Prepared by and Return to:

Nelson Mullins Riley & Scarborough, LLP
Attn: Laurence M. Papel
1222 Demonbreun Street, Suite 1700
Nashville, Tennessee 37203

DECLARATION OF CONDOMINIUM

FOR

118 12TH AVENUE, A CONDOMINIUM

Karen Johnson
Batch # 1296940
07/11/2025 02:54:43 PM
Fees: $557.00 Taxes: $0.00
Davidson County
DEEDMAST
111 pgs
20250711-0054885

TABLE OF CONTENTS

ARTICLE I. NAME 1

ARTICLE II. DEFINITIONS 1

Section 2.01. Act 1

Section 2.02. Affected Unit Owner 1

Section 2.03. Annual Assessment 1

Section 2.04. Annual Assessment 1

Section 2.05. Association 1

Section 2.06. Board or Board of Directors 1

Section 2.07. Building 1

Section 2.08. Building Systems 2

Section 2.09. Bylaws 2

Section 2.10. Charter 2

Section 2.11. Common Elements 2

Section 2.12. Common Expenses 2

Section 2.13. Common Profits 2

Section 2.14. Condominium 2

Section 2.15. Condominium Instruments 2

Section 2.16. Cure Period 2

Section 2.17. Declarant 2

Section 2.18. Effective Date 2

Section 2.19. Environmental Laws 2

Section 2.20. FAR 3

Section 2.21. Floor Plans 3

Section 2.22. FSA Elevator 3

Section 2.23. Garage and Retail Unit 3

Section 2.24. Garage and Retail Unit Owner 3

Section 2.25. Hazardous Substances 3

Section 2.26. Hotel Unit 3

Section 2.27. Hotel Unit Owner 3

Section 2.28. Indemnifying Unit Owner and Indemnitee 3

Section 2.29. Institutional Lender 3

Section 2.30. Insurance Shortfall Payment 3

Section 2.31. Insurance Trustee 4

Section 2.32. Legal Requirements 4

Section 2.33. Life-safety Systems 4

Section 2.34. Limited Common Element 4

Section 2.35. Majority 4

Section 2.36. Master Maintenance Manual 4

Section 2.37. Metro 4

Section 2.38. Metro Zoning Ordinance 4

Section 2.39. Mold 4

Section 2.40. Mortgage 4

Section 2.41. Mortgagee or Mortgage Holder 4

Section 2.42. Notice of Application Completion 4

Section 2.43. Notice to Cure and Notice of Uncured Violation 4

Section 2.44. Notifying Owner 5

Section 2.45. Occupant 5

Section 2.46. Official Records 5

Section 2.47. Owner or Unit Owner 5

Section 2.48. Percentage Interests 5

Section 2.49. Permitted Overnight Delivery 5

Section 2.50. Permittee 5

Section 2.51. Person 5

Section 2.52. Plat 5

Section 2.53. Property 6

Section 2.54. Property Monitoring and Access Systems 6

Section 2.55. Responsible Unit Owner 6

Section 2.56. Review Professional 6

Section 2.57. Reviewing Owner 6

Section 2.58. Secure Electronic Signature 6

Section 2.59. Special Assessment 6

Section 2.60. Specific Assessment 6

Section 2.61. Submitted Property 7

Section 2.62. Total Association Vote 7

Section 2.63. Trust Funds 7

Section 2.64. Unit 7

Section 2.65. Zoning Change 7

ARTICLE III. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS 7

ARTICLE IV. UNITS AND BOUNDARIES 7

Section 4.1. Unit Description and Interests 7

Section 4.2. Unit Boundaries 7

ARTICLE V. COMMON ELEMENTS 9

ARTICLE VI. LIMITED COMMON ELEMENTS 10

ARTICLE VII. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES 11

ARTICLE VIII. ALLOCATION OF LIABILITY FOR COMMON EXPENSES 11

ARTICLE IX. ASSOCIATION RIGHTS AND RESTRICTIONS 12

ARTICLE X. ASSESSMENTS 13

Section 10.1. Purpose of Assessments 13

Section 10.2. Types of Assessments 13

Section 10.3. Annual Budget and Annual Assessment 14

Section 10.4. Special Assessments 15

Section 10.5. Specific Assessments 15

Section 10.6. Payment of Assessments 15

Section 10.7. Creation of the Lien and Personal Obligation for Assessments 16

Section 10.8. Non-Payment of Assessments 16

Section 10.9. Surplus Funds and Common Profits 17

Section 10.10. Statement of Account 17

ARTICLE XI. INSURANCE 18

Section 11.01. Generally 18

Section 11.02. Property Insurance 18

Section 11.03. Liability Insurance 19

Section 11.04. Annual Review and Allocation of Costs Between Units 20

Section 11.05. Coverage Requirements 20

Section 11.06. Other Required Insurance 21

Section 11.07. Liability Insurance Maintained by Unit Owners 22

Section 11.08. Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies 22

Section 11.09 Insurance Requirements for Contractors 23

Section 11.10. Application of Deductibles 23

Section 11.11. Failure to Obtain Insurance 23

ARTICLE XII. REPAIR AND RECONSTRUCTION 24

Section 12.01. General 24

Section 12.02. Cost Estimates 24

Section 12.03. Source and Allocation of Proceeds 24

Section 12.04. Floor Plans and Specifications 25

Section 12.05. Encroachments 25

Section 12.06. Construction Fund 25

Section 12.07. Delegation 25

Section 12.08. Insurance Trustee 25

ARTICLE XIII. ARCHITECTURAL CONTROLS 27

Section 13.01. Alterations to a Unit 27

Section 13.02. Signs and Flags. 29

Section 13.03. Encroachments onto Common Elements 29

Section 13.04. Subdivision of a Unit 29

Section 13.05. Relocation of Boundaries 30

Section 13.06. Applications 30

Section 13.07. Condition of Approval 31

Section 13.08. Limitation of Liability 31

Section 13.09. No Waiver of Future Approvals 31

Section 13.10. Enforcement 31

Section 13.11. Standards of Reconstruction and Maintenance 31

ARTICLE XIV. USE RESTRICTIONS 33

Section 14.01. Use of the Units 33

Section 14.02. Prohibited Uses 33

Section 14.03. Rubbish, Trash, and Garbage 35

Section 14.04. Ventilation of Cooking Apparatus 35

Section 14.05. Limitation of Damage, Nuisance, Noise, and Vibration 35

Section 14.06. Use of Limited Common Elements 36

Section 14.07. Abandoned Personal Property 36

Section 14.08. Pest Control 36

Section 14.09. Limitations on Use of Certain Shared Rooms 37

Section 14.10. No Smoking 37

ARTICLE XV. MAINTENANCE AND SERVICE RESPONSIBILITY 37

Section 15.01. Maintenance By Unit Owner 37

Section 15.02. Maintenance By Association. 37

Section 15.03. Building Systems 38

Section 15.04. Life-safety Systems 39

Section 15.05. Failure to Maintain 39

Section 15.06. Exterior Glass Surfaces and Doors 39

Section 15.07. Mold Disclosure and Waiver 40

Section 15.08. Association Inspection Obligations 41

Section 15.09. Unit Owner Inspection Rights 42

ARTICLE XVI. MORTGAGEE RIGHTS 42

Section 16.01. Consent Required 42

Section 16.02. Assessments 42

Section 16.03. Notices 42

Section 16.04. Duplicative Notices 43

Section 16.05. No Priority 43

Section 16.06. Notice to Association 43

Section 16.07. Failure of Mortgagee to Respond 43

Section 16.08. Cure Rights 43

Section 16.09. No Invalidity of Mortgage Lien 44

Section 16.10. Construction 44

ARTICLE XVII. DEFAULT AND REMEDIES 44

Section 17.01. Remedies Cumulative 44

Section 17.02. Authority and Enforcement 44

Section 17.03. Fining and Suspension Procedure 44

Section 17.04. Self-Help Rights 46

Section 17.05. Conditions of Self-Help Rights 46

ARTICLE XVIII. COMPLIANCE WITH LAWS AND ZONING 46

Section 18.01. Compliance with Laws and Covenants 46

Section 18.02. Environmental 47

Section 18.03. Unit Owner's Indemnity 47

Section 18.04. Density Allocation and Zoning Compliance 48

ARTICLE XIX. GENERAL PROVISIONS 48

Section 19.01. Dispute Resolution 48

Section 19.02. Declarant Services 49

Section 19.03. Enforcement 49

Section 19.04. Estoppel Certificate 49

Section 19.05. No Third Party Beneficiaries 49

Section 19.06. Successor-in-Title 50

Section 19.07. Notices 50

Section 19.08 Security 50

Section 19.09. Disclosures 51

Section 19.10. Conflict 51

ARTICLE XX. EMINENT DOMAIN 51

Section 20.01. Common Elements Taken 51

Section 20.02. Unit Taken 52

Section 20.03. Mortgagee Notice 52

ARTICLE XXI. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS 52

Section 21.01. Utilities – Blanket Easement 52

Section 21.02. Surface Water Drainage and Runoff 53

Section 21.03. Rain Water Drainage and Runoff 53

Section 21.04. Life-Safety – Blanket Easement 53

Section 21.05. Property Monitoring and Access System – Blanket Easement 53

Section 21.06. Blanket Easement for Lateral and Subjacent Support; Building Systems; Party Walls and Encroachments 54

Section 21.07. Emergency – Blanket Easement 55

Section 21.10 Access Easements Benefiting the Association 55

Section 21.11. Easements Benefiting Declarant 55

Section 21.12. Commonly Metered-Used Items. 55

Section 21.13. Cooperation 56

Section 21.14. Damages Resulting From the Exercise of Easement Rights. 56

ARTICLE XXII. AMENDMENT 56

ARTICLE XXIII. SEVERABILITY 56

EXHIBITS

DESCRIPTION OF SUBMITTED PROPERTY ..... "A"

PERCENTAGE INTERESTS ..... "B"

FLOOR PLANS AND PLAT ..... "C"

BYLAWS ..... "D"

SIGNAGE ..... "E"

DISCLOSURES ..... "F"

STATE OF TENNESSEE

COUNTY OF DAVIDSON

DECLARATION OF CONDOMINIUM

FOR

118 TWELFTH AVENUE, A CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM FOR 118 TWELFTH AVENUE, A CONDOMINIUM (the "**Declaration**") is made as of the date set forth below by Nashville Gulch Lifestyle Hotel Owner, LLC, a Delaware limited liability company (hereinafter referred to as "**Declarant**").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property (referred to herein as the Submitted Property) located in Nashville, Davidson County, Tennessee) as described in Exhibit "A" attached hereto and incorporated herein by this reference (such Submitted Property, together with all improvements now or hereafter to be constructed thereon and all appurtenances thereto, the "**Property**", as further defined herein); and

WHEREAS, a plat of survey for the Condominium has been prepared by Barge Design Solutions (the "**Plat**"), dated July 8, 2025, attached hereto as part of Exhibit "C" and incorporated herein by reference; and

WHEREAS, floor plans and elevation renderings for the Condominium were prepared by Hastings Architectural Associates, LLC ("**Hastings**"), and are attached hereto as part of Exhibit "C" and incorporated herein by reference; and

WHEREAS, Declarant desires to subject the Property, including the improvements thereof, to the provisions of this Declaration and to the Act (as defined herein); and

NOW, THEREFORE, Declarant hereby declares that Property is hereby submitted and made subject to: (a) the form of real property ownership provided in the Act, and (b) the provisions of this Declaration. By recording this Declaration, the Property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged, or otherwise encumbered subject to the provisions of the Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth and/or described in this Declaration, which shall run with the title to the Property, and shall be binding on all Persons having any right, title or interest in all or any portion of the Property, and binding on their respective heirs, legal representatives, successors, successors in title and assigns.

DECLARATION OF CONDOMINIUM FOR 118 TWELFTH AVENUE, A CONDOMINIUM

ARTICLE I. NAME

The name of the condominium is 118 Twelfth Avenue, A Condominium (hereinafter referred to as the "**Condominium**"), as further defined herein, and is hereby submitted to the Tennessee Condominium Act.

ARTICLE II. DEFINITIONS

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

Section 2.01 Act shall mean the Tennessee Condominium Act of 2008, Tennessee Code Annotated Section 66-27-201, et seq.

Section 2.02 Affected Unit Owner is defined as described in Section 13.11(f) below.

Section 2.03 Annual Assessment shall mean the assessment to be uniformly levied by the Board against each Unit as more particularly described in Section 10.03 hereof.

Section 2.04 Assessment shall mean the Annual Assessment, the Special Assessments, and the Specific Assessments.

Section 2.05 Association shall mean 118 Twelfth Avenue Condominium Association, Inc., a nonprofit corporation, and its successors or assigns.

Section 2.06 Board or **Board of Directors** shall mean the board of directors of the Association, which shall be the body responsible for management and operation of the Association.

Section 2.07 Building shall mean that certain building containing approximately twelve (12) levels of hotel space and garage space, including the Hotel Unit and the Garage and Retail Unit, located on the real property described in Exhibit "A", as more particularly shown on the Floor Plans and Plat.

Section 2.08 Building Systems shall mean all systems and facilities for water, air, ventilation, smoke evacuation, emergency generator, air conditioning and heating (including, without limitation, refrigerant lines, chilled water lines, electric lines, thermostatic control lines and related facilities), natural gas, steam, electricity, energy, drainage, sewage, communications, and other utilities and all chutes, flues, ducts, conduits, pipes, lines, utility meters, wiring and all similar components, or other conduit, raceways and other pathways relating to any of the foregoing (including, without limitation, closed circuit television lines, high speed internet lines and fiber optic cable lines). Property Monitoring and Access Systems shall be deemed Building Systems. Life-safety Systems shall not be deemed Building Systems.

Section 2.09 Bylaws shall mean the Bylaws of the Association attached hereto as Exhibit "D" and incorporated herein by this reference.

Section 2.10 Charter shall mean the Charter of 118 Twelfth Avenue Condominium Association, Inc., which has been filed with the office of the Tennessee Secretary of State.

Section 2.11 Common Elements shall mean those portions of the Condominium other than the Units.

Section 2.12 Common Expenses shall mean actual or anticipated expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

Section 2.13 Common Profits shall mean all income collected or accrued by or on behalf of the Association other than income derived from assessments.

Section 2.14 Condominium shall mean the condominium created under and pursuant to this Declaration.

Section 2.15 Condominium Instruments shall mean this Declaration, all exhibits to this Declaration, the Charter and the Plat and Floor Plans, all as may be supplemented or amended from time to time.

Section 2.16 Cure Period shall have the meaning described in Section 17.03(a) below.

Section 2.17 Declarant shall mean Nashville Gulch Lifestyle Hotel Owner, LLC, a Delaware limited liability company, its successors and assigns, provided such successors and/or assigns are designated in writing by Declarant as a successor and/or assign of the rights of Declarant set forth herein by reference.

Section 2.18 Effective Date shall mean the date on which this Declaration is recorded in the Official Records.

Section 2.19 Environmental Laws shall mean and include all present and future federal, state or local laws, rules orders ordinances and regulations pertaining to environmental regulation or the use, processing, storage disposal, generation or transportation of Hazardous Substances or any contamination,

cleanup or disclosure related thereto, including, but not limited to, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq. and such regulations as may be promulgated with respect thereto, including, but not limited to the regulations contained in 40 CFR Part 280.

Section 2.20 FAR means floor area ratio as described in Section 18.04(b) below.

Section 2.21 Floor Plans shall mean the plans for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein by reference.

Section 2.22 FSA Elevator means the fire service access elevator designated as such in Exhibit "C" hereto, which primarily serves and will be used as a utility elevator regarding the Hotel Unit and is deemed a part thereof, subject to shared use and equitable cost-sharing in case of fire or other casualty, as provided in Section 4.02(c)(ii).

Section 2.23 Garage and Retail Unit shall mean that certain Unit in which a parking structure and retail space has been constructed, as more particularly shown on Exhibit "C" hereto.

Section 2.24 Garage and Retail Unit Owner shall mean the owner of the Garage and Retail Unit.

Section 2.25 Hazardous Substances shall means those substances now or hereafter included within (whether as a result of such substance's inclusion on a list, physical characteristics or otherwise) any of the definitions of "hazardous substances", "hazardous waste", "hazardous materials", "pollutant", "contaminant" or "toxic substance" under or otherwise regulated by, any Environmental Laws; including, but not limited to (a) mixtures containing listed Hazardous Substances and waste generated from the treatment, storage or disposal of Hazardous Substances, (b) asbestos, (c) polychlorinated biphenyls, (d) radioactive materials and (e) petroleum (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas and synthetic gas.

Section 2.26 Hotel Unit shall mean that certain Unit in which a hotel has been constructed, as more particularly shown on Exhibit "C" hereto.

Section 2.27 Hotel Unit Owner shall mean Nashville Gulch Lifestyle Hotel Owner, LLC, a Delaware limited liability company, or any subsequent owner of the Hotel Unit.

Section 2.28 Indemnifying Unit Owner and **Indemnitee** shall be defined as described in Section 18.03 below.

Section 2.29 Institutional Lender shall have the meaning described in Section 12.08 below.

Section 2.30 Insurance Shortfall Payment shall mean the amount of money assessed to one (1) or more of the Owners, as applicable, subsequent to a casualty, which damages and/or destroys all of any

portion of the Condominium, as contemplated in Section 12.03 hereof.

Section 2.31 Insurance Trustee shall have the meaning described in Section 12.08 below.

Section 2.32 Legal Requirements shall mean all applicable federal, state and local laws, orders, rules and regulations.

Section 2.33 Life-safety Systems shall mean those systems designed to protect the Building and its Occupants from emergencies, including, but not limited to, pumps, control valves, smoke alarms, horns, strobes, emergency lighting, smoke evacuation or exhaust systems, sprinklers (including stand pipes, fire pumps and control valves, foremen's control and enunciator panels and related facilities), call boxes, emergency generators and other related improvements, devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.34 Limited Common Element shall mean that portion of the Common Elements reserved for the exclusive use of fewer than all Units.

Section 2.35 Majority means more than fifty percent (50%) of the total eligible number.

Section 2.36 Master Maintenance Manual shall mean, collectively, those certain maintenance criteria, maintenance manuals, and warranty requirements for the Building provided by Declarant to the Association in accordance with Section 15.08 hereof.

Section 2.37 Metro shall mean the Metropolitan Government of Nashville and Davidson County, Tennessee.

Section 2.38 Metro Zoning Ordinance shall mean and include Title 17 of Metro's Code of Ordinances, and any amendments thereto, and any and all other zoning ordinances, which in any of the foregoing instances are applicable to the Property.

Section 2.39 Mold shall collectively mean mold, mildew, fungi, mycotoxins, and/or microbiological organisms.

Section 2.40 Mortgage shall mean any deed of trust, deed to secure debt, mortgage or other similar instrument filed in the Official Records that encumbers all or a portion of the Units as reflected in the Official Records.

Section 2.41 Mortgagee or **Mortgage Holder** shall mean the holder of any Mortgage.

Section 2.42 Notice of Application Completion shall be defined as described in Section 13.6 below.

Section 2.43 Notice to Cure and **Notice of Uncured Violation** shall be defined as described in

Section 17.03.

Section 2.44 Notifying Owner shall be defined as described in Section 19.06(b).

Section 2.45 Occupant shall mean any Person, including any Unit Owner having a right to occupy or use all or any portion of a Unit for any period of time.

Section 2.46 Official Records shall mean the official land records of the office of the Register of Deeds for Davidson County, Tennessee.

Section 2.47 Owner or Unit Owner shall mean the record titleholder of a Unit, but shall not include a Person who is only a Mortgagee. A Mortgagee who forecloses or otherwise takes ownership of a Unit shall be deemed an Owner upon the acquisition of such ownership. The term "Owner" and "Unit Owner" shall refer to the owner of a particular Unit and the term "Owners" and "Unit Owners" shall refer collectively to the owners of all of the Units.

Section 2.48 Percentage Interests shall mean the undivided ownership percentage interest in the Common Elements appurtenant to each Unit as set forth in Exhibit "B" to this Declaration.

Section 2.49 Permitted Overnight Delivery shall mean delivery of any notice that satisfies the following:

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

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

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

Section 2.50 Permittee shall mean any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contractor of an Owner, Occupant, or Declarant, as applicable.

Section 2.51 Person shall mean any individual, corporation, limited liability company, firm, association, partnership, trust or other legal entity.

Section 2.52 Plat shall mean the plat for the Condominium required by Section 66-27-309 of the Act, attached hereto as Exhibit "C" and incorporated herein by reference.

Section 2.53 Property shall mean the Submitted Property, together with all present improvements and future improvements thereon, as contemplated in Exhibit "C" hereto, and any and all appurtenances to the Submitted Property and/or improvements.

Section 2.54 Property Monitoring and Access Systems shall mean those systems designed to control access and provide surveillance of the Condominium, including, without limitation, all card readers, closed-circuit televisions cameras, alarm sensors, control panels and related equipment, devices and improvements, and other related improvements, devices and equipment, and all utilities, wiring, sensors, service lines, or similar components connected thereto.

Section 2.55 Responsible Unit Owner shall be defined as described in Section 13.11(f) below.

Section 2.56 Review Professional shall mean an architect, engineer, or other professional having the appropriate skills and knowledge to review objections to proposed alterations as contemplated in Section 13.01(d) hereof. In appointing a Review Professional, the Owners shall take into consideration the subject matter and circumstances of the proposed alterations and objections thereto in determining the appropriate type of professional to appoint.

Section 2.57 Reviewing Owner shall mean the Owner reviewing a request from another Owner for approval for a modification, improvement, or change as provided in Article XIII hereof.

Section 2.58 Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data are changed, the electronic signature is invalidated.

Section 2.59 Special Assessment shall mean an assessment uniformly levied by the Board against all Units in accordance with their respective Percentage Interests to fund an expense of the Association not included in the annual budget or to otherwise fund a shortfall in the operating account of the Association.

Section 2.60 Specific Assessment shall mean an assessment levied by the Board against a Unit as permitted in Section 66-27-414 of the Act, elsewhere in the Act, or as provided below:

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

(b) Any Common Expense or portion of the Common Expense benefiting fewer than all of the Units may be specifically assessed exclusively against the Units benefited in an equitable manner based on the benefit received;

(c) The costs of insurance maintained by the Association may be reasonably and equitably assessed in proportion to risk and the factors in described in Section 11.04 below;

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

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

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

(g) If any Common Expense is incurred by a Unit Owner who is performing work on the Property on behalf the Association, the Association shall assess the other Owner's share of such Common Expense to the other Owner's Unit and shall reimburse the Unit Owner performing such work for the other Owner's share of such Common Expense.

Section 2.61 Submitted Property shall mean all that tract or parcel of land located in Davidson County, Tennessee and being more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

Section 2.62 Total Association Vote shall mean all of the eligible votes attributed to members of the Association (including votes attributable to Declarant).

Section 2.63 Trust Funds shall have the meaning described in Section 12.08 below.

Section 2.64 Unit shall mean those portions of the Condominium intended for separate ownership, including the Hotel Unit and the Garage and Retail Unit.

