# DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR HAMPTON HEIGHTS, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

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**This instrument establishes a fee-simple townhome community that is a horizontal property regime with private elements pursuant to Tenn. Code Ann. § 66-27-103(b).**

This instrument prepared by:
MYRES LAW PLLC
P.O. BOX 330382
NASHVILLE, TN 37203

Date: March 11, 2025



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**HAMPTON HEIGHTS,**

**A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS**

**THIS DECLARATION** is made this 11th day of March 2025, by **KSSK LLC,** a Tennessee limited liability company (the "Developer"), pursuant to the provisions of the Tennessee Horizontal Property Act, Tenn. Code Ann. § 66-27-101 et seq. (The "Act"), for the purpose of forming a horizontal property regime and establishing certain easements, covenants, and restrictions to run with the land:

**WITNESSETH:**

**WHEREAS,** the Developer is the owner of certain real property located in Davidson County, State of Tennessee, and described on Exhibit "A" attached hereto (the "Parcel");

**WHEREAS,** the Developer intends to and does hereby submit the above-described Parcel of real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in any way pertaining thereto (the "Property") to the provisions of the Tennessee Horizontal Property Act, Tenn. Code Ann. § 66-27-101 *et seq.,* for the express purpose of establishing thereon a horizontal property regime with private elements to be known as **HAMPTON HEIGHTS;** and

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

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

## ARTICLE I
## DEFINITIONS

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

(a) "Act" shall mean the Tennessee Horizontal Property Act, Tenn. Code Ann. §§ 66-27-101 *et seq.*

(b) "Association" shall mean HAMPTON HEIGHTS Homeowners' Association, Inc., a nonprofit corporation organized pursuant to the Tennessee Nonprofit Corporation Act, Tenn. Code Ann. § 48-51-101 *et seq.* as the same may be amended from time to time, of which all Owners shall be members and which corporation shall administer the operation, management, maintenance, control, and administration of the Common Elements and Limited Common Elements. The Association shall at all times maintain active status with the Tennessee Secretary of State and shall maintain a registered agent within the state of Tennessee.

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

(d) "By-Laws" shall mean the set of By-Laws of HAMPTON HEIGHTS Homeowners' Association, Inc., a copy of which is attached hereto as Exhibit C, recorded simultaneously with this Declaration, and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in this Declaration dealing with the administration and maintenance of the Property shall be deemed to be a part of the By-Laws.



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(e) "Charter" shall mean the Charter of HAMPTON HEIGHTS Homeowners' Association, Inc., a copy of which is attached hereto as Exhibit D.

(f) "Common Elements" shall mean all portions of the Property other than the Units, Private Elements, or Limited Common Elements, as those areas are designated on Exhibit B hereto, also known as "Shared Common Elements," as designated on the Plat, including, but not limited to the following:

i. The shared access driveway, including all entrances and exits and all equipment and fixtures serving only the shared access driveway;
ii. All shared parking areas;
iii. All storage spaces located outside the boundaries of the Units;
iv. All utilities or utility lines serving all of the Units or the Common Elements;
v. All easements, rights, or appurtenances affecting or relating to the use of all of the Units or the Common Elements;
vi. All sidewalks shown within or bordered by Common Elements, not otherwise designated as a Private Element;
vii. All other elements (other than the Units, Private Elements, or Limited Common Elements) desirable or rationally of common use or necessary to the existence, upkeep, and safety of the Property;

(g) "Common Expenses" shall mean the expenses arising out of the ownership of the Common Elements and Limited Common Elements for which the Owners are liable to the Association and shall include, but not be limited to, expenses of insurance; expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation, and betterment of the Common Elements and Limited Common Elements; any valid charge against the Property as a whole; and expenses declared to be Common Expenses by the provisions of the Declaration, as the same may be amended, from time to time, in accordance with the provisions thereof.

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

(i) "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, and Easements and all the Exhibits hereto, the Plat, the By-Laws, the Charter of the Association, as the same shall be amended from time to time, and the Rules and Regulations of the Association.

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

(k) "Land" shall mean the parcel or tract of real estate described in Exhibit A to this Declaration submitted to the provisions of the Act.

(l) "Limited Common Elements" shall mean a portion of the Common Elements designated as a Limited Common Element on the Plat, any amendment to the Plat, or by the terms of this Declaration for the exclusive use of one or more but fewer than all of the Units. The Limited Common Elements may include among any other property so designated on the Plat, courtyards, fitness centers, grilling areas, and other recreational areas.

(m) "Mortgage" shall mean a first lien Mortgage on one or more Units.

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



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

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

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

(r) "Plan" or "Plat" shall mean the as-built Plan showing the Units, the Common Elements, and the Limited Common Elements of the Property, attached hereto as Exhibit B, and made a part hereof for all purposes as such Plat may, from time to time, be amended.

(s) "Private Element" shall mean the lot area upon which each Unit is located and the improvements now or hereafter located thereon, as designated on the Plat. Exclusive ownership in fee simple and use of the Private Elements for each Unit is reserved to such Unit. The area of the Private Elements for each Unit is as shown on the Plat (and the Plat shall control any conflict between this document and the Plat.) Units, as referenced on the Plat, shall be deemed to refer to the Private Elements. Each Unit Owner of a Private Element shall own a pro rata share of the total membership in the Association.

(t) "Property" shall mean the Land and all improvements and structures erected, constructed, or contained therein or thereon, including all buildings, and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures, and equipment intended for the mutual use, benefit, or enjoyment of the Unit Owners submitted to the provisions of the Act under this Declaration, as amended from time to time. Upon annexation of additional phases into the provisions hereof, Property shall also mean and include any additional area so annexed.

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

(v) "Unit" shall mean a portion of the Property as shown and designated on the Plat for separate ownership and shall include the Private Elements and the residence and improvements now and hereafter located thereon. The Units are identified by a numerical character on the Plat and may be held and conveyed by reference to such number or, alternately, by the street number and street name designated for said Units. Conveyance of a Unit shall automatically convey the undivided membership of each Unit Owner in the Association. Each Unit is assigned a Unit number and/or a street number and street name. Any Unit may be jointly or commonly owned in any estate recognized under applicable law. The term "Unit" as used in this Declaration shall have the same meaning as the term "Apartment" as used in the Act.

All materials constituting any portion of the exterior surfaces of a Unit designated as a boundary of a Unit are a part of the Unit.

If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Private Element allocated solely to that Unit. Any portion thereof serving more than one Unit is a Private Element allocated solely to such Units, and any expense related to such fixtures shall be divided equally amount the units that is serves.

## ARTICLE II
## PROPERTY SUBJECT TO THIS DECLARATION

**Section 2.01 Description of Improvements and Identification of Units.** The Property shall consist of the Land and (i) fifty-one (51) individual, residential building units, (ii) common use parking, and (iii) certain other improvements, as may, from time to time, be amended. A plat of the Land and improvements thereon, identifying each Unit, the Common Elements, and the Limited Common Elements and their relative locations, is set forth in the Plat of HAMPTON HEIGHTS attached hereto as Exhibit B.



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**Section 2.02** **Amendment of Construction Plans and Specs.** Developer reserves the right to change the interior or exterior design and arrangement of any Unit, to alter the boundaries between Units, and to increase or decrease the number of Units so long as the Developer owns the Units so altered. Changes in the boundaries between the Units, as hereinbefore provided, shall be reflected by an amendment to the Plat and, if necessary, an amendment to this Declaration. An amendment to the Plat or the Declaration reflecting an alteration of the boundaries of the Units owned by Developer needs to be signed and acknowledged only by the Developer and need not be approved by the Owners and Mortgagees, whether or not such approval may elsewhere be required herein; provided, however, that any change which shall result in a change in the undivided membership interest in the Association or a change in the share of Common Expenses with respect to Owners of Units, other than Developer, at the time of such change, or which shall result in the alteration of boundaries of Units, may not be made without an amendment of this Declaration approved by the Owners and Mortgagees in the manner elsewhere required herein.

**Section 2.03** **Parking Spaces and Storage Spaces.** The Developer shall have the right to assign parking spaces and any storage spaces to Unit Owners for consideration, as determined by Developer. Storage spaces may be located in designated areas of the Property. Use of the storage spaces shall be in accordance with the Rules and Regulations of the Association. Developer shall have the right to use unassigned parking and storage spaces as provided in Section 6.07 herein.

**Section 2.04** **Balconies, Patios, or Terraces.** Any balcony, patio, or terrace attached or directly accessible from a Unit shall be deemed part of such Unit.

**Section 2.05** **Easements and Restrictions.** The Units, the Common Elements, and the Limited Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions, and covenants prescribed and established in this Declaration governing the use of the Units, the Common Elements, and the Limited Common Elements and setting forth the obligations and responsibilities incident to ownership of each Unit and its appurtenant undivided membership interest in the Association, which is further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the Property. Additional easements established hereunder include the following:

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

(b) Utility Equipment. There may be utility equipment, which is appurtenant to the Units, but which is located on the Common Elements. An easement is hereby reserved in favor of each Unit for the purpose of placement, maintenance, repair, and replacement of said utility equipment by Developer and the Unit Owners; provided that no utility equipment shall be placed on any part of the Common Elements or Limited Common Elements, other than that equipment originally installed by the Developer, without the written approval of the Developer or the Association.

(c) Easements for Ingress and Egress. The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual, nonexclusive easement of way over all roads, parking areas, walkways, open landscape spaces, and other common areas in favor of the Association for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of the Association, subject to all restrictions in the Declaration.

(d) Easements of Encroachments. To the extent that any Unit, Common Element, or Limited Common Element encroaches on any other Unit, Common Element, or Limited Common Element, whether by reason of any deviation from the Plat in the original construction, repair, renovation, restoration, or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement shall exist for the encroachment and/or the maintenance of the same, so long as the encroaching Unit, Common Element, or Limited Common Element stands. This easement, however, shall not relieve an Owner of liability for his or his agent's negligence, intentional acts, or willful and intentional misconduct in causing the encroachment. In the event any Unit, any adjoining Unit, or any adjoining Common Elements, or Limited Common Elements shall be partially or totally destroyed as a

result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then constructed, reconstructed, or repaired, encroachment of parts of the Common Elements, or Limited Common Elements upon any Unit, or encroachment of any Unit upon any other Units, Common Elements, or Limited Common Elements resulting from such construction, reconstruction, or repair shall be permitted, and valid easements for such encroachment and the maintenance thereof shall exist so long as the encroaching improvements shall stand.

(e) Easement for Use of Limited Common Elements. Each Owner which has been allocated the use of Limited Common Elements shall have an easement for ingress and egress to and from such Limited Common Elements over the Common Elements, Limited Common Elements, and walkways, as they may be relocated from time-to-time.

