding anything to the contrary stated herein, the dividing walls, floors and ceilings separating two (2) Units, if any, shall be deemed to be party walls, floors and ceilings and each such Unit Owner shall be responsible for one-half of the costs of maintenance, repair and replacement of such party walls, floors and ceilings; provided, however, each Unit Owner shall take all steps required to assure that the fire separation capabilities of such party walls, floors and ceilings are not breached or otherwise adversely impacted by it or anyone claiming by, through or under it, and provided further that any damage to such party wall shall be repaired and/or replaced at the sole expense of the Unit Owner that caused such damage. The Unit Owners shall cooperate and coordinate with each other with respect to the maintenance, repair and replacement of any such party walls, floors and ceilings.

In addition to the foregoing, (x) each Unit Owner shall have a perpetual, non-exclusive easement for access to, and ingress and egress over, the Common Elements for the intended use, enjoyment and inspection thereof, and (y) each Unit Owner, with respect to any Limited Common Elements that benefit and relate to such Unit Owner's Unit, shall have a perpetual, non-exclusive easement for access to, and ingress and egress over, such Limited Common Elements for the intended use, enjoyment and inspection thereof, provided that (A) prior to exercising any such easements for access to Building Utility and Service Systems or Unit Utility and Service Systems, the Unit Owner exercising such easement rights shall provide reasonable prior written notice to

any other Unit Owners to the extent that the use or operation of their Unit or Units are adversely affected, obstructed or disturbed by the exercise of such easement rights, and (B) to the extent Master Residential Unit Owner exercises the foregoing easement rights in order to access that portion of the Master Residential Unit located on Level P2 of the Garage Unit, such easement rights shall be exercised only the Owner of the Master Residential Unit and its Permittees, excluding however, any Permittees that are Hotel Guests or residents of the Master Residential Unit.

Section 21.5. Emergency - Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) that is needed for emergency egress from the Building. This easement shall include, without limitation, the easement and right of the Unit Owners and Permittees to use such portions of the stairwells as is necessary to affect such emergency egress.

Section 21.6. Access Easements Benefiting the Association. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and its Permittees a perpetual, non-exclusive easement for access, ingress and egress to, from, over, under and through the entire Submitted Property for the performance of its obligations and duties hereunder.

Section 21.7 Commonly Metered-Used Items. The Unit Owners acknowledge that some utility services on the Submitted Property may be metered to one (1) Unit Owner and may benefit another Unit Owner. Except where expressly provided to the contrary herein, the Unit Owner being metered shall have the right, at any time, at its cost, to have an engineer or other consultant reasonably acceptable to the other Unit Owner analyze the typical amount of usage allocable to the other Unit Owner. The Unit Owner being metered may invoice the other Unit Owner for the costs of utility service allocable to the other Unit Owner (based on such typical amount of usage and the rates being charged by the applicable utility companies to the metered Unit Owner). Either Unit Owner shall have the right to install sub-meters, at its cost and shall also have the right to at any time, at its cost, to take such steps as may be required to connect the items served by the other Unit Owner's utility meters to its own utility meters or to install separate components that serve solely its Unit and disconnect its Unit from components operated, maintained, repaired and replaced by the other Unit Owner. In the absence of any of the foregoing, each Unit Owner shall pay for all utility service metered to it and for the costs of operating, maintaining, repairing and replacing such components in a manner so that there will be no disruption of service to the other Unit Owner.

Section 21.8. Cooperation. All easements and licenses granted in this Declaration and the use thereof, shall be deemed to be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted, and each Owner exercising any such easement or license shall use reasonable efforts to minimize interference with the other Owner's Unit. Each Unit Owner agrees to cooperate with the reasonable requests of the other Unit Owner in furtherance of the spirit and intent of the matters addressed in this Declaration. To this end, in the event that an Owner of a Unit limits access to its respective Unit and/or the Limited Common Elements serving such Unit, such Unit Owner shall provide the other Unit Owner having easement rights over such areas a reasonable means of access over the areas to which such easement rights appertain.

Section 21.9. Damages Resulting From the Exercise of Easement Rights. Notwithstanding anything to the contrary stated herein, damages caused by the exercise of the easement rights granted in this Article 21, including, but not limited, to reasonable attorneys' fees actually incurred by the prevailing party, shall be paid by the responsible Unit Owner, provided that the Permittee of a Unit Owner causing such expense shall be jointly and severally liable.

Section 21.10. Easements Affecting the Garage Unit

Subject to the provisions and requirements set forth on Exhibit "E", Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Owner of the Master Residential Unit and the Owners of the Retail Units and their respective Occupants and Permittees a perpetual, nonexclusive easement over and across the Garage Driveway, subject to Section 14.10 of this Declaration, for the purpose of allowing pedestrian and vehicular access to and from the parking spaces in the Garage Unit, as shown on the Plat and the Floor Plans (the "Driveway Easement").

Section 21.11. Easements Related to Valet Services.

(a) Future Valet Services. The Owner of the Master Residential Unit and/or the Owners of the Retail Units may, upon mutual written agreement with the Garage Unit Owner, decide to implement valet services in the Garage Unit for the benefit of the Master Residential Unit and/or the Retail Units, as applicable, which valet services shall be subject to the terms of a separate written agreement between such Owners. If and to the extent that such agreement impacts any Common Elements or Unit Owners, the approval of the Association shall be sought and/or this Declaration amended as applicable. Nothing in this Declaration shall be deemed to prohibit the Owner of the Garage Unit from implementing valet services for the benefit of third parties located outside the Property, so long as the Minimum Residential Parking Space Requirement is maintained and such parking spaces remain available to the Owner of the Master Residential Unit in accordance with Exhibit E attached hereto.

ARTICLE 22. AMENDMENT

The Condominium Instruments may only be amended by the affirmative vote, written consent or any combination of affirmative vote and written consent of the Owners holding a Supermajority of the Voting Rights as provided in Exhibit B attached hereto, and such amendment shall otherwise comply with the provisions of Section 66-27-317 of the Act. Notwithstanding the above, if the subject matter of such amendment constitutes a Major Decision, such amendment shall require (a) the approval of all impacted Owners as contemplated by Article 7 of this Declaration, and (b) to the extent that the Unit owned by an impacted Owner is subject to the lien of a first Mortgage Holder, the approval of any Mortgage Holder that is the holder of a first mortgage lien on an impacted Unit. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the president and recorded in the Official Records.

Notwithstanding that certain of the easements created hereby may ultimately run to the benefit of Occupants and Permittees of an Owner of all or part of the Condominium or other non-property owners, nothing contained in this Declaration shall imply that the consent of any such

other benefited parties is required in connection with an amendment, modification or termination of this Declaration, unless expressly provided in this Declaration.

ARTICLE 23. SEVERABILITY

If any provisions of this Declaration or the application thereof to any entity or circumstances shall be invalid or unenforceable to any extent, the remainder of this Declaration and the application of such provisions to any other entity or circumstance shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

[SIGNATURE ON NEXT PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration on this 27 day of December, 2024.

DECLARANT:

205 D OWNER, LLC a Delaware limited liability company

By: Jason F
Name: Jason Fudin
Title: Authorized Signatory

STATE OF New York

COUNTY OF New York

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Jason Fudin with whom I am personally acquainted and who, upon oath, acknowledged herself/himself to be the Authorized Signatory of 205 D Owner, LLC, a Delaware limited liability company, the within named bargainor, and that she/he as such Authorized Signatory, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by herself/himself as such Authorized Signatory.

Witness my hand and official seal at office this 27 day of December, 2024.

Notary Public

My commission expires:
6/20/2028

EMILY BERGER
Notary Public - State of New York
NO. 01BE0026052
Qualified in Queens County
My Commission Expires Jun 20, 2028

EXECUTION VERSION

SUBORDINATION OF DEED OF TRUST AND ASSIGNMENT OF LEASES AND RENTS

CMTG JP FINANCE LLC, a Delaware limited liability company ("**Lender**"), hereby subordinates the liens of (a) that certain Deed of Trust, Security Agreement, Assignment of Leases and Fixture Filing, dated as of December 15, 2021, and recorded in the Register's Office for Davidson County, Tennessee on December 21, 2021, as Instrument No.20211221-0168327 (as the same may have been subsequently assigned), as amended by that certain First Amendment to Deed of Trust, Security Agreement, Assignment of Leases and Fixture Filing, dated as of the date hereof and to be submitted for recording simultaneously herewith (collectively, the "**Deed of Trust**"), and (b) that certain Assignment of Leases and Rents, dated as of December 15, 2021, and recorded in the Register's Office for Davidson County, Tennessee on December 21, 2021 as Instrument No. 20211221-0168328 (as the same may have been subsequently assigned), as amended by that certain First Amendment to Assignment of Leases and Rents dates as of the date hereof and submitted for recording simultaneously herewith (the "**Assignment of Leases**", and together with the Deed of Trust, collectively, the "**Security Instruments**"), to the Declaration of Condominium for The SoBro, a Condominium, dated as of December 27, 2024, and recorded in the Register's Office for Davidson County, Tennessee on December 31, 2024, as Instrument No. 20241231-0101295, and all future amendments, modifications or supplemental declarations to the Declaration (collectively, the "**Declaration**").

The Deed of Trust shall be considered a first deed of trust lien on the Property, as defined in the Declaration, but the Security Instruments shall be subordinate to the Declaration, as fully as if the Declaration had been recorded prior to the Security Instruments. The liens of the Security Instruments are junior and inferior to that of the Declaration, and notwithstanding any foreclosure of the Deed of Trust or other remedial action taken pursuant to either of the Security Instruments, the Declaration shall continue to encumber the property described in the Security Instruments.

The priorities specified herein are applicable irrespective of the time or order of the attachment or perfection of any liens described herein or the time or order of recording the Security Instruments or the Declaration described herein, or the granting of or failure to give notice hereof.

Lender hereby confirms that it is the current holder of the Security Instruments.

The subordination granted herein shall be continuing, irrevocable and binding on Lender and its successors and assigns.

(Signature on Following Page)

CMTG JP FINANCE LLC

By: _____
Print Name: Priyanka Garg
Title: Authorized Representative

STATE OF New York)
COUNTY OF New York)

Before me, Caroline Wells, a Notary Public of said County and State, personally appeared Priyanka Garg, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself to be an Authorized Representative of CMTG JP Finance LLC, the within named bargainor, and that he as such Authorized Representative executed the foregoing instrument for the purposes therein contained, by personally signing the name of Lender by herself as Authorized Representative.

Witness my hand and seal, at Office in New York, New York, this 18th day of December, 2024.

_____
NOTARY PUBLIC
My Commission Expires:

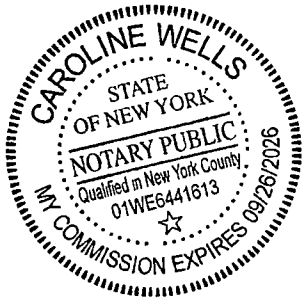


EXHIBIT "A"

DESCRIPTION OF SUBMITTED PROPERTY

Parcel I

Land in Davidson County, Tennessee, being Lot 1, as shown on the map entitled Consolidation of SoBro, of record in Instrument No. 20150401-0028122, Register's Office for Davidson County, Tennessee, to which plan reference is hereby made for a more complete and accurate property description.

Being the same property conveyed to 205 D OWNER, LLC, A DELAWARE LIMITED LIABILITY COMPANY, by deed from 205 DEMONBREUN REALTY HOLDING COMPANY LLC, A DELAWARE LIMITED LIABILITY COMPANY, of record in Instrument No. 21211221-0168326, dated December 21, 2021, said Register's Office.

Parcel II

Easements and rights set forth in that certain Easement Agreement by and between 205 DEMONBREUN REALTY HOLDING COMPANY, LLC, AND C.B. RAGLAND COMPANY, dated as of September 16, 2014 and recorded as Instrument No. 20140917-0085202, Register's Office for Davidson County, Tennessee.

Parcel III

Easements and rights set forth in that certain Plan of Consolidation of SoBro of record as Instrument No. 20150401-0028122, Register's Office for Davidson County, Tennessee.

EXHIBIT "B"

PERCENTAGE INTERESTS

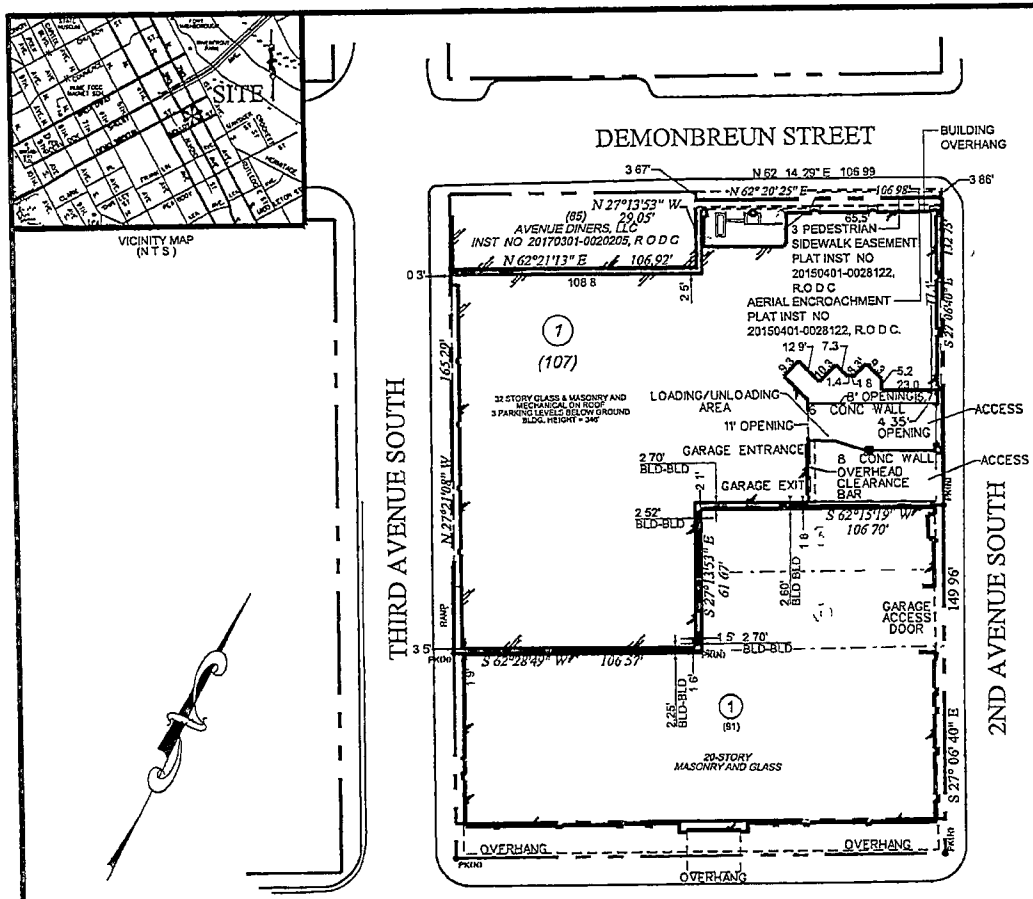
Unit	Approximate Square Footage	Percentage Interest	Number of Votes Allocated to Board Seat and Votes as Owner	Number of Votes Allocated to ARC Representative
Master Residential Unit	324,703	59.20%	59.20	59.20
Retail Unit A	8,043	1.48%	1.48	1.48
Retail Unit B	2,537	0.48%	0.48	0.48
Retail Unit C	7,448	1.37%	1.37	1.37
Retail Unit D	5,232	0.97%	0.97	0.97
Garage Unit	179,224	36.50%	36.50	36.50
TOTAL	**544,391**	**100.00%**	**100**	**100**

NOTE: Any expenses to be allocated other than based on Percentage Interest are set forth on Exhibit "G", which shall control in the event of any conflict or inconsistency.