Section 2.65 Zoning Change shall have the meaning described in Section 18.04 below.

ARTICLE III. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS

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

ARTICLE IV. UNITS AND BOUNDARIES

Section 4.01 Unit Description and Interests. The Condominium shall be initially divided into two (2) Units and Common Elements, some which Common Elements may be allocated as Limited Common Elements. Each Unit consists of its defined space together with an undivided Percentage Interest in the Common Elements appurtenant thereto.

Section 4.02 Unit Boundaries. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units shall have the following boundaries and are depicted on the Floor Plans:

(a) Vertical Boundaries. Generally, the perimetrical or vertical boundaries of each

Unit shall be as follows:

(i) Except as otherwise provided herein, the perimetrical or vertical boundaries of each Unit shall be the vertical plane formed by the innermost exterior surface wall of the Building, with all materials constituting the façade of the building, as well as the studs, drywall, sheetrock, gypsum board, and similar coverings being part of the Common Elements and/or Limited Common Elements.

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

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

(b) Horizontal Boundaries. Generally, the horizontal boundaries of each Unit shall be as follows (provided, however, same shall be subject to the details set forth in Section 4.02(c)(viii)):

(i) Except as otherwise provided herein, the upper horizontal boundary of a Unit is the horizontal plane formed by the lowermost surface of the concrete slab above the ceiling of the Unit on the level on which the Unit is located, with the concrete slab above not constituting part of the Unit. The lower horizontal boundary of a Unit shall be the horizontal plane formed by the uppermost surface of the concrete slab below the flooring of the Unit on the level on which the Unit is located, with the flooring constituting part of the Unit, but the concrete slab or foundation below the flooring of the Unit not constituting part of such Unit.

(ii) With respect to the portions of a Unit located on lower level 4 of the Building, the lower horizontal boundary of such portions of the Unit shall be the horizontal plane formed by the uppermost surface of the soil or sand surface, with any concrete slab, vapor barrier, and flooring constituting part of such Unit.

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

(c) Additional Information to Interpret Unit Boundaries.

(i) Except as may be otherwise provided for herein, the Unit boundaries shall exclude any portion of the Common Elements that may be located within such Unit's boundaries as described in Section 4.02(a) and (b) above.

(ii) Any elevator (including, but not limited to elevator cab, elevator shafts, elevator pits, and all related mechanical and electrical rooms and/or systems) exclusively serving a Unit, as shown on the Floor Plans, shall be deemed part of such Unit. The FSA Elevator shall be deemed a part of the Hotel Unit, provided that the Garage and Retail Unit Owner and all its Permittees shall be entitled to the use of the FSA Elevator in case of a fire or other casualty, with costs arising from the use (but not the repair or replacement) of the FSA Elevator related to the fire or other casualty (but not otherwise) equitably shared by the Owners.

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

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

(v) Those portions of the Building Systems (including any portion of the Building Systems located outside the boundaries of the Unit) that exclusively serve a single Unit shall be deemed part of the Unit.

(vi) Those portions of the Life-safety Systems (including any portion of the Life-safety Systems located outside the boundaries of the Unit) that exclusively serve a single Unit shall be deemed part of the Unit.

(vii) Structural columns that support more than one (1) Unit or one (1) or more Units and the Common Elements shall not be part of any Unit, but shall be Common Elements; structural columns that support only one (1) Unit shall be part of such Unit.

(viii) In the event that there is a conflict between the boundaries of a Unit as described in this Section 4.02 and as shown on the Floor Plans, the Floor Plans shall control. It is the express intent of Declarant that the property described as being part of a Unit shall for all purposes herein be treated as and constitute a lawfully described "Unit" as that term is defined in the Act. In the event that there is a final judicial determination by a court of competent jurisdiction that the boundaries of a Unit or any portion thereof are so indefinite and vague so as to not create a legally constituted "Unit" within the meaning of the Act, then that portion of the Unit that has not been adequately described shall be severed from the property deemed a part of the Unit (if the remainder of the Unit, excluding the severed portion thereof, constitutes a properly described Unit under the Act) and shall thereafter be deemed to be Limited Common Elements reserved to the exclusive use of the Unit, subject to the rights and obligations of other Unit Owners with respect to the property.

ARTICLE V. COMMON ELEMENTS

The Common Elements consist of all portions of the Condominium not constituting a part of a Unit. The Common Elements shall include, without limitation: all items designated as Common Elements on the Floor Plans, including without limitation Life-safety Systems serving the Common Elements or

more than one (1) Unit; Building Systems serving the Common Elements or more than one (1) Unit; structural columns that support more than one (1) Unit and/or Common Elements; sidewalks; exterior landscaping; and other items as may be identified by the Association from time to time. Notwithstanding any provision to the contrary stated herein, any door or doors enclosing any of the above-listed rooms or serving more than one (1) Unit shall be deemed a part of the Common Elements. For the avoidance of doubt, Common Elements shall include all structural elements of the Building, whether or not located within a Unit, including, but not limited to, all foundations, footings, columns, girders, slabs, ceiling beams and supports, interior load bearing walls, all facades and exterior walls.

Ownership of the Common Elements shall be by the Owners as tenants-in-common. Each Owner shall own an undivided Percentage Interest in and to the Common Elements attributable to the Unit owned by such Owner. Such undivided Percentage Interest ownership may be altered only by the consent of all Owners and their respective Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration, except as provided in Section 13.06 below without approval of the Owners or Mortgagees.

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

ARTICLE VI. LIMITED COMMON ELEMENTS

The Limited Common Elements located in the Condominium and the Unit or Units to which they are allocated are as follows:

(a) General.

(i) The portions of the Life-safety Systems serving one (1) or more but less than all Units are allocated as Limited Common Elements to the Unit or Units so served;

(ii) Any Building System, or portion thereof, serving more than one (1) Unit but not all Units is allocated as a Limited Common Element to the Units so served, and any Building System serving one (1) Unit only shall be allocated to the Unit Served;

(iii) The improvements on the roof and balconies of the Building, if any, intended for the use and benefit of guests of the Hotel Unit only shall be Limited Common Elements allocated to the Hotel Unit, for which the Hotel Unit Owner shall have sole maintenance, repair and replacement responsibility, as provided in Section 15.01 hereof.

(iv) Any portions of the Common Elements on which there is constructed any portion of the air conditioning, heating, plumbing, ventilating, exhaust, mechanical, electrical, elevator or telecommunication systems exclusively serving a particular Unit are allocated as Limited Common Elements to the Unit so served. Notwithstanding anything to the contrary stated herein, the Association

may, at its sole expense and without need for a membership vote but subject to the written consent of any affected Unit Owner (which consent shall not be unreasonably withheld), equitably and reasonably relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical or telecommunication systems serving a particular Unit, provided that after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation; and further provided that if the relocation is to primarily benefit one Owner and not the Condominium as a whole, the cost of the relocation shall be specially assessed against the benefitted Owner; and

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

ARTICLE VII. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit, excluding Persons holding such interest under a Mortgage, are members of the Association, and except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, the Garage and Retail Unit Owner shall be entitled to one (1) vote and the Hotel Unit Owner shall be entitled to two (2) votes.

ARTICLE VIII. ALLOCATION OF LIABILITY FOR COMMON EXPENSES

Except as provided elsewhere in the Act or Condominium Instruments, or by separate agreement of the Owners, the amount of all Common Expenses shall be assessed against all the Units in accordance with the Percentage Interests.

Ad valorem real estate taxes for any period before the Units are separately assessed shall be paid by the Unit owners in accordance with the terms of a separate agreement of the Owners. Following the separate assessment of each Unit, each Unit Owner shall independently pay its separately assessed tax charges.

ARTICLE IX. ASSOCIATION RIGHTS AND RESTRICTIONS

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

(a) to access Units for maintenance, emergency or life-safety purposes, which right may be exercised by the Board of Directors, officers, agents, employees, managers and all police officers, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Entry shall be only during reasonable hours and after reasonable notice to the affected Unit Owner or Occupant, it being understood that the determination of reasonableness shall take into account whether an emergency exists and no entry shall be allowed into an occupied guest room in the Hotel Unit except in the event of an emergency. For the purposes of this Article IX, an emergency justifying immediate entry into Units shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a person or animal might be injured or sick and require immediate medical attention. No one exercising the rights granted in this paragraph (a) shall be liable for trespass, damages or in any other manner by virtue of exercising such rights, except as provided in the Act. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that the Association, acting through its Board of Directors, shall have no duty or obligation to enter Units;

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

(c) to enforce use restrictions, provisions contained within the Declaration and Bylaws, and rules and regulations promulgated and adopted by the Association by the imposition of reasonable monetary fines and the suspension of use privileges;

(d) to grant and accept permits, licenses, utility easements, leases and other easements;

(e) to control, manage, operate, maintain, improve and replace all portions of the Common Elements (except those Limited Common Elements which this Declaration expressly makes the responsibility of the Owner(s) to whose Unit(s) they are appurtenant);

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

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

(h) to acquire, hold and dispose of tangible and intangible personal property and real property subject to the provisions of the Condominium Instruments and the Act;

(i) to collect security deposits in reasonable amounts, as determined by the Board of Directors in its sole discretion, to protect against any damage to the Condominium, including, without limitation, damage resulting from: Occupants moving in or out of a Unit; the transportation and use of construction materials on the Property; and the alteration, modification or addition to a Unit and any Limited Common Element appurtenant thereto. Costs for repair of such damage may be deductible from

the security deposit and any additional expenses may be assessed against the Unit as a Specific Assessment;

(j) to approve contractors or subcontractors who have access to the Property for the purpose of making repairs or improvements based on rules and regulations promulgated and adopted by the Board, which may include, without limitation: financial stability of the contractors and/or subcontractors; history of compliance with the Condominium Instruments and rules and regulations promulgated and adopted by the Association; and other factors that may be reflective of quality and ability. The Board may also impose insurance requirements and collect other non-refundable fees for use of trash receptacles;

(k) at the sole expense of the Association, without need for a membership vote and without the written consent of any affected Unit Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical or telecommunications system serving a particular Unit, provided that after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation and does not materially affect, interfere with or impair the functionality of the Unit;

(l) to close temporarily any portion of the Common Elements (excluding the Limited Common Elements, and any Common Elements the use of which is reasonably necessary for access to or from a Unit and any portion of the Common Elements over, on, upon or which the Association has an easement) with thirty (30) days prior notice to all Unit Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days after the closing explaining the reason for the closing;

(m) Subject to Section 15.05 below, to maintain, improve, repair and replace any sidewalks, landscaping or other improvements located on government owned property adjacent to the Condominium, subject to compliance with applicable Legal Requirements and with a minimum of interference to the businesses using such sidewalks; and

(n) to enter into joint agreements and contracts with Unit Owners for the provision of services, including, without limitation, management, landscaping, porter, utilities, amenities, concierge and property monitoring services.

ARTICLE X. ASSESSMENTS

Section 10.01 Purpose of Assessments.

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

Section 10.02 Types of Assessments.

Each Owner of a Unit, by acceptance of a deed to a Unit whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following types of assessments

with such assessments to be established and collected as hereinafter provided:

(a) Annual Assessments;

(b) Special Assessments; and

(c) Specific Assessments.

Section 10.03 Annual Budget and Annual Assessment.

(a) Preparation of Budget. For each fiscal year, the Board shall prepare an annual budget listing by category the estimated Common Expenses (including the establishment and maintenance of such reserves as the Board may consider appropriate) for such year. The Board shall cause the proposed annual budget and Annual Assessments roster based thereon to be delivered to each Owner not less than thirty (30) days prior to the beginning of the fiscal year to which the proposed annual budget and Annual Assessments roster relate and shall become effective (subject to the terms hereof) as of the first (1st) day of the next fiscal year.

(b) Annual Assessments. Each Owner shall pay an Annual Assessment based on the Percentage Interest allocated to the Owner's Unit. The amount of the Common Expenses paid as an Annual Assessment shall be based on the total Common Expenses as estimated in the annual budget, less the following:

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

(ii) Undistributed and unreserved Common Profits.

(c) Failure to Establish Annual Budget. In the event the proposed annual budget is not approved or the Board of Directors fails for any reason to determine the annual budget for the succeeding fiscal year, then and until such time as an annual budget shall have been determined as provided herein, the budget and Annual Assessments roster in effect for the then-current year shall continue for the succeeding year, provided, however such interim annual budget and Annual Assessment shall be a greater amount to the extent necessary to include any increase in mandatory, non-controllable expenses (including, but not limited to, the premiums for any insurance the Association is required to obtain, utilities, taxes, and any required governmental registration, filing, permit, or similar fees, and charges).

(d) Budget Adjustments. The Board of Directors shall have the right, to be exercised in its reasonable business judgment, to:

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

(ii) spend more than what has been budgeted;

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

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

(e) Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal Annual Assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the annual budget and Annual Assessment as provided above. A copy of the capital reserve budget shall be distributed to each Owner in the same manner as the operating budget.

Section 10.04 Special Assessments.

The Board shall have authority at any time to levy a Special Assessment against all Owners based on the Percentage Interests. The Board shall send notice of any Special Assessment to all Owners.

Section 10.05 Specific Assessments.

The Board may, at any time and in addition to any other rights it may have, levy a Specific Assessment against such Units as, in its discretion, it shall deem reasonably appropriate. The minutes or written consent of the Board action authorizing such levy shall detail the basis of the need for such levy. The Board shall send notice to the applicable Owner(s). The Board may not levy Specific Assessments for periodic maintenance, repair, or replacement of any portion of the Common Elements (excluding Limited Common Elements) or the Units which the Association has the obligation to maintain, repair, or replace. Failure of the Board of Directors to exercise its authority under this Section 10.05 shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section 10.05 in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority to assess as a Specific Assessment under this Section.

Section 10.06 Payment of Assessments.

(a) Annual Assessments. Unless otherwise provided by the Board of Directors, the Annual Assessments shall be paid in equal monthly installments due on the first (1st) day of each month.

(b) Special Assessment and Specific Assessments. The Board of Directors shall establish the date payment of any Special Assessment or Specific Assessment is due; provided, however, in no event shall any Special Assessment or Specific Assessment be due upon less than thirty (30) days' prior written notice. In the Board's discretion, Special Assessments or Specific Assessment may be paid in installments.

(c) Exemptions. No Owner may exempt itself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to perform its obligations required hereunder or an inconvenience or discomfort arising from the Association's performance of its duties. Notwithstanding anything to the contrary stated herein, Declarant shall have no obligation, other than in its role as Unit Owner, to fund budgetary deficits of the Association, except in its role as Unit Owner.

Section 10.07 Creation of the Lien and Personal Obligation for Assessments.

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

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

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

Section 10.08 Non-Payment of Assessments. Any assessment and related charges that are due to the Association pursuant to this Declaration, or any portion thereof, that is not paid when due shall be delinquent and the Owner shall be in default. In the event of such a default, without limitation, the Board may impose the following:

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

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

(c) If any assessment, any related charges or any portion thereof remains delinquent

and unpaid for a period greater than fifteen (15) days following the date due, the Association may give a notice of delinquency to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the Annual Assessment for the then-current fiscal year and of any unpaid but scheduled Special Assessment or Specific Assessment for the then-current fiscal year without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall be obligated to pay the entire amount so accelerated.

(d) If assessments and other charges or any portion thereof remain unpaid for more than thirty (30) days after the assessment payments first became delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws, the Act and Tennessee law, including reasonable attorneys' fees actually incurred.

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

Section 10.09 Surplus Funds and Common Profits.

(a) Common Profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such Common Profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit or added to the Association's capital reserve account.

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

Notwithstanding the above, the Association may first apply the amount of any overpayment toward any other amount the Owner may owe to the Association.

Section 10.10 Statement of Account. Any Owner, Mortgagee, Person having executed a contract for the purchase of a Unit or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of any assessments due and unpaid, including any late charges, interest, fines or other charges against a Unit. The Association shall respond in writing within seven (7) days of receipt of the request for a statement; provided, however, that the Association may require the payment of a reasonable administrative fee as a prerequisite to the

issuance of such a statement. Such written statement shall be binding on the Association as to the amount of any assessments due on the Unit as of the date specified therein.

ARTICLE XI. INSURANCE

Section 11.01 Generally. The Association, acting through the Board of Directors, shall obtain as a Common Expense and maintain at all times insurance which meets or exceeds the insurance requirements for condominium associations set forth in Section 66-27-413 of the Act as amended. This insurance may consist of one or more standalone policies obtained by the Association or a master or group insurance policy or program available to a Unit Owner provided that such policy or program meets or exceeds the requirements set forth in this Article XI.

Section 11.02 Property Insurance.

(a) Scope of Property Coverage.

(i) Irrespective of whether it exceeds the minimum insurance requirements of the Act, the Board of Directors shall utilize commercially reasonable efforts to secure a blanket hazard insurance policy providing "special perils" coverage in an amount equal to the full insurable replacement cost, before application of deductibles, of all Common Elements of the Condominium (including Limited Common Elements). If "special perils" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. Subject to the provisions of this Declaration, the Association may additionally obtain such other property insurance as the Association may reasonably determine to be necessary or desirable. 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 Property against the perils of flood under the National Flood Insurance Act of 1968 and acts amendatory thereto. In the event that any Unit is subject to more stringent insurance requirements as a result of any Mortgage placed upon such Unit, the Board will be obligated to satisfy the more stringent requirements, and, the Board, if necessary, will obtain such additional insurance coverage as may be required. Any additional costs incurred as a result of the foregoing will be borne by the Owner whose Unit was subject to the more stringent requirements. Additionally, each Unit Owner shall maintain property insurance coverage for all portions of its Unit not insured by the Association. Each Unit Owner shall use commercially reasonable efforts to secure coverages for the Unit substantially similar to those described above in this Section 11.02(a)(i).

(ii) For the purposes of this Section 11.02, the term "structures" to be insured by the Association shall include (except as may be provided elsewhere herein) all building structures, systems, improvements, personal property owned by the Association, conduits, pipes, finishes (including paint, wall coverings and floorings) and fixtures constituting the Condominium as shown on the construction plans used to obtain building permits for the Condominium. In the event such construction drawings do not adequately or fully depict the nature of structures comprising a Unit, then the Unit Owner shall submit to the Board appropriate plans certified by a registered architect or engineer appropriately depicting such structures. In the event such construction drawings do not adequately or fully depict the nature of structures comprising a Common Element, then the Board shall obtain appropriate plans

certified by a registered architect or engineer appropriately depicting such structures.

(iii) In the event of any subsequent changes or alterations to structures that are Common Elements or other portions of Condominium for which the Association is responsible to maintain, the Association shall utilize commercially reasonable efforts to bind the Association's carrier to provide property insurance adequately covering the changed or altered structures.

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

(b) Beneficiaries of Property Insurance. All property insurance obtained by the Association pursuant to this Declaration shall designate the Association as the named insured, individually and as agent for the Owners collectively, without naming them individually, and as agent for their respective Mortgagees.

Section 11.03 Liability Insurance.

(a) Scope of Liability Coverage. The Association, acting through the Board of Directors, shall utilize commercially reasonable efforts to secure and maintain commercial general liability insurance, including medical payments insurance, with single limit coverage for injuries to a single person and damage to property of not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate or such higher amounts required by the Act. The commercial general liability policy or policies shall cover occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Common Elements and other portions of the Condominium which the Association has the responsibility to maintain.

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

Section 11.04 Annual Review and Allocation of Costs Between Units. The Board of Directors shall, at least once every year, conduct an insurance review to determine if the Association's policy or policies in force are adequate to meet the needs of the Association and to satisfy the minimum requirements of the Act and this Declaration. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent or insurance underwriter to verify that insurance policies in existence meet the needs of the Association and satisfy the minimum requirements of the Act and this Declaration. The property and liability insurance obtained by the Association will disproportionately benefit the different Units due to the scope and nature of: (a) the uses of each of the Units; (b) the differing nature of insurance risk associated with the use of each Unit; (c) the type and cost of the improvements and betterments within each Unit; (d) the size of each Unit; (e) any additional insurance or coverages benefiting less than all of the Units; and (f) any other factors which the agent or underwriter reasonably determines would affect the equitable allocation of the costs of the insurance policies. Therefore, the Association shall hire no less than annually an independent insurance expert familiar with allocating the costs of property and liability insurance in similar communities to equitably allocate the cost of the property and liability insurance policies being obtained by the Association between the different Units based on the factors referenced above. The Board shall then proportionately assess the cost of this insurance against the different Units as Specific Assessments in accordance with the recommendations of the independent insurance expert.

Section 11.05 Coverage Requirements.

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

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

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

(iii) the Association's policy shall be endorsed as primary and non-contributory with regard to Unit Owners;

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

(v) the master policy may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days prior notice in writing to the Board of Directors, Unit Owners, and all Mortgagees; and

(vi) an agreed value endorsement in the Association's property insurance policy

waiving co-insurance limitations.

(b) All policies of insurance shall be written with a company licensed to do business in the State of Tennessee and, to the extent practical and available, holding a financial rating of Class IX or better and a general policyholders rating of "A" or better by Best's Insurance Reports or other then comparable rating. The company shall agree to provide insurance certificates to each Unit Owner and Mortgagee upon request.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

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

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

Section 11.06 Other Required Insurance. In addition to the insurance required hereinabove, the Association shall obtain as a Common Expense the insurance set forth below, which insurance will be allocated to each Unit in accordance with the Percentage Interests appurtenant to each Unit as set forth on Exhibit "B" hereto:

(a) worker's compensation insurance if and to the extent necessary to meet applicable Legal Requirements;

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

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

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

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

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

Section 11.07 Liability Insurance Maintained by Unit Owners.

(a) Each Unit Owner shall obtain and thereafter continuously maintain in full force and effect for at least the entire term the Unit Owner owns the Unit general liability insurance with single limit coverage for injuries to a single person and damage to property of not less than Two Million Dollars ($2,000,000) for occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Unit or other portion of the Condominium which the Unit Owner has the responsibility to maintain.

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

Section 11.08 Insurance Requirements for Providers of Property Monitoring Services, Restaurants and Establishments Serving Alcoholic Beverages, and Waste Removal Companies.

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

(b) Restaurants and Establishments Serving Alcoholic Beverages. The Unit Owner or Occupant of any portion of a Unit which operates a business that serves alcoholic beverages for consumption on or off the Property to members of the public shall keep in force at all times a liquor liability insurance policy issued by responsible insurance companies licensed to do business in the State of Tennessee as will fully protect the Association, the Board of Directors and officers of the Association from and against claims of any and all persons for personal injury, death or property damage or loss

incurring in connection with the operation of such business. Such insurance shall have limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Three Million Dollars ($3,000,000) combined single limit per occurrence/aggregate.

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

(d) Coverage Requirements. If commercially reasonably available, the insurance required pursuant to this Section 11.08 shall: (i) provide that the policy may not be canceled or reduced in amount or coverage below the requirements hereof, without at least ten (10) days prior written notice by the insurer to the insured and to the additional insured; (ii) provide for severability of interests; (iii) provide that an act or omission of the insured or the additional insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other insured; and (iv) name each of the Association, the other Unit Owners, and the other Persons referenced above as an additional insured. All relevant Unit Owners to whom this Section 11.08 applies shall furnish the Association upon request with a certificate affirming that such insurance is in full force and effect, that the premiums have been paid in full, and that each of the provisions listed herein is included in the policy.