(f) Easements Appurtenant to Units. The easements and other rights created herein for the Unit Owners shall be appurtenant to the Unit of that Owner, and all conveyances of title of the Unit shall include a conveyance of the easements and rights herein provided even though no specific reference to such easements and rights appear in such instrument. The Owners do hereby designate the Developer and/or the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purpose of evidencing all such easements created by the provisions hereof.

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

(h) Authority to Grant Easements. The Owners do hereby designate the Developer and/or the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purpose of evidencing all easements created by the provisions of this Section 2.05. Developer and/or Association shall have the right to grant such easements without the joinder of any Unit Owner.

**Section 2.06 Use of Common Elements.** Except as hereinafter set forth, each Unit Owner shall have the right to use the Common Elements (except the Private Elements or any Limited Common Elements) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to each Unit Owner, and such Owner's agents, servants, tenants, family members, customers, invitees, and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Private Elements attributable to the Unit. Such rights to use the Common Elements, shall be subject to and governed by the provisions of the Act, Declaration, By-Laws and any Rules and Regulations established by the Association. In addition, the Association shall have the authority to lease, grant concessions, or grant easements with respect to parts of the Common Elements, subject to the provisions of the Declaration and By-Laws. All income derived by the Association from leases, concessions, or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions, or regulations as the Board may adopt or prescribe.

**Section 2.07 Rights in or to Limited Common Elements.** The Limited Common Elements appurtenant to any Unit shall be as described in this Declaration or shown on the Plat. The description shall be expressed by identifying the type of Limited Common Elements which are appurtenant to the Unit, if any, and the Owners of such Units (whether one or more than one Unit) shall have the exclusive right to use such Limited Common Elements so designated or described unless changed by the Developer as permitted in Section 2.02 hereof or by the unanimous approval of the Unit Owners to which Limited Common Elements are appurtenant and their respective Mortgagees. Each Owner of a Unit to which the Limited Common Element is designated on the Plat, shall have the right to use the Limited Common Element for all purposes incident to the use and occupancy of such Unit as herein provided without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run along with the Unit to which the Limited Common Elements are designated on the Plat.

## ARTICLE III
## ORGANIZATION AND MANAGEMENT



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

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

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

**Section 3.04** **Copies of Declaration.** The Association shall make available to Owners, Mortgagees, lenders, and prospective purchasers, current copies of this Declaration, for inspection upon request, during normal business hours or under other reasonable circumstances.

## ARTICLE IV
## ASSESSMENTS

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

**Section 4.02** **Assessments.**

(a) All assessments for the payment of Common Expenses shall be levied annually against the Owners of all Units, and unless specifically otherwise provided for in the Declaration, each Owner of a Unit and the Unit shall bear the same percentage share of such assessment as the percentage share of ownership and undivided membership interest in the Association. The assessments for Common Expenses shall be payable over the course of the year in advance monthly installments commencing for all Units on the date determined by Developer, after the date of purchase of a Unit or in such other installments and at such times as may be determined by the Board of Directors of the Association. To the extent the initial assessment includes costs which will not be incurred by the Association until a Unit is initially occupied, then the Association may make an equitable reduction in the amount of the regular assessment due from such Unit as provided in Section 5.04.

(b) The Association may assess the Owners of Units for the repair and maintenance of various components of the Common Elements or Limited Common Elements based on the usage of any component of the Common Elements or Limited Common Elements. Such assessments shall not be included in the assessment for Common Expenses but shall be payable in such manner and at such times as may be determined by the Board of Directors of the Association.

**Section 4.03** **Annual Budget.** Within sixty (60) days prior to the beginning of each calendar year, the Board of Directors of the Association shall adopt a proposed annual budget for such calendar year,



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

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

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

**Section 4.05 Detailed Records.** The Association shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements, Limited Common Elements, and any other expenses incurred. The Association shall make available to Owners, Mortgagees, and lenders on any Unit, the books, records, and financial statements of the Association. The Association shall make available to prospective purchasers the most recent annual audited financial statement of the Association, if such is prepared. "Available" in this Section, means available for inspection upon request during normal business hours or under other reasonable circumstances.

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

**Section 4.07 Default in Payment of Assessments.**

(a) The payment of any assessment or installment thereof due the Association shall be in default if such assessment or any installment thereof is not paid to the Association on or before the due date for such payment. When in default, the delinquent assessment or delinquent installment due the Association shall bear interest at the greater of (i) the maximum legal rate on judgments or (ii) 12%, but not to exceed the maximum rate allowed under applicable law (the "Interest Rate"), and such late fees and penalties provided in the Rules and Regulations of the Association, until such delinquent assessment or installment and all interest due thereon has been paid in full. The Association shall have a lien against Units for delinquent assessments. Such lien shall secure and does secure the monies due for all assessments then or thereafter levied against the Unit, and such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessment owing the Association. Such lien shall also



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secure all costs and expenses, including late penalties and attorneys' fees incurred by the Association in collecting delinquent assessments and enforcing the lien upon any Unit and its undivided membership interest in the Association. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages in the State of Tennessee, but the Association shall give reasonable advance notice of its proposed action to the Unit Owner, the Mortgagee, and all other lienholders of record of the Unit. The lien granted to the Association shall further secure such advances for taxes and payment on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to protect and preserve its lien. The Association shall further be entitled to interest at the Interest Rate on any such advance made for such purpose. Subject to the provisions of Section 4.07(b), all persons, firms, or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit or who may be given or may acquire a mortgage, lien, or other encumbrance thereon are hereby placed on notice of the lien rights granted to the Association and shall acquire such interest in any Unit expressly subject to such lien and lien rights.

(b) The lien herein granted to the Association shall be effective upon the recording of this Declaration in the Register's Office for Davidson County, Tennessee. No further recordation of any claim of lien for assessment under this section is required. Such lien shall include assessments, late fees, penalties, and other charges imposed by the Association for violations of this Declaration, the By-Laws, and the Rules and Regulations, and shall include interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances, and interest thereon, all as above provided.

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

**Section 4.09 Power of Sale to Enforce Assessment Lien.**

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

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

(c) Trustors agree (i) to pay the Secured Charges when due, as provided in this Declaration; (ii) to pay, discharge, or remove any and all liens (except a first mortgage or deed of trust) which may be hereafter placed against their Unit and which shall adversely affect the lien of this instrument of enforcement of the terms and provisions hereof; (iii) to keep their respective Units in good repair and preservation; (iv) to comply with all of the terms and conditions of this Declaration and By-Laws and all Rules and Regulations of the Association; and (v) to pay, upon demand of Trustee or the Association, all the costs and expenses, together with reasonable attorneys' fees, of any court appearance or other proceedings required by Trustee, his successors, or the Association to enforce any provision of this Declaration and By-Laws or any rule and



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regulation of the Association. If any Trustor fails to do any of these things, then Trustee of the Association may do any or all of these things, and the amounts so paid shall bear interest at the highest rate allowed under applicable laws in effect, from time to time, from the day of payment and shall become a part of the Secured Charges secured hereby.

(d) If a Trustor shall pay the Secured Charges when due, then this trust conveyance shall be of no further force or effect with respect to such Trustor's Unit. If the Secured Charges with respect to any Unit, or any portion thereof, are not paid promptly when due, this trust conveyance shall remain in full force and effect, and the said Trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty (20) days' notice by three publications in any newspaper, daily or weekly, published in Davidson County, Tennessee, to sell said Unit, subject to the provisions of Section 4.07(b) hereof, at the front door of the Courthouse in said County to the highest bidder for cash, at public outcry, free from the statutory right of redemption, the equity of redemption, homestead, dower, and all exemptions and rights of every kind, which are hereby expressly waived; and the said Trustee, or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Association may bid at any sale under this trust conveyance. The Association may, at any time after default in the payment of any of the Secured Charges, enter and take possession of said property and shall only account for the net rents actually received by it. It is further agreed that in the event the Association fails, before instructing Trustee to sell said Unit, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said property. In case of sale hereunder, the proceeds will be applied by the Trustee as follows:

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

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

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

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

## ARTICLE V
## MAINTENANCE AND OPERATION OF THE PROPERTY

**Section 5.01 <u>The Association's Obligation to Repair</u>.**

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

(i) The Common Elements which by definition excludes the Units.

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

(b) The Association acting through the Board of Directors also shall be responsible for the maintenance, repair, and replacement of the Limited Common Elements.



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

(d) The Association shall inspect the Property at least annually for repair and maintenance requirements and shall promptly undertake the repair and maintenance thereof.

(e) This Section 5.01 shall not relieve a Unit Owner of liability for damage to the Common Elements, Limited Common Elements, a Unit, or Private Element of another person, adjacent property, or any other property damage caused by the Unit Owner of such Unit, their guests, invitees, lessees, or licensees as a consequence of an accident or the negligence, recklessness, or willful misconduct of such person. The cost of repair for any damage so caused by the Unit Owner of such Unit, their guests, invitees, lessees, or licensees shall be a special assessment against the Unit Owner. To the extent insurance proceeds from insurance policies maintained by the Association or by any Owner are available for the repair of any such damage, then any Owner otherwise liable for damage and repair expenses under the terms of this Section 5.01(e) shall be relieved to the extent of such insurance proceeds from such liability.

**Section 5.02 Each Owner's Obligation to Repair.**

(a) Each Unit Owner shall, at such Owner's expense, maintain his Unit in good tenantable condition and repair and shall be responsible for the repair, maintenance, and replacement, if necessary, of the following items related to his Unit, including, but not limited to:

i. The Unit itself and any fixtures attached to said Unit, including, but not limited to the foundation and framing of the Unit, fixtures and equipment in the Unit, including the refrigerators, stoves, and all other appliances within the Unit; drains, sinks, plumbing and plumbing fixtures, and connections within the Unit and serving only the Unit; electrical panels, wiring, outlets, and electrical fixtures within the Unit; interior and exterior doors, interior and exterior surfaces of the window frames, screening, and glass; interior and exterior surfaces of all exterior doors; all wall coverings including paint, wallpaper, and light coverings; all floor coverings including carpeting, hardwood, vinyl, and ceramic tile within a Unit; all interior corridors, stairwells, and hallways within his Unit; and all exterior finishes, wood, masonry, fencing, roofing material, walkways, sidewalks, driveways, swimming pools, garage doors, and the like. The Association bears no responsibility to maintain or repair any Unit, Private Element, or any system serving such elements, except as provided in Section 5.01.

ii. The plumbing, heating, air conditioning, and electrical systems serving only the Owner's Unit, whether located within or without the Unit itself, including fuse boxes, wiring, flues, and all other plumbing, electrical, gas, or mechanical systems. In the event any such system or a portion thereof is within another Unit or requires access to another Unit, the repair, maintenance, or replacement thereof shall constitute an assessment against the Unit Owner utilizing such system(s).