EXHIBIT "C"

PLAT and FLOOR PLANS

[attached]



DEED REFERENCE

BEING PROPERTY CONVEYED TO 205 D OWNER, LLC BY DEED OF RECORD IN INST NO 20211221-0168326, R O D C

PROPERTY MAP REFERENCE

BEING PARCEL 107 AS SHOWN ON DAVIDSON COUNTY PROPERTY MAP NO 93-06-4

PLAT REFERENCE

BEING LOT NO 1 AS SHOWN ON THE SUBDIVISION PLAT OF THE CONSOLIDATION OF SOBRO OF RECORD IN PLAT INST NO 20150401-0028122, R O D C

SURVEYOR'S DESCRIPTION

LAND IN DAVIDSON COUNTY, TENNESSEE, BEING LOT NO 1 AS SHOWN ON THE MAP ENTITLED CONSOLIDATION OF SOBRO OF RECORD IN INSTRUMENT NO 20150401-0028122, R O D C , TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE COMPLETE AND ACCURATE PROPERTY DESCRIPTION

CERTIFICATION:

I CERTIFY THIS SURVEY AND SITE PLAN OF 217 SECOND AVENUE, A CONDOMINIUM CONTAINS ALL INFORMATION REQUIRED BY T C A SECTION 66-27-309

BRAD TYSON THOMAS
REGISTERED LAND SURVEYOR
COMMERCE
TENNESSEE NO. 2431

Digitally signed by Brad T Thomas
Date: 2024.12.06 21:34:07 -06'00'

NAME

DATE DECEMBER 6 2024

2431
LICENSE NUMBER

AREA= 31,847 SQ. FT., OR 0.73 ACRE +/-

BARGE DESIGN SOLUTIONS
615 Third Avenue, South, Suite 700, Nashville, Tennessee 37210
PHONE (615) 54-1500 FAX (615) 255-6372

PLACEMAKR

SOBRO CONDOMINIUMS
CONDOMINIUM PLAT
205 DEMONBRUEN STREET
DAVIDSON COUNTY, NASHVILLE, TN

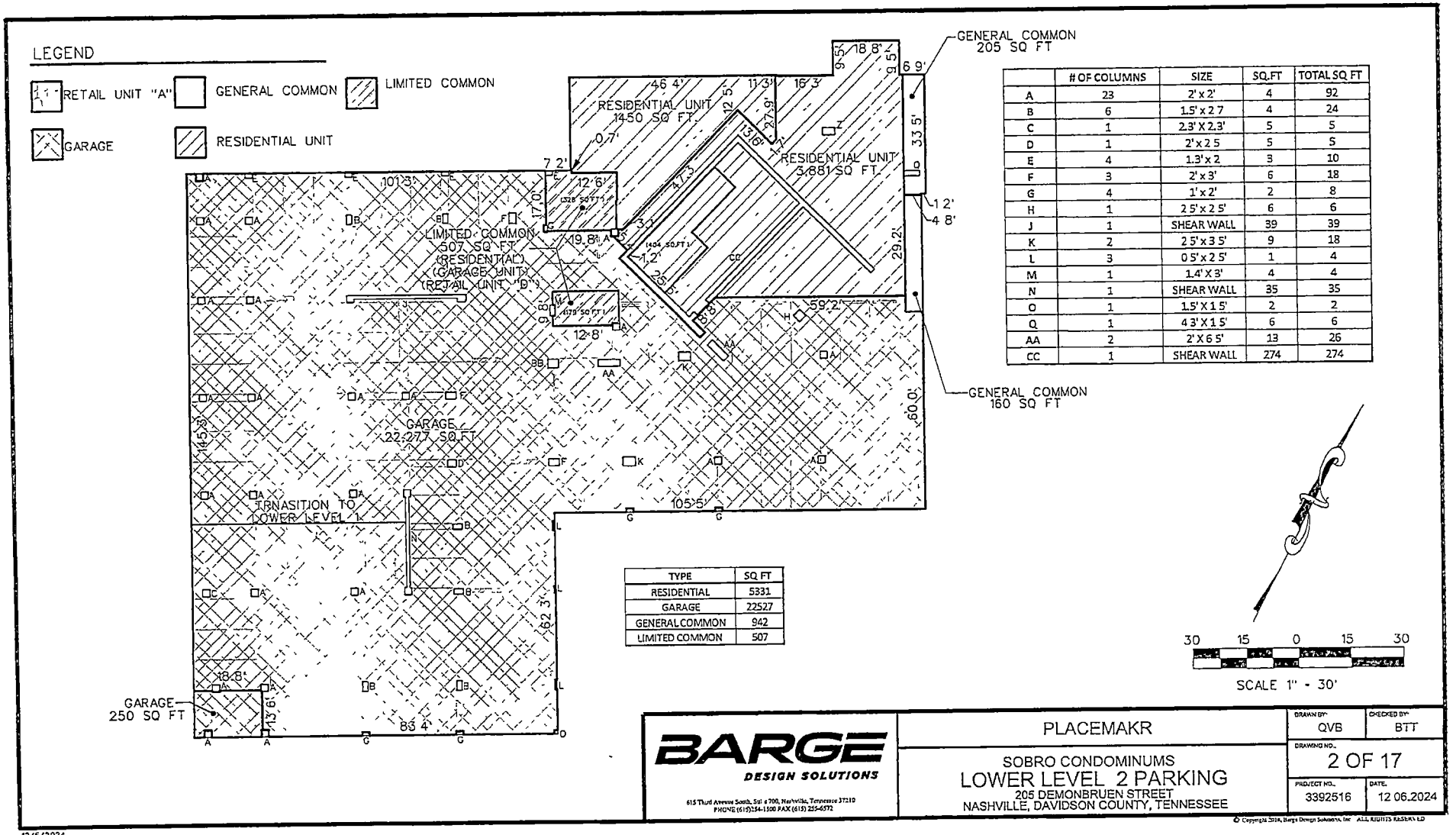
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	# OF COLUMNS	SIZE	SQ.FT	TOTAL SQ FT
A	23	2' x 2'	4	92
B	6	1.5' x 2.7	4	24
C	1	2.3' X 2.3'	5	5
D	1	2' x 2.5	5	5
E	4	1.3' x 2	3	10
F	3	2' x 3'	6	18
G	4	1' x 2'	2	8
H	1	2.5' x 2.5'	6	6
J	1	SHEAR WALL	39	39
K	2	2.5' x 3.5'	9	18
L	3	0.5' x 2.5'	1	4
M	1	1.4' X 3'	4	4
N	1	SHEAR WALL	35	35
O	1	1.5' X 1.5'	2	2
Q	1	4.3' X 1.5'	6	6
AA	2	2' X 6.5'	13	26
CC	1	SHEAR WALL	274	274

TYPE	SQ FT
RESIDENTIAL	5331
GARAGE	22527
GENERAL COMMON	942
LIMITED COMMON	507

30 15 0 15 30

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PLACEMAKR

SOBRO CONDOMINUMS
LOWER LEVEL 2 PARKING
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

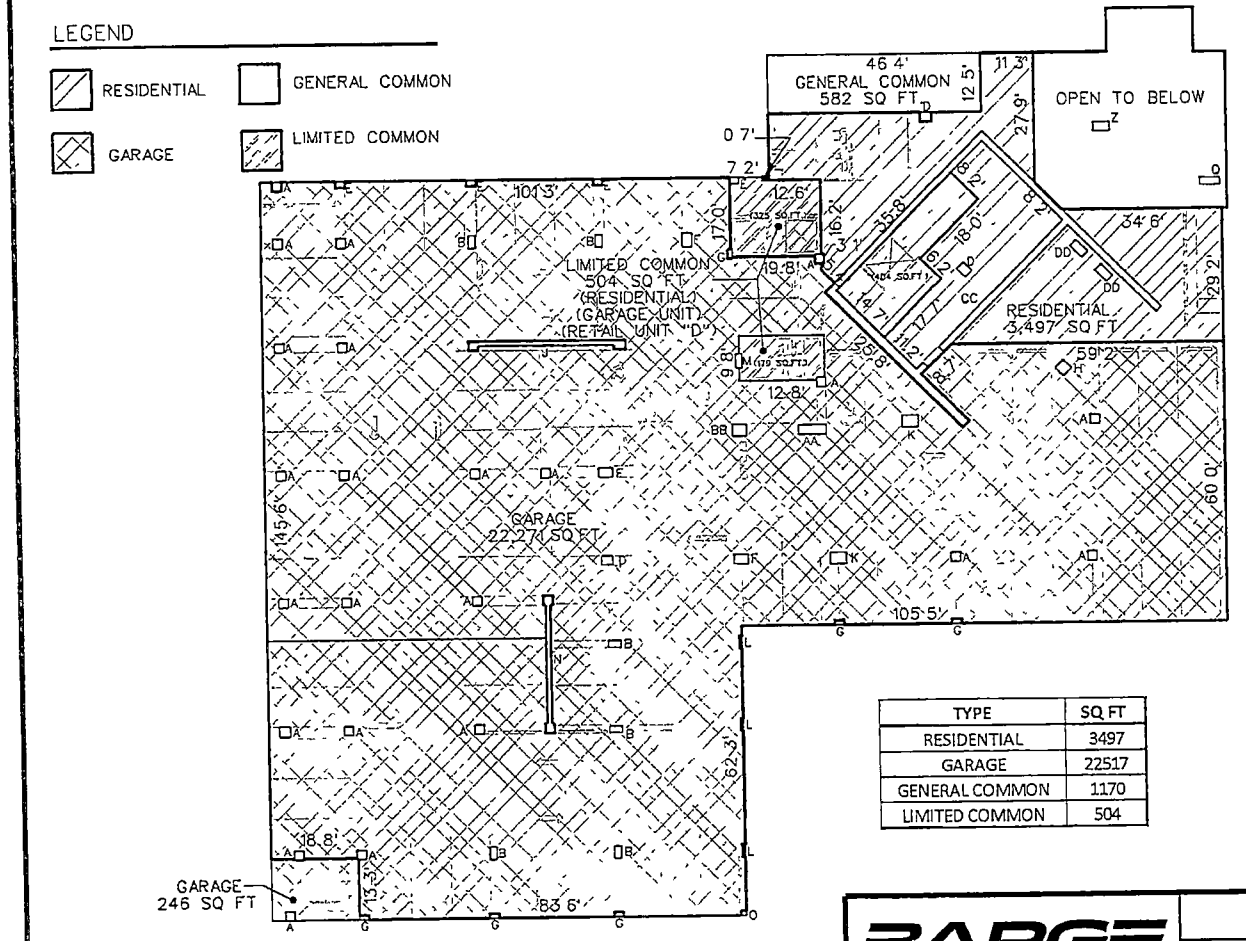
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DRAWING NO.: 2 OF 17

PROJECT NO.:	DATE:
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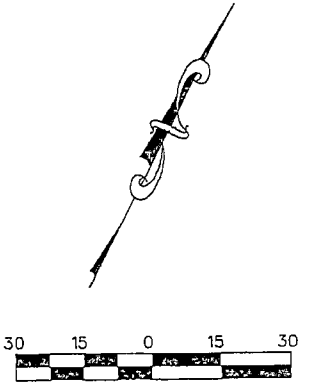
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	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT
A	22	2' x 2	4	88
B	6	1.5' x 2.7	4	24
D	3	2' x 2.5	5	15
E	4	1.3' x 2	3	10
F	2	2' x 3'	6	12
G	5	1 x 2	2	10
H	1	2.5' x 2.5'	6	6
J	1	SHEAR WALL	39	39
K	2	2.5' x 3.5'	9	18
L	3	0.5' x 2.5'	1	4
M	1	1 4 X 3'	4	4
N	1	SHEAR WALL	35	35
O	1	1.5' X 1.5'	2	2
Q	1	4.3' X 1.5'	6	6
Z	1	2 X 3.5'	7	7
AA	1	2' X 6.5'	13	13
BB	1	2.5' X 3	8	8
CC	1	SHEAR WALL	274	274
DD	2	3 5' X 1 8'	6	13

TYPE	SQ FT
RESIDENTIAL	3497
GARAGE	22517
GENERAL COMMON	1170
LIMITED COMMON	504



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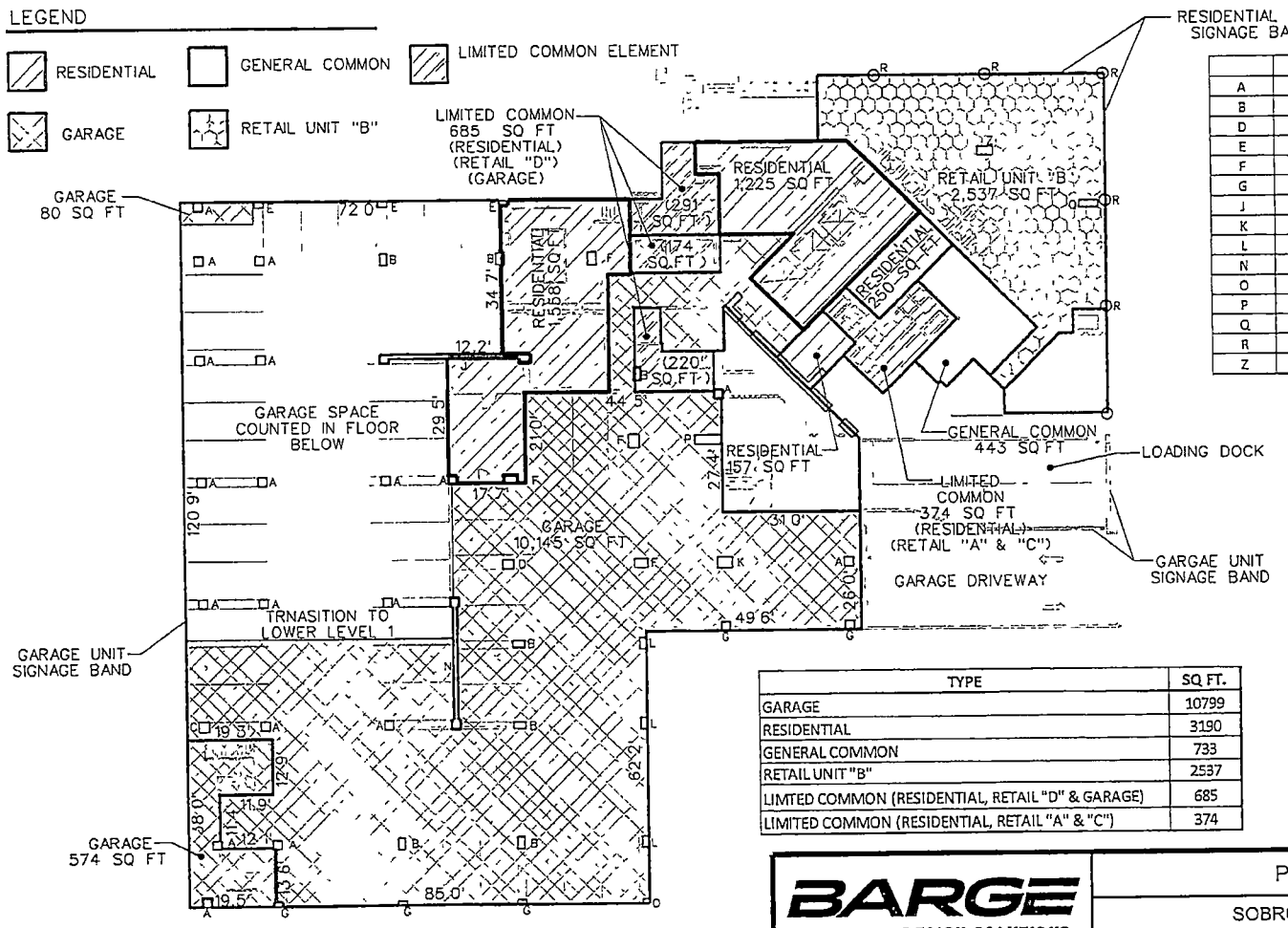
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SOBRO CONDOMINUMS
LOWER LEVEL 1 PARKING
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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DATE	12 06 2024