Section 11.09 Insurance Requirements for Contractors. All contractors or subcontractors who have access to the Property for the purpose of making repairs or improvements shall obtain and maintain such insurance, if any, as is reasonably required by the Association.

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

Section 11.11 Failure to Obtain Insurance. In the event that any Unit Owner fails to obtain insurance to be maintained by a Unit Owner pursuant to this Declaration, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of Specific Assessments under Article X hereof.

ARTICLE XII. REPAIR AND RECONSTRUCTION

Section 12.01 General. In the event of damage to or destruction of all or any part of the Property as a result of fire or other casualty, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the Property. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the damage and nothing in these documents shall be construed to afford a priority to any Unit Owner with respect to the distribution of proceeds to any such Unit.

Section 12.02 Cost Estimates. Promptly after a fire or other casualty causing damage to the Property, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Property (including any damaged Unit) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

Section 12.03 Source and Allocation of Proceeds. In the event that the net insurance proceeds available for reconstruction or repair are insufficient to satisfy all of the costs and expenses of reconstruction and repair, each of the Owners, to the extent the Owners have an interest in the Property affected by casualty, shall pay, and shall be obligated for, its applicable "**Insurance Shortfall Payment**", which shall be calculated as follows:

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

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

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

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

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

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

Section 12.04 Floor Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the Floor Plans and specifications under which the Building and other improvements on the Submitted Property was originally constructed to standard finish so as to exclude any upgrades made to Units, except where changes are necessary to comply with current applicable building codes or other Legal Requirements or where improvements not in accordance with the original Floor Plans and specifications are approved by the Board of Directors.

Section 12.05 Encroachments. Encroachments upon or in favor of the Units that may be created as a result of such reconstruction or repair (including, but not limited, as a result of requirements to comply with amended building code or other Legal Requirements) shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the Floor Plans and specifications under which the building and other improvements on the Submitted Property was originally constructed or later approved in accordance with this Declaration, except that commercially reasonable efforts shall be made to avoid any material or adverse effect of the encroachment upon the Unit subject to the encroachment. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

Section 12.06 Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association or the Insurance Trustee (as applicable) from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section to be disbursed by the Association in reasonably appropriate progress payments to such contractor(s), supplier(s) and personnel performing the work or supplying materials or services for the repair and reconstruction of the Condominium as are designated by the Board of Directors. No progress payments shall be disbursed until the Association has adopted procedures it deems reasonable and appropriate for the disbursement of such payments.

Section 12.07 Delegation. The Board of Directors shall have authority to delegate to any Unit Owner, subject to such conditions deemed appropriate by the Board, any of its rights and/or responsibilities in this Article XII related to the repair or reconstruction of a Unit in the event the damage to or destruction as a result of fire or other casualty of all or any part of such Unit Owner's Unit. In the event of such delegation, the Unit Owner shall perform such delegated duties in a manner consistent with this Article XII and subject to the conditions imposed by the Board.

Section 12.08 Insurance Trustee. Notwithstanding anything in this Article XII to the contrary, so long as either or both Units are secured by a Mortgage, proceeds of insurance maintained pursuant to

the terms of this Declaration shall be disbursed as provided in this Section 12.08. At all times that a Mortgage secured by a Unit is outstanding, the Board shall maintain an "**Insurance Trustee**," which shall be an Institutional Lender (defined below), designated by the Board. If required by any Mortgagee holding a Mortgage secured by a Unit, such Mortgagee will be the Insurance Trustee until its release of all Units from the lien of its mortgage and with respect to the Insurance Trustee, the Board will meet the most stringent requirements of any Mortgagee holding a Mortgage secured by a Unit. In the event there is more than one Mortgagee entitled to be the Insurance Trustee under the terms of the applicable Mortgage, (i) if only one Unit is affected by such casualty or condemnation (taking into consideration any damage or taking of any Common Elements which benefit the Units), the Insurance Trustee shall be the Mortgagee of such Unit and (ii) if more than one Unit is affected by such casualty or condemnation (taking into consideration any damage or taking of any Common Elements which benefit the Units), the Insurance Trustee will be the Mortgagee of the Hotel Unit (or, if there is more than one Mortgage of the Hotel Unit, the Mortgagee whose Mortgage is the highest priority) or if there is no Mortgagee of the Hotel Unit, the Board will designate the Insurance Trustee from among such Mortgagees. "**Institutional Lender**" means a savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually, as a trustee, as a servicing agent or in a fiduciary capacity), a private pension fund, a credit union or a credit company, an insurance company, a religious educational or eleemosynary institution, a federal, state or municipal employee's welfare, benefit, pension or retirement fund, any governmental agency or entity insured by a governmental agency, any brokerage or investment banking organization (or an affiliate thereof), whether acting in its own capacity or on behalf of its clients, any real estate mortgage investment conduit or similar investment vehicle, or any combination of persons that would otherwise constitute Institutional Lenders; provided however: (i) a person (other than a real estate mortgage investment conduit or similar investment vehicle) will not constitute an Institutional Lender unless such person has net assets of at least one hundred million dollars ($100,000,000); and (ii) Institutional Lender shall also include any person who is generally recognized in the capital markets as an institutional lender. Notwithstanding the foregoing, any Institutional Lender may designate an agent or a loan servicer to be the Insurance Trustee.

Insurance proceeds and awards from any condemnation received in excess of two million and no/100 dollars ($2,000,000.00) will be payable to the Insurance Trustee (if a lesser amount is received it will be paid over the Board) for the benefit of all Owners and their Mortgagees with respect to the portion thereof allocated to the Units. To the extent required under the Mortgage, a Mortgagee holding such Mortgage secured by a Unit will have the right to participate in any adjustments regarding loss or damage to Units secured by such Mortgage and the Common Elements and no such adjustment will be made without the consent of such Mortgagee.

All monies actually received by the Insurance Trustee (the "**Trust Funds**") will be held in trust for: (i) the benefit of all Owners, with respect to the portion thereof allocated to the Common Elements, (ii) for the benefit of the Garage and Retail Unit Owner and its Mortgagee with respect to the portion thereof allocated to the Garage and Retail Unit and the Limited Common Elements which serve exclusively the Garage and Retail Unit, and (iii) for the benefit of the Hotel Unit Owner and its Mortgagee with respect to the Hotel Unit and the Limited Common Elements which serve exclusively the Hotel Unit.

To the extent required under a Mortgage, a Mortgagee holding such Mortgage secured by a Unit will have the right to participate in any adjustment regarding loss or damage to the Common Elements

and the section of the Building in which the Unit secured by such Mortgage is located and no such adjustment will be made without the consent of such Mortgagee.

The Insurance Trustee will disburse the Trust Funds to the contractors engaged in the work in appropriate progress payments subject to reasonable conditions which include appropriate lien waivers.

ARTICLE XIII. ARCHITECTURAL CONTROLS.

Section 13.01 Alterations to a Unit.

(a) Except as otherwise provided in this Declaration, each Owner shall be expressly permitted to make and/or permit architectural changes, alterations and improvements to be made to the interior portions of its respective Unit (including changes which are visible from the exterior of the Unit) without the approval of the Reviewing Owner, provided that the same do not:

(i) adversely affect the structural integrity of any portion of the Building;

(ii) adversely affect any shared Building Systems, Life-safety Systems, or the Property Monitoring and Access Systems; or

(iii) violate this Declaration or any rules and regulations adopted by the Board of Directors from time to time.

(b) Notwithstanding anything to the contrary stated herein, without first obtaining the prior written approval of the Reviewing Owner (which approval shall not be unreasonably withheld, conditioned or delayed), no Owner may make any alteration to or within a Unit that

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

(ii) makes any material change, addition, alteration or construction (including painting) to the exterior of the Garage and Retail Unit or the Hotel Unit;

(iii) involves connecting to or relocating Common Element pipes, lines, conduits and/or other apparatus for access to common utilities that are located outside of the Unit boundaries (provided, however, an Owner shall not relocate or make any connection to a Common Element pipe, line, conduit and/or other apparatus for access to common utilities if such connection will impair or have an adverse effect to the utilities or service of utilities to another Unit or any portion of another Unit);

(iv) places an excessive load on any structural or load bearing portions of a Unit; or

(v) requires penetration of any Common Element concrete slab, concrete column, or other concrete portion of the structure of the Building that would compromise or adversely affect the structural integrity of such Common Element or any other part of the Building.

(c) The Reviewing Owner shall not grant approval unless the Owner of the Unit for which the change is being requested has presented to the Reviewing Owner such information as the Reviewing Owner may reasonably require, which may include, but shall not be limited to, the following documentation: (i) a report or drawing prepared and certified by a structural engineer licensed in the State of Tennessee, which report or drawing shall demonstrate that such proposed interior modifications will not in any way affect or impair the structural soundness or integrity of the Building or any of the Units; (ii) plans for the proposed modifications; and (iii) a certificate of insurance from applicant's contractor, which names the Association and the Owner of Unit as additional insureds. In addition, the Reviewing Owner may require that, within thirty (30) days of completion of the interior modifications, the Reviewing Owner shall be provided with a copy of the certificate of occupancy (if applicable) and an inspection report prepared and certified by a structural engineer licensed in the State of Tennessee.

(d) Furthermore, if alterations to the interior of a Unit require the penetration of the concrete floor, ceiling slab, roof or roof membrane, the requesting Owner shall also provide the Reviewing Owner, upon its request, with a report prepared and certified by a structural engineer licensed in the State of Tennessee confirming that an x-ray analysis or other analysis acceptable to the Reviewing Owner has been performed for the purposes of verifying that such penetration of the concrete floor or ceiling slab will not impair the structural integrity of such concrete floor or ceiling slab or result in the severing of any structural post-tension system. In addition, the requesting Owner must comply with all building code requirements and secure necessary permits and approvals for any interior modifications.

(e) If Reviewing Owner has any objection to the alterations proposed by requesting Owner, the Reviewing Owner shall submit written notice of such objections to the requesting Owner within thirty (30) days of receipt of all documentation required by subdivision (b) hereof, which notice shall specify in detail the nature of Reviewing Owner's objections to the proposed alterations and propose changes to the alterations which are agreeable to the Reviewing Owner. If the objections are not submitted in writing within thirty (30) days, the proposed alterations shall be deemed approved. If the Reviewing Owner submits objections, the requesting Owner and Reviewing Owner shall thereafter work in good faith to come to an agreement on the nature and scope of the proposed alterations. If the parties cannot agree upon the nature and scope of the alterations within thirty (30) days following Reviewing Owner's submission of objections, either party may elect by written notice to the other to submit the matter to a Review Professional with expertise appropriate to the nature of Reviewing Owner's objections. If the parties cannot come to an agreement on a Review Professional within ten (10) days, each party shall appoint a Review Professional within ten (10) days thereafter, and the two (2) Review Professionals appointed by the Owners shall appoint a third (3rd) professional within ten (10) days of their appointment. The Review Professional(s) shall review the proposed alterations for consistency with the first-class quality, appearance and design of the Building in terms of the materials used, their arrangement in space, their relationship and consistency with the existing Building and their quality; and harmony with the external design of other structures in the vicinity of the Condominium, and shall render a decision on whether the proposed alterations are acceptable within twenty (20) days of appointment. The decision of the Review Professional, or a majority of the Review Professionals, as the case may be, shall be final. If a single Review Professional is appointed, the parties shall each pay one-half (1/2) the Review Professional's cost. Otherwise, each Owner shall bear the cost of the Review Professional it

appoints, and one-half the cost of the third (3rd) Review Professional.

Section 13.02 Signs and Flags.

(a) General. Except as may be provided for herein or as may be required by legal proceedings, no signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies shutters of any kind, or other similar items visible from the exterior of a Unit shall be erected, placed or permitted to remain on the Condominium (except for such items existing as of the Effective Date, or replacements thereto) without the prior written consent of both Owners. The Board shall have the right to erect reasonable and appropriate signs or lighting of any kind on the Common Elements on behalf of the Association. Notwithstanding the foregoing, the placement and design of signage on the Hotel Unit and Garage and Retail Unit set forth in Exhibit "E" hereto are hereby approved, and substantially similar replacement thereof shall automatically be deemed approved.

(b) Signage Bands. An Owner of a Unit, on behalf of itself or its Permittees, shall be permitted to place signage on any signage band allocated to such Unit, subject to the following conditions:

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

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

(iii) No signage shall contain, consist of, or include flashing lights, moving parts, or audible sounds (other than sounds attendant to the operation of such sign); and

(iv) The Owner of the Unit to which the signage band is allocated shall maintain, repair, and replace all signage or other improvements within such signage band.

(c) Grandfathered. Notwithstanding anything to the contrary stated herein, any and all signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies or shutters that are approved by Reviewing Owner shall be deemed to be "grandfathered" and shall not be removed without the written consent of the benefited Unit Owner or Occupant of a Unit.

Section 13.03 Encroachments onto Common Elements. The Board of Directors, subject to this Article XIII, may permit Owners to make encroachments onto the Common Elements and enclosures of same as it deems acceptable, in its reasonable discretion; provided, however, all encroachments that exist as a result of the existing construction shall be deemed to be permitted.

Section 13.04 Subdivision of a Unit. An Owner shall not subdivide such Owner's Unit without the prior written consent of the other Owner(s). In the event of subdivision made with the prior written consent of the other Owner(s), the Percentage Interests described on Exhibit "B" shall be proportionately

re-allocated among the subdivided Units. Furthermore, no Unit shall be submitted to an additional declaration of condominium to create a new condominium as provided in Section 66-27-322.

Section 13.05 Relocation of Boundaries.

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

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

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

Section 13.06 Applications.

(a) Applications for approval required hereunder shall be in writing and shall provide such information as the Reviewing Owner may reasonably require including, but not limited to, the documentation described in Section 13.02. Once an application and all required information is received by the Reviewing Owner, the Reviewing Owner shall stamp the application as being complete, and shall then forward to the applicant a written notice of application completion (the "**Notice of Application Completion**"). The Reviewing Owner shall be authorized to retain an engineer, architect or other consultant to review such application and related documentation and plans, and all reasonable, out-of-pocket costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the Reviewing Owner until such time as all costs and expenses related to the review of an application have been paid by the applicant. The Reviewing Owner shall be the sole arbiter of such application and may withhold approval for any reasonable reason, including purely aesthetic considerations, materials to be used, harmony with the external design of the Building and other structures that may be located on the Submitted Property, and it shall be entitled to stop any construction that does not conform with approved plans.

(b) If the Reviewing Owner or its designated representative fails to approve or to disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, its approval will not be required and this Section will be deemed complied with; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is in violation of this Declaration, Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable building codes, zoning

or other laws.

Section 13.07 Condition of Approval. As a condition of approval for a requested architectural modification, a Unit Owner, on behalf of itself and its successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such modification. In the Reviewing Owner's discretion, a Unit Owner may be required to verify such condition of approval by written instrument in recordable form acknowledged by such Unit Owner. The Reviewing Owner also may establish such other reasonable conditions of approval as it determines necessary or appropriate, including reasonable construction commencement and completion times.

Section 13.08 Limitation of Liability. Review and approval of any application hereunder may be made on any basis, including solely the basis of aesthetic considerations only and neither the Reviewing Owner, Association, nor the Board shall bear any responsibility for ensuring the design quality, structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes, zoning regulations and other governmental requirements. Neither the Association, the Board of Directors, the Reviewing Owner, nor members of the foregoing, shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications.

Section 13.09 No Waiver of Future Approvals. Each Unit Owner acknowledges that the Reviewing Owner will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Approval hereunder shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whenever subsequently or additionally submitted for approval or consent.

Section 13.10 Enforcement. Any construction, alteration or other work done in violation of this Article XIII shall be deemed to be nonconforming. Upon written request from the Association or the Reviewing Owner, a Unit Owner shall, at his/her/its own cost and expense, promptly remove or cause the removal of any non-conforming construction, alteration or other work and shall restore the property to substantially the same condition as existed prior to the non-conforming construction. Should the Unit Owner fail to do so, the Association or its designees shall have the right to enter the property and do so. All costs thereof, including reasonable attorneys' fees actually incurred, shall be an assessment and lien against such Unit Owner. In addition, the Association may impose a fine in accordance with Article XVII hereof. Moreover, if any Unit Owner or Occupant makes any change, alteration or construction (including landscaping) upon the Common Elements in violation hereof, such Unit Owner or Occupant does so at that Unit Owner's or Occupant's sole risk and expense and subject to possible removal by the Association at any time. The Board may require that the change, alteration or construction remain on the Common Element without reimbursement to the Unit Owner or Occupant for any expense incurred in making the change, alteration or construction.

Section 13.11 Standards of Reconstruction and Maintenance. Any construction (which work, as used in this Section shall include, without limitation, the reconstruction of the improvements on the Submitted Property and any alterations, restoration, maintenance, repair, modernization, expansion, demolition, razing of existing improvements on the Submitted Property) which shall or may be performed by the Unit Owner of any Unit shall be subject to and performed in accordance with the following

requirements and standards:

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

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

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

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

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

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

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

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

(e) The Unit Owner will at all times:

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

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

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

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

ARTICLE XIV. USE RESTRICTIONS

Section 14.01 Use of the Units. All portions of the Units may be used for such purposes that are lawful and permitted by applicable zoning ordinances and other Legal Requirements and shall be subject to all of the use restrictions set forth in this Declaration. Notwithstanding the foregoing, no activity shall be conducted on any portion of the Units that constitutes a public or private nuisance or hazard or threatens the life-safety of other Unit Owners or Occupants of the Condominium, as may be determined in the reasonable discretion of the Board of Directors. Further, and not in limitation of the prohibitions set forth in Section 14.02 below, the Garage and Retail Unit may not be utilized as any type of (a) hotel, motel, timeshare, transient use, short term rental or any other type of hospitality or lodging use or (b) residential use without the unanimous consent of the Board of Directors.

Section 14.02 Prohibited Uses. Notwithstanding anything to the contrary in this Declaration, no part of the Condominium may be used for any of the following purposes:

(a) bowling alley;

(b) video game room, amusement gallery, shooting gallery, carnival, or amusement arcade;

(c) pool hall;

(d) massage parlor, except for day spas which are part of the Hotel Unit or otherwise approved by the Board of Directors;

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

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

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

(h) facilities used for the operation of any liquor store, package store, or other store primarily selling and/or manufacturing alcoholic beverages (except this restriction shall not apply to bars, wine bars, brewpubs, in-room mini bars, sales of alcoholic beverages from the hotel store, and similar facilities offering beer, wine, and/or liquor operated in the Hotel Unit);

(i) tattoo parlor;

(j) funeral home or store selling caskets;

(k) mortuary;

(l) automotive supplies and parts;

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

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

(o) industrial operation;

(p) processing or rendering plant;

(q) central laundry, dry cleaning plant or laundromat (except this prohibition shall not include any dry cleaning service only providing for pick-up and drop-off and not performing any cleaning on premises or laundry operations operated by guest room housekeeping in connection with the Hotel Unit operations in the ordinary course of business);

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

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

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

(u) auditorium, meeting hall, church, or other house of worship (except this restriction shall not apply to the meeting rooms in the Hotel Unit);

(v) dance or music hall, "disco", nightclub, or discotheque (except this restriction shall not prohibit private events featuring dancing and music in the Hotel Unit);

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

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

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

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

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

Section 14.03 Rubbish, Trash, and Garbage. Each Owner shall regularly remove all rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for removal from such Limited Common Elements) and no Owner shall allow rubbish, trash, and garbage to accumulate therein. No garbage or trash shall be placed on the Common Elements, temporarily or otherwise, except in trash chutes, trash compactors, or trash facilities designated by the Association. Each Owner shall dispose of rubbish, trash, and garbage from such Owner's Unit and any Limited Common Elements exclusively allocated to such Unit (unless the Association has assumed responsibility for such disposal from such Limited Common Elements) in sealed bags and either place such in the trash chutes, trash compactors, or other designated trash facilities designed for collection or remove such from the Property.

Section 14.04 Ventilation of Cooking Apparatus. Unless otherwise approved in writing by the Board of Directors, cooking exhaust from cooking apparatus located within the any Unit must be filtered through a commercially designed exhaust system and vented through vents that exit through (a) the exterior walls of the applicable Unit or (b) roof of the Building; provided, however, in no event shall the Garage and Retail Unit filter any exhaust through the roof of the Hotel Unit (i.e., the roof of the 12th floor of the Building).

Section 14.05 Limitation of Damage, Nuisance, Noise, and Vibration.

(a) Without the prior written consent of the Board of Directors, nothing shall be done or kept by any individual on the Property, or any portion thereof that would be in violation of any Legal Requirements or materially increase the Common Expenses.

(b) Furthermore, except to the extent permitted above in this Section and except for the prior written consent of the Board of Directors:

(i) noxious, destructive or offensive activity shall not be carried on within any portion of the Property; and

(ii) no Owner or its Permittees may use or allow the use of the Unit or any portion of the Property at any time, in any way or for any purpose which may endanger the health, unreasonably disturb other Owners or Occupants, or in such a way as to constitute, in the reasonable discretion of the Board of Directors, a public or private nuisance.

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

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

Section 14.06 Use of Limited Common Elements. Except as otherwise provided herein, the use of the Limited Common Elements allocated to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are allocated, and said Unit Owner's Permittees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, except as expressly stated otherwise.

Section 14.07 Abandoned Personal Property. Personal property, other than vehicles as permitted herein, shall not be kept, or allowed to remain upon any portion of the Common Elements, other than on a Limited Common Element, without prior written consent of the Board of Directors. If the Board determines that a violation exists, then, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The Board shall send the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed. Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 14.08 Pest Control. Each Owner of a Unit shall have regular extermination of insects, pests, and vermin performed in the Unit. If, in the Board's reasonable discretion, any Owner fails to adequately address any pest control issues, the Board may hire an exterminator to address the pest control issues, and the cost of any implemented pest control measures shall be a Specific Assessment levied against the applicable Owner.

Section 14.09 Limitations on Use of Certain Shared Rooms. Certain Common Element rooms, such as the mechanical and electrical rooms, are designed to be and shall be kept locked at all times when a natural person is not physically in the room. Neither Owner shall disturb the other owner's equipment in such shared rooms. Each Owner may replace or add to its equipment in such rooms provided that it does not impair access to such room, materially and adversely affect the equipment of the other Owner or prevent the other Owner from expanding in a similar matter.

Section 14.10 No Smoking. No smoking (including the use of any form of e-cigarette, electronic cigarette, personal vaporizer or electronic nicotine delivery system which produces smoke or vapor) shall be permitted in the Condominium (including the interior of a unit) except in areas, if any, designated by the Association. An Owner or Occupant shall not be deemed to be in breach of this Declaration if any Permittee of such Owner or Occupant smokes if the Owner or Occupant has made and consistently makes commercially reasonable efforts to prohibit smoking in the Unit, or portion thereof, of such Owner or Occupant.