(b) Each Unit Owner agrees as follows:

i. To perform all maintenance, repairs, and replacements which are his obligations under subparagraph (a) of this Section 5.02;

ii. To pay all utilities as herein provided and all taxes levied against his Unit;

iii. Not to make, or cause to be made, repairs to any plumbing, heating, ventilation, or air conditioning systems located outside his Unit but required to be maintained by him under subparagraph 5.02(a)(ii), except by licensed plumbers, electricians, or heating and air



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conditioning professionals authorized to do such work by the Association or its delegate;

iv. Not to make any addition or alteration to the Unit, the Common Elements, or Limited Common Elements or do any act that would impair the structural soundness, safety, or overall design scheme of any part of the Property or that would impair any easement or right of a Unit Owner without the prior written consent of the Association and all Unit Owners affected thereby;

v. Not to make any alteration, addition, improvement, decoration, repair, replacement, or change to the Common Elements, Limited Common Elements, or any outside or exterior portion of the Unit, including, but not limited to, altering in any way exterior doors, patios, balconies, or terraces, affixing out shutters to windows, or painting any part of the exterior part of the Unit without the prior written consent of the Association; provided that if such consent is granted, the Unit Owner shall use only a contractor approved by the Association who shall comply with all Rules and Regulations with respect to the work which may be adopted by the Association, and the Unit Owner shall be liable for all damages to another Unit or to the Common Elements, or Limited Common Elements caused by any contractor employed by such Unit Owner or by the subcontractors or employees of such contractor, whether said damages are cause by negligence, accident, or otherwise; and

vi. To promptly report to the Association any defects or needed repairs for which the Association is responsible.

(c) The Owner of a Unit may make any improvements or alterations to the interior of that Owner's Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Unit.

(d) The Association shall be obligated to answer any request by a Unit Owner for any required approval of a proposed addition, alteration, or improvement (by painting or otherwise) within forty-five (45) days after such request, but its failure to do so within the stipulated time shall not constitute a consent of the Association to the proposed addition, alteration, or improvement. Any application to any governmental authority for a permit to make an addition, alteration, or improvement in or to any Unit shall be executed by the Association without, however, it incurring any liability on the part of the Board of Directors, or any of them individually, or the Association to any contractor, subcontractor, or materialman on account of such addition, alteration, or improvement or to any person having any claim of injury to a person or damage to property arising therefrom. The review by the Association under this Section 5.02 shall in no way make the Association liable for any alterations, additions, or improvements by any Unit Owner. Rather, such review is for purposes of aesthetics and control only. The Board of Directors shall have the right to appoint a committee to make recommendations to the Board regarding any request for review; however, the Board is not obligated to appoint a committee and is not obligated to follow the recommendation of the Committee. The provisions of this section shall not apply to Units owned by the Developer until a deed for such Unit has been delivered to a purchaser other than Developer.

**Section 5.03 Alterations, Additions, and Improvements by the Association.** Except in the case of loss or damage to the Common Elements or Limited Common Elements, as contemplated by Article VIII of the Declaration, the Association shall not make any material structural alterations, capital additions, or capital improvements to the Common Elements or Limited Common Elements with a cost in excess of $25,000 (such sum to be increased by the cumulative percentage increase from the date of recording this Declaration in *The Consumer Price Index* published by the Bureau of Labor Statistics of the United States Department of Labor, US City Average, All Items, or if such index is not available, a comparable index selected by the Board of Directors of the Association (the "CPI Factor")) (other than for the purpose of replacing, restoring, or rehabilitating portions of the Common Elements or Limited Common Elements in accordance with the Declaration) unless the same is authorized by the Board of Directors of the Association



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and ratified by the affirmative vote of the voting members casting not less than 75% of the total votes of the members of the Association present at any regular or special meeting of the Unit Owners called for that purpose at which a quorum is present. The cost of the foregoing shall be assessed against the Owners of Units as provided in Article IV hereof except as otherwise provided in this Section 5.03. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, then the cost of such alterations or additions shall be assessed against and collected solely from the Unit Owners exclusively, or substantially exclusively, benefiting therefrom, and the assessment shall be levied in such proportions as may be determined to be fair and equitable by the Board of Directors of the Association. Where such alterations or additions exclusively, or substantially exclusively, benefit Unit Owners requesting the same, said alterations and additions shall be made only when authorized by the Unit Owners exclusively, or substantially exclusively, benefiting therefrom. Alterations, improvements, or repairs of an emergency nature may be made upon authorization by a vote of the majority of the Directors available for consultation if the same is necessary and in the best interest of the Unit Owners.

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

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

**Section 6.01 Rules and Regulations of the Association.** The Developer or Association is authorized to promulgate, amend, and enforce Rules and Regulations concerning the operation and use of the Property, provided that such Rules and Regulations are not contrary to or inconsistent with the Act and the Declaration. A copy of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner, upon any change of ownership of a Unit and upon the reasonable request of any Unit Owner. The Board of Directors reserves the right to furnish the copy of the Rules and Regulation to any new Unit Owner or requesting Unit Owner in a digital format. All present and future Unit Owners, tenants, occupants of the Units, and any person who uses any part of the Property in any manner are subject to and shall comply with the provisions of the Declaration and the Rules and Regulations. The acquisition, rental, or occupancy of a Unit or the use of any part of the Property by any person shall constitute his agreement to be subject to and bound by the provisions of the Declaration and Rules and Regulations. Such provisions shall be deemed to be enforceable as equitable servitudes and covenants running with the land and shall bind any person having, at any time, any interest or estate in such Unit as though such provisions were recited and stipulated in full in each and every deed of conveyance or lease thereof. The Association may promulgate enforcement provisions for violation of any Rule or Regulation by a Unit Owner, their family members, guests, invitees, lessees, or renters, including the payment of penalties for such violations.

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

(a) Except for uses and easements specifically reserved or set forth in the Declaration, the HAMPTON HEIGHTS Units are hereby restricted to residential use. Parking is restricted to parking in assigned spaces and to the parking of passenger vehicles, which may include pick-up trucks, sport utility vehicles, and motorcycles, that fit within defined striping and do not encumber the neighboring parking spaces; provided, however, agents of Declarant shall be entitled to park such vehicles required or useful in the operation of construction or useful to Declarant provided such vehicles fit within the parking spaces assigned or reserved for the use of Declarant as provided herein. Under no circumstances shall any commercial vehicle, trailer, van, recreational mobile home, motor home, recreational trailer, off-road vehicle, tractor-trailer, and the like, be stored on any portion of the Property. This Section 6.02(a) shall not apply to the Developer or to vehicles of entities hired by the Developer or by any Unit Owner for repairs and maintenance required by this Declaration.

(b) There shall be no obstruction of the Common Elements or Limited Common Elements nor shall anything be kept or stored in the Common Elements or Limited Common Elements (except in designated storage spaces assigned by Developer, balconies and terraces appurtenant to any Unit pursuant to the Rules and Regulations,), nor shall anything be constructed on, painted on, or removed from the Common Elements or



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Limited Common Elements, nor shall the Common Elements or Limited Common Elements in any other way be altered without the prior written consent of the Association.

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

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

(e) No sign of any kind shall be displayed to the public view on or from any part of the Property without prior written consent of the Board of Directors of the Association except (i) signs temporarily used by the Developer in the selling or leasing of the Units.

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

(g) No Owner shall cause or permit anything to be placed on the Common Elements or Limited Common Elements immediately surrounding the Units. No sign, awning, canopy, window air condition unit, shutter, or other fixture shall be affixed to or placed upon the exterior walls or roof of any building, the Limited Common Elements, or any part of the Common Elements without the prior written consent of the Board of Directors of the Association, except as permitted pursuant to Section 6.02(e). The location of any satellite communication dishes is subject to the provisions of the Rules and Regulations.

(h) No clothes, sheets, blankets, laundry of any kind, flags, banners, holiday lights or lighted signage, or other articles shall be hung out or exposed from or on any part of the Common Elements or Limited Common Elements. The Common Elements and Limited Common Elements shall be kept clear of rubbish, debris, and other unsightly materials.

(i) Applicable building codes require that any clothes dryer installed in the Units must have specified venting characteristics. Accordingly, Unit Owners may replace their clothes dryers only with dryers meeting the required building code specifications.

**Section 6.03** **Right of Access.** Each Unit Owner grants a right of access to his Unit to the Association and any other person authorized by the Association for the purpose of correcting any condition originating in his Unit threatening other Units, Common Elements, or Limited Common Elements. Each Unit Owner further grants an easement and right of access to his Unit to the Developer, Developer's agent, or other authorized representative who is not Developer's agent for the purpose of (i) making all repairs required by any warranty delivered to the Unit Owner at the closing of any such Unit or to resolve any claim of such Owner; and (ii) making repairs to other Units or to the Common Elements or Limited Common Elements. To the extent that damages are inflicted on the Common Elements, Limited Common Elements, or any Unit through which access is taken, the Unit Owner, Developer, or the Association, if it caused the same, shall be liable for the prompt repair thereof.

**Section 6.04** **Limitation of Liability.** The Association shall not be liable for any failure of water or power supply, telephone, security, fire protection or other services to be obtained by the Association or paid for out of the Common Expense funds; for problems resulting from the operation or lack of operation of sewer lines servicing the Property; or for injury or damage to a person or property caused by the natural elements or resulting from electricity, water, snow, or ice that may leak or flow from any portion of the Common Elements, Limited Common Elements, or any wire, pipe, drain, conduit, appliance, or equipment. However, this provision does not relieve the Association from responsibility for damage to the Units or Limited Common Elements arising from or related to water intrusion from the Common Elements on account of maintenance or lack thereof. The Association shall not be liable to the Owner of any Unit for



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loss or damage, by theft or otherwise, of articles or personal property which may be stored upon any of the Common Elements or Limited Common Elements. The Association does not warrant security or control of access to the Property. No diminution or abatement of the Common Expense assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements, Limited Common Elements, or any Unit; from any action taken by the Association to comply with any law, ordinance, or the order or directive of any municipal, other governmental, or judicial authority; or the dispossession of the Unit Owner by reason of fire or other casualty, except to the extent covered by insurance.

**Section 6.05** **Abatement of Violations.** The violation of any Rule or Regulation adopted by the Developer or Board of Directors of the Association or breach of the provisions of the Declaration shall give the Developer, the Association, or any Unit Owner the right, in addition to any other right or remedy elsewhere available, to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach. All expenses of such actions or proceedings against a defaulting Owner, including court costs, attorneys' fees, and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the highest lawful rate on judgments until paid, shall be charged to and assessed against such defaulting Owner, and the Association shall have a lien for all the same upon the Unit of such defaulting Owner. Nothing herein contained shall prevent an Owner from maintaining such an action or proceeding against the Association, and the expense of any action to remedy a default of the Association shall be a Common Expense if a court of competent jurisdiction finds the Association to be in default as alleged in such action or proceeding.