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	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT
A	19	2' x 2'	4	76
B	7	1.5' x 2.7	4	28
D	1	2' x 2.5	5	5
E	3	1.3' x 2	3	8
F	4	2' x 3'	6	24
G	5	1' x 2'	2	10
J	1	SHEAR WALL	39	39
K	1	2.5' x 3.5'	9	9
L	3	0.5' x 2.5'	1	4
N	1	SHEAR WALL	35	35
O	1	1.5' X 1.5'	2	2
P	1	2.5' X 5'	13	13
Q	1	4.3' X 1.5'	6	6
R	5	2.5 DIA	5	24
Z	1	2' X 3.5'	7	7

TYPE	SQ FT.
GARAGE	10799
RESIDENTIAL	3190
GENERAL COMMON	733
RETAIL UNIT "B"	2537
LIMTED COMMON (RESIDENTIAL, RETAIL "D" & GARAGE)	685
LIMITED COMMON (RESIDENTIAL, RETAIL "A" & "C")	374

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SCALE 1" = 30'

BARGE DESIGN SOLUTIONS

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PLACEMAKR

SOBRO CONDOMINUMS
LOBBY
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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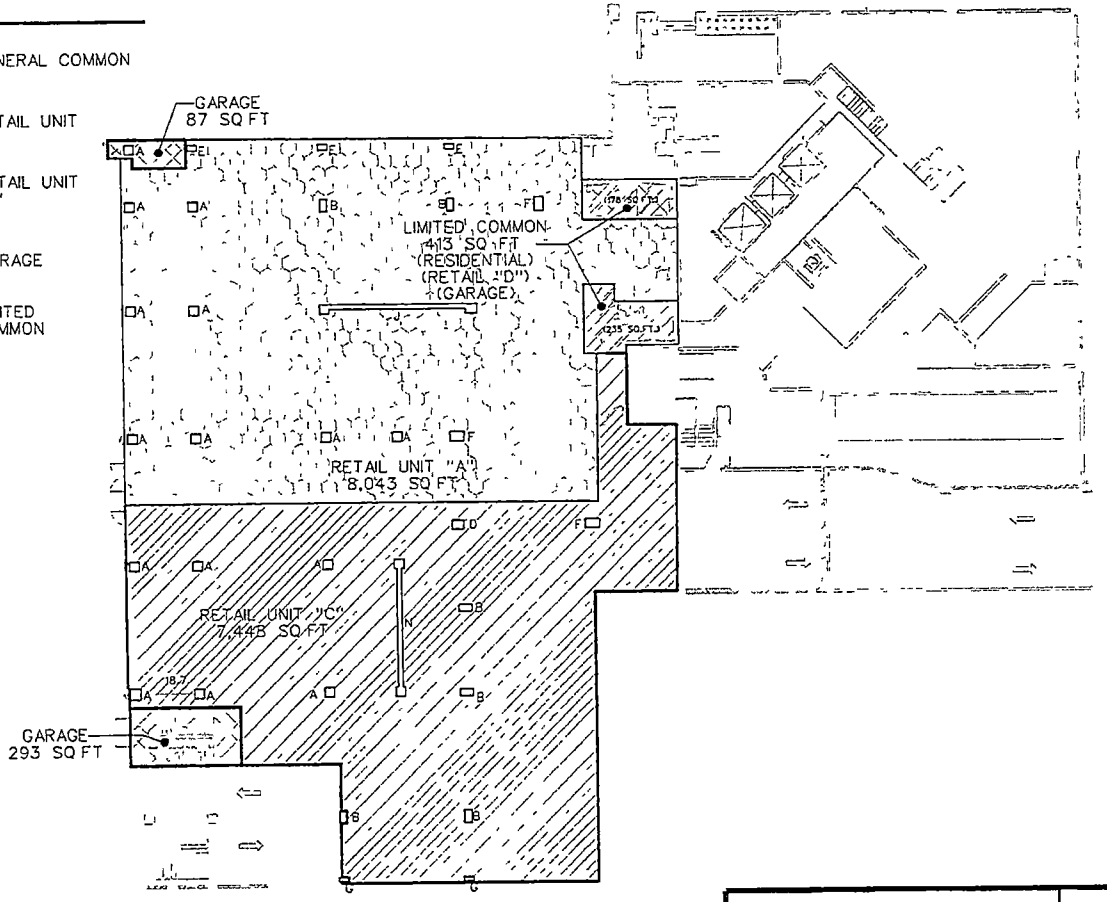
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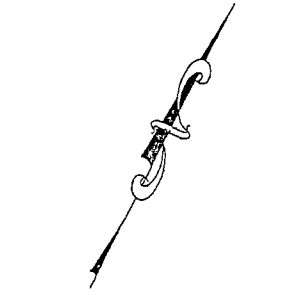
LEGEND

- GENERAL COMMON
- RETAIL UNIT "A"
- RETAIL UNIT "C"
- GARAGE
- LIMITED COMMON



	# OF COLUMNS	SIZE	SQ.FT	TOTAL SQ FT
A	15	2' x 2'	4	60
B	6	1.5' x 2.7	4	24
D	1	2 x 2.5	5	5
E	3	1 3 x 2	3	8
F	3	2' x 3'	6	18
G	2	1' x 2	2	4
J	1	SHEAR WALL	39	39
N	1	SHEAR WALL	35	35

TYPE	SQ.FT
RETAIL UNIT "A"	8,043
RETAIL UNIT "C"	7,448
GENERAL COMMON	193
GARAGE	380
LIMITED COMMON	413



30 15 0 15 30

SCALE 1" - 30'

BARGE DESIGN SOLUTIONS
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PLACEMAKR

SOBRO CONDOMINUMS
LEVEL 1.5 @ 3RD AVENUE
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

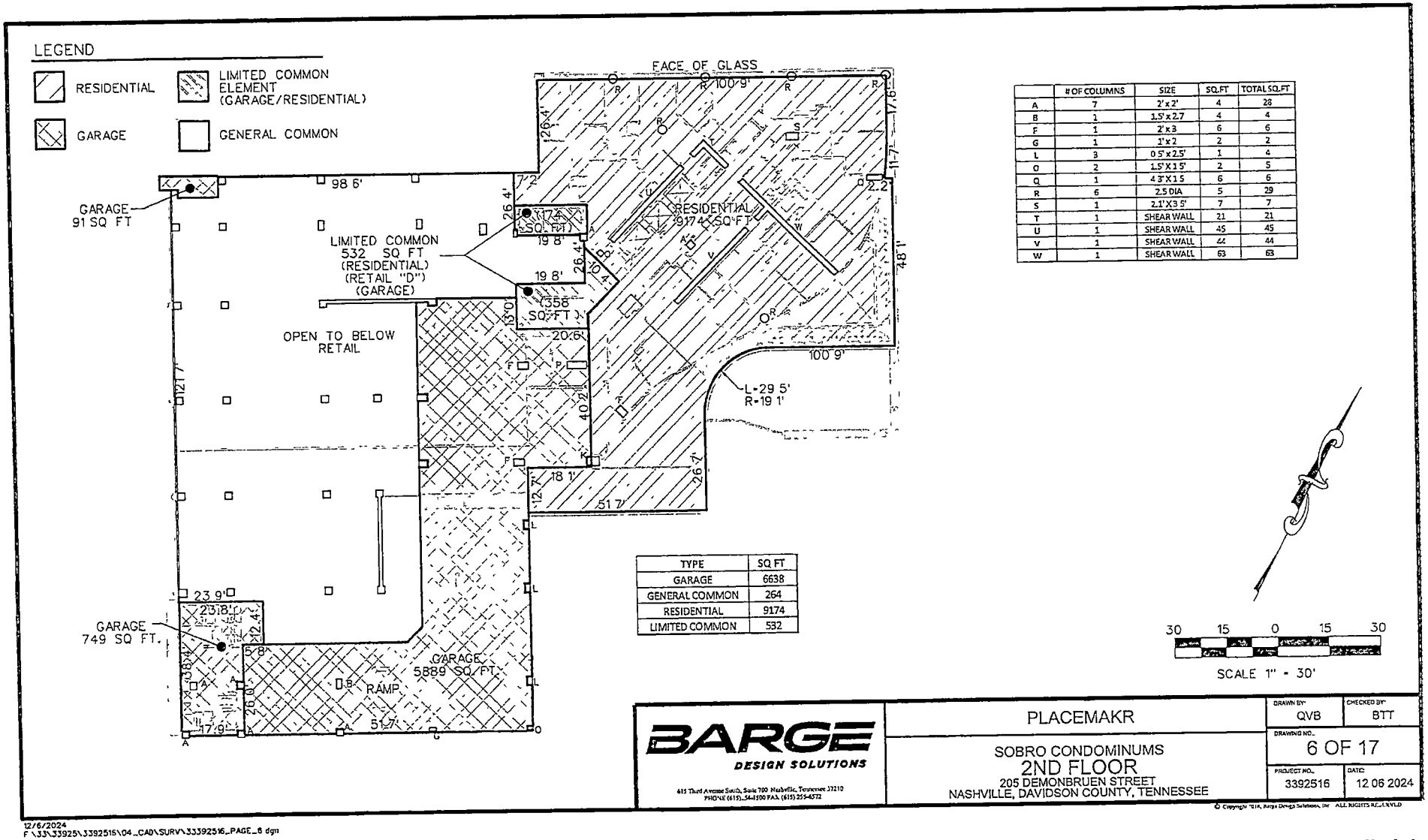
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	# OF COLUMNS	SIZE	SQ.FT	TOTAL SQ.FT
A	7	2'x2'	4	28
B	1	1.5'x2.7	4	4
F	1	2'x3	6	6
G	1	1'x2	2	2
L	3	0.5'x2.5'	1	4
O	2	1.5'X1.5'	2	5
Q	1	4.3'X1.5	6	6
R	6	2.5 DIA	5	29
S	1	2.1'X3.5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
V	1	SHEAR WALL	44	44
W	1	SHEAR WALL	63	63

TYPE	SQ FT
GARAGE	6638
GENERAL COMMON	264
RESIDENTIAL	9174
LIMITED COMMON	532

30 15 0 15 30

BARGE DESIGN SOLUTIONS
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PLACEMAKR

SOBRO CONDOMINUMS
2ND FLOOR
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

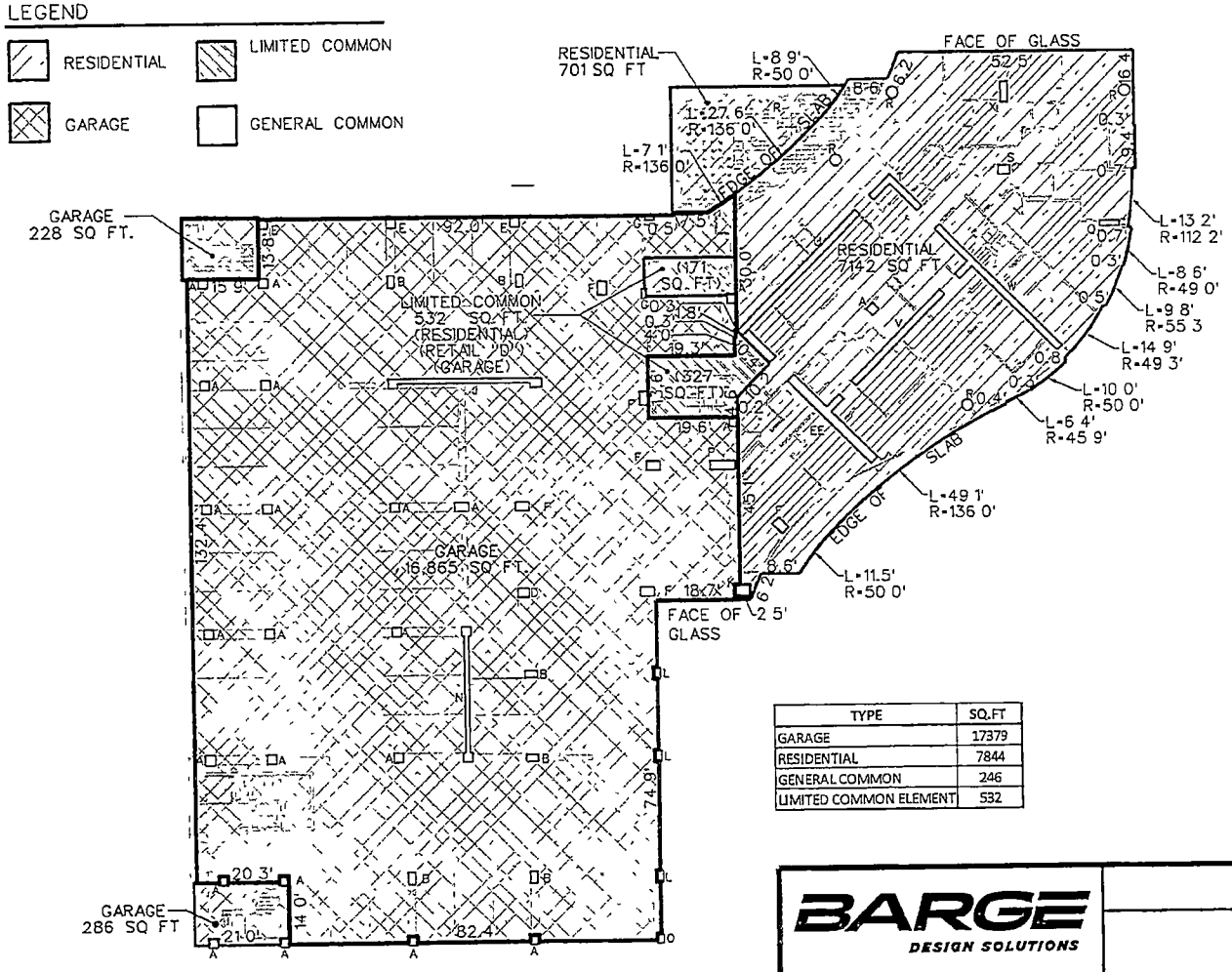
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PROJECT NO.	DATE
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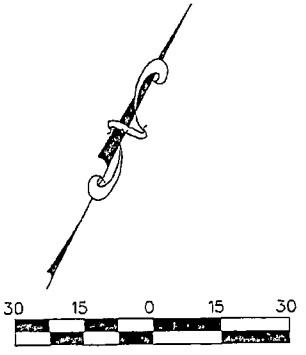
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	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT
A	23	2'x 2'	4	92
B	6	1.5'x 2 7	4	24
D	1	2'x 2 5	5	5
E	3	1.3'x 2	3	8
F	5	2'x 3'	6	30
G	2	1'x 2'	2	4
J	1	SHEAR WALL	39	39
K	1	2.5'x 3 5'	9	9
L	3	0 5'x 2 5'	1	4
N	1	SHEAR WALL	35	35
P	1	2.5'X 5'	13	13
Q	1	4 3'X 1.5'	6	6
R	4	2.5 DIA	5	20
S	1	2.1'X 3 5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
V	1	SHEAR WALL	44	44
W	1	SHEAR WALL	63	63
X	1	4 5'X 1 5'	7	7
EE	1	SHEAR WALL	58	58