ARTICLE XV. MAINTENANCE AND SERVICE RESPONSIBILITY

Section 15.01 Maintenance By Unit Owner. Except in the event of casualty or condemnation or as otherwise expressly provided in this Declaration, each Owner shall operate and fully maintain, repair and, when necessary, replace, at its cost and expense, all portions of such Owner's Unit, and all areas that Owner has agreed to operate, maintain, repair and replace elsewhere in this Declaration, so that the same are at all times in good order, condition and repair in a first-class manner consistent with property of similar stature to that of the Unit in the Nashville, Tennessee metropolitan area. In furtherance of the foregoing, the Garage and Retail Unit shall be operated and maintained in a first-class manner, at Garage and Retail Unit Owner's sole cost and expense, similar to garages serving similar hotels in the Nashville, Tennessee market, and the Hotel Unit and improvements made available and intended for the exclusive use and enjoyment of guests of the Hotel Unit, wherever located on the Property, shall be maintained in a first-class manner, at Hotel Unit Owner's sole cost and expense.

The foregoing obligation by each Owner to operate, maintain, repair and, when necessary, replace, shall include, without limitation: (i) keeping all portions of the Unit and any Limited Common Element serving such Unit in a clean, orderly and sanitary condition; (ii) removing, to the extent practicable, snow, ice and surface waters; and (iii) keeping all marking and directional signs, if any, within the Unit clear, distinct and legible. Without limiting the foregoing, but in supplementation thereof, unless otherwise provided herein, any and all decorative fascia, canopies, awnings, signage, flags, banners and similar items that are located on or attached to a Unit shall be maintained, repaired and replaced at the sole cost of the Owner of such Unit. Notwithstanding anything to the contrary stated herein, the Owners shall be permitted to enter into an agreement separate from this Declaration to provide for the sharing of all or part of the responsibility and costs of operation, administration, and maintenance of the Owners' Units and Limited Common Elements allocated to such Units.

Section 15.02 Maintenance By Association. The Association shall operate and fully maintain, repair and, when necessary, replace, the following:

(a) all Common Elements, including Limited Common Elements other than the improvements to and on the roof and balconies of the Building (if any) intended for the use and benefit of

guests of the Hotel Unit, which shall be maintained by the Hotel Unit Owner, provided, however, the costs of such Limited Common Elements maintained by the Association shall be assessed against the Owner(s) of the Unit(s) to which such Limited Common Elements are allocated as Specific Assessments;

(b) all Building Systems (subject to the limitations more specifically set forth in Section 15.03 below); and

(c) all Life-safety Systems (subject to the limitations more specifically set forth in Section 15.04 below).

Subject to the maintenance responsibilities herein provided, and except as provided to the contrary herein, including without limitation, the provisions provided to the contrary of Section 17.04 below concerning self-help, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

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

Section 15.03 Building Systems. As to the Building Systems (excluding Life-safety Systems, which are covered under Section 15.04 below), to the extent portions thereof service solely an individual Unit and are thereby part of such Unit, the Owner of the Unit being so served shall be solely responsible for maintaining, repairing and replacing those portions of such Building Systems at its expense. To the extent portions of the Building Systems service more than one (1) Unit or the Common Elements, such Building Systems shall be maintained, repaired and replaced by the Association. Notwithstanding anything to the contrary stated herein, the Association may, at its sole expense and without need for a membership vote or consent of any affected Owner, relocate any portion of the Building Systems serving a particular Unit or Units, provided that after such relocation, the Building Systems serving the Unit or Units functions at least as well and at no greater cost to the Owner as existed prior to the relocation and

does not materially interfere with or impair the use or occupancy of the Unit. In performing any such relocation work, the association shall provide reasonable prior notice to any affected Owner and shall not materially interfere with the business operations of a Unit or reasonable access to or from a Unit.

Section 15.04 Life-safety Systems. As to the Life-safety Systems, to the extent portions thereof service solely an individual Unit, the Owner of Unit being so served shall be solely responsible for maintaining, repairing and replacing those portions of such facilities at its expense. To the extent portions of the Life-safety Systems service more than one (1) Unit or the Common Elements, such facilities shall be maintained, repaired and replaced by the Association. Notwithstanding anything to the contrary herein, each Owner, at its cost and without reimbursement from the other Owners, shall be responsible for the maintenance, repair and replacement of (i) sprinkler heads located in its Unit, as well as all branch and feed lines that exclusively support such heads, wherever located; provided, however, that such portion of such branch and feed lines located within party walls, levels and ceilings, if any, shall be maintained, repaired and replaced by the Owners of the adjoining Units; and (ii) all fire control devices (such as smoke detectors and call boxes) located in its Unit. The Association shall, as frequently as reasonably appropriate for similar facilities (but in no event less frequently than annually) and at its cost (but subject to reimbursement as a Common Expense), engage a firm to thoroughly test the Life-safety Systems and issue reports respecting same, copies of which shall be promptly furnished to all Owners. The Owners agree to cooperate and communicate with each other in respect of the testing, reconfiguration, disengagement (while repairs or reconfiguration are on-going) and alarms of the Life-safety Systems, with a view toward minimizing interruption and disruption to the Occupants of the Condominium, and maximizing the prompt dissemination of information regarding emergency situations.

Section 15.05 Failure to Maintain. Notwithstanding the foregoing obligations to maintain, repair and replace, if any Unit Owner or those claiming by, through or under it, abuses, misuses or fails to operate, maintain, repair or replace in the manner provided in this Declaration any item for which it is responsible hereunder or otherwise creates a situation in any portion of the Property with respect to which non-exclusive easements and licenses have been granted by this Declaration such that said areas require maintenance, repair or replacement in excess of what would be required by normal use of said areas for their intended purposes, the Unit Owner causing the excess use shall be responsible for the excess costs of operating, maintaining, repairing and replacing said areas. Without limiting the foregoing, the Association shall also have the right to exercise self-help as provided in Section 17.04. Each Unit Owner shall maintain and promptly upon request, from time to time, make available to any other Unit Owner maintenance records for its Unit with respect to which easement rights exist under this Declaration. As to any items (such as exterior painting) that require coordination or cooperation as to timing, materials, payment or the like, the parties shall be reasonable in so cooperating and coordinating.

Section 15.06 Exterior Glass Surfaces and Doors.

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

(b) Each Owner shall be responsible for the interior and exterior cleaning of the glass surfaces that are part of or appurtenant to such Owner's Unit.

Section 15.07 Mold Disclosure and Waiver.

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

(b) WHEN EXCESSIVE MOISTURE OR WATER ACCUMULATES INDOORS, MOLD GROWTH CAN AND WILL OCCUR, PARTICULARLY IF THE MOISTURE PROBLEM REMAINS UNADDRESSED. THERE IS NO PRACTICAL WAY TO ELIMINATE ALL MOLD IN AN INDOOR ENVIRONMENT. THE KEY TO CONTROLLING INDOOR MOLD GROWTH IS TO CONTROL MOISTURE. EACH OWNER SHALL MAINTAIN THEIR RESPECTIVE UNITS IN SUCH A MANNER AS TO REDUCE THE POTENTIAL FOR INCREASED MOLD FORMATION OR GROWTH, INCLUDING, WITHOUT LIMITATION, MAINTAINING AND REPAIRING ALL HEAT, VENTILATION, AND AIR CONDITIONING SYSTEMS SERVING SUCH OWNER'S UNIT IN GOOD CONDITION AND USING AND OPERATING SUCH SYSTEMS AT REASONABLE LEVELS, KEEPING VENTS AND/OR FANS CLEAR AND FUNCTIONING AND PREVENTING AND REPAIRING PLUMBING, WINDOW AND OTHER LEAKS AND SOURCES OF MOISTURE. EACH OWNER SHALL CONDUCT PERIODIC INSPECTIONS OF THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, FOR THE PRESENCE OF MOLD OR CONDITIONS WHICH MAY INCREASE THE ABILITY OF MOLD TO PROPAGATE WITHIN THE UNIT OR OTHER PORTIONS OF THE CONDOMINIUM. FURTHERMORE, EACH OWNER SHALL MONITOR THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO

MAINTAIN, ON A CONTINUAL BASIS FOR EXCESSIVE MOISTURE, WATER OR MOLD ACCUMULATION. IF WATER OR MOISTURE IS DISCOVERED IN OR AROUND SUCH AREAS, THE OWNER SHALL IMMEDIATELY SEEK TO ELIMINATE THE SOURCE OF THE WATER OR MOISTURE. FAILURE TO ELIMINATE THE SOURCE OF MOISTURE CAN RESULT IN ADDITIONAL DAMAGE AND THE GROWTH OF MOLD, AND DECLARANT SHALL NOT BE RESPONSIBLE FOR SUCH DAMAGES. EACH OWNER, BY TAKING TITLE TO A UNIT, HEREBY WAIVES ALL RIGHTS TO DAMAGES AND SUBROGATION OF DAMAGES RESULTING FROM MOLD IN THE UNIT. EACH OWNER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT AND THE ASSOCIATION FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, COSTS, EXPENSES AND LIABILITIES, INCLUDING ALL CASES OF PERSONAL INJURY OR PROPERTY DAMAGE, CAUSED BY THE PRESENCE OF MOLD AND/OR WATER OR MOISTURE IN THEIR RESPECTIVE UNITS, ANY LIMITED COMMON ELEMENTS APPURTENANT TO THEIR UNITS, AND ANY OTHER PORTION OF THE CONDOMINIUM FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, TO THE EXTENT THAT THE DAMAGES ARE CAUSED BY: (I) THE OWNER'S NEGLIGENCE OR FAILURE TO PROPERLY MAINTAIN AND MONITOR SUCH AREAS; OR (II) THE OWNER'S FAILURE TO PROMPTLY TAKE APPROPRIATE CORRECTIVE MEASURES AND MINIMIZE ANY DAMAGE CAUSED BY WATER OR MOISTURE (INCLUDING, WITHOUT LIMITATION, FAILURE TO PROMPTLY NOTIFY AND ENGAGE THE HELP OF APPROPRIATE PROFESSIONALS OR EXPERTS).

Section 15.08 Association Inspection Obligations.

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

(b) Inspection Responsibilities. The Association may, from time to time, provide certain maintenance criteria, maintenance manuals, and warranty requirements for the Building (collectively, the "**Master Maintenance Manual**"). The inspectors shall inspect component parts of the Condominium in accordance with any Master Maintenance Manual. The Association shall update any Master Maintenance Manual on a regular basis. The Association shall be responsible for meeting all requirements under any such Master Maintenance Manual.

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

(d) Notice to Declarant. For a period of ten (10) years after the conveyance of the last Unit in the Condominium, or any portion thereof, to a Unit Owner other than Declarant or its affiliates, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice

of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

Section 15.09 Unit Owner Inspection Rights. Each Unit Owner shall have the right, but not the obligation, to inspect the physical condition and operation of the Building Systems and Life-safety Systems. In conjunction with such right, each Unit Owner shall have a non-exclusive easement to enter any portion of the Property necessary to facilitate such inspection, provided, however, a Unit Owner desiring to access another Unit shall provide written notice to the applicable Unit Owner at least three (3) business days before desiring entry to the Unit (except in the event of an emergency in which case no advance notice shall be required), and the accessing Owner shall use best efforts to ensure its entry does not disrupt the normal business operations in the Unit.

ARTICLE XVI. MORTGAGEE RIGHTS

Section 16.01 Consent Required. Unless both Owners and their respective first Mortgagees give their consent, the Association or the membership shall not:

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

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

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

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

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

Section 16.02 Assessments. Where a Mortgage Holder obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit that became due prior to such acquisition of title unless provided otherwise in the Act. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Unit Owners of all the Units, including such Mortgage Holder, its successors and assigns. Additionally, such Mortgage Holder shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

Section 16.03 Notices. Upon written request to the Association, identifying the name and address

of the Mortgage Holder and the Unit, any Mortgage Holder will be entitled to timely written notice of the following:

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

(b) any delinquency in the payment of assessments or charges owed by a Unit Owner of a Unit subject to a first Mortgage held by such Mortgage Holder which remains unsatisfied for a period of thirty (30) days and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within thirty (30) days;

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

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

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

(f) any proposed termination of the Condominium.

Section 16.04 Duplicative Notices. Upon written request to the Association, identifying the name and address of the Mortgage Holder and the Unit, a Mortgage Holder shall be entitled to receive any and all written notices that are sent by the Association to the Unit Owner of the Unit in which the Mortgage Holder has a security interest.

Section 16.05 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Unit Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of the Condominium.

Section 16.06 Notice to Association. Upon request, each Unit Owner shall be obligated to furnish to the secretary of the Association the name and address of any Mortgagee encumbering such Unit Owner's Unit.

Section 16.07 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's written request, provided that all written requests by the Board are delivered to the Mortgagee by certified or registered mail, return receipt requested or by Permitted Overnight Delivery.

Section 16.08 Cure Rights. Any Mortgagee shall have the right, but not the obligation, at any

time prior to the termination of the Condominiums Instruments, and without payment of any penalty, to do any act or thing required by the Condominium Instruments of any Unit Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee; and to do any act or thing which may be necessary or proper to be done in the performance and observance of the agreements, covenants and conditions hereof. All payments so made and all things so done and performed by any Mortgagee shall be deemed the same as if would have been made, done and performed by any Unit Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee hereto instead of by said Mortgagee.

Section 16.09 No Invalidity of Mortgage Lien. No violation of the Condominium Instruments, by, or enforcement of the Condominium Instruments against, any party shall impair, defeat or render invalid the lien of any Mortgage.

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

ARTICLE XVII. DEFAULT AND REMEDIES

Section 17.01 Remedies Cumulative. The remedies set forth in this Article XVII for breach of the provisions set forth in the Condominium Instruments shall be in addition to and not in substitution for any other remedies available to any Unit Owner or the Association for breach of the Condominium Instruments set forth in this Declaration or available at law, in equity or otherwise, all of which are intended to be cumulative.

Section 17.02 Authority and Enforcement. The Property shall be used only for those uses and purposes set out in this Declaration. Every Owner and its Permittees shall comply with this Declaration, Bylaws and rules and regulations promulgated and adopted by the Association and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one (1) or more aggrieved Owners, to take action to enforce the terms of this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association. The Board of Directors shall have the power to impose reasonable fines, which fines shall constitute a lien upon the Unit Owner's Unit for violation of any duty imposed under this Declaration, the Bylaws or any rules and regulations promulgated and adopted by the Association; provided, however, nothing herein shall authorize the Association or the Board to limit the voting rights of the Owners. In the event that any Owner of a Unit violates this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association and a fine is imposed, notice of such violation shall be sent to such Owner and the fine shall be an assessment and a lien against the Unit until paid. The failure of the Board to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 17.03 Fining and Suspension Procedure. The Board shall not impose a fine unless and until the Association has sent or delivered written notice to the violating Owner as provided in this Section 17.03. Any such fine or fines may be effective or commence upon the sending of a Notice of Uncured Violation as set forth in Section 17.03(b) below or such later date as may be set forth in such Notice of Uncured Violation, notwithstanding the violator's right to request a hearing before the Board to

challenge such fine or fines under Section 17.03(c) below.

(a) Notice to Cure. If any provision of this Declaration or the Bylaws or any rule or regulation of the Association is violated, the Board shall send the violating Unit Owner a written notice to cure (the "**Notice to Cure**") identifying the violation(s) and fine(s) to be imposed in the event that the violation(s) is not fully cured by the end of the "**Cure Period**", which shall be: (i) ten (10) business days, if the violation can be cured or remedied solely by the payment of money; or (ii) thirty (30) days, as to any other violation; provided, however, that (A) in the case of an emergency involving either imminent danger of personal injury or imminent danger of material damage to property or the interruption of utility services or other critical services to any Unit, the Cure Period shall be such time as is reasonably necessary in light of the circumstances if curative action is promptly commenced and (B) except in the case of such an emergency, if the nature of the failure is such that it is not subject to cure or remedy solely by the payment of money and if the failing Unit Owner has commenced appropriate curative action prior to the expiration of the Cure Period and thereafter has diligently pursued the completion of such cure and is continuing to do so, then the Cure Period shall be extended for such additional period of time, but not more than sixty (60) days, as shall be required to cure such failure with appropriate, diligent and continuous action. Nothing contained in this Section 17.03(a) shall be construed to give rise to any default on the part of any Owner under this Declaration based on any interruption of utility services or other critical services if the cause or cure of such interruption is not within the reasonable control of such Unit Owner.

(b) Failure to Cure After Notice. If the violating Unit Owner fails to timely cure the violation(s) specified in the Notice to Cure, the Board shall send the violating Unit Owner a written "**Notice of Uncured Violation**" identifying the uncured violation(s) and the fine(s) being imposed and further advising the violating Unit Owner of the right to request a hearing before the Board to contest the violation(s) or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence seven (7) days from the date on which the violating Unit Owner receives said written Notice of Uncured Violation or such later date specified in such Notice of Uncured Violation, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, fines may be imposed by the Association for each day the violation continues or occurs again up to the maximum amount set forth in Section 17.03(d) below without further notice to the violating Unit Owner.

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

(d) Maximum Fine. The Board of Directors on behalf of the Association may impose a fine in an amount not to exceed Five Hundred Dollars ($500.00) per day for any one violation of this Declaration or the Bylaws or any rule or regulation of the Association, up to a maximum amount of Ten Thousand Dollars ($10,000) for any one (1) continuing violation of this Declaration or the Bylaws or any rule or regulation of the Association. Under no circumstance shall this maximum fine provision limit or prevent the Association from pursuing all other legal and equitable remedies available to enforce the provisions of this Declaration.

Section 17.04 Self-Help Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of this Declaration, the Bylaws or the rules and regulations promulgated and adopted by the Association by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 17.03 above, but with the obligation to comply with the procedures set forth in this Section and in Section 17.05 below. In any such action, to the maximum extent permissible, the violating Unit Owner shall pay all costs, including reasonable attorneys' fees actually incurred. If the Association intends to exercise self-help rights, the Association or its duly authorized agent shall send a written notice to the violating Unit Owner giving such violating Unit Owner not less than ten (10) days within which to cure such violation (except in the event of an emergency in which case the requirement of ten (10) days written notice shall not apply and shall be waived). Such notice shall describe the violation and the violating Unit Owner's obligations under this Declaration in reasonable detail and request that the violating Owner thereafter diligently commence and continue the actions necessary to cure such violation.

Section 17.05 Conditions of Self-Help Rights. The right of the Association or its duly authorized agent to perform any work under the foregoing Section 17.04 shall be subject to the following conditions and requirements:

(a) In addition to the ten (10) days' notice required by Section 17.04, not less than five (5) days prior written notice shall be given to the violating Owner (except in the event of an emergency in which case the requirement of notice shall not apply and shall be waived) that the Association or its duly authorized agent anticipates performing such work, together with notification of the proposed scope and location of such work and the anticipated date of start and completion of such work.

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

(c) Such work shall be diligently pursued to completion and, upon completion, the Association or its duly authorized agent shall, subject to the work described in Section 17.04 above, restore the relevant portion of the violating Unit Owner's Unit as closely as is practicable to the condition that existed immediately before the commencement of such work.

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

(e) If the Association or its duly authorized agent is performing this self-help work, the Association shall pay for all costs and expenses as and when it incurs them in connection with any such work performed, but shall be permitted to collect all such amounts from the violating Owner pursuant to Section 17.03 above.

ARTICLE XVIII. COMPLIANCE WITH LAWS AND ZONING

Section 18.01 Compliance with Laws and Covenants. Each Unit Owner and its Permittees

shall each be responsible for complying with all Legal Requirements now or hereafter enacted or promulgated by the United States of America, State of Tennessee, Metro and any other governmental entity or agency now or hereafter having jurisdiction over the Condominium or any portion thereof.

Section 18.02 Environmental.

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

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

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

(d) The provisions of this Section 18.02 do not affect the rights, liabilities or obligations of any Person under Environmental Laws or other applicable laws, except as may otherwise be expressly provided herein.

Section 18.03 Unit Owner's Indemnity. Each Owner (hereinafter referred to as the "**Indemnifying Unit Owner**") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other Unit Owners, the Association, and their respective affiliates, officers, agents, contractors, and invitees (hereinafter referred to as the "**Indemnitee**") from and against any and all actions or proceedings arising therefrom, by or on behalf of any Person other than the Indemnitee, arising from the Indemnifying Unit Owner's use, possession or management of the Indemnifying Unit Owner's Unit or activities therein or arising out of the Indemnifying Unit Owner's use, exercise or enjoyment of

the easements and licenses granted hereunder and from and against all costs, reasonable attorney's fees actually incurred, out-of-pocket expenses and liabilities actually incurred with respect to any such claim, action or proceeding arising therefrom. In case any action or proceeding is brought against the Indemnitee by reason of any such claim, the Indemnifying Unit Owner, upon notice from Indemnitee, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to Indemnitee. Except in cases of a conflict of interest, any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitee.

Section 18.04 Density Allocation and Zoning Compliance.

(a) Compliance. Without limiting the provisions of this Section 18.04, and except to change a permitted zoning non-conformity to a zoning conformity, no Owner shall: (i) alter, modify or limit the maximum density allowed for another Unit or the permitted land uses of the Submitted Property; (ii) use the Property for any use other than those permitted under the zoning classification for the Submitted Property in effect on the Effective Date; or (iii) make any alterations or allow any use of its respective Unit or take or fail to take any action that would violate any material provision of the Metro Zoning Ordinance (hereinafter collectively referred to as "**Zoning Change**"). "Material provision", as used in the immediate previous sentence, shall include, without limitation, any provision of the Metro Zoning Ordinance regarding which Metro threatens or initiates an enforcement action. In the event any Owner desires to seek a Zoning Change, such Owner must receive the prior written consent of all Owners. Such consent by the other Owners shall be deemed proper authorization for the Owner seeking the Zoning Change to act on behalf and as the limited lawful agent of the other Owner to seek and obtain said Zoning Change, whereupon the other Owner shall do all things as may be reasonably requested to obtain approval of the Zoning Change, at no cost or expense to the Owner not seeking the change. The aforementioned authorization to act as the limited lawful agent shall be limited to the purposes expressly contemplated herein and any attempt to use the authorization in violation of this Declaration shall be deemed null and void.

(b) Permitted Changes. In order to ensure that the building density of the improvements currently or to be located on the Submitted Property does not exceed the maximum density requirements of this zoning classification, the maximum floor area ratio (hereinafter referred to as "**FAR**") shall be allocated as follows:

(i) Initial Allocations: The Owner of each Unit shall not build on its Unit a total floor area exceeding the amount necessary to complete the improvements contemplated in the Floor Plans recorded on the Effective Date.

(ii) Remaining FAR: The remaining FAR for the Submitted Property shall be allocated to the Unit Owner of the Hotel Unit.

ARTICLE XIX. GENERAL PROVISIONS

Section 19.01 Dispute Resolution.

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

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

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

Section 19.02 Declarant Services. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by developments such as this Condominium including, but not limited to, management services. Each Unit Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates. Such service contracts shall not provide compensation to Declarant's affiliates in excess of market rates for similar services in the Nashville, Tennessee area.