**Section 6.06** **Failure of the Association to Insist on Strict Performance; No Waiver.** Failure of the Association to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Declaration, to exercise any right or option herein contained, to serve any notice, or to institute any action shall not be construed as a waiver or a relinquishment from the future performance of such term, covenant, condition, or restriction, but such term, covenant, condition, or restriction shall remain in full force and effect. The receipt by the Association of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed to be a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and approved by the action of the Board of Directors of the Association.

**Section 6.07** **Use by Developer**

(a) Subject to the rights of the Mortgagees hereunder, neither the Owners, the Board of Directors of the Association, nor their use of the Property or application of this Declaration shall interfere with the completion of the contemplated improvements and sale of the Units. Subject to the rights of the Mortgagees hereunder, the Developer may make such use of the Units owned by such party, Limited Common Elements, and the Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of sales office, management office, and model units, the showing of the Property, and the Units therein, and the display of signs thereon and therein. These special Declarant rights exist so long as Developer offers any Unit for sale in the ordinary course of business. The Developer expressly reserves the right to lease any Unit which it may own in the Property on such terms as it may deem proper and desirable and may transfer Units subject to such leases.

(b) Developer reserves the right to assign parking spaces to Owners of any Unit and to charge such Owners for the assignment of such parking spaces. The right to use such assigned spaces may be further assigned by such Owners only to Owners of another Unit. Notice of any such assignments of parking spaces must be delivered in writing to the Association. Developer shall have the right to use any parking spaces that have not been assigned by Developer to other parties.

(c) Developer reserves the Easement described in Section 2.05(g).

## ARTICLE VII
## RIGHTS OF MORTGAGEES

**Section 7.01** **Notification of Mortgagees Required.** Upon written request to the Association identifying the name and address of the Mortgagee and the Unit Owner, any Mortgagee shall have the right to be given written notification by the Association of (a) any sixty (60) day default by the Owner of the Unit covered by the Mortgage in the payment of assessments or in any other provision of the Declaration; (b) any material loss to or taking of the Common Elements or Limited Common Elements; (c) material damage to a Unit or Private Element covered by the Mortgage; (d) any condemnation of all or a portion of



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the Property; (e) a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (f) any proposed action that requires the consent of a specified percentage of Mortgagees if such Mortgagee has given notice to the Association of its interest in the Property.

**Section 7.02 Right of Inspection.** Mortgagees shall have the right to examine the Declaration, the books and records of the Association or the Property, and to receive annual reports, other financial data, and, upon request, an annual audited statement within ninety (90) days following the end of any fiscal year of the Association. Such information shall be available for inspection upon request during normal business hours or under other reasonable circumstances. Additionally, upon the written request of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or the Department of House and Urban Development, the Association shall prepare and furnish, within a reasonable time, an audited financial statement of the Association for the immediately preceding fiscal year.

**Section 7.03 Priority of Mortgagees.**

(a) Any lien which is or may be created hereunder upon any Unit, including, but not limited to, the lien created for assessments under Section 4.07 hereof and the right to foreclose the same, is and shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any first Mortgage upon such interest made in good faith and for value and recorded, provided that after the foreclosure of any such mortgage, there may be a lien created pursuant to Section 4.07 hereof on the interest of the purchaser as an Owner after the date of such foreclosure sale to secure all assessments hereunder. After the date of such foreclosure sale, said lien, if any, shall be claimed and shall have the same effect and be enforced in the same manner provided herein.

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

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

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

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

## ARTICLE VIII
## CASUALTY LOSS AND INSURANCE

**Section 8.01 Responsibility of Owners: Separate Insurance Coverage.**

(a) Hazard Insurance. Each Unit Owner shall obtain and maintain at all times a policy or policies of multi-peril type hazard insurance insuring the Owner's Unit against loss or damage by the perils of fire, earthquake, lightning, and those perils contained in extended coverage, vandalism, and malicious mischief endorsements. If the Property is located in an area identified by the Secretary of Housing and Urban Development as having special flood hazards, the Unit Owners shall, to the extent obtainable, insure the Units against the perils of flood under the National Flood Insurance Act of 1968 and acts amendatory thereto. The amount of insurance coverage shall be determined



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on a replacement cost basis in an amount not less than 100% of the then current replacement cost of the improvements which constitute the Unit. All such policies of insurance shall comply with the provisions of Section 8.03.

(b) The Owner of each Unit may, at his expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects, any improvements and additions to the Unit made by such Owner after the initial sale of the Unit, and other property belonging to such Owner and may, at his expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such Owner's Unit or upon the Common Elements or Limited Common Elements. Risk of loss of or damage to any furniture, furnishings, and personal property belonging to or carried on the person of the Owner or which may be stored in any Unit or in or upon Common Elements, or Limited Common Elements shall be borne by the Owner of each Unit. All furniture, furnishings, and personal property constituting a portion of the Common Elements or Limited Common Elements and held for the joint use and benefit of all Owners of Units shall be covered by such insurance as shall be maintained in force and effect by the Association as hereinafter provided. All insurance obtained by the Owner of each Unit shall, whenever such provisions shall be available, provide that the insurer waives its right of subrogation as to any claims against other Owners, the Association, Developer, and their respective servants, agents, employees, and guests.

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

**Section 8.02 Insurance Maintained by the Association.**

(a) Hazard Insurance. The Association may obtain and maintain a policy or policies of multi-peril type hazard insurance insuring the Common Elements and Limited Common Elements against loss or damage by the perils of fire, earthquake, lightning, and those perils contained in extended coverage, vandalism, and malicious mischief endorsements. If the Property is located in an area identified by the Secretary of Housing and Urban Development as having special flood hazards, the Board shall, to the extent obtainable, insure the insurable property included in the Common Elements and Limited Common Elements against the perils of flood under the National Flood Insurance Act of 1968 and acts amendatory thereto. The amount of insurance coverage shall be determined on a replacement cost basis in an amount not less than 100% of the then current replacement cost of the improvements which constitute the Common Elements, Limited Common Elements, (but excluding land foundations, excavations, and other items usually excluded from such insurance coverage). Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Periodically, prior to the renewal of any such policy or policies of insurance, the Association may obtain an opinion or an appraisal from a qualified appraiser for the purpose of determining the full replacement cost of the Common Elements, the Limited Common Elements, for the amount of insurance to be obtained pursuant hereto. The cost of any such opinion or appraisal shall be a Common Expense. All such policies of insurance shall comply with the provisions of Section 8.03 and shall provide that the insurance shall not be invalidated by any act or neglect of any Owner.

(b) Public Liability and Property Damage Insurance. The Association may obtain and maintain a comprehensive policy or policies of public liability and property damage insurance in such amount and in such form as shall be deemed appropriate by the Board of the Association to protect said Association. Such policy shall provide coverage for



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bodily injury and property damage resulting from the operation, maintenance, or use of the Common Elements and Limited Common Elements and for legal liability resulting from employment contracts to which the Association is a party.

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

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

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

(a) All policies shall (i) comply with the hazard and casualty insurance requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association as they shall apply to any loans; and (ii) be written with a company licensed to do business in the State of Tennessee holding, to the extent practical and available, a financial rating of Class V or better and a general policyholders rating of "A" or better by Best's Insurance Reports or other then comparable rating. To the extent that the provisions of this Declaration, with respect to the maintenance of insurance, shall conflict with the hazard and casualty insurance requirements of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, then the requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association shall control, and such requirements shall be complied with by the Association.

(b) Exclusive authority to adjust all claims under the policies hereafter in force on the Common Elements and Limited Common Elements shall be vested in the Association or its authorized representatives.

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

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

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

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

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

**Section 8.04 Premiums and Deductibles.** Premiums for insurance policies purchased by the Association shall be paid by the Association and shall be a Common Expense. All Association insurance costs shall be assessed as Common Expenses, except that the amount of increase over the usual premium occasioned by the use, misuse, occupancy, or abandonment of a Unit, its appurtenances, the Common Elements, or Limited Common Elements by an Owner shall be assessed against that Owner. Any deductible incurred by reason of a loss or claim under any insurance policy purchased under this Article VIII shall be paid by any Unit Owner whose action, whether intentional or otherwise, created the loss. All other deductibles shall be paid by the Association unless such loss or claim was caused by any Unit Owner, lessee, guest, or invitee thereof, or resulted from the use, misuse, occupancy, negligence, or abandonment of a Unit or any portion thereof as determined by the Association. In such event, the Unit Owner, lessee, guest, or invitee, etc., from whose Unit the cause originated will be responsible for the deductible under the



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Association's insurance policy. The Association may issue an assessment against a Unit Owner for payment of such deductibles owed and any such assessment shall be enforceable under Section IV of this Declaration.

**Section 8.05** **Loss to Common Elements and/or Limited Common Elements.** In the event of the loss of or damage to Common Elements or Limited Common Elements, real or personal, by reason of fire or other casualties, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association to cover such loss or damage shall be applied to the repair, replacement, or reconstruction of such loss or damage. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire or casualty loss or damage payable to the Association are not sufficient to pay for the repair, replacement, or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then the Association shall pay for the repair, replacement, or reconstruction of any loss or damage. The Association may levy and collect an assessment against the Owners of all Units in an amount which shall provide the funds required to pay for said repair, replacement, or reconstruction.

**Section 8.06** **Estimates of Repair: Plans and Specifications; Payment of Assessments.** In the event of loss or damage to the Common Elements or Limited Common Elements, the Association shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost of restoring damaged property to a condition as good as that which prevailed before such loss or damage.

## ARTICLE IX
## TERMINATION

**Section 9.01** **Termination by Consent.** This Declaration may only be terminated by the consent of the Developer, or all of the Unit Owners and all parties holding Mortgages, liens, or other encumbrances against any of said Units in which event the termination of the Property shall be evidenced by a deed in compliance with the Act, executed in writing by all of the aforesaid parties in recordable form, and such instrument shall be recorded in the Register's Office for Davidson County, Tennessee.

**Section 9.02** **The Association Appointed as Attorney-In-Fact for Unit Owners.** The Association may be appointed as attorney-in-fact for each Unit Owner for the purpose of representing such Unit Owners in any proceeding, negotiation, settlement, or agreement arising from the termination of this Declaration established herein.