TYPE	SQ.FT
GARAGE	17379
RESIDENTIAL	7844
GENERAL COMMON	246
LIMITED COMMON ELEMENT	532



SCALE 1" = 30'

BARGE DESIGN SOLUTIONS

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PLACEMAKR

SOBRO CONDOMINUMS
3RD FLOOR
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

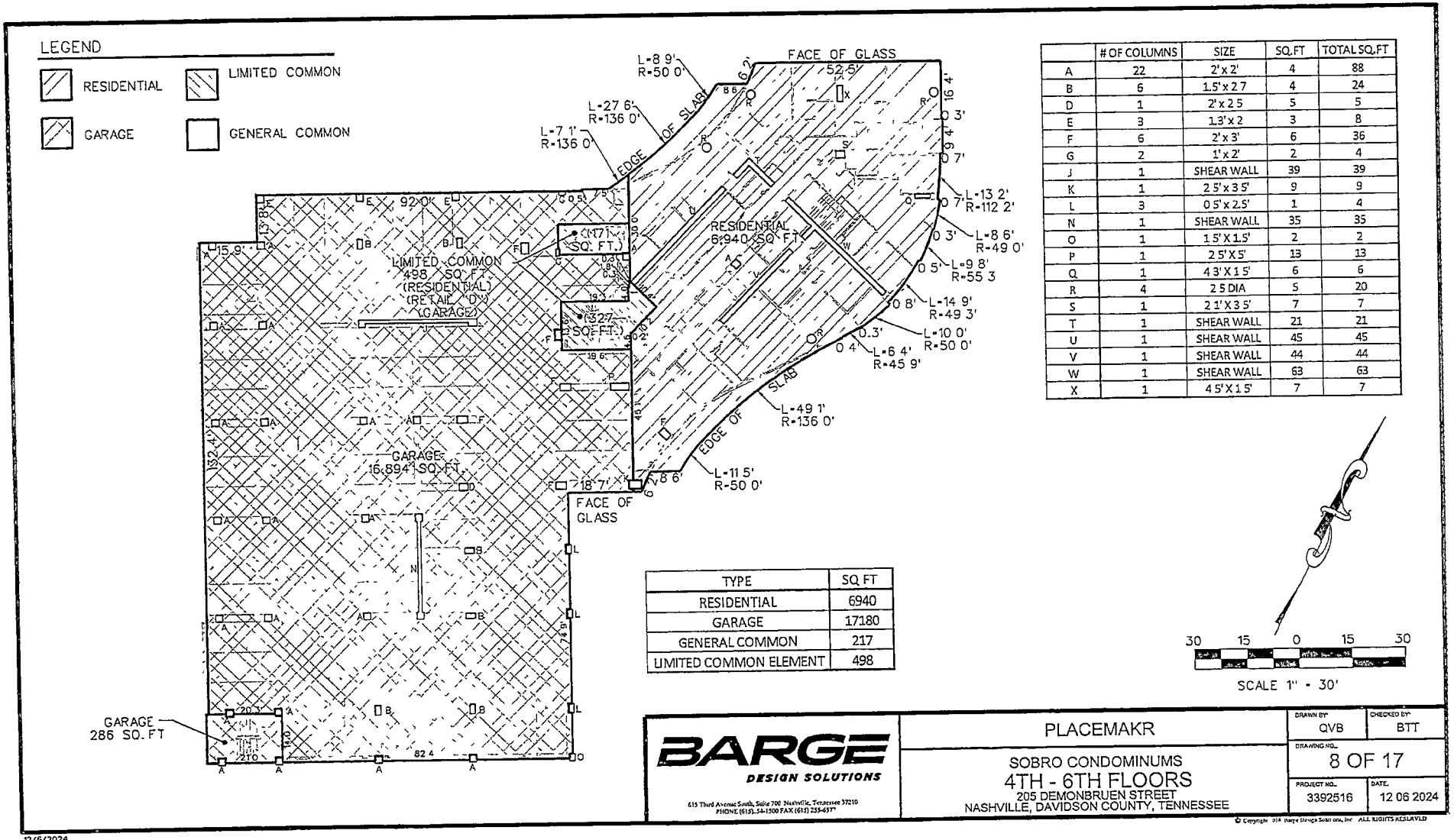
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	# OF COLUMNS	SIZE	SQ.FT	TOTAL SQ.FT
A	22	2'x 2'	4	88
B	6	1.5'x 2.7	4	24
D	1	2'x 2.5	5	5
E	3	1.3'x 2	3	8
F	6	2'x 3'	6	36
G	2	1'x 2'	2	4
J	1	SHEAR WALL	39	39
K	1	2.5'x 3.5'	9	9
L	3	0.5'x 2.5'	1	4
N	1	SHEAR WALL	35	35
O	1	1.5'X 1.5'	2	2
P	1	2.5'X 5'	13	13
Q	1	4.3'X 1.5'	6	6
R	4	2.5 DIA	5	20
S	1	2.1'X 3.5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
V	1	SHEAR WALL	44	44
W	1	SHEAR WALL	63	63
X	1	4.5'X 1.5'	7	7

TYPE	SQ.FT
RESIDENTIAL	6940
GARAGE	17180
GENERAL COMMON	217
LIMITED COMMON ELEMENT	498

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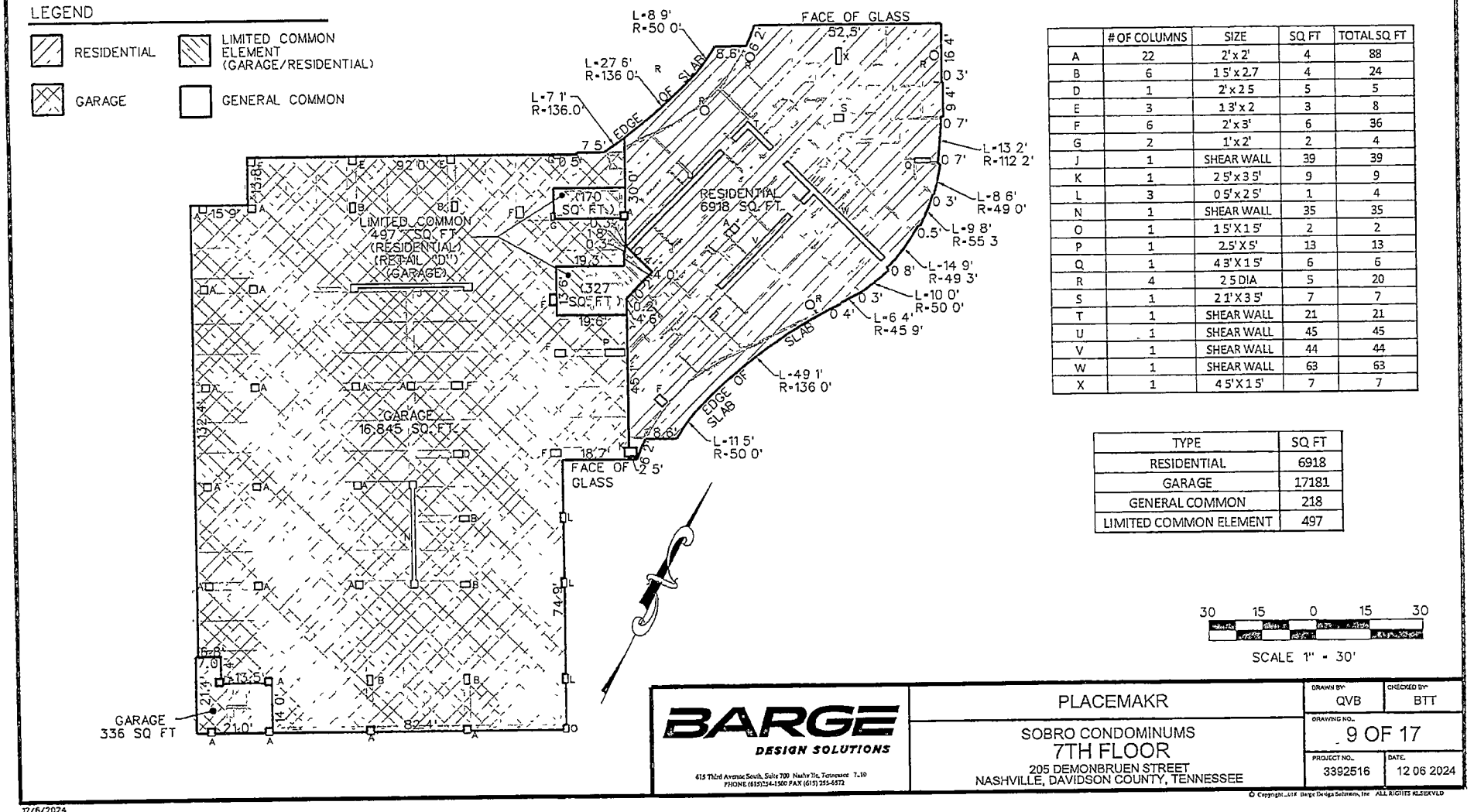
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SOBRO CONDOMINUMS
4TH - 6TH FLOORS
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT
A	22	2'x 2'	4	88
B	6	1 5'x 2.7	4	24
D	1	2'x 2 5	5	5
E	3	1 3'x 2	3	8
F	6	2'x 3'	6	36
G	2	1'x 2'	2	4
J	1	SHEAR WALL	39	39
K	1	2 5'x 3 5'	9	9
L	3	0 5'x 2 5'	1	4
N	1	SHEAR WALL	35	35
O	1	1 5'X 1 5'	2	2
P	1	2.5'X 5'	13	13
Q	1	4 3'X 1 5'	6	6
R	4	2 5 DIA	5	20
S	1	2 1'X 3 5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
V	1	SHEAR WALL	44	44
W	1	SHEAR WALL	63	63
X	1	4 5'X 1 5'	7	7

TYPE	SQ FT
RESIDENTIAL	6918
GARAGE	17181
GENERAL COMMON	218
LIMITED COMMON ELEMENT	497

BARGE DESIGN SOLUTIONS
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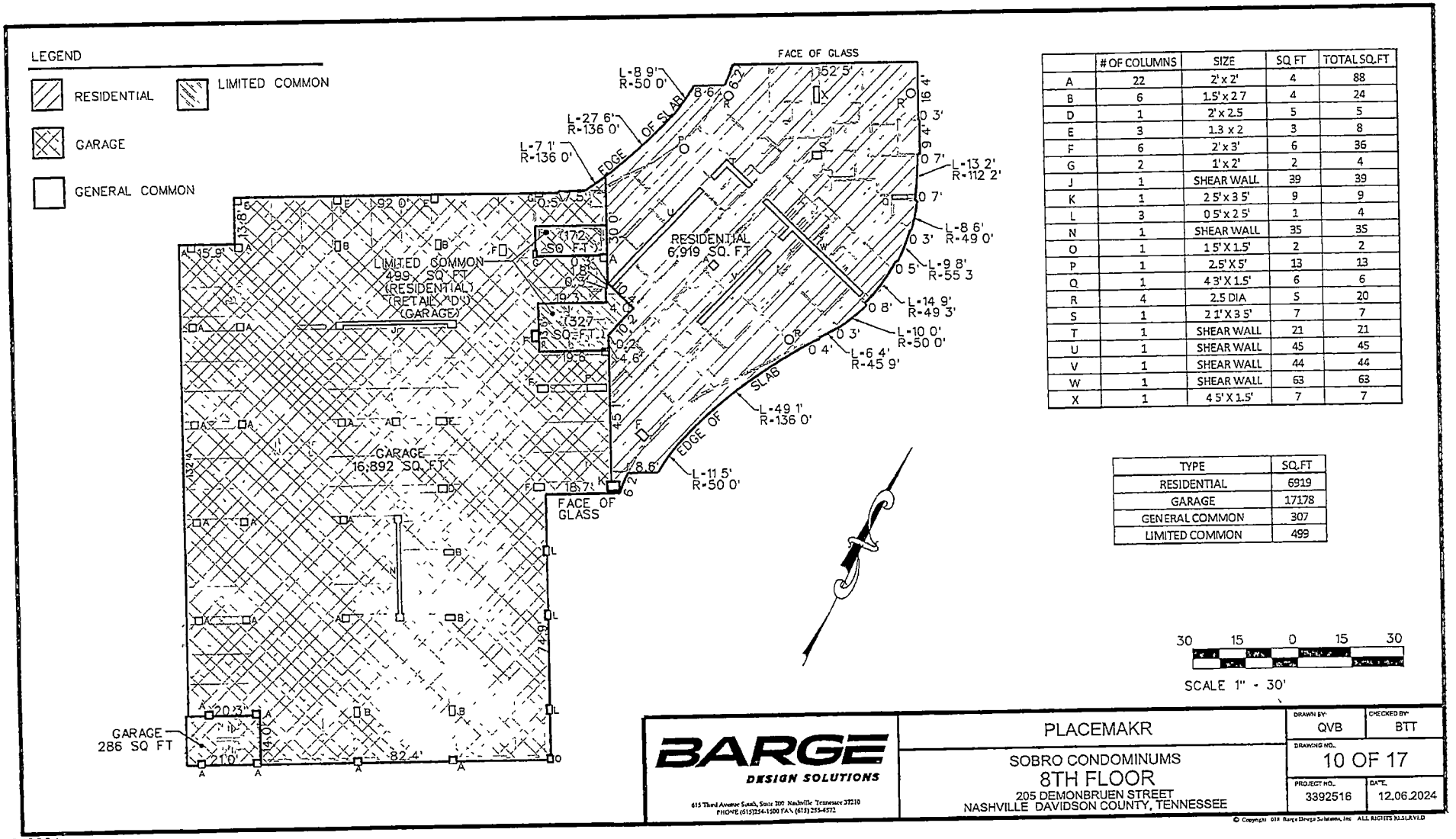
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SOBRO CONDOMINUMS
7TH FLOOR
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT
A	22	2'x 2'	4	88
B	6	1.5'x 2.7	4	24
D	1	2'x 2.5	5	5
E	3	1.3 x 2	3	8
F	6	2'x 3'	6	36
G	2	1'x 2'	2	4
J	1	SHEAR WALL	39	39
K	1	2 5'x 3 5'	9	9
L	3	0 5'x 2 5'	1	4
N	1	SHEAR WALL	35	35
O	1	1 5'X 1.5'	2	2
P	1	2.5'X 5'	13	13
Q	1	4 3'X 1.5'	6	6
R	4	2.5 DIA	5	20
S	1	2 1'X 3 5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
V	1	SHEAR WALL	44	44
W	1	SHEAR WALL	63	63
X	1	4 5'X 1.5'	7	7