Section 19.03 Enforcement. A breach by a Unit Owner of the agreements set forth herein would cause irreparable and continuing injury to the other Unit Owners and, in the event of such breach, monetary damages may be insufficient to compensate such other Unit Owners for its injury. Accordingly, in the event of any breach or threatened breach of this Declaration by a Unit Owner, each affected other Unit Owner shall have the right (without the necessity of posting bond) to injunctive relief or to the issuance of an order to compel performance to enforce the provisions set forth herein; provided, however, such right shall be cumulative of any other rights and remedies under this Declaration, at law or in equity.

Section 19.04 Estoppel Certificate . In addition to the Statement of Account described in Section 10.10 of this Declaration, the Association, upon at least twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request, a statement in writing stating whether or not, to the knowledge of the Association, a particular Owner is in default under the provisions of this Declaration, and further stating the dates to which Assessments have been paid by the Owner. Any such certificate may be relied upon by the Unit Owner and any prospective purchaser or mortgagee of the Unit.

Section 19.05 No Third Party Beneficiaries. Except as expressly provided herein, nothing contained in this Declaration shall be deemed to create any rights or benefit in favor of any Person other than the Unit Owners, their successors, successors-in-title and assigns.

Section 19.06 Successor-in-Title. The provisions of this Declaration shall apply to, inure to the benefit of and be binding upon the entirety of the Property, as applicable, and the Unit Owner from time to time of any portion of the Property including, without limitation, any Mortgagee acquiring an interest in any portion of the Submitted Property or any improvements thereon by reason of foreclosure, deed or assignment in lieu of foreclosure or purchase at foreclosure sale; provided, however, Mortgagee shall not incur or be required to assume any obligation under this Declaration unless and until such Mortgagee has so acquired an interest in any portion of the Submitted Property or any improvements thereon. The failure or default by a Unit Owner to comply with any provision hereof shall not affect the validity of any Mortgage, lien or other similar security instrument that may then be existing on such Unit Owner's Unit. Whenever in this Declaration a reference to a Unit Owner is made, such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of such Unit Owner.

Section 19.07 Notices.

(a) Each notice concerning the subject matter of this Declaration shall be in writing and shall be deemed to have been properly been given or served by: (i) the deposit of the same with the United States Postal Service or any official successor thereto, designated as certified mail, return receipt requested, bearing adequate postage and addressed to the addressee at the last known address; or (ii) Permitted Overnight Delivery by a reputable overnight commercial courier with receipt for delivery obtained by courier properly addressed to the last known address of the addressee of such notice. Each notice may also be served by a commercial courier service addressed as hereinafter provided. Each notice shall be effective upon being deposited with the U.S. Mail or any authorized courier service as aforesaid, but any time frames for responding to any such notice shall run from the date of actual receipt of such notice as indicated by the return receipt of the records of any courier service used, refusal to accept a notice or communication or the inability to deliver a notice or communication hereunder due to a changed address of which a party has not been notified shall be deemed actual receipt of such notice or communication. For the purposes of this Section, the address of each Unit Owner shall be reflected in the books and records of the Association.

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

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

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

Section 19.08 Security. THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE SECURITY ON THE PROPERTY; HOWEVER, EACH

OWNER AND OCCUPANT, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, INVITEES, AND OTHER PERMITTEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE PROPERTY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE PROPERTY AND COMMIT CRIMINAL ACTS ON THE PROPERTY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE PROPERTY WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER AND OCCUPANT TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER AND OCCUPANT. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF MEASURES UNDERTAKEN.

Section 19.09 Disclosures. Each Owner and Occupant acknowledges and understands the disclosures set forth in Exhibit "F" hereto.

Section 19.10 Conflict.

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

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

ARTICLE XX. EMINENT DOMAIN

Section 20.01 Common Elements Taken. If any portion of the Common Elements is taken by eminent domain, the award therefor shall be allocated to the Owners in proportion to their respective Percentage Interests or deposited into the Association's operating account or reserve account to be applied to Common Expenses, at the option of the Board; provided, however, that the portion of the award attributable to the taking of any Limited Common Element permanently allocated to one (1) Owner shall be allocated to the Owner of the Unit to which such Limited Common Element was so allocated at the time of the taking. If any Limited Common Element is permanently allocated to more than one Unit at the time of the taking, the portion of the award attributable to the taking thereof shall be allocated in equal shares to the Owners of the Units to which it was so allocated.

Section 20.02 Unit Taken.

(a) If one (1) or more Units are taken by eminent domain, the Percentage Interests pertaining to any such Units shall then pertain to the remaining Units to be allocated to them in proportion to their respective Percentage Interests. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

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

(c) If the taking of a portion of any Unit makes it impractical to use the remaining portion of that Unit for the primary purpose permitted by the Condominium Instruments, the entire Percentage Interests pertaining to that Unit shall then pertain to the remaining Units, to be allocated to them in proportion to their respective Percentage Interests, and the remaining portion of that Unit shall thenceforth be a part of the Common Elements. The Board of Directors, on behalf of the Association (but without the need for a vote of the members) shall record an amendment to this Declaration reflecting the reallocation of the Percentage Interests produced thereby.

Section 20.03 Mortgagee Notice. Each eligible Mortgage Holder shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Owner in the distribution of proceeds to such Unit.

ARTICLE XXI. GRANT, CREATION AND GENERAL CONDITION OF EASEMENTS

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

Section 21.01 Utilities – Blanket Easement. Subject to the other provisions of this Declaration relating to specific existing or future utilities and the general conditions established in this Article XXI, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement for access, ingress, egress to, from, under, through, over and across any portion of such other Units and the Common Elements upon which any existing or future utilities and related improvements are located and the portion of such other Units and the Common Elements reasonably necessary to access those areas where existing or future utilities

and related improvements are located, including, but not limited to, electric power, water, fuel, storm drainage, sewer, natural gas, telephone, HVAC refrigerant lines, property monitoring and other telecommunications systems such as closed-circuit cable television and high-speed internet, and controlled access systems and all conduit, raceways and other pathways relating to any of the foregoing which benefit another Unit as of the Effective Date, for the purpose of maintaining, repairing, replacing and using such utilities, subject to the right of the Unit Owner of the Unit (or, in the case of the Common Elements, the Association) upon which such utilities may be located to relocate such utilities at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time.

Section 21.02 Surface Water Drainage and Runoff. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) upon which any surface water drainage and runoff flow, subject to the right of the Unit Owner of the Unit on which such surface water drainage and runoff flow to collect and discharge same at its own cost and expense in a manner reasonably satisfactory to the Unit Owner of the benefited property at any time; and provided that no Unit Owner benefited by such drainage may construct any new improvements or alter any existing or future improvements upon such Unit Owner's property or otherwise divert the flow of water from such Unit Owner's property onto another Unit such that the rate of flow of such drainage or runoff would materially adversely increase over the rate of flow presently existing as of the date initial construction of the improvements of the Property were completed, without the prior consent of the affected Unit Owner which consent shall not be unreasonably withheld, conditioned or delayed.

Section 21.03 Rain Water Drainage and Runoff. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Hotel Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) upon which any rain water drainage and runoff flow, and Hotel Unit Owner shall have the collect, store, use and discharge all rain water at its own cost and expense.

Section 21.04 Life-Safety – Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and each Unit a perpetual, non-exclusive easement over and across any portion of the Property upon which any Life-safety Systems are located for the purpose of maintaining, repairing, replacing and using the Life-safety Systems, subject to: (i) the specific maintenance, repair, replacement, and inspection obligations and assessment provisions set forth elsewhere in this Declaration; (ii) the right of the Unit Owner of the Unit on which such systems may be located to relocate the same at its own cost and expense in a manner reasonably satisfactory to the benefited Unit Owner at any time; and (iii) the right of the Unit Owner of the Unit upon which a Life-safety System is located to modify or relate the systems to meet with requirements of governmental authorities.

Section 21.05 Property Monitoring and Access System – Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) upon which the existing or future Property Monitoring and Access Systems and related improvements which serve the Units are located for the purpose of maintaining, repairing, replacing and using such Property Monitoring and Access System, subject to: (i) the specific maintenance obligations

and assessment provisions set forth elsewhere in this Declaration; and (ii) the right of the Unit Owner of the Unit on which such systems or a portion thereof may be located to relocate same at its own cost and expense in a manner reasonably satisfactory to the benefited Unit Owner at any time. The Unit Owner of any Unit benefited by such easement shall not unreasonably refuse to approve the modification or relocation of the easement granted herein by the Unit Owners of the Unit upon which they are located to the extent required to comply with any requirements that may from time-to-time be imposed by any governmental entity having jurisdiction over such matters.

Section 21.06 Blanket Easement for Lateral and Subjacent Support; Building Systems; Party Walls and Encroachments. Subject to the other provisions of this Declaration relating to specific, existing or future utilities and the general conditions established in this Article XXI, Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) as follows:

(a) All portions of the Property that are utilized for lateral and subjacent support of any portion of Units (including, without limitation, footings, foundations, and the parking structure), to the extent located within any such Units and benefiting the other Units, as same may from time to time be relocated, constructed or reconstructed in accordance with the terms of this Declaration.

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

(c) The Building Systems located within one (1) Unit and benefiting another Unit or Units.

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

Notwithstanding anything to the contrary stated herein, the dividing walls, floors and ceilings separating two (2) Units, if any, shall be deemed to be party walls, floors and ceilings and each such Unit Owner shall be responsible for one-half of the costs of maintenance, repair and replacement of such party walls, floors and ceilings; provided, however, each Unit Owner shall take all steps required to assure that the fire separation capabilities of such party walls, floors and ceilings are not breached or otherwise

adversely impacted by it or anyone claiming by, through or under it. The Unit Owners shall cooperate and coordinate with each other with respect to the maintenance, repair and replacement of any such party walls, floors and ceilings.

(e) To the extent any Unit or Common Element or any improvement thereon encroaches on any other Unit or Common Element as a result of original construction (provided such encroachment is unintentional), shifting, settling or movement of any improvement or alteration or restoration authorized by this Declaration or any other reason, a valid easement for the encroachment, and for the maintenance thereof, is hereby granted and created.

Section 21.07 Emergency – Blanket Easement. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of each Unit with respect to each of the other Units, a perpetual, non-exclusive easement over and across any portion of such other Units (but only that portion) that is needed for emergency egress from the Building. This easement shall include, without limitation, the easement and right of the Unit Owners and Permittees to use such portions of the stairwells as is necessary to affect such emergency egress.

Section 21.08 Access Easements Benefiting the Association. Declarant hereby declares, grants, creates, imposes and establishes for the benefit of the Association and its Permittees a perpetual, non-exclusive easement for access, ingress and egress to, from, over, under and through the entire Property for the performance of its obligations and duties hereunder.

Section 21.09 Easements Benefiting Declarant. Declarant hereby reserves a perpetual, non-exclusive easement for the purpose of access for ingress and egress over the Condominium, including the Units, the Common Elements, and Limited Common Elements, to inspect, examine, survey, photograph, and perform such tests, inspections, studies or other evaluations of the Condominium as Declarant and its agents, employees or contractors, or others may deem necessary in conjunction with Declarant's review of construction conditions on the Condominium. The foregoing easement shall expire upon the occurrence of the later of the following events: (i) the date upon which Declarant no longer owns a Unit or any portion thereof; or (ii) ten (10) years after the Effective Date. To the extent that damage is inflicted on the Common Elements, Limited Common Elements, or on any Unit through which access is taken, Declarant, whether by itself or through agents, employees, contractors, or others, shall be liable for the prompt repair thereof.

Section 21.10 Commonly Metered-Used Items. The Unit Owners acknowledge that some utility services on the Property may be metered to one (1) Unit Owner and may benefit another Unit Owner. Except where expressly provided to the contrary herein, the Unit Owner being metered shall have the right, at any time, at its cost, to have an engineer or other consultant reasonably acceptable to the other Unit Owner analyze the typical amount of usage allocable to the other Unit Owner. The Unit Owner being metered may invoice the other Unit Owner for the costs of utility service allocable to the other Unit Owner (based on such typical amount of usage and the rates being charged by the applicable utility companies to the metered Unit Owner). Either Unit Owner shall have the right to install sub-meters, at its cost and shall also have the right to at any time, at its cost, to take such steps as may be required to connect the items served by the other Unit Owner's utility meters to its own utility meters or to install separate components that serve solely its Unit and disconnect its Unit from components operated, maintained, repaired and replaced by the other Unit Owner. In the absence of any of the foregoing, each

Unit Owner shall pay for all utility service metered to it and for the costs of operating, maintaining, repairing and replacing such components in a manner so that there will be no disruption of service to the other Unit Owner.

Section 21.11 Cooperation. All easements and licenses granted in this Declaration and the use thereof, shall be deemed to be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted. Each Unit Owner agrees to cooperate with the reasonable requests of the other Unit Owner in furtherance of the spirit and intent of the matters addressed in this Declaration, including without limitation the granting of temporary easements and/or licenses for construction of alterations and/or improvements constructed in compliance with the terms of this Declaration. To this end, in the event that a Unit Owner of a Unit limits access to its respective Unit and/or the Limited Common Elements serving such Unit, such Unit Owner shall provide the other Unit Owner having easement rights over such areas a reasonable means of access over the areas to which such easement rights appertain.

Section 21.12 Damages Resulting From the Exercise of Easement Rights. Notwithstanding anything to the contrary stated herein, damages caused by the exercise of the easement rights granted in this Article XXI, including, but not limited, to reasonable attorneys' fees actually incurred, shall be paid by the responsible Unit Owner, provided that the Permittee of a Unit Owner causing such expense shall be jointly and severally liable.

ARTICLE XXII. AMENDMENT

Except where a different vote is expressly required for action under any other provisions of this Declaration or by the Act, in which case such different vote shall be necessary to amend such provision, the Condominium Instruments may be amended only by the affirmative vote, written consent or any combination of affirmative vote and written consent of all Owners, and such amendment shall otherwise comply with the provisions of Section 66-27-317 of the Act. Notwithstanding the above, no amendment shall modify, alter or delete any provision of the Condominium Instruments that benefits Declarant or any license, easement or other use rights of Declarant without the written consent of Declarant attached to and recorded with such amendment. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the president and recorded in the Official Records.

Notwithstanding that certain of the easements created hereby may ultimately run to the benefit of Occupants and Permittees of an Owner of all or part of the Condominium or other non-property owners, nothing contained in this Declaration shall imply that the consent of any such other benefited parties is required in connection with an amendment, modification or termination of this Declaration, unless expressly provided in this Declaration.

ARTICLE XXIII. SEVERABILITY

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

SIGNATURE ON NEXT PAGE

IN WITNESS WHEREOF, Declarant has executed this Declaration on this 8 day of July, 2025.

DECLARANT:

Nashville Gulch Lifestyle Hotel Owner, LLC,
a Delaware limited liability company

By: _____
Name: A. Thomas Leonhard, Jr.
Title: Duly Authorized Agent

STATE OF Louisiana

PARISH OF Orleans

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared A. Thomas Leonhard, Jr. with whom I am personally acquainted and who, upon oath, acknowledged himself to be the Duly Authorized Agent of Nashville Gulch Lifestyle Hotel Owner, LLC, a Delaware limited liability company, the within named bargainer, and that he as such Duly Authorized Agent, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as such Duly Authorized Agent.

Witness my hand and official seal at office this 8th day of July, 2025.

_____
Notary Public

My commission expires:

_____

SARAH D. HANAUER
NOTARY PUBLIC
STATE OF LOUISIANA
MY COMMISSION IS ISSUED FOR LIFE
BAR ROLL NO. 33569

(Signature Page to Declaration of Condominium)

EXHIBIT "A"
LEGAL DESCRIPTION OF SUBMITTED PROPERTY

Land situated in the City of Nashville, the County of Davidson, the State of Tennessee, being more particularly described as follows:

Lot 2, as shown on the Final Plat, McGavock Group, of record as Instrument No. 201603100023091, in the Register's Office for Davidson County, Tennessee.

Being the same property conveyed to Nashville Gulch Lifestyle Hotel Owner, LLC, a Delaware limited liability company, by Quitclaim Deed of record in Instrument No. 20230222-0012595, in the Register's Office for Davidson County, Tennessee.

EXHIBIT "B"

PERCENTAGE INTERESTS

Unit	Approximate Square Footage	Percentage Interest
Hotel Unit	64,204	34.1%
Garage and Retail Unit	123,938	65.9%
Total	**188,142**	**100%**

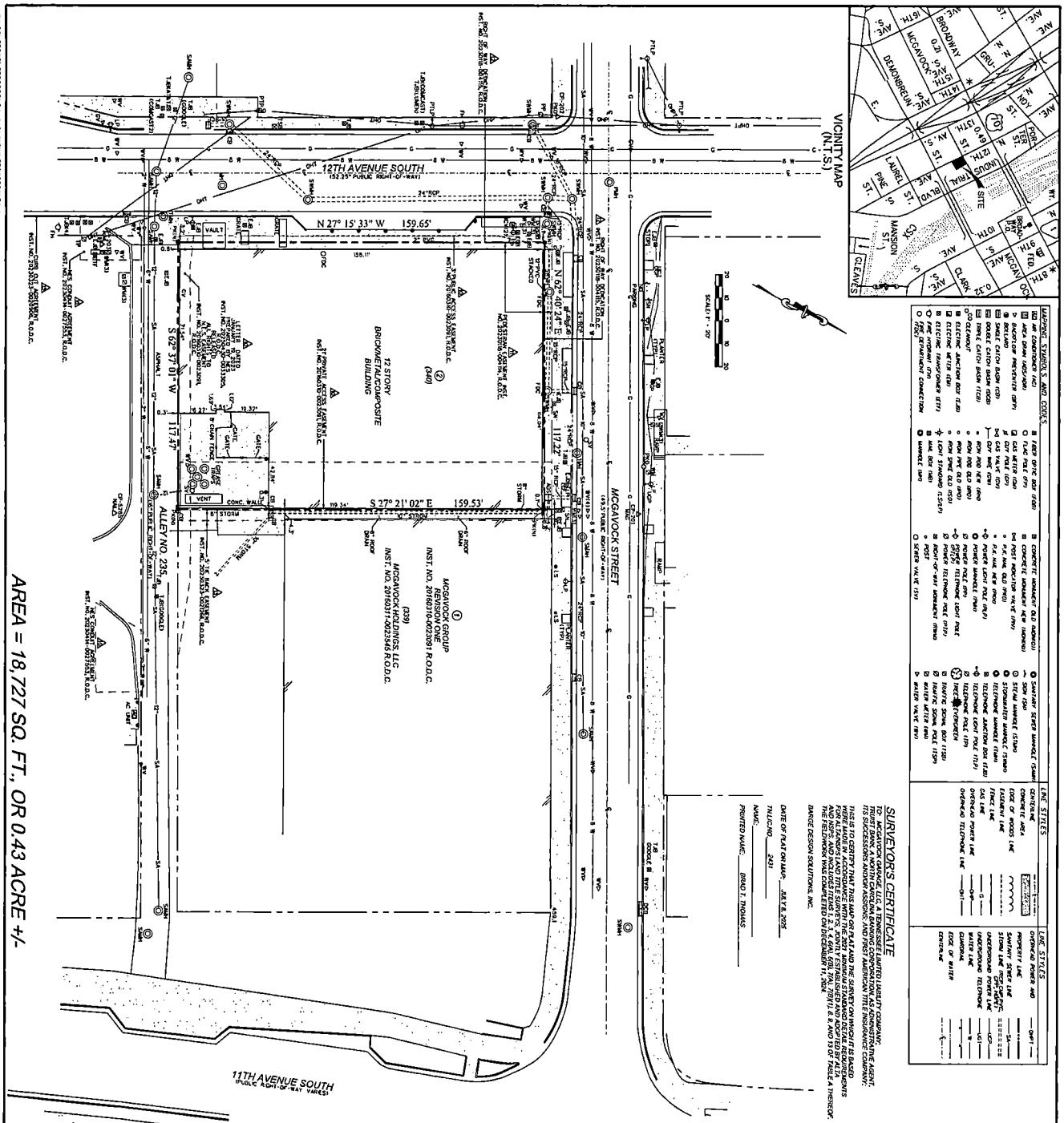
EXHIBIT "C"

FLOOR PLANS AND PLAT

SEE ATTACHED

7/8/2025
9:44:48 AM

BTThomas
LandRes.pen Workspace: LandRes



VICINITY MAP
(N.T.S.)

MAPPING, STANDARDS AND CODES

⊠	FIBER OPTIC BOX (FOB)	⊙	SANITARY SEWER MANHOLE (SSMH)
○	FLAG POLE (FP)	○	CLEANOUT
▷	BACKFLOW PREVENTER (BFP)	○	SIGN (SN)
⊡	GAS METER (GM)	⊙	STORM MANHOLE (STMH)
⊡	GUY POLE (GP)	⊙	STORMWATER MANHOLE (STMH)
⊠	GAS VALVE (GV)	⊙	TELEPHONE MANHOLE (TMH)
▭	SINGLE CATCH BASIN (SCB)	⊠	TELEPHONE JUNCTION BOX (TJB)
▭	DOUBLE CATCH BASIN (DCB)	⊠	TELEPHONE LIGHT POLE (TLP)
○	P.K. NAIL OLD (PKO)	⊠	TELEPHONE POLE (TP)
○	P.K. NAIL NEW (PKN)	⊠	TELEPHONE RISER (TELE)
⊕	POWER LIGHT POLE (PLP)	⊠	TRAFFIC SIGNAL POLE (TSP)
⊠	POWER MANHOLE (PMH)	⊠	WATER METER (WM)
⊠	POWER POLE (PP)	▷	WATER VALVE (WV)
⊠	POWER TELEPHONE LIGHT POLE (PTLP)		
⊠	POWER TELEPHONE POLE (PTP)		
⊠	TELEPHONE RISER (TELE)		
⊠	TRAFFIC SIGNAL POLE (TSP)		
⊠	WATER METER (WM)		
▷	WATER VALVE (WV)		
○	FIRE HYDRANT (FH)		
⊠	FIRE DEPARTMENT CONNECTION		
○	SEWER VALVE (SV)		
⊠	MAIL BOX (MB)		
⊠	MARKER (MK)		
○	POST		

LINE STYLES

OVERHEAD POWER AND TELEPHONE LINE	OHP/T
PROPERTY LINE	
SANITARY SEWER LINE	SA
STORM SEWER LINE	ST
LIGHT LINE	LGT
FASCIA LINE	
FENCE LINE	G
GAS LINE	GAS
OVERHEAD POWER LINE	OHP
OVERHEAD TELEPHONE LINE	OHT
UNDERGROUND TELEPHONE LINE	UGT
WATER LINE	W
GUARDRAIL	
EDGE OF WATER	
CENTERLINE	

SURVEYOR'S CERTIFICATE

TO: MCGAVOCK GARAGE, LLC, A TENNESSEE LIMITED LIABILITY COMPANY; TRUIST BANK, A NORTH CAROLINA BANKING CORPORATION, AS ADMINISTRATIVE AGENT, ITS SUCCESSORS AND/OR ASSIGNS; AND FIRST AMERICAN TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 11(a), 11(b), 13, 14, 16, 17, 18, 19 AND 20 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON DECEMBER 17, 2024.