## ARTICLE X
## AMENDMENT

**Section 10.01** **Amendments by Developer.** Without limiting the rights of the Developer to alter the plans as described in Section 2.02 above, and notwithstanding any other provision herein contained, the following provisions shall be deemed to be in full force and effect, none of which shall be construed as to relieve the Developer from any obligations as a Unit Owner to pay assessments as to Units owned by it in accordance with the Declaration.

(a) The Developer reserves the right to amend the By-Laws of the Association until such time as Developer relinquishes control of the Association as provided in Section 11.01 below.

(b) The Developer reserves the right to amend this Declaration until all of the Units have sold, excluding the situation where the Developer decides to hold any Unit(s) for rental or personal use.

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

(d) The Developer reserves the right to amend this Declaration without the consent of the other Owners at any time within Five Years for the date of execution of this Declaration.



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**Section 10.02** **Amendments by Unit Owners.** At such time as there is a Unit Owner other than the Developer, then, in addition to the amendments permitted under Section 10.01 above, the Declaration may be amended in the following manner:

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

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

i. change a Unit, including the ownership in the Association, the Unit Owners' responsibility for Common Expenses in the form of assessments to the Association, and voting rights, without the prior written approval of the Unit Owner or Owners so affected and prior written approval of the holders of record of any mortgage or other liens on the Units so affected; or

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

**Section 10.03** **Effectiveness of Amendments.** A copy of each amendment so adopted shall be certified by the President, or a Vice President and Secretary or Assistant Secretary of the Association as having been duly adopted and shall be effective when recorded in the Register's Office for Davidson County, Tennessee.

## ARTICLE XI
## CONTROL OF THE ASSOCIATION

**Section 11.01** **Election of Board of Directors.** Developer, its successors, or its assigns shall elect the initial members of the Board of Directors of the Association. In the event of vacancies, the Developer shall fill the vacancies until no later than the earlier of either (a) one hundred twenty (120) days after seventy-five percent (75%) of the Units have been conveyed to purchasers (excluding conveyances to affiliates of Developer), or (b) three (3) years have elapsed from the conveyance of the first Unit to a purchaser thereof (excluding conveyances to affiliates of Declarant) ("Termination of Control"); provided that the Developer may, at its option, terminate its control of the Association at an earlier date.

**Section 11.02** **Notice of Meeting.** Within sixty (60) days after the date of Termination of Control of the Association by the Developer, the Association shall call and give not less than ten (10) days', nor more than thirty (30) days' notice of a meeting of the Unit Owners for the purpose of electing the members of the Board of Directors of the Association. Such meeting shall be called, and the notice given in accordance with the By-Laws.

**Section 11.03** **Status of Unsold Units.**

(a) Developer shall be deemed to be the Owner of each Unit which has not been conveyed to a person other than the Developer. Unless otherwise provided in the Declaration, the Developer shall be entitled to all rights and privileges available to, and shall be subject to any and all obligations and duties imposed upon, the Owner of any such Unit under the Declaration. Nothing herein shall be interpreted to require the Developer to pay dues or assessments for Units owned by the Developer at any time.

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

**Section 11.04** **Additional Rights of Developer Concerning Construction.** Developer hereby reserves all rights for itself and the General Contractor, as defined therein, relating to any perceived design defect, construction-related defect, other construction related issue, or relating to improving the operational



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efficiency and structural integrity of any improvement located on the Property as are set forth in Exhibit E attached hereto.

**Section 11.05 Professional Management and Other Contracts.** Any agreement entered into by the Association prior to the passage of control of the Association from the Developer pursuant to Section 11.01 above (including contracts for professional management of the Property, whether it be the Developer, its successors and assigns, or any other person or entity) shall provide the following:

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

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

## ARTICLE XII
## MISCELLANEOUS

**Section 12.01 Rights and Powers of Successors and Assignees.** The rights and powers reserved to or exercisable by the Developer under the Declaration or the Act may be exercised by any successor or assignee of the Developer to whom the Developer specifically assigns such rights and powers by written instrument recorded in the Register's Office for Davidson County, Tennessee.

**Section 12.02 Headings.** The captions herein are used solely as a matter of convenience and shall not define, limit, or expand any term or provision of this Declaration.

**Section 12.03 Gender/Number.** Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

**Section 12.04 Exhibits. Exhibits A, B, C, D, E, and F** attached to this Declaration are an integral part of this Declaration.

**Section 12.05 Invalidity and Severability.** It is the intention of the Developer that the provisions of this Declaration are severable so that if any provision is invalid or void under any applicable federal, state, local law, ordinance, decree, order, judgment, or otherwise, the remainder shall be unaffected thereby.

**Section 12.06 Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the planned unit development and operation of a homeowners' association. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

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

**KSSK LLC, a Tennessee limited liability company**

DHARMESH S. PATEL, authorized agent

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Personally appeared before me, the undersigned, a Notary Public in and for said county and state, **DHARMESH S. PATEL,** with whom I am personally acquainted or whose identity was proved to me on the basis of satisfactory evidence and who acknowledged that he is the **Authorized Agent** of **KSSK LLC,** and that as such Authorized Agent, he has the authority to sign on behalf of the **KSSK LLC,** and did execute the within instrument for the purposes therein contained.

Witness my hand and official seal this 11th day of March, 2025.

Notary Public

My Commission Expires: 11-8-2028

JIM MYERS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY



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# EXHIBIT A

## LEGAL DESCRIPTION

Land in Davidson County, Tennessee described as follows:

Tract 1

Land in the 2nd Councilmanic District of Davidson County, Tennessee and being Lot No's 41 and 42 on the plan of E. C. Scruggs 2nd Avondale Addition of record in Book 161, page 60, Register's Office for Davidson County, Tennessee, and Land in Davidson County, Tennessee, being part of Lot No. 1 on the plan of the Subdivision of the W. E. Jones Tract of record in Plat Book 21, page 71, Register's Office for Davidson County, Tennessee, and being more particularly described together according to a survey by J. Bruce Rainey, Surveyor, TN RLS #823, dated August 16, 2005, Job No. 050162, and described as follows:

Beginning at an iron pin set at the intersection of the South margin of Avondale Circle and the West margin of Hampton Street, said point of beginning being the Northeast corner of the herein described tract; thence with the margin of the said Hampton Street (25' from the centerline), S 17 degrees 04'32" E 289.62 feet to an existing iron pin; thence leaving the margin of Hampton Street and with the line of Jai Jalaram Enterprises L.L.C. (Book 10733, page 141, RODCT), S 74 degrees 45'49" W 99.48 feet to a PK Nail set in concrete, thence with the line of George W. Hussey (Book 6684, page 723, RODCT), N 03 degrees 01'19" E 148.37 feet to an iron pin set; thence continuing with Hussey S 76 degrees 35'00" W 67.00 feet to an existing iron pin; thence with the line of Jack D. Johnson property (Book 11451, page 279, RODCT), N 11 degrees 08'29" W 150.00 feet to an existing iron pin in the South margin of the said Avondale Circle; thence with the margin of Avondale Circle (25' from the centerline), N 76 degrees 35'00" E 100.00 feet to the point of beginning, containing 0.61 acres, more or less.

Tract 2

Land in the 2nd Councilmanic District of Davidson County, Tennessee and being described ads Tract 1 according to a survey by J. Bruce Rainey, Surveyor, RLS TN# 823, dated April 12, 1999 and known as Job No. 990050 and described as follows:

Beginning at an iron pin set on the southerly margin of Avondale Circle (formerly Stratford Avenue), said point of beginning being 100 feet westerly from the westerly margin of Hampton Street; thence leaving the margin of Avondale Circle and with the line of the Leon Cheatham property of record in Book 10216, page 592, Register's Office for Davidson County, Tennessee, S 11 degrees 08'29" E 150.00 feet to an iron pin; thence leaving Cheatham S 76 degrees 35'00" W 150.00 feet to an iron pin; thence N 11 degrees 08'29" W 150.00 feet to an iron pin set on the southerly margin of Avondale Circle; thence with the southerly margin of Avondale Circle, N 76 degrees 35'00" E 150.00 feet to the point of beginning , containing 22,482 square feet, more or less.

Tract 3

Land in the 2nd Councilmanic District of Davidson County, Tennessee, and being described as Tract 2 according to a survey by J. Bruce Rainey, Surveyor, RLS TN# 823, dated April 12, 1999 and known as Job No. 990050, and described as follows:

Beginning at an iron pin set on the southerly margin of Avondale Circle (formerly Stratford Avenue), said point of beginning being the Northeast corner of the herein described tract and also being 250.00 feet westerly from the westerly margin of Hampton Street; thence leaving the margin of Avondale Circle S 11 degrees 08'29" E 150.00 feet to an iron pin; thence S 76 degrees 35'00" W 100 feet to an iron pin; thence N 11 degrees 08'29" W 150.00 feet to an iron pin set on the southerly margin of Avondale Circle N 76 degrees 35'00" E 100.00 feet to the point of beginning, containing 14, 988 square feet, more or less.

Tract 4

Land in the 2nd Councilmanic District of Davidson County, Tennessee, and being described as Tract 3 according to a survey by J. Bruce Rainey, Surveyor, RLS TN# 823, dated April 12, 1999 and known as Job No. 990050, and described as follows:

Beginning at an iron pin set on the southerly margin of Avondale Circle (formerly Stratford Avenue), said point if beginning being 350 feet westerly from the westerly margin of Hampton Street; thence leaving the margin of Avondale Circle S 11 degrees 08'29" E 150.00 feet to an iron pin; thence S 76 degrees 35'00" W 50.00 feet to an iron pin; thence N 11 degrees 08'29" W 150.00 feet to an iron pin; thence with the southerly margin of Avondale Circle, N 76 degrees 35'00" E 50.00 feet to the point of beginning, containing 7,494 square feet, more or less.

Tract 5

Land in the 2nd Councilmanic District of Davidson County, Tennessee, and being described as Tract 4 according to a survey by J. Bruce Rainey, Surveyor, RLS TN# 823, dated April 12, 1999 and known as Job No. 990050, and described as follows:

Beginning at an iron pin set on the southerly margin of Avondale Circle (formerly Stratford Avenue), said point of beginning being 400 feet westerly from the westerly margin of Hampton Street; thence leaving the margin of Avondale Circle S 11 degrees 08'29" E 150.00 feet to an iron pin; thence S 76 degrees 35'00" W 50.00 feet to an iron pin; thence with the line of the Otis Smith property, of record in Book 7838, page 512, Register's Office for Davidson County, Tennessee, N 11 degrees 08'29" W 150.00 to an iron pin on the southerly margin of Avondale Circle; thence N 76 degrees 35'00" E 50.00 feet to the point of beginning, containing 7,494 square feet, more or less.