TYPE	SQ.FT
RESIDENTIAL	6919
GARAGE	17178
GENERAL COMMON	307
LIMITED COMMON	499

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SCALE 1" - 30'

BARGE DESIGN SOLUTIONS

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PLACEMAKR

SOBRO CONDOMINUMS
8TH FLOOR
205 DEMONBRUEN STREET
NASHVILLE DAVIDSON COUNTY, TENNESSEE

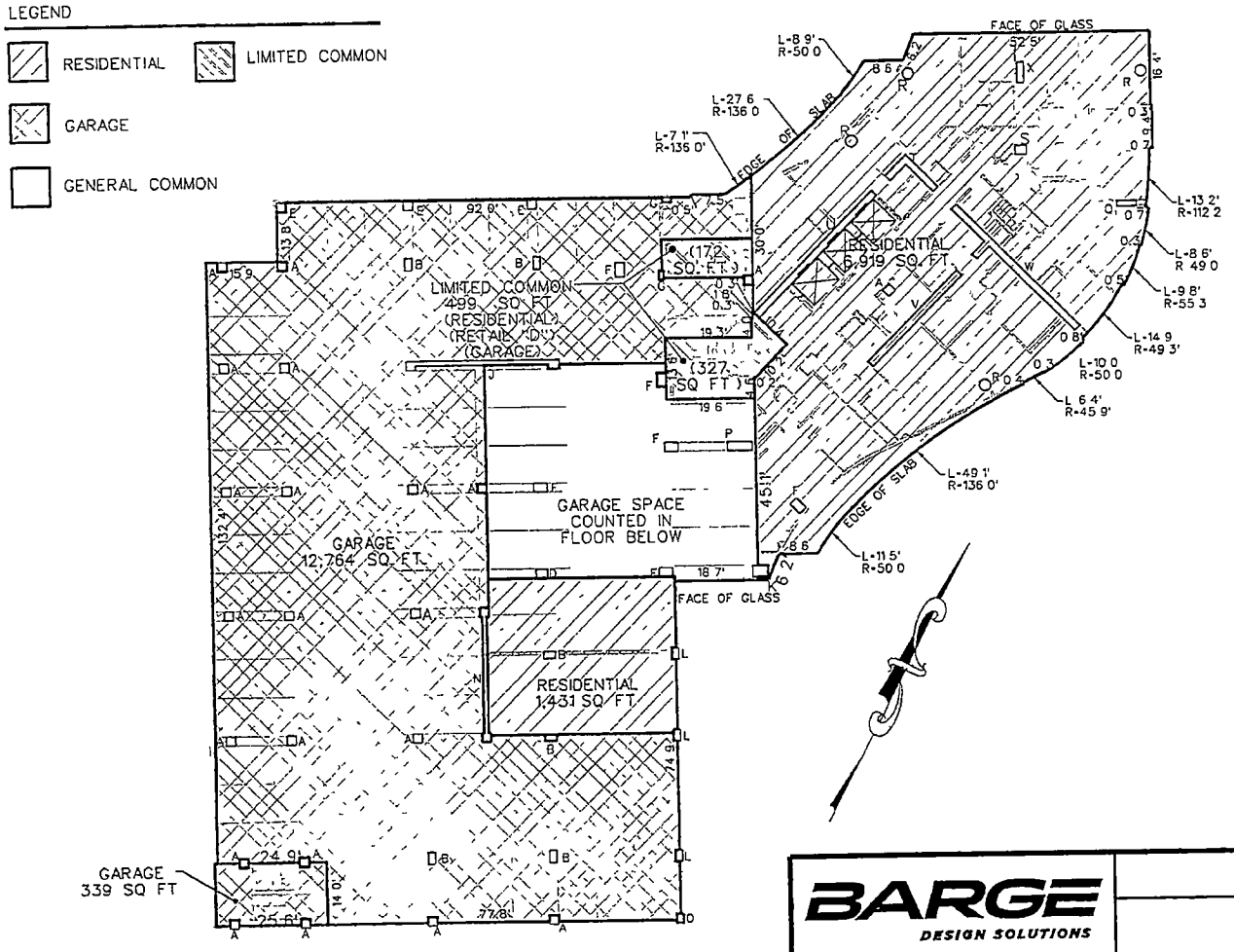
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	# OF COLUMNS	SIZE	SQ.FT	TOTAL SQ FT
A	22	2' x 2'	4	88
B	6	1.5' x 2.7	4	24
D	1	2' x 2.5	5	5
E	3	1.3' x 2	3	8
F	6	2' x 3'	6	36
G	2	1' x 2'	2	4
J	1	SHEAR WALL	39	39
K	1	2.5' x 3.5'	9	9
L	3	0.5' x 2.5'	1	4
N	1	SHEAR WALL	35	35
O	1	1.5' X 1.5'	2	2
P	1	2.5' X 5'	13	13
Q	1	4.3' X 1.5'	6	6
R	4	2.5 DIA	5	20
S	1	2.1' X 3.5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
V	1	SHEAR WALL	44	44
W	1	SHEAR WALL	63	63
X	1	4.5' X 1.5'	7	7

TYPE	SQ FT
RESIDENTIAL	8350
GARAGE	13085
GENERAL COMMON	426
LIMITED COMMON ELEMENT	598

30 15 0 15 30

SCALE 1" - 30'

BARGE DESIGN SOLUTIONS

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PLACEMAKR

SOBRO CONDOMINUMS
9TH FLOOR
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

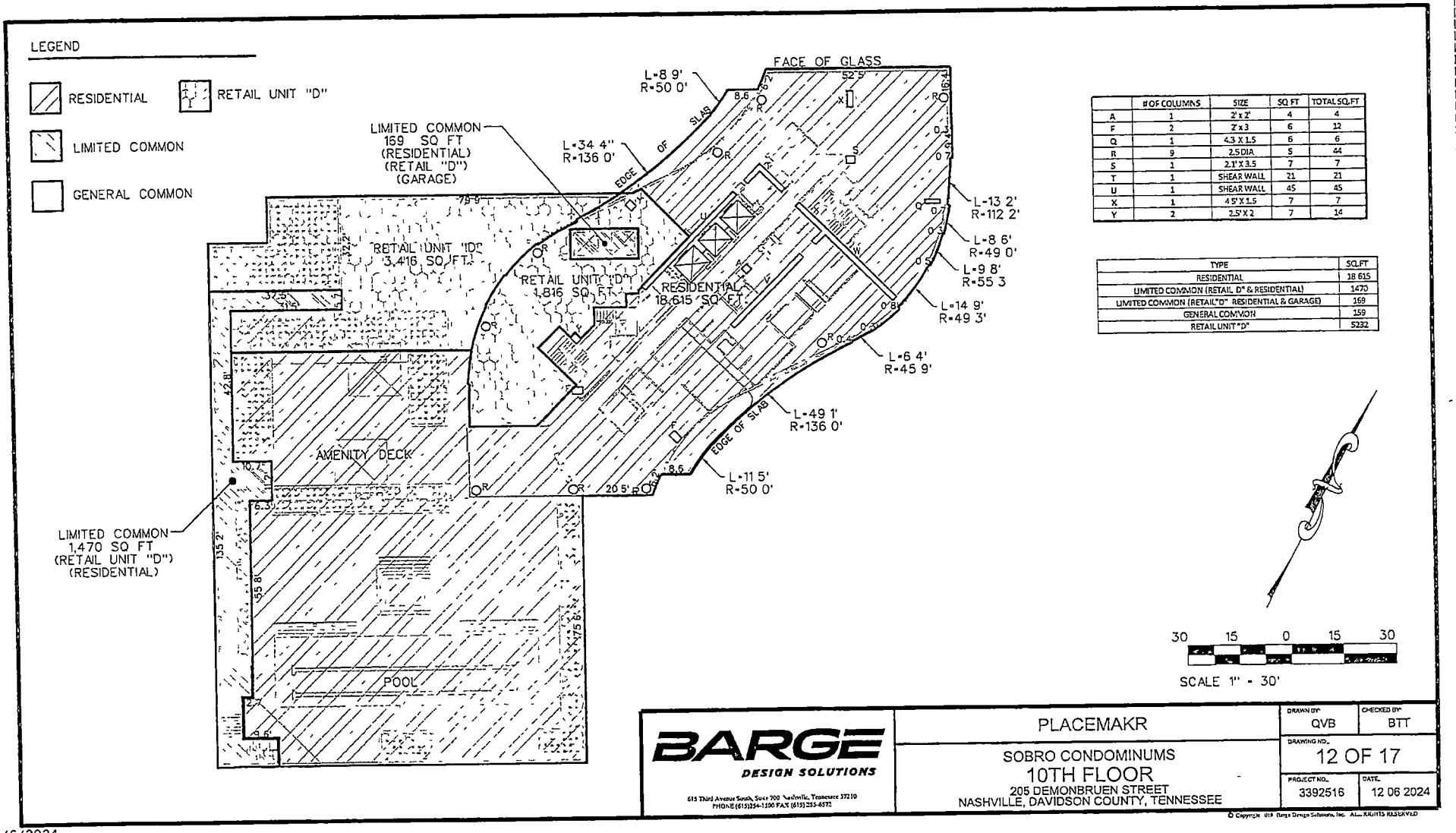
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DRAWING NO.: 11 OF 17

PROJECT NO.:	DATE:
3392516	12 06 2024

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	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT
A	1	2'x 2'	4	4
F	2	2'x3	6	12
Q	1	4.3 X 1.5	6	6
R	9	2.5 DIA	5	44
S	1	2.1'X 3.5	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
X	1	4 5'X 1.5	7	7
Y	2	2.5'X 2	7	14

TYPE	SQ FT
RESIDENTIAL	18 615
LIMITED COMMON (RETAIL D" & RESIDENTIAL)	1470
LIMITED COMMON (RETAIL"D" RESIDENTIAL & GARAGE)	169
GENERAL COMMON	159
RETAIL UNIT "D"	5232

BARGE
DESIGN SOLUTIONS
615 Third Avenue South, Suite 700 Nashville, Tennessee 37210
PHONE (615)254-1100 FAX (615) 255-6572

PLACEMAKR

SOBRO CONDOMINUMS
10TH FLOOR
205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

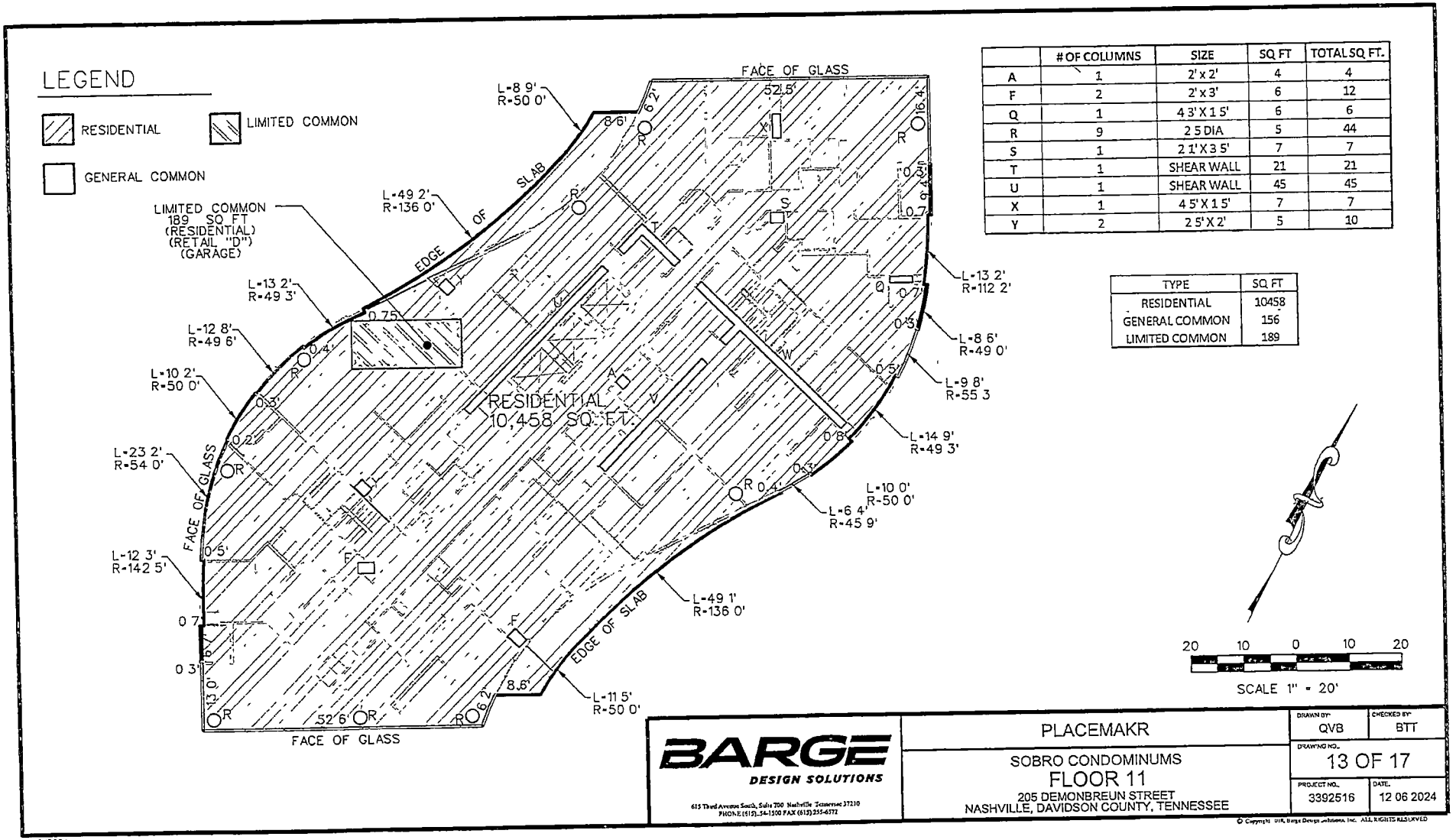
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3392516	12 06 2024