DATE OF PLAT OR MAP: JULY 8, 2025

TN LIC. NO. 2431

NAME:

PRINTED NAME: BRAD T. THOMAS

BARGE DESIGN SOLUTIONS, INC.

NOTES

1. THIS SURVEY MEETS THE REQUIREMENTS OF AN URBAN LAND SURVEY (CATEGORY 1), WITH A RATIO OF PRECISION OF THE UNADJUSTED SURVEY EXCEEDING 1:10,000 AS REQUIRED BY THE STANDARDS OF PRACTICE FOR LAND SURVEYORS, STATE OF TENNESSEE.
2. BEARINGS ARE BASED ON THE TENNESSEE COORDINATE SYSTEM OF 1983 (NAD 1983).
3. PROPERTY IS ZONED DTC (DOWNTOWN CODE) PER METRO NASHVILLE ZONING INFORMATION SHOWN HEREON WAS TAKEN FROM METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, NO ZONING LETTER OR ZONING REPORT BEING PROVIDED TO THIS SURVEYOR.
4. THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY NO. 470040, PANEL NO. 243 H, DATED APRIL 5, 2017. "NOT A PRINTED PANEL"
5. ABOVE GRADE AND UNDERGROUND UTILITIES SHOWN WERE TAKEN FROM FIELD MARKINGS AND/OR PLANS PROVIDED BY THE RESPECTIVE UTILITY COMPANIES AND/OR GOVERNMENTAL AGENCIES. THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION OBTAINED. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. PRIOR TO ANY EXCAVATION, THE CONTRACTOR SHALL CONTACT EACH UTILITY COMPANY, TO AVOID ANY POSSIBLE HAZARD OR CONFLICT. IT IS A REQUIREMENT BY LAW THAT THE TENNESSEE ONE CALL SYSTEM (1-800-351-1111) BE NOTIFIED IN EXCAVATION TO NOTIFY ALL KNOWN UTILITY OWNERS NO LESS THAN THREE (3) OR MORE THAN TEN (10) WORKING DAYS PRIOR TO THE DATE OF THEIR INTENT TO EXCAVATE.
6. PRIOR TO THE CALL TENNESSEE ONE CALL AT 1-800-351-1111.
7. THIS PARCEL CONTAINS 136 REGULAR PARKING SPACES AND 6 HANDICAP PARKING SPACES FOR A TOTAL OF 142 PARKING SPACES.
8. PROPERTY SUBJECT TO TERMS AND PROVISIONS OF EASEMENT AGREEMENT AND RESTRICTIONS, OF RECORD IN INSTRUMENT NO. 20160310-0023591, R.O.D.C.

RECORD DESCRIPTION

Land situated in the City of Nashville, the County of Davidson, the State of Tennessee, being more particularly described as follows:

Lot 2, as shown on the Final Plat, McGavock Group, of record as Instrument No. 20160310-0023591, in the Register's Office for Davidson County, Tennessee.

DEED REFERENCE

THE PROPERTY CONVEYED TO MCGAVOCK GARAGE LLC BY DEED OF RECORD IN INSTRUMENT NO. 20230222-0012559, R.O.D.C.

PROPERTY MAP REFERENCE

BEING PARCEL 340 AS SHOWN ON DAVIDSON COUNTY PROPERTY MAP NO. 93-8.

PLAT REFERENCE

BEING THE PROPERTY AS SHOWN ON THE SUBDIVISION PLAT OF MCGAVOCK GROUP REVISION ONE OF RECORD IN INSTRUMENT NO. 20160310-0023591, R.O.D.C.

SCHEDULE B, PART II EXCEPTIONS

10. Terms and provisions of Agreement for Declaration of Public Right-of-Way, by and between 11th 12 Avenue, LLC, and The Metropolitan Government of Nashville and Davidson County, its successors and assigns, of record in Instrument No. 20160310-0023591, R.O.D.C. (AFFECTS AS SHOWN)
11. Terms and provisions of Agreement for Declaration of Public Right-of-Way, by and between 11th 12 Avenue, LLC, and The Metropolitan Government of Nashville and Davidson County, its successors and assigns, of record in Instrument No. 20160310-0023591, R.O.D.C. (AFFECTS AS SHOWN)
12. Terms and provisions of Agreement for Declaration of Public Right-of-Way, by and between 11th 12 Avenue, LLC, and The Metropolitan Government of Nashville and Davidson County, its successors and assigns, of record in Instrument No. 20160310-0023591, R.O.D.C. (AFFECTS AS SHOWN)
13. Terms and provisions of Temporary Construction, Sloping and Crane Swing Easement Agreement, by and between ABS, LLC, a Tennessee limited liability company, and The Metropolitan Government of Nashville and Davidson County, a municipal corporation and political subdivision of the State of Tennessee, as amended by Amendment to Temporary Construction, Sloping and Crane Swing Easement Agreement, by and between ABS, LLC, a Tennessee limited liability company, and The Metropolitan Government of Nashville and Davidson County, a municipal corporation and political subdivision of the State of Tennessee, of record in Instrument No. 20230317-0021870, in the Register's Office of Davidson County, Tennessee. (AFFECTS AS SHOWN. THE CRANE SWING EASEMENT DOES NOT AFFECT THE SUBJECT PROPERTY)
14. Terms and provisions of Temporary Crane Swing Easement Agreement, by and between ABS, LLC, a Tennessee limited liability company, and The Metropolitan Government of Nashville and Davidson County, a municipal corporation and political subdivision of the State of Tennessee, of record in Instrument No. 20230317-0021871, in the Register's Office of Davidson County, Tennessee. (AFFECTS AS SHOWN. THE CRANE SWING EASEMENT DOES NOT AFFECT THE SUBJECT PROPERTY)
15. Terms and provisions of Encroachment Agreement, by and between ABS, LLC, a Tennessee limited liability company, and The Metropolitan Government of Nashville and Davidson County, a municipal corporation and political subdivision of the State of Tennessee, of record in Instrument No. 20230323-0022600, in the Register's Office of Davidson County, Tennessee. (AFFECTS AS SHOWN)
16. Terms and provisions of Encroachment Agreement, by and between ABS, LLC, a Tennessee limited liability company, and The Metropolitan Government of Nashville and Davidson County, a municipal corporation and political subdivision of the State of Tennessee, of record in Instrument No. 20230414-0023553, in the Register's Office of Davidson County, Tennessee. (AFFECTS AS SHOWN)
17. Terms and provisions of Temporary Crane Sloping Easement Agreement, by and between 1211 Church Owner, LLC, a Delaware limited liability company, and Nashville Gulch Lifestyle Retail Partner, LLC, a Delaware limited liability company, of record in Instrument No. 20230504-0033001, in the Register's Office of Davidson County, Tennessee. (ABANDONED EASEMENT PER 20230510-0037456)
18. Terms and provisions of Notice of Land Use Restrictions, by and between Nashville Gulch Lifestyle Retail Partner, LLC, a Delaware limited liability company, and The Metropolitan Government of Nashville and Davidson County, a municipal corporation and political subdivision of the State of Tennessee, of record in Instrument No. 20230510-0037457, in the Register's Office of Davidson County, Tennessee. (AFFECTS AS SHOWN)
19. Terms and provisions of Notice of Land Use Restrictions, by and between Nashville Gulch Lifestyle Retail Partner, LLC, a Delaware limited liability company, and The Metropolitan Government of Nashville and Davidson County, a municipal corporation and political subdivision of the State of Tennessee, of record in Instrument No. 20230510-0037458, in the Register's Office of Davidson County, Tennessee. (AFFECTS AS SHOWN)
20. Terms and provisions of Temporary Crane Sloping Easement Agreement, by and between 1211 Church Owner, LLC, a Delaware limited liability company, and Nashville Gulch Lifestyle Retail Partner, LLC, a Delaware limited liability company, of record in Instrument No. 20230510-0037459, in the Register's Office of Davidson County, Tennessee. (ABANDONED EASEMENT PER 20230510-0037456)

SURVEYOR'S DESCRIPTION

Being a Parcel of land in the 19th Councilmanic District of Nashville, (Davidson County), Tennessee, said parcel being located at the easterly/northerly quadrant of McGavock Street (69.5' public right-of-way) and 12th Avenue South (52.25' public right-of-way), and further being a part of Lot 2 of McGavock Group, Revision One, of record in Instrument No. 20160310-0023591, and further being a part of Lot 1 of McGavock Group, of record in Instrument No. 20160310-0023591, in the Register's Office of Davidson County, Tennessee, being more particularly described as follows:

BEGINNING at a new PK Nail set on the Northerly right-of-way line of Alley No. 235, (variable width public right-of-way), said point being the Southwesterly corner of said Lot 2 and the Southeasterly corner of said Lot 1 as shown on the Final Plat, McGavock Group, Revision One, of record in Instrument No. 20160310-0023591, R.O.D.C.;

Thence, leaving said Alley No. 235 with the Easterly right-of-way line of 12th Avenue South (52.25' public right-of-way) and the Westerly line of said Lot 2, N 27° 15' 33" W, 159.65 feet to a new PK Nail set on the Southerly right-of-way line of McGavock Street;

Thence, leaving 12th Avenue South with the Southerly right-of-way line of McGavock Street and the Westerly line of said Lot 2, N 62° 40' 24" E, 117.22 feet to a new PK Nail set on the Westerly line of said Lot 1;

Thence, leaving McGavock Street with said Lot 2 and with the Westerly line of said Lot 1, S 27° 21' 02" E, 159.53 feet to the POINT OF BEGINNING;

Containing 18,727 Square Feet or 0.43 Acre, more or less.

© Copyright 2025 Barge Design Solutions, Inc. ALL RIGHTS RESERVED

DR.	CHK.	DATE	DESCRIPTION
GVB	BTT	12-30-24	ORIGINAL ISSUE
JMJ	AJ	01-28-25	ADDED SURVEYOR'S DESCRIPTION
JMJ	AJ	07-08-25	ADDRESSED COMMENTS

HYATT CAPTION

ALTA/NSPS LAND TITLE SURVEY

118 12TH AVE SOUTH

GULCH BUSINESS IMPROVEMENT DISTRICT
19TH COUNCILMANIC DISTRICT
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

BRAD THOMAS 2431 REGISTERED LAND SURVEYOR STATE OF TENNESSEE

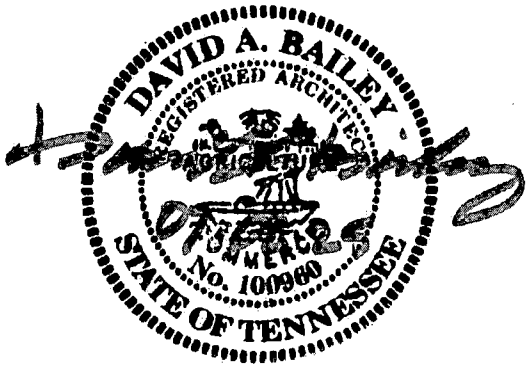
BARGE DESIGN SOLUTIONS
615 Third Avenue South, Suite 700, Nashville, Tennessee 37210
PHONE (615)254-1500 FAX (615) 255-6572

FILE NO. 3829000

F:\JOBS\3829\03829000\04_CAD\SURV\3829000ALTA.dgn

I, David Bailey, a Tennessee registered architect, do hereby certify that to the best of my knowledge, information and belief, and in accordance with the applicable standard of care, the attached documents comply with the requirements of Section 66-27-309 of the Tennessee Condominium Act of 2008, as prepared by Hastings Architecture, LLC ("Hastings"):

1. Hastings floor plans attached as pages C3 – C12
2. Hastings renderings attached as pages C13 – C16.



GROSS AREA TOTAL

LEVEL	GROSS AREA	OCCUPANCY TYPE
LOWER LEVEL 04	4,664 SF	GARAGE - NON-CONDITIONED
LOWER LEVEL 03	18,298 SF	GARAGE - NON-CONDITIONED
LOWER LEVEL 02	18,314 SF	GARAGE - NON-CONDITIONED
LOWER LEVEL 01	18,156 SF	GARAGE - NON-CONDITIONED
01 FIRST FLOOR	17,530 SF	HOTEL LOBBY - CONDITIONED; RETAIL - WARM DARK SHELL; LOADING AREA - EXTERIOR
02 SECOND FLOOR	16,619 SF	HOTEL AMENITY AND BOH - CONDITIONED; ROOF - EXTERIOR
03 THIRD FLOOR	11,321 SF	HOTEL KEYS - CONDITIONED; ROOF - EXTERIOR
04 FOURTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
05 FIFTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
06 SIXTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
07 SEVENTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
08 EIGHTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
09 NINTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
10 TENTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
11 ELEVENTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
12 TWELFTH FLOOR	9,141 SF	HOTEL KEYS - CONDITIONED
HIGH ROOF	9,238 SF	ROOF - UNCONDITIONED
TOTAL AREA	196,409 SF	

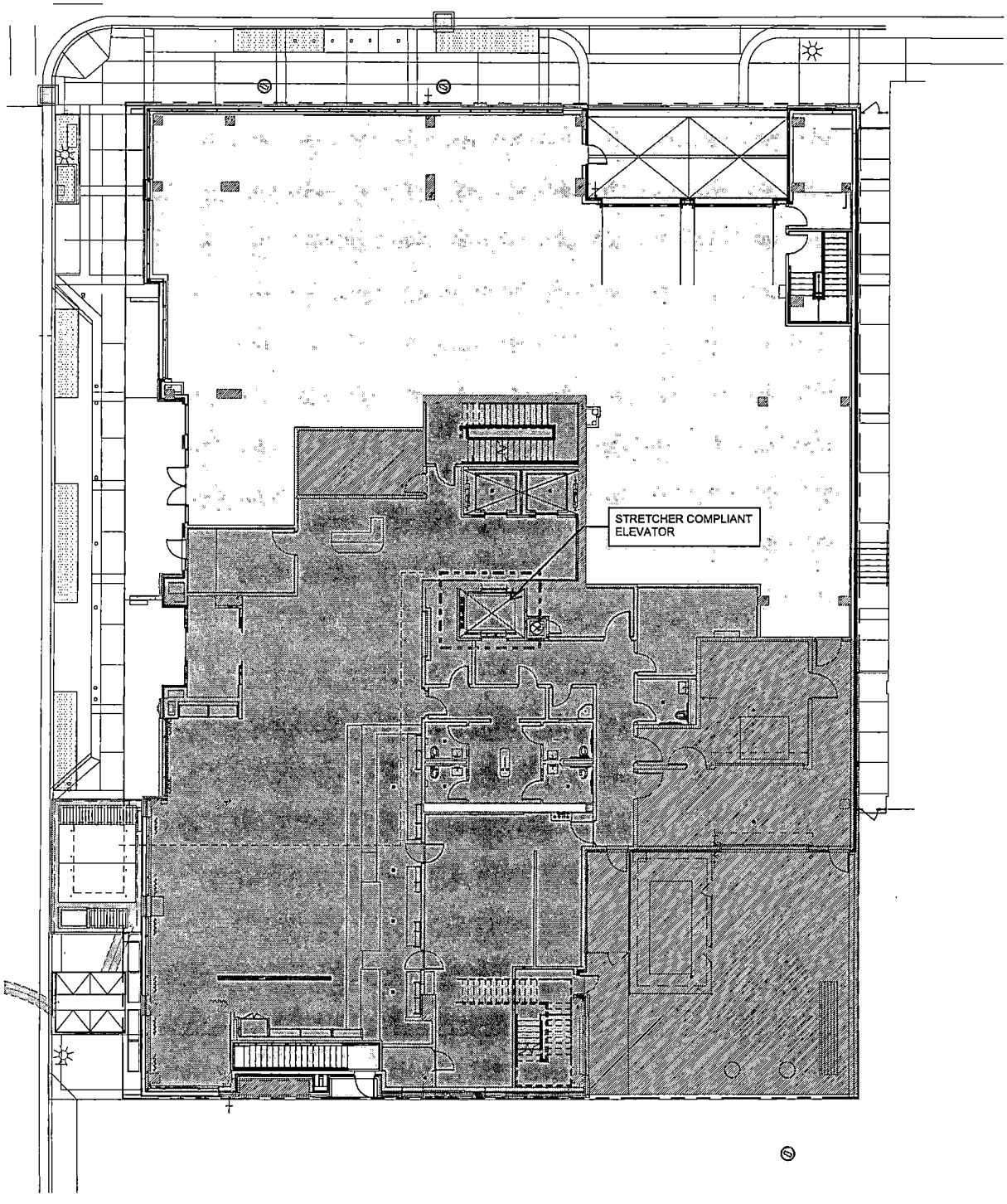
GROSS AREA BY USE

HOTEL	122,331 SF
GARAGE/RETAIL	63,602 SF
COMMON	8,267 SF
LIMITED COMMON - HOTEL	1,607 SF
LIMITED COMMON - GARAGE/RETAIL	602 SF
TOTAL AREA	196,409 SF