All being the same property conveyed to KSSK, LLC by Quitclaim Deed from KSSK, LLC (to combine all parcels) of record in Instrument No. 20250210-0010050 Register's Office for Davidson County, Tennessee, dated February 6, 2025 and recorded on February 10, 2025.

This is unimproved property known as 1520 Hampton Street, Nashville, TN 37207.

Parcel ID: 07102006300

OWNER: KSSK, LLC

ADDRESS:
1520 HAMPTON STREET & 0 AVONDALE CIRCLE
NASHVILLE, DAVIDSON, TENNESSEE, 37207

PART OF LOTS 41 & 42 EC SCRUGGS,
2ND AVENDALE ADDITION

PARCEL ID: 07102006300 & 07102006100

QC - 20221031-0117345

DATE: 2/13/2025

D&A JOB NUMBER: 23071

THIS DRAWING SHOULD NOT BE REPRESENTED TO BE A LAND SURVEY. IT SHOULD NOT BE RELIED UPON FOR THE CONSTRUCTION OF FENCES OR ESTABLISHING THE EXACT LOCATION OF PROPERTY LINES. NO CORNERS WERE SET OR RESET AT THE TIME OF THIS INSPECTION. THIS SITE HAS NOT BEEN FIELD RAN BY A SURVEY CREW. BOUNDARIES ARE APPROXIMATE.

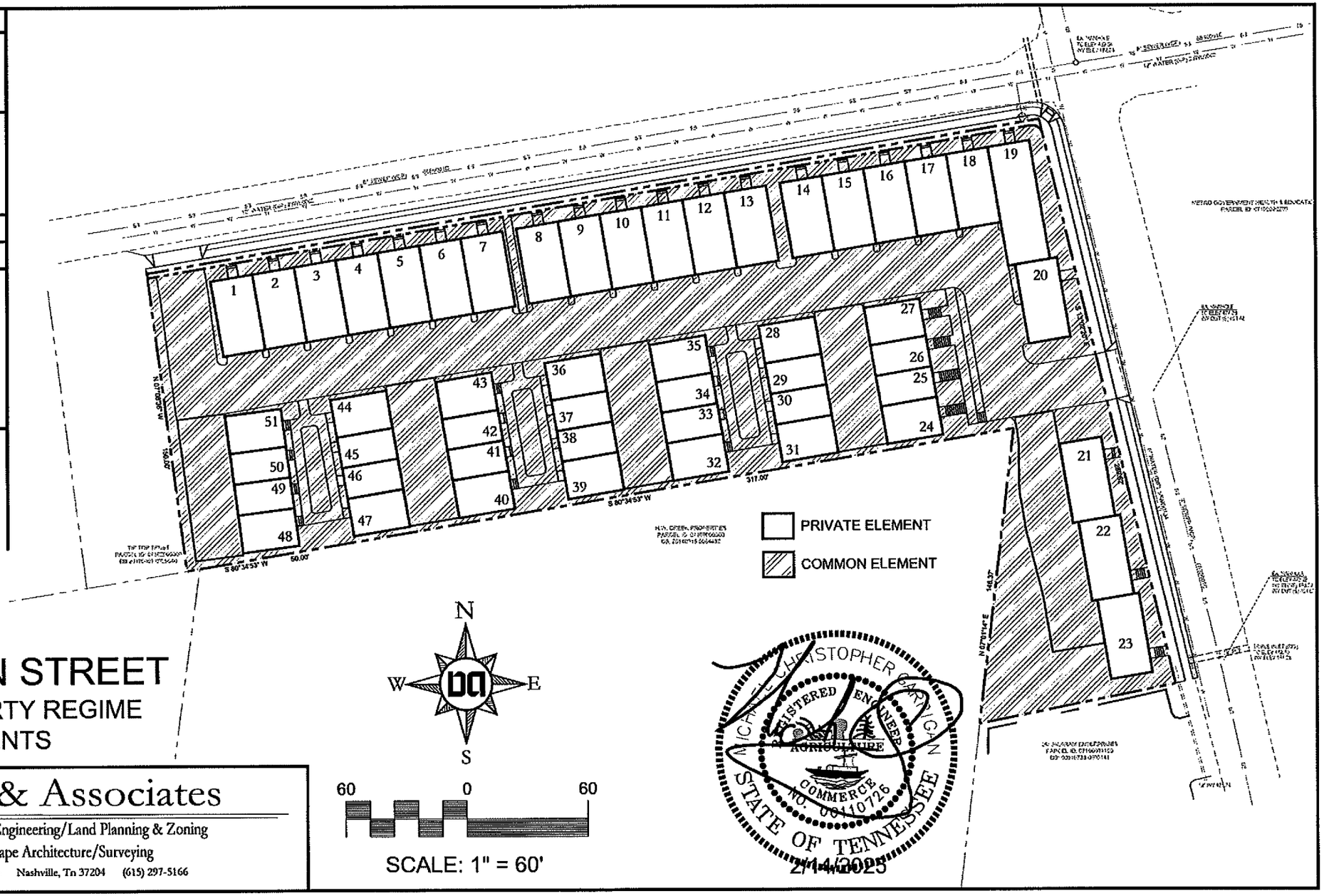



EXHIBIT 'B'

# 1520 HAMPTON STREET

## HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS


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


NICHOLAS CHRISTOPHER GARRIGAN
REGISTERED ENGINEER
CIVIL
AGRICULTURE
COMMERCE
NO. 0010726
STATE OF TENNESSEE
2/14/2025

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# EXHIBIT C

## BY-LAWS OF HAMPTON HEIGHTS HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
Members
(Unit Owners)

Section 1. Eligibility. The Members of HAMPTON HEIGHTS Homeowners' Association, Inc., a Tennessee not-for-profit corporation (the "Association") shall consist of the respective Unit Owners (the "Owners") of the Property known as HAMPTON HEIGHTS, a horizontal property regime with private elements, located at 1520 Hampton Street, Nashville, Tennessee 37207 (called "Property") in accordance with the Owners' respective percentages of membership interest in the Association (these and other terms are used in these By-Laws as they are defined in the Declaration for HAMPTON HEIGHTS.) The words "member" or "members" as used in these By-Laws means and shall refer to "Unit Owner" as defined in the Declaration. If an Owner is a trust, then the member shall be a beneficiary of such trust, and if an Owner or such a beneficiary is a corporation, partnership, or limited liability company, the member may be an officer, partner, manager, or employee of such Owner or beneficiary.

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

Section 3. Regular Meetings. The first regular annual meeting of Owners (the "First Meeting") may be held, subject to the terms hereof, on any date, at the option of the Board, provided, however, that said First Meeting shall be held not less than sixty (60) days after the Termination of Control, as defined in the Declaration. Subsequent to the First Meeting, there shall be a regular annual meeting of Owners held each year within ninety (90) days of the anniversary of the First Meeting. All such meetings of Owners shall be held at such place in Davidson County, Tennessee and at such time as specified in the written notice of such meeting which shall be delivered to all Owners at least twelve (12) days prior to the date of such meeting.

Section 4. Special Meetings. Special Meetings of the Owners may be called by the President, by a majority of the directors of the Board, or by Owners having at least fifty percent (50%) of the votes entitled to be at such meeting. Said Special Meetings shall be called by delivering written notice to all Owners not less than twelve (12) days prior to the date of said meeting. The notice shall state the date, time, and place of said Special Meeting and specifically state the matters to be considered.

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

Section 6. Adjournment. Any meeting of the members, whether or not a quorum is present, may be adjourned by the holders of a majority of the votes represented at the meeting to reconvene at a specific time and place. It shall not be necessary to give any notice of the reconvened meeting, if the time and place of the reconvened meeting are announced at the meeting which was adjourned. At any such reconvened meeting at which a quorum is represented or present, any business may be transacted which could have been transacted at the meeting which was adjourned.

Section 7. Voting. Each Unit shall be entitled to one vote to be cast by the Unit Owner or their proxy. In no case shall more than one vote be cast with respect to any Private Element.

No Owner of a Unit in default in the payment of his assessments hereunder shall be entitled to exercise his right to vote hereunder until he has cured such default. A Unit Owner shall be deemed to be in default if he has not paid his assessments to the Board, or their agent, within fifteen (15) days after receipt



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of notice of assessment. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

Section 8. Quorum. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding fifty percent (50%) of the votes entitled to be cast at such meeting.

## ARTICLE II
## Board of Directors

Section 1. Number, Election, and Term of Office. The Board of Directors of the Association (referred to in the Horizontal Property Act of the State of Tennessee as the "board of administration" and sometimes referred to herein as the "Board") shall consist of three (3) members (hereinafter referred to as "directors"), and the First Board (as hereinafter defined) shall also consist of three (3) members. Directors shall be deemed to be elected at the regular annual meeting of Association members by the vote of the Unit Owners, except the first directors (hereinafter called "members of the First Board") and any vacancies occurring in the First Board shall be appointed by the Developer. The First Board shall serve until the Termination of Control, as provided in Section 11.01 of the Declaration. After the Termination of Control, the Board shall consist of three (3) members selected by the Unit Owners. Every director shall hold office until his successor shall be selected, as provided in this Section 1.

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

Section 3. Vacancies. Any vacancy occurring in the Board (except vacancies in the First Board which shall be filled by the Developer) shall be filled by a majority vote of the remaining members of the Board, and the Board member selected to fill a vacancy shall serve the remaining unexpired term of the Board member that was replaced.

Section 4. Meetings. A regular annual meeting of the Board shall be held within seven (7) days following the regular annual meeting of Unit Owners. Special Meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice in writing to each director, delivered personally or by mail or telegram. Any director may waive notice of a meeting, consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A director's attendance at a meeting shall constitute his waiver of notice of said meeting.

Section 5. Removal. Any director may be removed from office at any time by a majority vote of the Unit Owners entitled to vote. Any vote to remove a member shall be subject to the notice requirements for Annual Meetings and Special Meetings. Only the Developer may remove a member of the First Board.

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

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

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

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

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

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

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

(e) to adopt rules and regulations, with written notice thereof to all Owners, governing the administration, management, operation, and use of the Common



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Elements and Limited Common Elements, and to amend such rules and regulations from time to time;

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

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

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

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

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

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

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

(m) to exercise all other powers and duties of the board of managers or Unit Owners as a group referred to in the Horizontal Property Act of the State of Tennessee, and all powers and duties of a board of managers or a board of directors referred to in the Declaration or these By-Laws.

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

## ARTICLE III
## Officers

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

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

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

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



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(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 of the remaining members thereof at a Special Meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by vote of two-thirds (2/3) of the total membership of the Board at a Special Meeting thereof.

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

## ARTICLE IV
## Assessments

Section 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall consider the estimated common expenses and cash requirements for the year, including, but not limited to, salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding years shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be considered. The annual budget shall provide for a reserve for contingencies for the year in reasonable amounts as determined by the Board.