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	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT.
A	1	2'x2'	4	4
F	2	2'x3'	6	12
Q	1	4 3'X1 5'	6	6
R	9	2 5 DIA	5	44
S	1	2 1'X3 5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
X	1	4 5'X1 5'	7	7
Y	2	2 5'X2'	5	10

TYPE	SQ FT
RESIDENTIAL	10458
GENERAL COMMON	156
LIMITED COMMON	189

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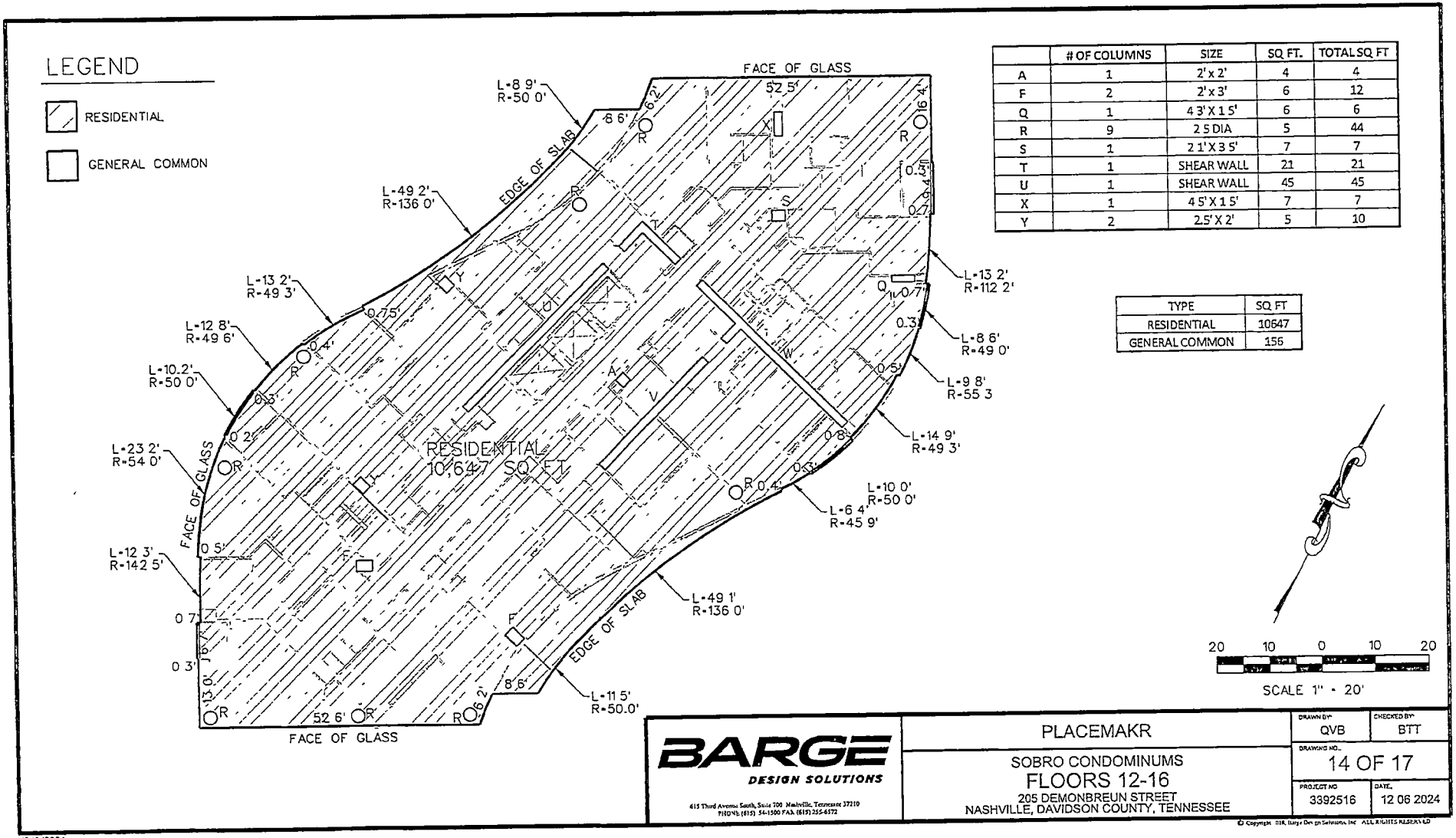
PLACEMAKR

SOBRO CONDOMINUMS
FLOOR 11
205 DEMONBREUN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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	# OF COLUMNS	SIZE	SQ FT.	TOTAL SQ FT
A	1	2'x 2'	4	4
F	2	2'x 3'	6	12
Q	1	4 3'X 1 5'	6	6
R	9	2 5 DIA	5	44
S	1	2 1'X 3 5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
X	1	4 5'X 1 5'	7	7
Y	2	2.5'X 2'	5	10

TYPE	SQ FT
RESIDENTIAL	10647
GENERAL COMMON	155

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SOBRO CONDOMINUMS
FLOORS 12-16
205 DEMONBREUN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

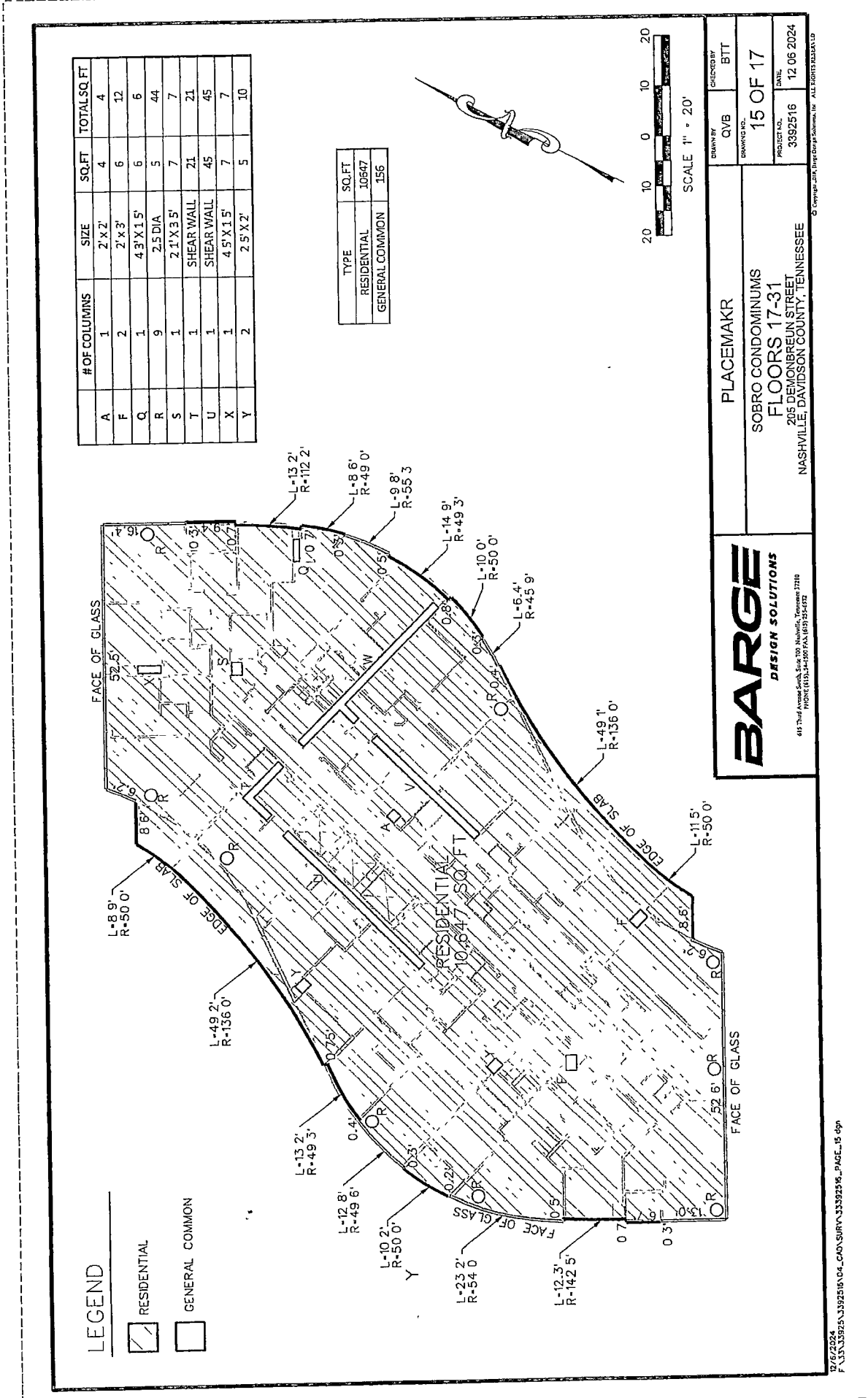
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	# OF COLUMNS	SIZE	SQ.FT	TOTAL SQ.FT
A	1	2'X2'	4	4
F	2	2'X3'	6	12
Q	1	4.3'X1.5'	6	6
R	9	2.5 DIA	5	44
S	1	2.1'X3.5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
X	1	4.5'X1.5'	7	7
Y	2	2.5'X2'	5	10

TYPE	SQ.FT
RESIDENTIAL	10647
GENERAL COMMON	156

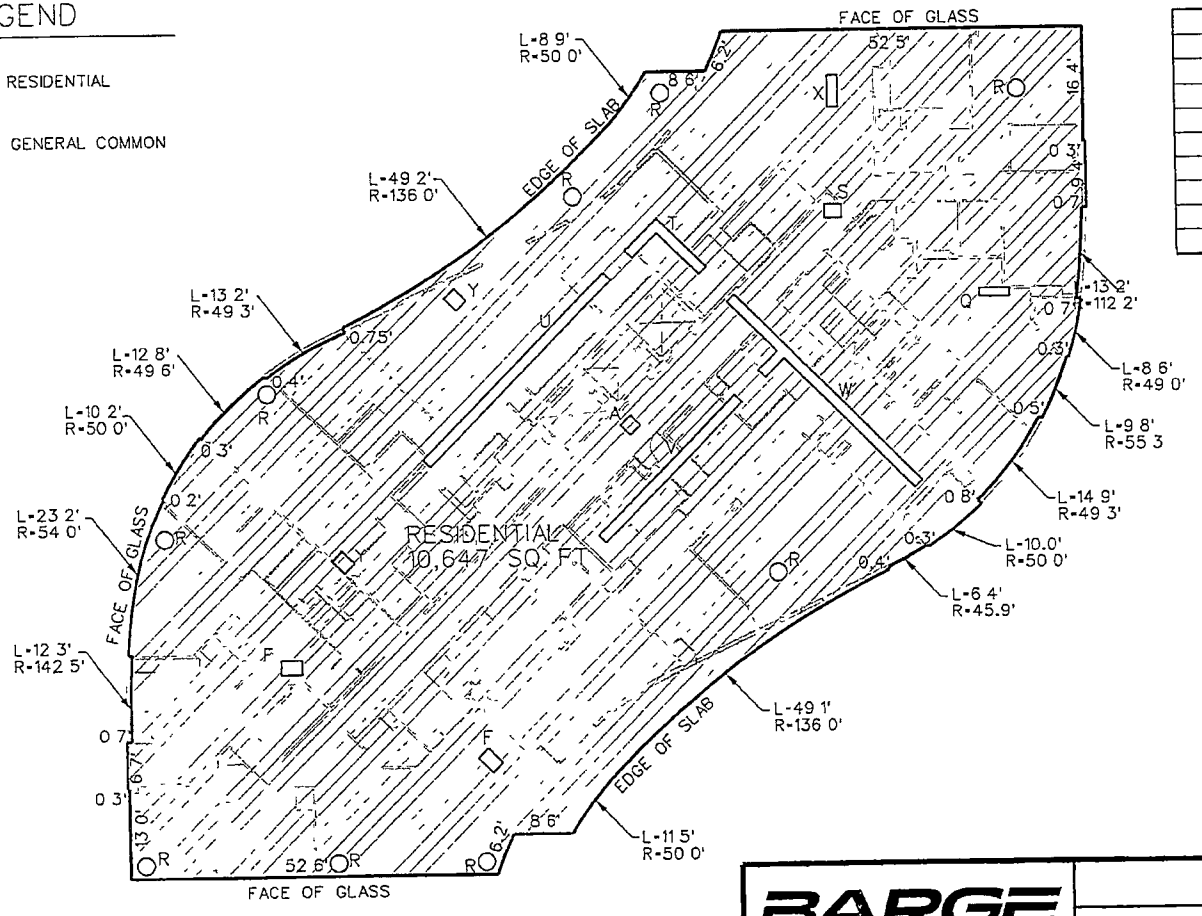
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LEGEND

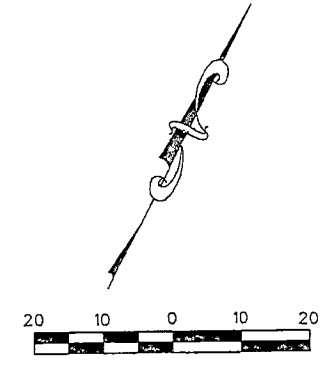
RESIDENTIAL

GENERAL COMMON



	# OF COLUMNS	SIZE	SQ FT	TOTAL SQ FT
A	1	2' x 2'	4	4
F	2	2' x 3'	6	12
Q	1	4 3' X 1 5'	6	6
R	9	2 5 DIA	5	44
S	1	2 1' X 3 5'	7	7
T	1	SHEAR WALL	21	21
U	1	SHEAR WALL	45	45
X	1	4 5' X 1 5'	7	7
Y	2	2 5' X 2'	7	14

TYPE	SQ FT
RESIDENTIAL	10647
GENERAL COMMON	156



SCALE 1" = 20'

BARGE DESIGN SOLUTIONS

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PLACEMAKR

SOBRO CONDOMINUMS
FLOOR 32
205 DEMONBREUN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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FLOOR	GENERAL COMMON	RESIDENTIAL	GARAGE	RETAIL UNIT "A"	RETAIL UNIT "B"	RETAIL UNIT "C"	RETAIL UNIT "D"	LIMITED COMMON (RETAIL "D"/RESIDENTIAL)	LIMITED COMMON (GARAGE/RESIDENTIAL /RETAIL "D")	LIMITED COMMON (RESIDENTIAL/RETAIL "A"&"C")
LOWER LEVEL 2	942	5,331	22,527						507	
LOWER LEVEL 1	1 170	3 497	22,517						504	
LOBBY	733	3,190	10,799		2,537				685	374
1.5	193		380	8 043		7,448			413	
2	264	9,174	6,638						532	
3	246	7,844	17,379						532	
4	217	6,940	17,180						498	
5	217	6,940	17,180						498	
6	217	6,940	17,180						498	
7	218	6,918	17 181						497	
8	307	6,919	17,178						499	
9	426	8,350	13,085						598	
10	159	18,615					5232	1,470	169	
11	156	10,458							189	
12	156	10,647								
13	156	10,647								
14	156	10,647								
15	156	10,647								
16	156	10,647								
17	156	10,647								
18	156	10,647								
19	156	10,647								
20	156	10,647								
21	156	10,647								
22	156	10,647								
23	156	10,647								
24	156	10,647								
25	156	10,647								
26	156	10,647								
27	156	10,647								
28	156	10,647								
29	156	10,647								
30	156	10,647								
31	156	10,647								
32	156	10,647								
TOTAL	8,741	324,703	179,224	8,043	2,537	7,448	5235	1470	6619	374

BARGE DESIGN SOLUTIONS
615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)-54-1500 FAX (615) 255-6372

PLACEMAKR

SOBRO CONDOMINUMS

SQUARE FOOTAGE TOTALS

205 DEMONBRUEN STREET
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

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PROJECT NO.:	3392516
DATE:	12 06 2024

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EXHIBIT "D"

DISCLOSURES

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

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

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

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

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

(f) No representations are made that the Units are or will be soundproof or that sound and/or vibrations may not be transmitted from one Unit to another, from the Common Elements to a Unit, or within portions of a Unit. The plumbing and concrete, tile, hardwood, and other uncovered surfaces within the Units may transmit noise, and such noise shall not constitute a use that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Unit Owner and/or Occupant.