GARAGE/RETAIL - 7,150 SF

HOTEL - 7,160 SF

COMMON ELEMENT - 3,220 SF



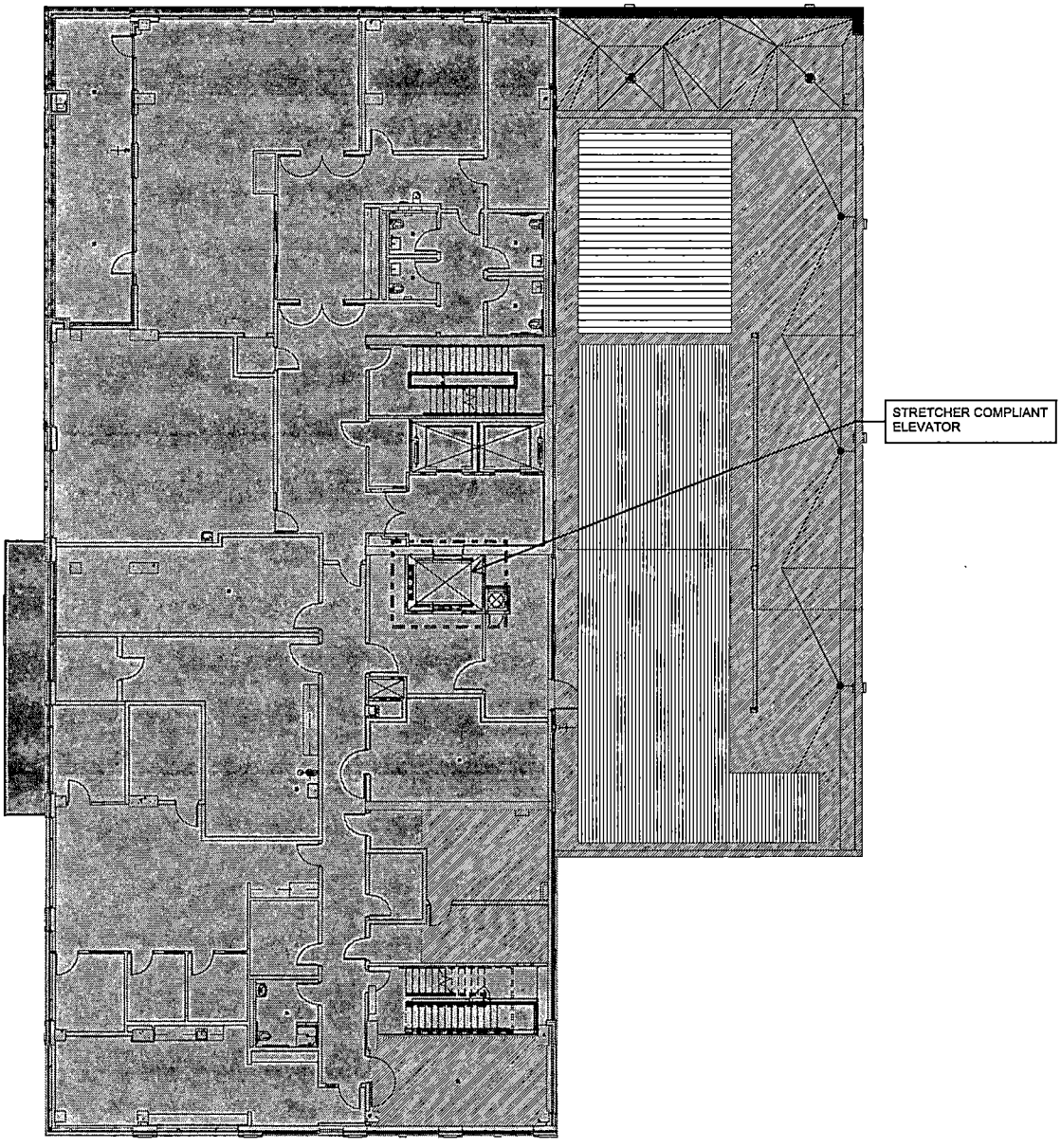
GARAGE/RETAIL - 0 SF

HOTEL - 10,888 SF

COMMON ELEMENT - 3,522 SF

LIMITED COMMON HOTEL - 1,607 SF

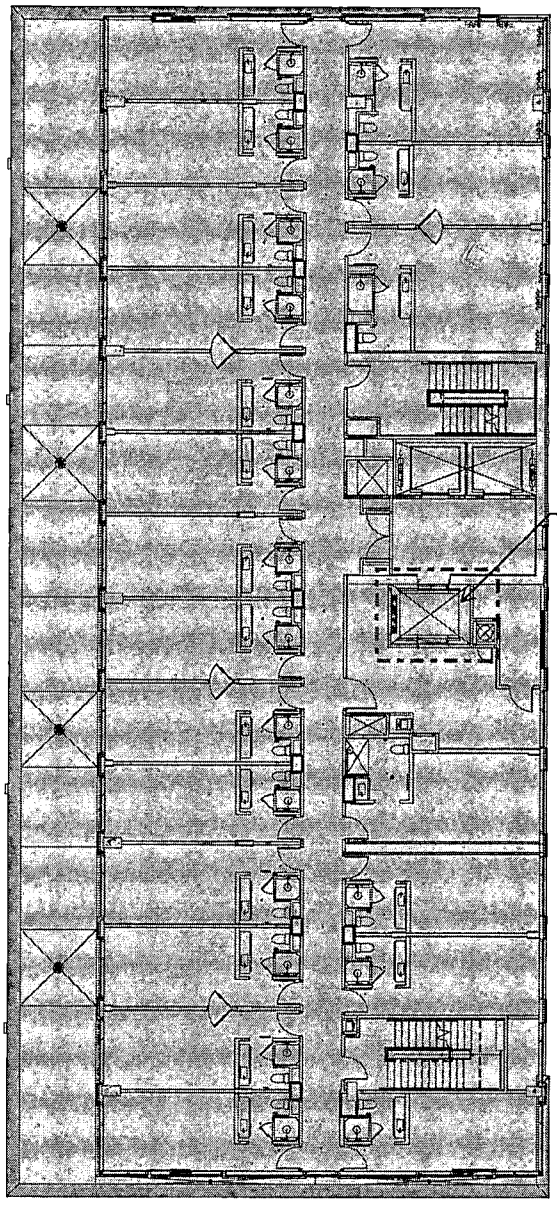
LIMITED COMMON GARAGE/RETAIL - 602 SF



GARAGE/RETAIL - 0 SF

HOTEL - 11,321 SF

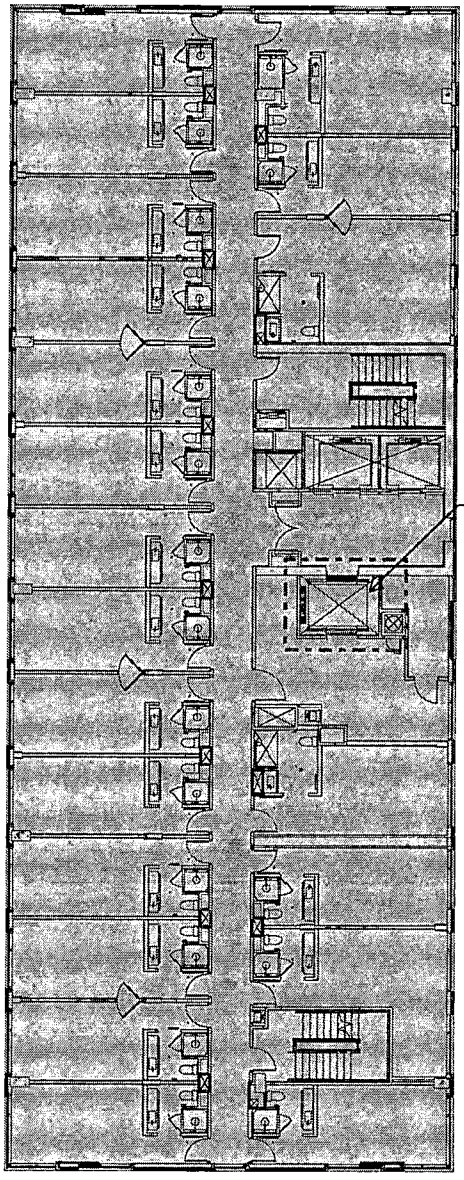
COMMON ELEMENT - 0 SF



GARAGE/RETAIL - 0 SF

HOTEL - 9,141 SF

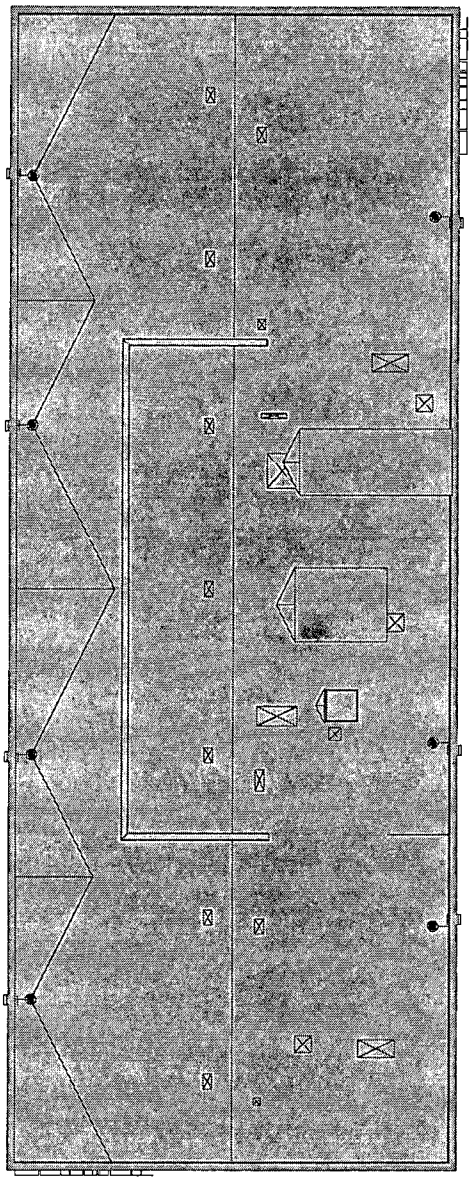
COMMON ELEMENT - 0 SF



GARAGE/RETAIL - 0 SF

HOTEL - 9,238 SF

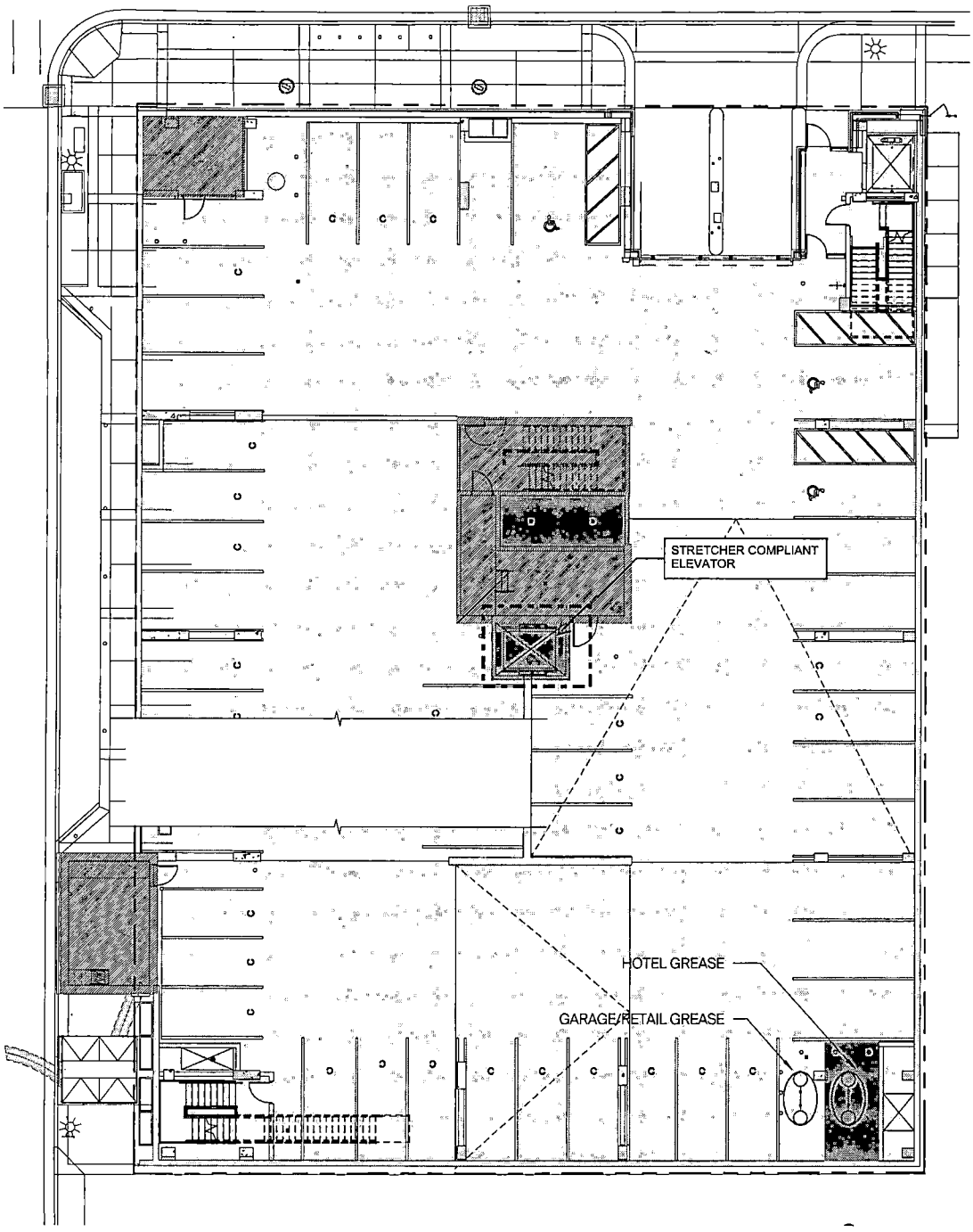
COMMON ELEMENT - 0 SF



GARAGE/RETAIL- 16,634SF

HOTEL - 399 SF

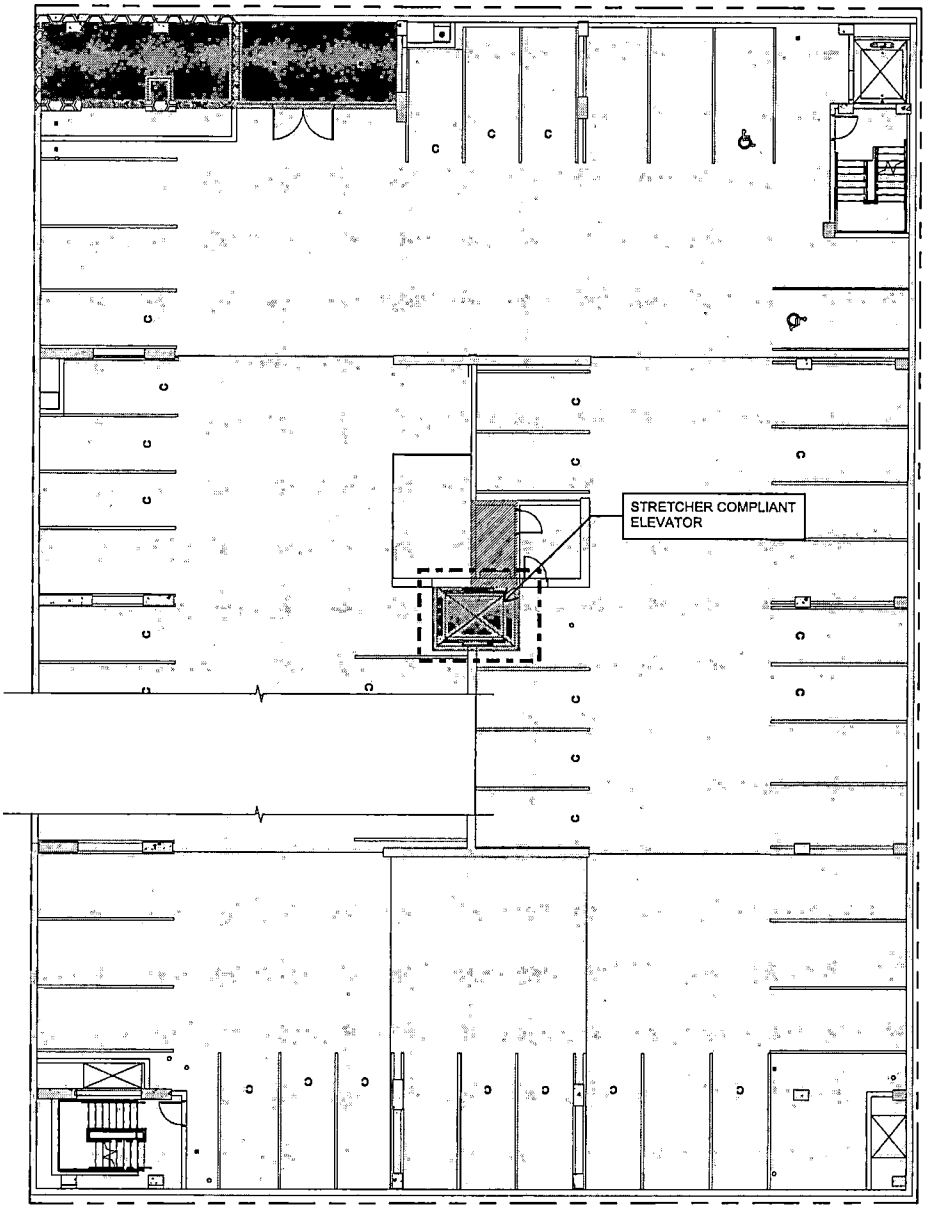
COMMON ELEMENT - 1,123SF



GARAGE/RETAIL - 17,614 SF

HOTEL - 629 SF

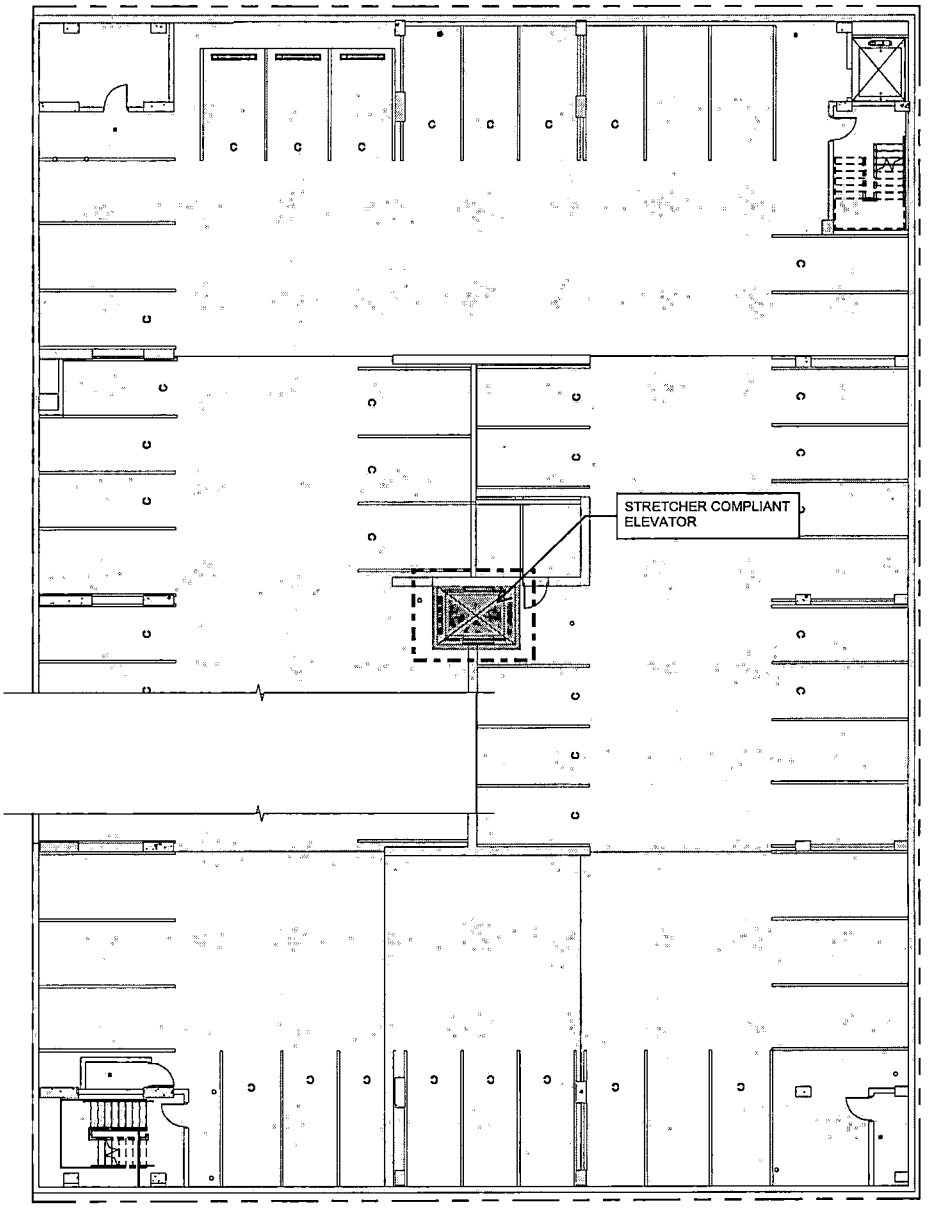
COMMON ELEMENT - 71 SF



GARAGE/RETAIL - 18,199 SF

HOTEL - 99 SF

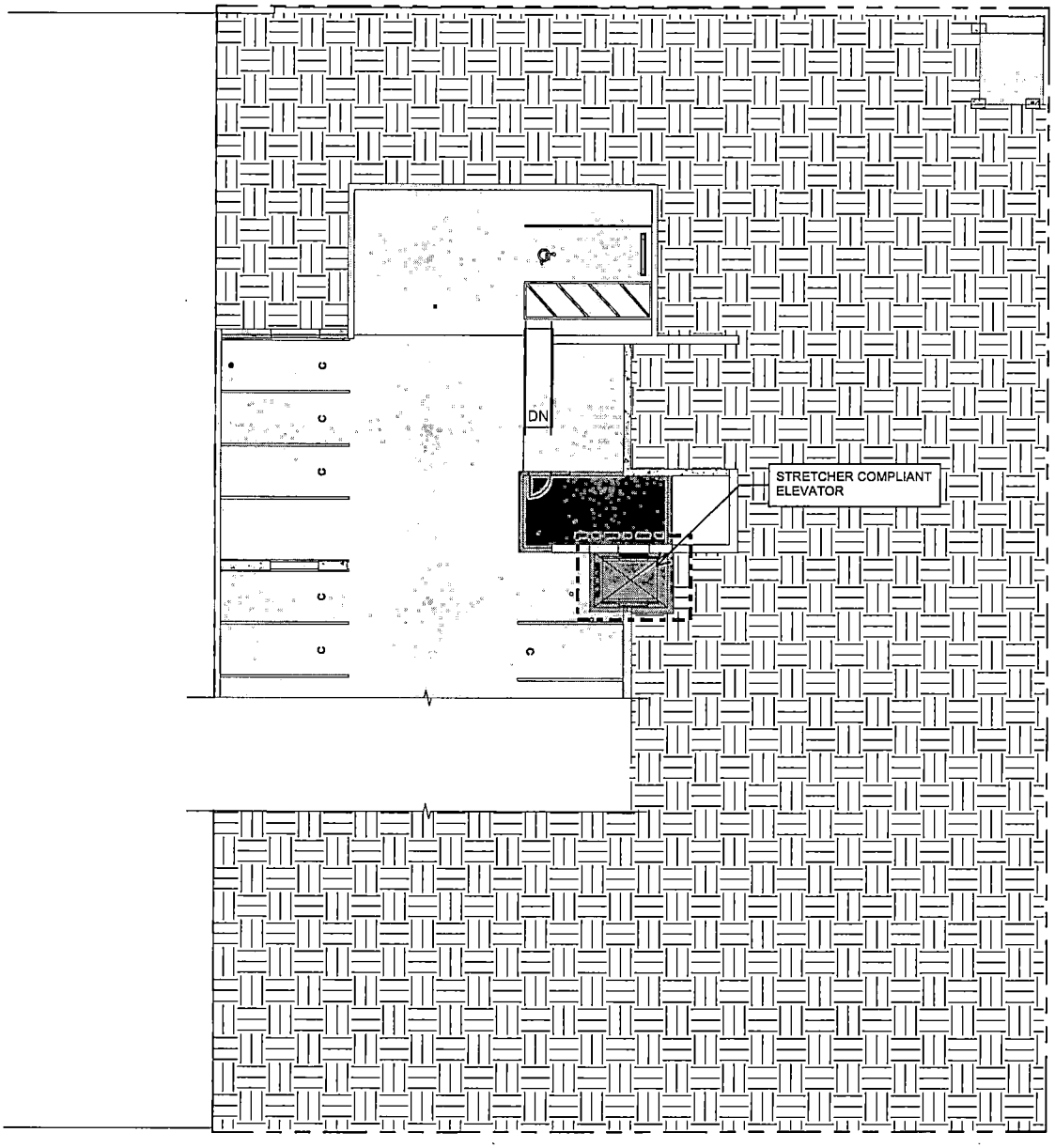
COMMON ELEMENT - 0 SF

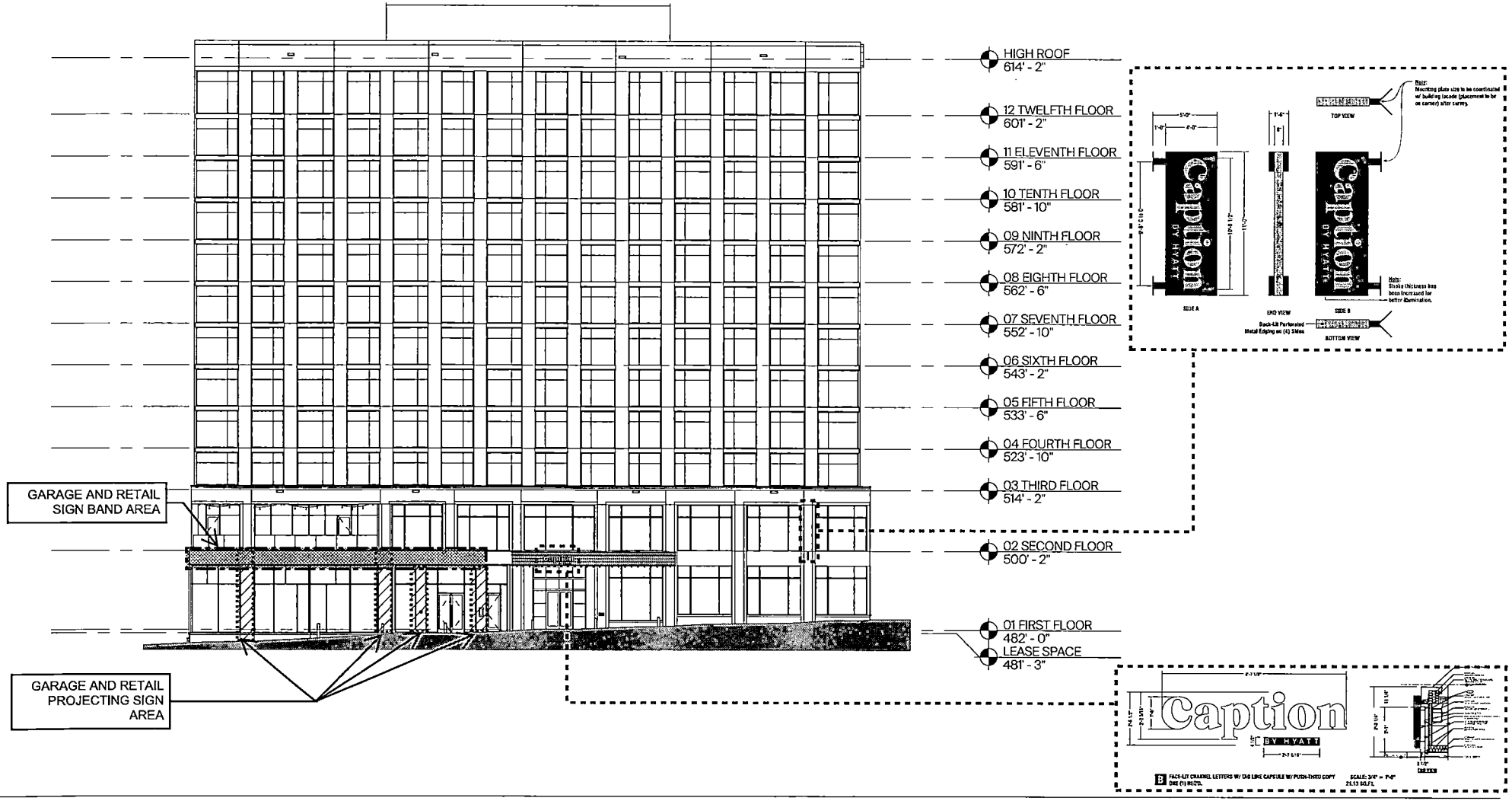


GARAGE/RETAIL - 4,005 SF

HOTEL - 328 SF

COMMON ELEMENT - 331 SF



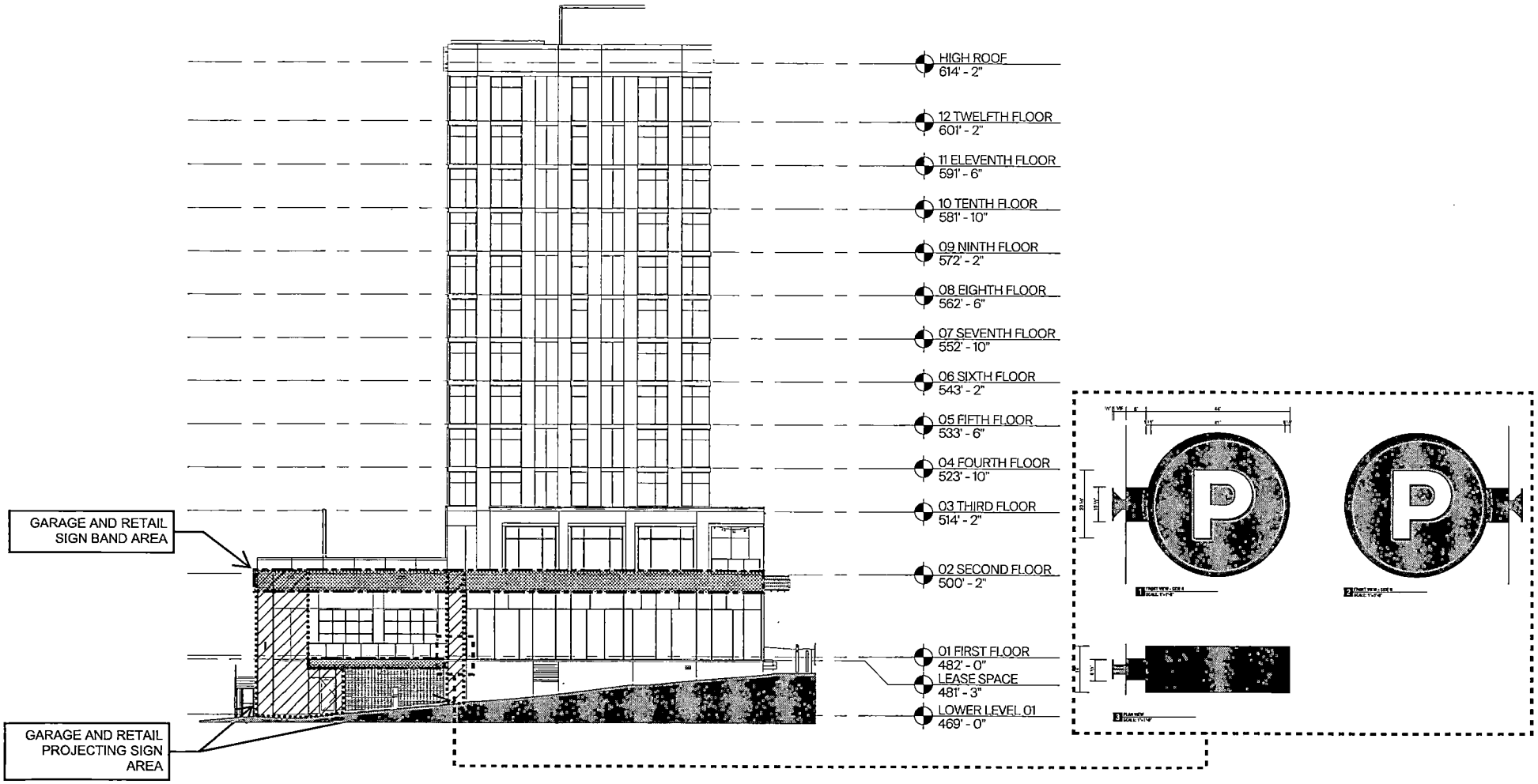


HASTINGS
© 2025

CAPTION BY HYATT

WEST ELEVATION - RETAIL SIGNAGE

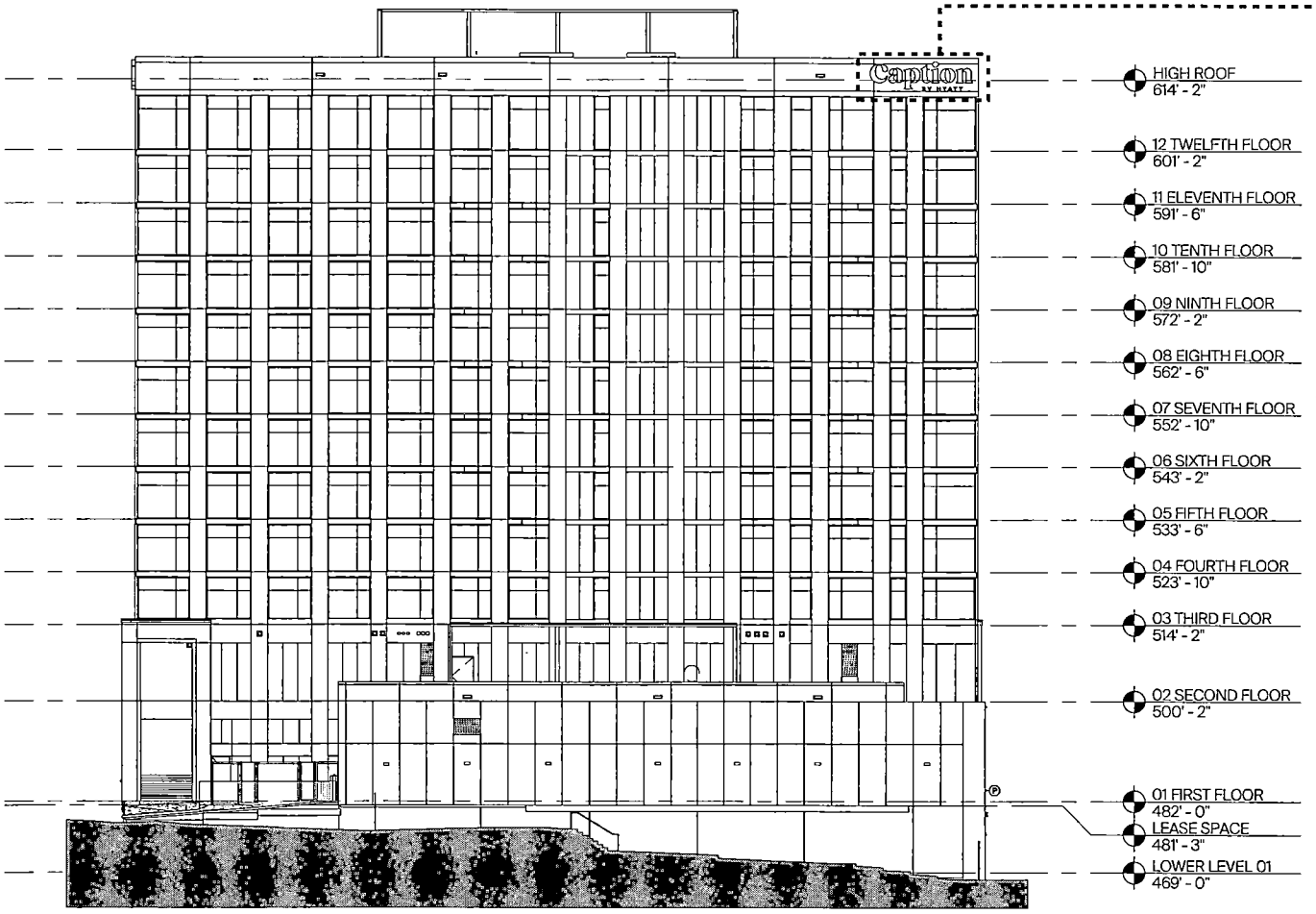
03/26/25

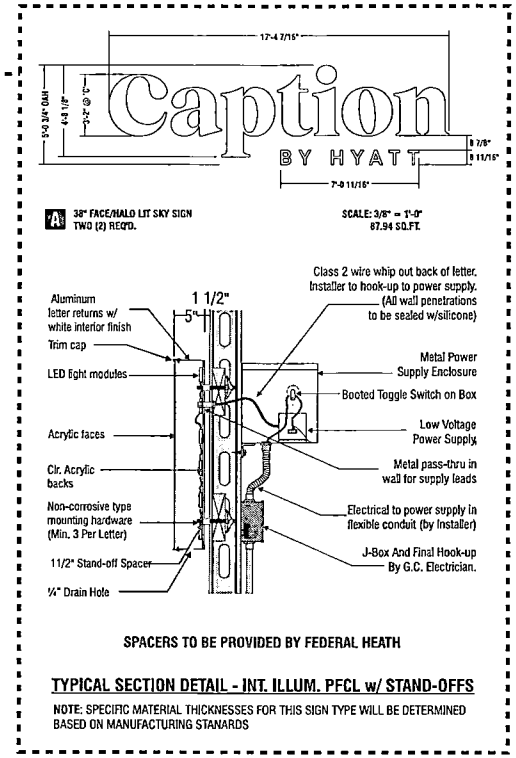


HASTINGS
© 2025

CAPTION BY HYATT

NORTH ELEVATION - RETAIL SIGNAGE

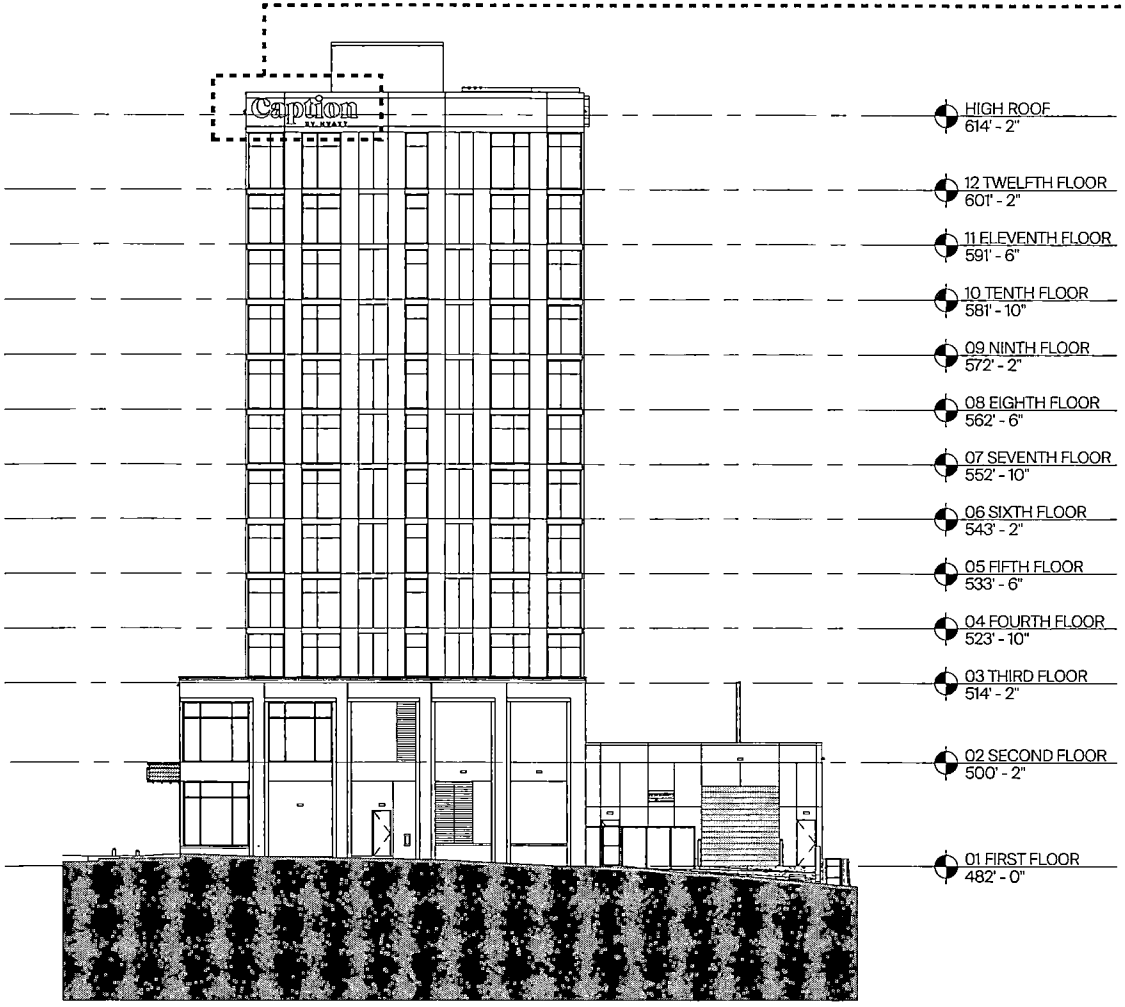




SPACERS TO BE PROVIDED BY FEDERAL HEATH

TYPICAL SECTION DETAIL - INT. ILLUM. PFCL w/ STAND-OFFS

NOTE: SPECIFIC MATERIAL THICKNESSES FOR THIS SIGN TYPE WILL BE DETERMINED BASED ON MANUFACTURING STANARDS


Caption
BY HYATT
HIGH ROOF
614' - 2"
12 TWELFTH FLOOR
601' - 2"
11 ELEVENTH FLOOR
591' - 6"
10 TENTH FLOOR
581' - 10"
09 NINTH FLOOR
572' - 2"
08 EIGHTH FLOOR
562' - 6"
07 SEVENTH FLOOR
552' - 10"
06 SIXTH FLOOR
543' - 2"
05 FIFTH FLOOR
533' - 6"
04 FOURTH FLOOR
523' - 10"
03 THIRD FLOOR
514' - 2"
02 SECOND FLOOR
500' - 2"
01 FIRST FLOOR
482' - 0"

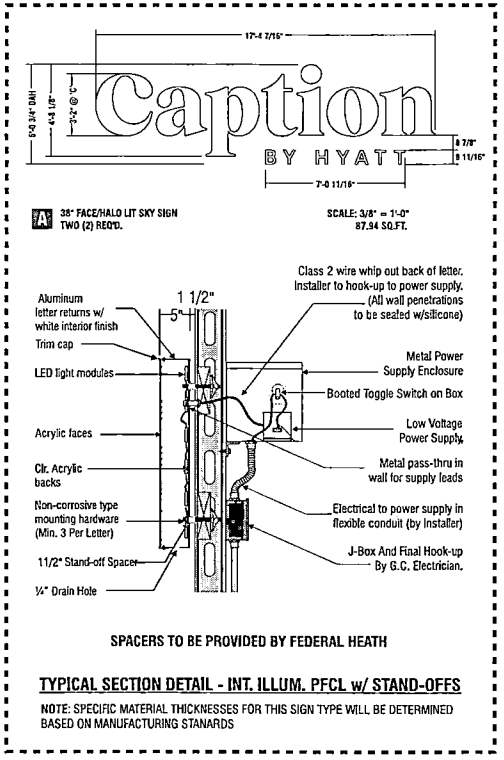

17'-4 7/16"
Caption
BY HYATT
7'-0 11/16"
A
38" FACE/HALO LIT SKY SIGN
TWO (2) REQ'D.
SCALE: 3/8" = 1'-0"
87.94 SQ.FT.
Aluminum letter returns w/ white interior finish
Trim cap
LED light modules
Acrylic faces
Clr. Acrylic backs
Non-corrosive type mounting hardware (Min. 3 Per Letter)
1 1/2"
5"
Class 2 wire whip out back of letter. Installer to hook-up to power supply. (All wall penetrations to be sealed w/silicone)
Metal Power Supply Enclosure
Booted Toggle Switch on Box
Low Voltage Power Supply
Metal pass-thru in wall for supply leads
Electrical to power supply in flexible conduit (by Installer)
J-Box And Final Hook-up By G.C. Electrician.
11/2" Stand-off Spacer
¼" Drain Hole
SPACERS TO BE PROVIDED BY FEDERAL HEATH
TYPICAL SECTION DETAIL - INT. ILLUM. PFCL w/ STAND-OFFS
NOTE: SPECIFIC MATERIAL THICKNESSES FOR THIS SIGN TYPE WILL BE DETERMINED BASED ON MANUFACTURING STANARDS

EXHIBIT "D"

BYLAWS

BYLAWS

OF

118 TWELFTH AVENUE CONDOMINIUM ASSOCIATION, INC.,

a Tennessee nonprofit corporation

I. GENERAL PURPOSE

118 Twelfth Avenue Condominium Association, Inc., a Tennessee nonprofit corporation (hereinafter the "**Association**"), has been organized for the purpose of administering the operation and management of condominium facilities for the use and benefit of the Unit owners of 118 Twelfth Avenue, a Condominium, a condominium development located in Nashville, Davidson County, Tennessee (hereinafter referred to as "**the Condominium**"), which is more particularly described in a Declaration creating such condominium recorded or to be recorded in the office of the Register of Deeds for Davidson County, Tennessee (the "**Declaration**"). The terms and provisions of these Bylaws are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Charter of the Association (the "**Charter**") and the Declaration. The terms and provisions of the Charter and the Declaration are incorporated herein by reference and shall be controlling wherever the same may be in conflict herewith. Any inconsistency or conflict between the provisions hereof and of the Charter shall be resolved in favor of the provisions of the Charter. Any inconsistency or conflict between the provisions hereof and of the Declaration shall be resolved in favor of the provisions of the Declaration. For purposes of these Bylaws, capitalized terms shall have the meaning set forth in the Declaration unless otherwise stated or the context so requires. The Association shall perform the care and upkeep of the Property as set out in the Declaration. Capitalized terms not defined herein shall have the meanings given them in the Declaration.

II. MEMBERSHIP AND VOTING RIGHTS

A. Membership. Each person or entity who is a record owner of a fee interest in a Unit or Units shall automatically be a member of the Association (hereinafter referred to as "**Member**"). Voting by the Members in the affairs of the Condominium and the Association shall not be on the basis of one vote per Unit, but shall be on the basis of the number of votes assigned in the Declaration. In the event that more than one Member owns a Unit, the votes of that Unit shall be cast by the Member named in a certificate signed by all of the Owners of the Unit (which may be signed by Secure Electronic Signature) and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not on file, the vote of such Members shall not be considered in determining the requirement for a quorum, nor for any other purpose.

B. Change of Membership. Change of membership shall be accomplished by recording in the Davidson County Register's Office a deed or other instrument establishing record title to a Unit, and delivery to the Secretary of the Association of a recorded copy of such instrument. The membership of the prior Owner in the Association shall be thereby terminated.