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

Section 3. Partial Year or Month. For the first fiscal year, the annual budget shall be as approved by the First Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of recording the deed to a Unit or any additional, each Unit Owner shall pay the assessment for the following month or fraction of a month and the number of months and days remaining of the period covered by the current annual budget and which assessment shall be as computed by the Board.

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

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



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shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for the proportionate share of such supplemental budget.

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

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

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

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

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

## ARTICLE V
## Contractual Powers

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

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

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

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

## ARTICLE VI
## Indemnification

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



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

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

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

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

Section 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees, or Developer, or out of the aforesaid indemnity in favor of the directors, Board, officers, members of such committees, or Developer, shall be limited to such proportion of the total liability hereunder as such Unit Owner's percentage of membership interest in the Association bears to the total percentage interest of all the Unit Owners in the Association. Every agreement made by the directors, Board, officers, members of such committees, Developer, or the Managing Agent, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of membership interest in the Association. The indemnification provided by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Developer or a member of the Board of Directors, officer of the Association, or a member of such committee and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of such person or entity.

## ARTICLE VIII
## Mortgages

Section 1. Notice of Unpaid Common Charges. The Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from or any other default by the Owner of the mortgaged Unit.

Section 2. Notice of Default. The Board, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board.

Section 3. Examination of Books. Each Unit Owner and each mortgagee of a Unit shall be permitted to examine the books of account of the Association at reasonable times, on business days, but not more often than once a month.

## ARTICLE IX
## Definition of Terms

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

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



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## ARTICLE X
## Conflicts

These By-Laws are set forth to comply with the requirements of Chapter 27 of Title 66, Tennessee Code Annotated and to allow the By-Laws to control in specific situations where such law allows. In case any of the By-Laws conflict with the provisions of said statute or of the Declaration, the provisions of said statute or of the Declaration, as the case may be, shall control.



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# EXHIBIT D

**Tracking Number**
**B2025069335**

## Charter Nonprofit Corporation

**Division of Business and Charitable Organizations**
**Department of State**
State of Tennessee
312 Rosa L. Parks Avenue, 6th Floor
Nashville, Tennessee 37243
Phone: 615-741-2286
sos.tn.gov/businesses

Control #: 002065738
Filed: 03/11/2025 01:40 PM
Tre Hargett
Secretary of State

**Tre Hargett**
Secretary of State

## Entity Information

**Entity Name:** HAMPTON HEIGHTS HOMEOWNERS ASSOCIATION, INC

**Entity Type:** Nonprofit Corporation

**Fiscal Year Ending Month:** December

**Additional Designation:** *(No additional designation)*

**Principal Office Address**
1520 Hampton St
Nashville, TN 37207
Davidson County, USA

**Mailing Address**
1520 Hampton St
Nashville, TN 37207
Davidson County, USA

**Will this filing have a delayed effective date?**
☐ Yes ☑ No

**Period of Duration:**
Perpetual

**Nature of Business (NAICS):**
813990 - Other Similar Organizations (except Business, Professional, Labor, and Political Organizations)

**This corporation is a:**
☑ Public Benefit Corporation ☐ Mutual Benefit Corporation
☐ Religous Corporation ☑ Not Religous Corporation

**This corporation will:**
☑ Have Members ☐ Not Have Members

**Provisions regarding the distribution of assets upon dissolution:**
Upon dissolution the assets of the corporation shall be distributed equally to its members.

**Other Provisions:**
*(No other provisions)*

Do you have additional uploads you would like to attach to this filing?
☐ Yes ☑ No

## Incorporators

JIM MYERS
1704 CHARLOTTE AVE, STE 105
NASHVILLE, TN 37203, USA

## Registered Agent Information

HAMPTON HEIGHTS HOMEOWNERS ASSOCIATION, INC
1520 Hampton St
Nashville, TN 37207, USA

## Incorporator's Signature

☑ By entering my name in the space provided below, I certify that I am authorized to file this document on behalf of this entity, have examined the document and, to the best of my knowledge and belief, it is true, correct and complete as of this day.

☑ The undersigned, acting as incorporator of the nonprofit corporation under the provisions of the Tennessee Nonprofit Corporation Act, adopt the above Articles of Incorporation.

**Signed Electronically:** JIM MYERS **Date:** 03/11/2025

# EXHIBIT E

## DEVELOPER RIGHTS REGARDING CONSTRUCTION

Notwithstanding any other terms to the contrary within the above Declaration, the following terms and conditions are hereby incorporated into the terms of the Declaration by this reference and shall control over any other inconsistent terms set forth therein. Unless otherwise defined below, all capitalized terms shall have the same meaning ascribed to them in the Declaration and the Act.

### ARTICLE I

### Easement to Inspect and Right to Correct.

A. Easement.

Developer reserves for itself, General Contractor (defined below), and such other persons as each may designate perpetual, non-exclusive easements throughout the Property to the extent reasonably necessary for the purposes of access, inspecting, testing, redesigning, correcting, modifying, or improving any portion of the Property, including Units, Common Elements, and Limited Common Elements. Pursuant to this Section and any express warranty provided by either party, Developer and General Contractor shall have the unilateral right, at any time, to redesign, correct, modify, or improve any part of the Property, including Units, Common Elements, and Limited Common Elements to the extent reasonably necessary to correct any design defect, construction-related defect, or other construction-related problem, to improve the operational efficiency and structural integrity of any improvement located on the Property, and to otherwise provide a superior or enhanced housing product within the Property.

B. Right of Entry.

In addition to the above easement, Developer, for itself and General Contractor, reserves a right of entry into any Unit, or Limited Common Elements upon reasonable notice to the Unit Owner; provided, however, notice shall not be required in an emergency. Entry into a Unit shall be only after Developer or General Contractor notifies the Unit Owner (or occupant) and agrees with the Unit Owner regarding a reasonable time to enter the Unit to perform such activities. Unit Owner agrees to cooperate in a reasonable manner with Developer and General Contractor in their exercise of the rights provided to it by this Section. Entry onto the Common Elements and into any improvements and structures thereon may be made by Developer or General Contractor at any time with advance notice to the Association; provided, however, in an emergency, such notice shall not be required, and Developer and General Contractor shall be permitted to enter upon any portion of the Property without advance notice or consent.

C. Notice Requirement.

Upon notice, observation, or suspicion of a design defect, construction-related defect, or other construction-related problem with any improvement located on the Property, including Common Elements, Limited Common Elements, and any Unit, the Association immediately shall notify Developer and General Contractor of such issue in writing and, in the case of a condition posing an imminent threat of damage to person or property, telephonically. Upon such notice, Developer or General Contractor shall have the right to come onto the Property to observe the defect or problem and to unilaterally undertake any corrective measures that it deems appropriate without the additional consent or participation of the Association or the Unit Owner(s). The rights of notice, inspection, and correction granted to Developer and General Contractor pursuant to this Section shall be provided by the Association and any affected Unit Owner prior to the Association and any affected Unit Owner consulting with, hiring, or retaining, in any capacity whatsoever, any third party to examine, correct, repair, or improve any design defect, construction-related defect, or other construction-related problem with the Property, any Common Element, Limited Common Element, or Unit. Failure by the Association or any Unit Owner to provide Developer and General Contractor with the above-described notice, inspection, and cure rights granted to it by this Section automatically shall constitute an absolute and unconditional waiver of any legal claim or other claim or remedy whatsoever, including any warranty claims and any right to file a claim in arbitration, that the Association or the Unit Owner(s) otherwise may have regarding such defect or problem absent such waiver.

D. Damage.

Any damage to the Property, a Unit, Limited Common Elements, or Common Elements resulting from the exercise of the easement and right of entry described in the above subsections of this Section, shall promptly be repaired by, and at the expense of, the party exercising this easement; provided, however, the obligation to repair shall be limited to restoring the affected area to the same approximate condition and



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state of repair which existed prior to the undertaking of the work permitted by this easement and after taking into account the nature of any corrective work or improvement so performed by Developer or General Contractor pursuant to this Section.

E. No Implied Warranty and Enforcement.

THE TERMS OF THIS SECTION SHALL NOT BE DEEMED TO PROVIDE ANY IMPLIED OR EXPRESS WARRANTY RIGHTS WHATSOEVER BY DEVELOPER AND GENERAL CONTRACTOR TO THE ASSOCIATION OR ANY OWNER, AND DEVELOPER AND GENERAL CONTRACTOR EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE FULLEST EXTENT PERMITTED BY TENNESSEE LAW. Developer and General Contractor may seek enforcement of the rights afforded to each of them under this Section by filing an action at law or in equity, including the remedy of specific performance, in the appropriate court of competent jurisdiction in the State of Tennessee and notwithstanding to the contrary any arbitration provision set forth in this Declaration or any other instrument whatsoever.

F. General Contractor, Notices, and Amendment.

As used in this Section, the term "General Contractor" shall mean UNIQUE MANAGEMENT DEVELOPMENT & CONSTRUCTION LLC, a Tennessee limited liability company, its employees, officers, directors, agents, subsidiaries, affiliates, and assigns as well as all subcontractors hired by General Contractor (or subcontractors of such subcontractors) to perform work on the Property, Common Elements, Limited Common Elements, and any Unit. Notices to General Contractor shall be delivered as follows: UNIQUE MANAGEMENT DEVELOPMENT & CONSTRUCTION LLC, a Tennessee limited liability company, 1516 Hampton St., Nashville, TN, 37207, as such notice address may be amended from time to time by General Contractor upon the filing of a new notice address in the appropriate land records where the horizontal property regime is located with cross-reference to this Declaration. General Contractor is an express beneficiary of the terms set forth in this Section, and the terms of this Section may not be amended in any manner whatsoever without General Contractor's prior written consent. Developer covenants with General Contractor that it immediately shall forward to General Contractor any notice whatsoever that Developer receives from the Association or any Unit Owner regarding any alleged design defect, construction-related defect, or other construction-related problems whatsoever, regardless of whether such notice also shall be addressed to General Contractor and regardless of whether or not Developer determines that such complaint is without merit.

## ARTICLE II.

## Arbitration and Actions Against the General Contractor and/or Developer.

A. Prerequisites to Actions Against Developer or General Contractor.

Prior to filing a civil action or arbitration claim of any nature whatsoever against Developer or General Contractor (as defined above), and prior to consulting with, retaining, or hiring, in any capacity whatsoever, any third party consultant, advisor, property inspector, architect, engineer, contractor, or repairmen to correct the problem or to examine, investigate, or advise the Association or any Unit Owner with respect to any suspected or reasonably inferable design defect, construction-related defect, or other construction-related problem with the Property, the Common Elements, the Limited Common Elements, and any Unit, the Association and Unit Owner shall first notify Developer and General Contractor of the alleged or suspected problem and shall first provide Developer and General Contractor with a reasonable opportunity to inspect and repair the problem pursuant to the terms of Section 1 above. For the purposes of this Section, a minimum of sixty (60) days from the first notice to Developer or General Contractor shall be deemed a reasonable opportunity for Developer and General Contractor to inspect and repair any alleged or suspected problem; provided, however, in certain circumstances, this period of time may be longer depending on the complexity of the condition and the length of time reasonably necessary to obtain parts and services from third parties, as such additional time shall be communicated to the Association and Unit Owner(s) by Developer or General Contractor.