(g) The Condominium is located in an urban environment and contains multiple uses. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking, trash being picked up, deliveries being made, equipment being operated, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in an urban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in urban areas and these things are part of the reality and vibrancy of urban living. While steps have been taken to mitigate sound, the Units are not totally soundproof or free from vibrations. Sounds and vibrations can also be generated from sources located within the Units or Common Elements including elevator motors, heating and air conditioning equipment, pump rooms, other mechanical equipment, and the playing of music.

(h) The Floor Plans and the dimensions and square footage calculations shown thereon are only approximations. Any Person that is concerned about any representations regarding the Floor Plans should do his/her own investigation as to the dimensions, measurements and square footage shown thereon.

(i) Reserved.

(j) During the course of the construction of any improvements, including renovations or alterations to the Building, variations from the original plans and specifications, some of which add or reduce the scope of work are inevitable and can, do, and did occur as a matter of intention and/or as a matter of necessity. While the building was constructed, some code requirements may have changed or the interpretation of code requirement by government officials may have changed during the interim period which were not incorporated into the design of the building.

(k) Declarant shall have no liability should the Condominium be forced to change its name. Declarant shall have no duty to contest any claim asserting that the name should be changed.

(l) Improvements may have been constructed on adjoining properties that may encroach onto the Submitted Property. Declarant gives no representations or warranties as to property rights, if any, created by such any such encroachments.

(m) Reserved.

(n) Trucks, sports utility vehicles, vans, minivans, large sedans, or any other vehicles other than compact passenger vehicles may not fit into parking spaces.

(o) Elevators serving the building may malfunction from time to time and become stuck between levels for temporary periods. Neither Declarant nor the Association shall be liable for any such malfunctions so long as the Association uses diligent efforts to remedy such malfunction in accordance with the Association's obligations under this Declaration.

(p) Any artwork displayed in the Common Elements may not be the property of the Association. Such artwork may be the property of Declarant and Declarant shall retain the right to remove or alter such artwork at any time. Artwork may also belong to other third parties, such as artists and galleries, who have permitted the artwork to be temporarily displayed on the Common Elements.

(q) Water may pond on various portions of the Submitted Property having impervious surfaces, such as exterior parking area, patios, balconies, and sidewalks, as applicable.

(r) Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, fire hydrants or storm drain inlets or basins.

(s) Light may emit from structures located on adjacent properties.

(t) Declarant makes no representations or warranties regarding the future development or use of any properties adjacent to or in the vicinity of the Condominium (collectively "Adjacent Properties"). Any floor plans, renderings, models, drawings, and the like provided by Declarant or its representatives or agents, which purport to depict the Adjacent Properties, or any portion thereof, are merely projections, which are subject to change and do not reflect an actual commitment to develop the Adjacent Properties in any particular manner. No assurances are made that the improvements which may be built on all or any portion of the Adjacent Properties will be substantially identical to the improvements in the Building in any way whatsoever, including but not limited to the quality of construction, the principal materials to be used in such construction and architectural style. The development of the Adjacent Properties may alter or block the views

available from the Units.

(u) The grading of the soil and other natural elements as well as man-made building materials creates unwanted and undesired gases and other contaminates in homes and buildings (both new and existing construction). Also, since energy conservation has become a concern, there is a need to build homes and buildings that are more airtight. As a result, these homes and buildings trap unwanted gases in different degrees depending on how each person lives within their home or such building. To date measurements of such unwanted gases (such as the radon gas described below and carbon dioxide) are reported as parts of the air they occupy.

(v) Ice and/or snow may accumulate on sidewalks and paved areas during periods of cold weather temperatures. This may result in slippery and dangerous conditions unsuitable for pedestrian traffic. Each Owner and Occupant shall be deemed to assume the risk of injury and damages arising from such conditions.

EXHIBIT "E"

EXCLUSIVE PARKING AREAS AND SPECIFIC REGULATIONS

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

1. Master Residential Unit Team Members and Hotel Guests. For purposes of this Declaration and these Special Parking Regulations, the term "Master Residential Team Members" shall mean and refer to staff or employees of the Owner of the Master Residential Unit and "Hotel Guests" shall have the meaning ascribed thereto in Article 2 of this Declaration.

2. Subject to the provisions and requirements set forth in the Declaration and these Special Parking Regulations, the Garage Unit is a parking facility that will be managed and operated by the Owner of the Garage Unit (or its agent) for the benefit of its customers generally and the other Unit Owners to the extent set forth in this Declaration and any other agreement between applicable Unit Owners

3. The Owner of the Garage Unit shall make available at all times upon not more than ten (10) business days' notice as many Unreserved Parking Spaces as may be required by the Owner of the Master Residential Unit for its tenants, Hotel Guests, Master Residential Unit Team Members, contractors, vendors and other agents, in each case at the Market Parking Rate (the "Master Residential Unit Spaces"), provided that in no event shall the Owner of the Garage Unit be required under this Declaration to make available at any one time more than the Minimum Residential Parking Space Requirement for the benefit of the Master Residential Unit, its tenants, Hotel Guests, Master Residential Unit Team Members, contractors, vendors and other agents, collectively.

4. If required by the Garage Unit Owner or its agent, each tenant, Hotel Guest, Master Residential Unit Team Member, contractor, vendor and other agent (or, at its election, the Owner of the Master Residential Unit on their behalf) utilizing the Master Residential Unit Spaces shall be required to execute a parking agreement (a "Parking Agreement" or "Master Residential Unit Parking Agreement") with the Owner of the Garage Unit or the Parking Manager, governing the use of the parking space or spaces covered by such Master Residential Unit Parking Agreement and the payment for such use, if any. The Owner of the Garage Unit shall bill the Market Parking Rate to each party who has executed a Master Residential Unit Parking Agreement on a monthly or quarterly basis in accordance with the Master Residential Unit Parking Agreement.

5. Subject to availability after taking into account Unreserved Parking Spaces required for the Master Residential Unit, valet parking services, parking for other projects in the vicinity of the Property and any parking areas used for Permitted Storage, to the extent a commercial tenant in a Retail Unit requires parking as a condition of its lease with the Owner of such Retail Unit, such commercial tenant or the Owner of the applicable Retail Unit will also be

permitted to lease Unreserved Parking Spaces at the Market Parking Rate

6. The Owners acknowledge and agree that as used in this Declaration, the term "Unreserved Parking Spaces" shall mean and refer to unmarked parking spaces located generally in the Garage Unit. The Owner of the Garage Unit may from time to time maintain an area in the Garage Unit that is intended for parking reserved specifically for those individuals who are parties to a Residential Unit Parking Agreement with such area to include a number of parking spaces determined by the Owner of the Garage Unit to accommodate the parties to the Residential Unit Parking Agreements.

7 As used herein, "Market Parking Rate" shall mean: (a) with respect to the parking spaces covered by the Minimum Residential Parking Space Requirement, the Master Residential Unit Market Parking Rate, as defined below; and (b) for all other parking spaces in the Garage Unit, the then-current rate(s) advertised by Garage Owner from time to time for monthly or transient parking (as applicable) in the Garage Unit, which rates may increase over time and shall vary based on the type of parking arrangement (e.g., business hours monthly agreement, off hours monthly agreement, 24/7 monthly agreement, etc.) The Market Parking Rate may vary based on the nature and duration of the parking arrangement (e.g., transient parking will be more expensive than monthly parking for individuals working or living in the Building full time). For purposes of this Declaration, "Master Residential Unit Parking Rate" shall mean the maximum allowable rate to be charged by Garage Owner with respect to the parking spaces comprising the Minium Residential Parking Space Requirement from time to time, determined in accordance with the following:

For calendar year 2025, The Master Residential Unit Parking Rate shall be an amount not to exceed $191.00 per month;

Commencing January 1, 2026 and on January 1 of each calendar year through and including January 1, 2029, the Master Residential Unit Parking Rate for each such calendar year shall increase by an amount equal to five percent (5%) in excess of the previous year's Master Residential Unit Parking Rate, subject, however, to the limitation set forth in Section (iv) below;

Commencing January 1, 2030 (the "Initial Reset Date") and on the anniversary of the Initial Reset Date occurring every five years thereafter (for example purposes, January 1, 2035, January 1, 2040, January 1, 2045 and so on, with each such fifth anniversary date, including the Initial Reset Date, being referred to herein and a "Residential Unit Parking Rate Cap Reset Date," or, collectively, the "Residential Unit Parking Rate Cap Reset Dates"), the maximum rate of the Master Residential Unit Parking Rate shall be adjusted to become the greater of (A) the then current Master Residential Unit Parking Rate or, (B) the Average Competitive Rate, as defined below; provided, however, that the Master Residential Unit Parking Rate shall at no time exceed the amount described in 7(iv) below. Following each Residential Unit Parking Rate Cap Reset Date, the Master Residential Unit Parking Rate for each such calendar year thereafter shall be increased by the Annual Maximum Rate Adjustment Percentage, until the next succeeding Residential Unit Parking Reset Date (subject, however, to the limitation set forth in (iv) below). For purposes of this Declaration, the "Average Competitive Rate" shall mean and refer to the

average monthly parking charge for unreserved parking spaces in Comparable Projects (as defined below) as of the date and time that such calculation is made. The Average Competitive Rate with respect to each Residential Unit Parking Rate Cap Reset Date shall be determined based on reliable data sources proposed by Garage Owner and reasonably approved by Master Residential Unit Owner and delivered to Master Residential Unit Owner in writing at least thirty (30) days prior to the applicable Residential Unit Parking Cap Reset Date. As used herein, "Comparable Projects" means and refers to the parking garages associated with the following real estate projects in Nashville, Tennessee:

- 222 2nd Avenue, North, an office building, located at 222 2nd Avenue South, Nashville, TN 37201;
- The Four Seasons, a mixed-use project, located at 100 Demonbreun St, Nashville, TN 37201;
- 5th & Broad Residential, a mixed-use project, located at 600 Broadway, Nashville, TN 37203;
- Holiday Inn, a hotel, located at 415 4th Ave S, Nashville, TN 37201; and
- 505 Nashville, a multifamily project, located at 505 Church St, Nashville, TN 37219.

If at any time prior to the date that is ninety (90) days in advance of a Residential Unit Parking Rate Cap Reset Date any of the Comparable Projects have ceased operations or materially changed their operations (for example, operations have ceased or are materially changes as a result of a casualty, change in use, redevelopment, material capital improvement or similar change in circumstance that renders such a project no longer comparable) (herein, a "Non-Qualifying Project"), then the Non-Qualifying Project shall be removed from the Comparable Projects for purposes of this Declaration. Within thirty (30) days after removal of the Non-Qualifying Project, the Garage Unit Owner shall submit in writing to the Owner of the Master Residential Unit a recommended project to serve as a replacement project (the "Additional Comparable Project") to be included in the list of Comparable Projects for approval by the Owner of the Master Residential Unit, and the Owner of the Master Residential Unit shall respond within thirty (30) days of receipt of such notice as to whether the Additional Comparable Project has been approved, which approval shall not be unreasonably withheld. Upon approval of the Owner of the Master Residential Unit of an Additional Comparable Project, the Additional Comparable Project shall become one of the Comparable Projects for purposes of calculating the Average Competitive Rate at each succeeding Residential Unit Parking Rate Cap Reset Date. In the event that the Owner of the Garage Unit and the Owner of the Master Residential Unit are unable to agree as to the Additional Comparable Project within the aforesaid time period, then the Comparable Projects shall be the remaining four (4) Comparable Projects; provided, however, in the event that the number of Comparable Projects becomes fewer than four (4) and the Owner of the Master Residential Unit and the Owner of the Garage Unit are unable to reach agreement on at least four (4) Comparable Projects prior to the applicable Residential Unit Parking Rate Cap Reset Date, then the Owner of the Master Residential Unit and the Owner of the Garage Unit shall seek resolution and determination of not fewer than four (4) Comparable Projects pursuant to the dispute resolution procedures set forth in Section 19.1 of this Declaration. In the event that there are fewer than four (4) Comparable Projects and

a dispute is subject to resolution as provided in the preceding sentence, then the applicable The Master Residential Unit Parking Rate pending resolution of such dispute shall be the existing rate increased by the Annual Maximum Rate Adjustment Percentage, subject, however, to the limitations of (iv) below.

Notwithstanding any provision herein to the contrary, in no event shall the Master Residential Unit Parking Rate ever exceed either of (i) the monthly parking rate charged for public parking serving parties other than the Owners or Permittees of the Owners or (ii) the publicly available rate for daily or other transient parking.

8. The Owner of the Garage Unit may engage the services of a third-party manager for the operation of the Garage Unit (the "Parking Manager"). Unless otherwise approved in writing by the owner of the Master Residential Unit, the Parking Manager or its principal(s) must be reputable and established in the commercial parking management business in the reasonable discretion of the Owner of the Garage Unit.

9. The Minimum Residential Parking Space Requirement may be adjusted, from time to time, in the event of changes in the number of Unfurnished Residences operated by the Owner of the Master Residential Unit within the Master Residential Unit. The Minimum Residential Parking Space Requirement (100 spaces) has been determined based upon the number of Unfurnished Residences (defined below) as compared to Furnished Residences (defined below) operated within the Master Residential Unit and is designed to achieve a parking ratio equal to the number of Unfurnished Residences multiplied by 1.16 (the "Parking Ratio"). In the event that Master Residential Unit Owner from time to time modifies the number of Unfurnished Residences operated within the Master Residential Unit, Master Residential Unit Owner shall notify Garage Unit Owner in writing of the number of Unfurnished Residences then being operated by Master Residential Unit Owner and the Minimum Residential Parking Space Requirement shall be adjusted in accordance with the Parking Ratio, provided that in no event shall it exceed 100 spaces. As used herein, the term "Unfurnished Residence" shall mean an apartment or unit that is utilized as a multi-family dwelling space and "Furnished Residence" shall mean an apartment or unit that is utilized as a hotel room.

EXHIBIT "F"

BY-LAWS

BYLAWS
OF
SOBRO CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

Members

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

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

Section 3. Regular Meetings. The first regular annual meeting of Members (the "**First Meeting**") shall be held, subject to the terms hereof, on any date within twelve (12) months after the Effective Date, or earlier at the option of the Board. Subsequent to the First Meeting, there shall be a regular annual meeting of Members. Attendance at a regular annual meeting may be in person, by telephone or by proxy.

Section 4. Special Meetings. Special meetings of the Members may be called by the unanimous consent of the Directors of the Board, or by Members having seventy percent (70%) of the votes entitled to be at such meeting. Attendance at a special meeting may be in person, by telephone or by proxy.

Section 5. Notice of Meetings. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Secretary shall cause notice to be hand-delivered, sent prepaid by nationally-recognized overnight carrier or by facsimile or electronically, to any other physical or electronic address designated in writing or by electronic means by the Owner of each Unit to the Board for such purpose. The notice of any meeting must state the time, place, and method of attendance of or at the meeting, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, and any proposal to remove a Director or officer. Notice may be waived in writing signed by all Members

Section 6. Voting. The number of votes allocated to each Unit shall be as set forth in **Exhibit B** of the Declaration. If any Owner of a Unit consists of more than one Person, the voting rights of such Unit shall not be divided but shall be exercised as if the Owner of such Unit consisted of only one Person in accordance with the proxy or other designation made by the Persons constituting the Owners of such Unit. Cumulative voting is not permitted. An Owner's voting rights are subject to suspension as provided in Section 17.6 of the Declaration.

Section 7. Quorum. A quorum of Members for any meeting shall be Members represented in person or by proxy holding sixty seven percent (67%) of the votes entitled to be cast at such meeting.

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

ARTICLE II

Board of Directors

Section 1. Number, Election and Term of Office. The initial Board of Directors of the Association (sometimes referred to herein as the "**Board**") shall consist of six (6) members (hereinafter referred to as "**Directors**") as named in the Charter who shall serve until the first regular annual meeting of the Members. Directors shall be deemed to be selected at the regular annual meeting of Association Members by the Owners of the Units in accordance with the Declaration and these bylaws. Each Owner of a Unit shall appoint one (1) duly authorized agent or representative as a Director, and the voting rights of each Director shall be in accordance with the number of votes allocated to the Owner represented by such Director as set forth Exhibit B of this Declaration. In the event a Unit is subdivided into additional Units, the Owners of the Units resulting from such resubdivision will elect the Director(s) originally assigned to the Unit based on the number of votes allocated to each Unit resulting from the resubdivision as determined in accordance with the Declaration. In the event that additional Units are created, but not through the resubdivision of an existing Unit, then in such event the Owners may amend the Bylaws as necessary or required, in accordance with the amendment provisions set forth in the Declaration. The term of each Director shall be one (1) year and each Director is permitted to serve an unlimited number of successive terms. However, a Director continues to serve until a successor is selected as provided herein.

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

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

Section 4. Meetings. A regular annual meeting of the Board shall be held within seven (7) days following the regular annual meeting of Members. Special Meetings of the Board shall be held upon a call by the President or by three (3) members of the Board on not less than forty-eight (48) hours' notice in writing to each Director. Any Director may waive notice of a

meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute waiver of notice.

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

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

Section 7. Quorum. Directors representing not less than 67% of the votes entitled to be cast at the meeting of Directors shall constitute a quorum of the Board.

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

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

ARTICLE III

Officers

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

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

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

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

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

Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other

officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

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

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

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

ARTICLE IV

Contractual Powers

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

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

(b) the contract or transaction is just and reasonable as to the corporation and is consistent with market rates and arms' length transactions at the time it is authorized or approved.

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

ARTICLE V

Amendments

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

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

ARTICLE VI

Indemnification

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

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

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

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

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

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

ARTICLE VII

Standards of Conduct

Each officer and Director of the Association shall owe a fiduciary duty to the Association and its members, and shall act (a) in good faith, (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (c) in a manner the officer or Director reasonably believes to be in the best interests of the Association.

ARTICLE VIII

Conflicts

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

EXHIBIT "G"

SPECIAL COST ALLOCATION

Garage Unit Owner pays 100% of the repairs and maintenance to the dry sprinkler system and related equipment servicing the Garage Unit.

Master Residential Unit Owner pays 100% of the repairs and maintenance for the wet sprinkler system and related equipment servicing the Master Residential Unit.

Each Retail Unit Owner pays 100% of repairs and maintenance for the sprinkler system and related equipment within its respective Retail Unit.

Maintenance and service costs (including the cost of the annual elevator maintenance contract as it relates to the Residential Elevator Bank) for the three (3) elevators located in the Residential Elevator Bank shall be allocated solely to the Master Residential Unit.

With respect to the two (2) elevators located in the Garage Elevator Bank:

(i) the cost of the annual elevator maintenance contract as it relates to the Garage Elevator Bank shall be allocated (a) 90% to Garage Unit Owner, (b) 5% to Master Residential Unit Owner and (c) 5% to the Owner of Retail Unit D (it being acknowledged and agreed that such annual elevator maintenance contract covers both the Residential Elevator Bank and the Garage Elevator Bank, and that the allocation set forth in clause (a) of this Section represents 40% of the total cost of such contract); and

(ii) the cost of service, inspection fees, repairs and maintenance of such elevators shall be allocated (a) 90% to the Garage Unit Owner, (b) 5% to the Master Residential Unit Owner and (c) 5% to the Owner of Retail Unit D.

Each Owner shall be responsible at its sole cost and expense for the operation and maintenance of the dumpster allocated to such Owner's Unit pursuant to Section 6(b)(iv) above.

All costs of maintenance with respect to the lobby entrance at the Garage Elevator Bank shall be allocated (a) 90% to Garage Unit Owner; (b) 5% to Master Residential Unit Owner and (c) 5% to the Owner of Retail Unit D.

All costs of maintenance for Stairwell 02 (as identified on the Plat) shall be allocated as follows: (i) For all floors up to and including the 10th floor of the Building – (a) 90% to Garage Unit Owner; (b) 5% to Master Residential Unit Owner and (c) 5% to the Owner of Retail Unit D; and (ii) for all floors including the 11th floor and above in the Building, 100% to the Master Residential Unit Owner.

EXHIBIT "H"

SPECIAL CONTRACTUAL ARRANGEMENTS

1) Intermezzo Walk-in Freezer. The Owner of Retail Unit B has a license to use that certain 165 square foot area in which, as of the Effective Date, a walk-in freezer is located in the Garage Unit. The Owner of Master Residential Unit shall pay Garage Unit Owner an amount equal to $200.00 per month, increasing annually by 3% on January 1st of each year. This license expires upon the expiration or earlier termination of the Café Intermezzo lease, but in no event later than December 31, 2037. Garage Unit Owner may terminate the foregoing license if such Retail Unit Owner fails to make any monthly license payment by the tenth (10th) day of any month The Owner of Retail Unit B shall remove any freezer located in this area at its sole expense upon expiration or earlier termination of the foregoing license. So long as the foregoing license remains in effect, the Owner of Retail Unit B shall be responsible for all indemnity, insurance, maintenance and utility obligations under the Declaration for the licensed area as if it were the Owner of the licensed area (it being the intention that such Retail Unit Owner shall indemnify, defend and hold harmless the Garage Unit Owner for all Claims and be responsible to all Owners for all Claims as if it were the Owner of the licensed area and as if the Garage Unit Owner were not the Owner of such licensed area)

2) Intermezzo Storage – Retail Unit B. On or before the date that is ten (10) days following the Declarant's closing of a sale and transfer of title to the Garage Unit to a third party, the Owner of Retail Unit B shall, at its sole expense, remove personal property from the fenced-in storage area located on the ninth (9th) floor of Garage Unit next to the pool equipment room. Upon removal of such personal property, no personal property shall be re-stored in such storage area by the Owner of Retail Unit B. If all personal property is not timely removed, the Owner of Retail Unit B shall pay to Garage Unit Owner an amount equal to the posted full day (not pro rata) daily maximum parking rate for one parking space in the Garage Unit for each day (or any portion thereof) until all personal property is timely removed. So long as the foregoing license remains in effect, the Owner of Retail Unit B shall be responsible for all indemnity, insurance, maintenance and utility obligations under the Declaration for the licensed area as if it were the Owner of the licensed area (it being the intention that such Retail Unit Owner shall indemnify, defend and hold harmless the Garage Unit Owner for all Claims and be responsible to all Owners for all Claims as if it were the Owner of the licensed area and as if the Garage Unit Owner were not the Owner of such licensed area).

3) City Tap Storage – Retail Unit A. On or before the date that is ten (10) days following the Declarant's closing of a sale and transfer of title to the Garage Unit to a third party, the Owner of the Master Residential Unit, at its sole expense, shall cause the removal of all fencing and personal property from the fenced-in storage area located on the top floor of Garage Unit next to the elevator lobby. Upon removal of such personal property, no personal property shall be re-stored in such storage area by the Owner of Retail Unit A. If all fencing and personal property is not timely removed in accordance with the foregoing, the Owner of the Retail Unit A shall pay to Garage Unit Owner an amount equal to the posted full day (not pro rata) daily maximum parking rate for five parking spaces in the

Garage Unit for each day (or any portion thereof) until all of the fencing and personal property described in this paragraph 3 is removed. So long as the foregoing license remains in effect, the Owner of Retail Unit A shall be responsible for all indemnity, insurance, maintenance and utility obligations under the Declaration for the licensed area as if it were the Owner of the licensed area (it being the intention that such Retail Unit Owner shall indemnify, defend and hold harmless the Garage Unit Owner for all Claims and be responsible to all Owners for all Claims as if it were the Owner of the licensed area and as if the Garage Unit Owner were not the Owner of such licensed area).

4) P3 Storage Area and Maintenance Shop. On Level P3 of the Garage Unit, Master Residential Unit Owner has a license across a portion of said level to access its tenant storage area and maintenance shop (which are part of the Master Residential Unit). Master Residential Unit Owner to pay Garage Unit Owner $200.00 per month, increasing annually by 3% on January 1st of each year, for the parking space not being used to grant Master Residential Unit Owner said access. So long as the foregoing license remains in effect, the Master Residential Unit Owner shall be responsible for all indemnity, insurance, maintenance and utility obligations under the Declaration for the licensed area as if it were the Owner of the licensed area (it being the intention that Master Residential Unit Owner shall indemnify, defend and hold harmless the Garage Unit Owner for all Claims and be responsible to all Owners for all Claims as if it were the Owner of the licensed area and as if the Garage Unit Owner were not the Owner of such licensed area).

5) Pipe Leaks in Garage Unit Generally. For any pipe leaks in the Garage Unit, Master Residential Unit Owner shall pay to Garage Unit Owner an amount equal to the posted full day (not pro rata) daily maximum parking rate for each parking space unusable as a result of such pipe leaks, commencing on the date and time upon which Garage Unit Owner notifies Master Residential Unit Owner of such unusable parking spaces, and ending on the date and time at which such pipe leak has ceased, all necessary repairs have been completed and such parking spaces are again usable.

6) HVAC Units in Garage Unit. For HVAC units in the Garage Unit, Master Residential Unit Owner shall pay to the Garage Unit Owner the posted full day (not pro rata) daily maximum parking rate for each parking space unusable as a result of the repair of such HVAC units, commencing on the date and time upon which the Garage Unit Owner notifies the Master Residential Unit Owner of such unusable parking spaces, and ending on the date and time at which such repairs have been completed and such parking spaces are again usable.

7) Garage Lobby ATM and Vending Machines. With respect to the current ATM and vending machines located in the Garage Unit, the net profit shall be shared evenly (i.e., 50/50) between the Garage Unit Owner and the Master Residential Unit Owner, payable as Garage Unit Owner receives revenues related thereto.

If any payment or any portion thereof is not paid in full by the tenth (10^{th}) day after the due date, a late charge equal to ten percent (10%) of the amount not paid may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per

annum shall accrue from the due date. All license fees payable to Garage Unit Owner pursuant to this Exhibit "H", together with interest thereon and any applicable late fees, shall be a charge on the Unit of the licensee and shall be a continuing lien upon the Unit of the licensee by which the license fee is payable. Garage Unit Owner may foreclose the lien in the same manner available pursuant to Section 10.8 above.

SCHEDULE 2.12

BUILDING UTILITY AND SERVICE SYSTEMS

1) Pump room system
2) All the fire life safety systems, except sprinkler systems as addressed in Exhibit "G"
3) Building transformers
4) Backup generators
5) Garage elevators

SCHEDULE 2.42

LIMITED COMMON ELEMENTS

Pool equipment room on top floor of Garage Unit; allocated to Master Residential Unit

Stairwell 02 (floors 1 through 10) - allocated 90% to Garage Unit, 5% to Master Residential Unit and 5% to Residential Unit D

Stairwell 02 (floors 11 and above) - allocated 100% to Master Residential Unit

Compactor room; allocated to Master Residential Unit and certain Retail Units as shown on Exhibit "C".

Loading dock; allocated to Master Residential Unit and Retail Units as determined by the Board of the Association

Lobby entrance to Garage Elevator Bank – allocated 90% to Garage Unit, 5% to Master Residential Unit and 5% to Residential Unit D

Unless otherwise specified on this Schedule 2.38, costs associated with the foregoing Limited Common Elements shall be assessed to the respective Unit Owners in proportion to their respective Percentage Interests on a grossed up basis.

SCHEDULE 2.69

UNIT UTILTY AND SERVICE SYSTEMS

Residential HVAC units; allocated to Master Residential Unit

Garage exhaust fans; allocated to Garage Unit

Garage dry sprinkler system; allocated to Garage Unit

Residential wet sprinkler system; allocated to Master Residential Unit and Retail Units as determined by the Board of the Association

Amenity deck gas lines in Garage Unit serving fire pits in Master Residential Unit; allocated to Master Residential Unit

Amenity deck drainage lines in Garage Unit serving the amenity deck in Master Residential Unit; allocated to Master Residential Unit

Garage blowers; allocated to Garage Unit

Retail Unit commercial kitchens; allocated to Retail Units

Pool equipment; allocated to Master Residential Unit