After the above right to inspect and correct period elapses, the Association may bring an action against Developer or General Contractor to recover damages resulting from construction defects, in any, of the Common Elements or Limited Common Elements only. Such action may be maintained by the Association only after doing the following, including, but not limited to:

i. The Association obtains the affirmative vote of the Unit Owners to which at least a majority of the votes of the members of the Association are allocated;



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ii. The full Board of Directors and, as applicable, the General Contractor and Developer have met in person and conferred in a good faith attempt to resolve the Association's claim or the General Contractor and/or Developer has definitively declined or ignored the requests to meet with the Board of Directors.

At least three business days in advance of any vote to commence an action by the Association to recover damages resulting from construction defects in any of the Common Elements or Limited Common Elements, the attorney representing the Association shall provide to each Unit Owner a written statement that includes, in reasonable detail:

1. The alleged defects and damages or injuries to the affected Common Elements or Limited Common Elements;

2. The alleged cause of the defects, if the cause is unknown;

3. The nature and the extent that is known of the alleged damage or injury resulting from the defects;

4. The location of each alleged defect within the affected Common Elements or Limited Common Elements, if known;

5. A reasonable estimate of the cost of the action or mediation, including reasonable attorneys' fees and costs, expert fees, and the costs of testing; and

6. All disclosures that the Unit Owner is required to make upon the sale of the Unit.

The Association or an attorney for the Association shall not employ a person to perform destructive tests to determine any damage or injury to a Unit, Common Element, or Limited Common Element caused by a construction defect unless:

I. The person is licensed as a contractor pursuant to Tennessee law;

II. The Association has obtained the prior written approval of each Unit Owner whose Unit will be affected by such testing;

III. The person performing the tests has provided a written schedule for repairs;

IV. The person performing the tests is required to repair all damage resulting from such tests in accordance with state laws and local ordinances relating thereto;

V. The Association or the person so employed obtains all permits required to conduct such tests and to repair any damage resulting from such tests; and

VI. Reasonable prior notice and opportunity to observe the tests is given to Developer, General Contractor, and any other party against whom an action may be brought as a result of the tests.

The Association may commence an action only upon a vote or written agreement of the Unit Owners to which at least a majority of the votes of the members of the Association are allocated. In such a case, and at least twenty-one (21) calendar days before the meeting, the Association shall provide written notice to each Unit Owner, of the meeting at which the commencement of an action is to be considered or action is to be taken.

The Association may, without giving notice to the Unit Owners, employ a contractor and such other persons as are necessary to make such immediate repairs to a Unit, Common Element, or Limited Common Element as are required to protect the health, safety, and welfare of the Unit Owners and Occupants.

Similarly, prior to any Unit Owner(s) bringing any Claim against the Developer or General Contractor, the affected Unit Owner(s) shall first notify the Association of their intent to do so, shall meet with the Association's Board of Directors to discuss the nature and merit of their Claim and whether such Claim concerns the Common Elements or Limited Common Elements, and shall provide the Association with at least sixty (60) days' notice (if requested by the Board) to obtain the consent of the Unit Owners for the Association to join-in such Claim against the Developer or General Contractor with respect to any affected Common Elements and Limited Common Elements only.

B. Notice.

After first complying with the terms and conditions set forth above in subsection A, if the Association and/or Unit Owner(s) (singularly or collectively as the context requires, the "Claimant") desires



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to pursue a legal claim of any nature whatsoever against General Contractor and/or Developer (singularly or collective as the context requires, the "Respondent"), then the Claimant shall, no later than ninety (90) days before initiating an action against Respondent, provide service of written notice of claim on Respondent (the "Notice of Claim" or "Claim"). The Notice of Claim shall state that the Claimant asserts a construction defect claim. The Notice of Claim shall describe the claims in detail sufficient to explain the nature of the alleged construction defects and the results of the defects. In addition, the claimant shall provide to the General Contractor or Developer any evidence that depicts the nature and cause of the construction defects, including expert reports, photographs, and videotapes, if that evidence otherwise would be discoverable under evidentiary rules.

For purposes of clarification of the above terms and conditions, a Unit Owner may file a Claim against Respondent for problems or deficiencies with his or her Unit only. A Unit Owner may not file a Claim against Respondent for problems or deficiencies with the Common Elements or Limited Common Elements, as all Unit Owners covenant and agree that all such Claim rights are exclusively those of the Association. The Association only may file Claims against Respondent for problems or deficiencies affecting more than 20% of all Units in the Property, and, in such case, all Unit Owners covenant and agree that the Association shall serve in a representative capacity on behalf of all such affected Unit Owners should the Association elect to do so.

C. Negotiation and Mediation.

If the parties do not resolve the Claim amongst themselves in accordance with the notice and opportunity to cure provisions set forth above ("Termination of Negotiations"), then Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent, mutually acceptable agent providing dispute resolution services in the Metropolitan Nashville, Tennessee area.

If Claimant does not submit the Claim to mediation within such time period or does not appear for mediation, Claimant shall be deemed to have absolutely, unconditionally, and forever waived the Claim, and Developer and General Contractor shall be released and discharged from any and all liability whatsoever to Claimant on account of such Claim.

Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the parties. If the parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or such additional time as determined by the mediator, the mediator shall issue to all parties a written notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the parties are at an impasse and the date that such mediation was terminated.

Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to Respondent, and Respondent shall make a final written settlement offer ("Settlement Offer") to Claimant. If Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If Respondent fails to make a Settlement Offer, they shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

D. Final and Binding Arbitration.

If parties do not agree in writing to a settlement of the Claim within fifteen (15) days of the Termination of Mediation, then the Claimant shall have fifteen (15) additional days thereafter (i.e., thirty (30) days from the date of Termination of Mediation) to submit the Claim to arbitration before the American Arbitration Association pursuant to the Construction Industry Arbitration Rules of the American Arbitration Association.

If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, then the Claim shall be deemed abandoned, Respondent shall be released and discharged from any and all liability whatsoever to Claimant arising out of such Claim.

This Section 2. is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Tennessee. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it to the fullest extent permitted under the laws of the State of Tennessee.

E. Allocation of Costs of Resolving Claims.

Each party (regardless of the outcome of the arbitration proceeding) shall bear its own costs, including attorneys' fees, arbitration filing fees, and arbitration case service fees. The parties shall share equally in all arbitrator compensation and expenses and compensation of the mediator and mediation



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service. Under no circumstances whatsoever shall one party be entitled to receive reimbursement from the other party for the above-described costs, expenses, and fees, including, but not limited to, attorneys' fees.

F. Enforcement of Resolution.

After resolution of any Claim, if any party fails to abide by the terms of any settlement agreement or Award, then any other party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth above. In such event, the party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties jointly and severally) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

G. General Contractor Beneficiary.

General Contractor is an express beneficiary of the terms set forth in this Section, and the terms of this Section may not be amended in any manner whatsoever without General Contractor's prior written consent. THE TERMS OF THIS SECTION SHALL NOT BE DEEMED TO PROVIDE ANY IMPLIED OR EXPRESS WARRANTY RIGHTS WHATSOEVER BY DEVELOPER AND GENERAL CONTRACTOR TO THE ASSOCIATION OR ANY OWNER, AND DEVELOPER AND GENERAL CONTRACTOR EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE FULLEST EXTENT PERMITTED BY TENNESSEE LAW. Developer and General Contractor may seek enforcement of the rights afforded to it under this Section by filing an action at law or in equity, including the remedy of specific performance, in the appropriate court of competent jurisdiction in the State of Tennessee and notwithstanding to the contrary any arbitration provision set forth in this Declaration or any other instrument whatsoever.



202503110018495

MYERS LAW PLLC

# EXHIBIT F

March 11, 2025

*VIA HAND DELIVERY*

KSSK LLC
1516 Hampton St.
Nashville, TN 37207

**Re:** ***Opinion Letter*** **– HAMPTON HEIGHTS, a Horizontal Property Regime**

Dear KSSK LLC:

I am an attorney at MYERS LAW, PLLC and licensed to practice law in the state of Tennessee. I have been requested to provide an opinion letter regarding the establishment of a Horizontal Property Regime in accordance with Tennessee law. I have reviewed the following:

1. Declaration of Covenants, Conditions, and Restrictions (the "Declaration") for **HAMPTON HEIGHTS**, a Horizontal Property Regime with Private Elements, dated March 11, 2025 to be filed with the Register's Office for Davidson County, Tennessee.

2. Plat of **HAMPTON HEIGHTS**, a Horizontal Property Regime, attached as Exhibit "B" to the Declaration, to be filed with the Register's Office for Davidson County, Tennessee.

3. By-Laws of **HAMPTON HEIGHTS Homeowners' Association, Inc.**, attached as Exhibit "C" to the Declaration, to be filed with the Register's Office for Davidson County, Tennessee.

4. Charter of **HAMPTON HEIGHTS Homeowners' Association, Inc**, attached as Exhibit "D" to the Declaration, a Tennessee nonprofit corporation formed on March 11, 2025 and to be filed with the Register's Office for Davidson County, Tennessee.

Each of the foregoing documents, and all attachments thereto, are incorporated herein by reference.

Based solely on my review of these documents, I am of the opinion that all legal documents required pursuant to Tenn. Code. Ann. § 66-27-103(b) for the creation of a planned unit development under said statute have been prepared and that, upon recording the same with the Register's Office for Davidson County, Tennessee, a planned unit development will have been created pursuant to this statute.

Kind Regards,

Myers Law, PLLC

By: _____
Jim Myers, Attorney

- The text of a certification of an electronic document must be in the following form.

I, Kirsten Virden do hereby make oath that I am a licensed Attorney and/or the custodian of the original version of the electronic document tendered for registration herewith and that this electric document is a true and exact copy of the original document executed and authenticated according to law on 03/11/2025 (date of document).

Kirsten Virden

Affiant Signature

Date: 03/11/2025

State of Tennessee

County of Davidson

Sworn to and subscribed before me this 11 day of March, 2025.

Bria Sawyers

Notary Signature

MY COMMISSION EXPIRES: 3/20/2028

Notary's Seal (if on paper)