C. Suspension of Rights. The membership and voting rights of any Member may be suspended by the Board of Directors for any period during which any assessment against the Unit to which its membership is appurtenant remains unpaid beyond applicable notice and cure periods; but upon payment of such assessments, and any interest accrued thereon, the Member's rights and privileges shall be restored as of the date of payment. Further, if rules and regulations governing the use of the Property and the conduct of persons thereon have been adopted and published, as authorized in the Declaration or these Bylaws, the rights and privileges of any person in violation thereof or in violation of the provisions hereof may be suspended at the discretion of the Board of Directors.

D. Proxies. Proxy ballots shall be permitted with respect to all elections of Directors, and all amendments to the Charter, the Declaration, or these Bylaws, or any other matter that is to come before a meeting of, or otherwise be considered by, the membership of the Association. All proxies shall be in writing, signed by the individual Owner or Owners (or in the case of joint owners by the person named in the certificate described in Section A of this Article II) (which may be signed by Secure Electronic Signature), or by his duly authorized representative(s) and delivered to the Secretary of the Association, or such other person as the President may designate, at least twenty-four (24) hours prior to the commencement of the meeting at which ballots are to be cast.

III. MEETINGS OF MEMBERS

A. Place of Meetings. All meetings of the Members of the Association shall be held at the Property or at such other place as may be designated by the Board of Directors. For the avoidance of doubt, meetings may be conducted over telephone or video conference.

B. First Annual Meeting and Regular Annual Meetings. All annual Members' meetings shall be held on the day and month of the year to be established by the Board of Directors. At such meeting the election of Directors shall take place and the Members may transact such other business as may properly come before them.

C. Special Meetings. Special meetings of Members may be called by the President whenever he or she deems such a meeting advisable or shall be called by the Secretary when ordered by a Majority of the Board of Directors, or upon the written request of Members of the Association representing at least fifteen percent (15%) of all votes entitled to be cast at such meeting. Unless Members representing at least two-thirds (2/3rds) of all votes entitled to be cast request such a meeting, no special meeting may be called to consider any matter that is substantially the same as a matter voted upon at any meeting of the Association held during the preceding twelve (12) months, which determination shall be made in the sole and absolute discretion of the Board of Directors.

D. Notice. Notice of all Members' meetings, regular or special, shall be given by the President, Vice President, or Secretary of the Association (or other officer of the Association in absence of said officers) to each Member, unless waived by the Member in writing. Such notice shall be written or printed and shall state the time, place, and purposes for which the meeting is called. Such notice shall be given to each Member not less than ten (10) days or more than two (2) months prior to the date set for such meeting, which notice shall be mailed or presented personally to each Member within said time.

E. Quorum and Adjourned Meetings. A quorum at a Members' meeting shall consist of persons entitled to cast a Majority of the votes of the entire membership. In the absence of a quorum, the

Members who are present, either in person or by proxy, may adjourn the meeting from time to time, until a quorum shall be present or represented.

F. Action by Written Consent. Whenever Members of the Association are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by the persons entitled to vote thereon (which signature may be Secure Electronic Signature).

G. Organization. At each meeting of the Association, the President or, in his or her absence, the Vice President (or in the absence of both the President and the Vice President, a Member present in person or represented by proxy and entitled to vote thereat) shall act as a chairman, and the Secretary or, in his or her absence, a person whom the chairman shall appoint, shall record the minutes of the meeting.

H. Voting. Except as otherwise required by the Charter, the Declaration, or any law, the affirmative vote of a Majority of the votes represented at any duly called Members' meeting at which a quorum is present shall be binding upon the Members. The election of directors shall be by a secret ballot.

I. Member in Good Standing. A Member shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting if and only if all Assessments appertaining to its Unit have been paid, together with all interest, costs, reasonable attorneys' fees, penalties, and other expenses, if any.

J. Order of Business. The order of business at the annual meeting of the Members or at any special meetings insofar as practicable shall be:

1. Roll call (or check-in procedure)
2. Proof of notice of meeting or waiver of notice
3. Reading of minutes of preceding meeting
4. Establish number and term of memberships of the Board of Directors (if required and noticed)
5. Reports of committees
6. Election of directors (if required and noticed)
7. Unfinished business
8. New business
9. Ratification of budget (if required and noticed)
10. Adjournment

IV. BOARD OF DIRECTORS

A. Number and Qualification. The Board of Directors of the Association shall consist of at least three (3) persons. At least a Majority of the Board of Directors shall be Members (or representatives

of Members) of the Association. Notwithstanding any other provision of these Bylaws or the Declaration, the Garage and Retail Unit Owner shall be entitled to elect one (1) Director, and the Hotel Unit Owner shall be entitled to elect two (2) Directors.

B. Term of Office. Each Director's term of office shall be one (1) year.

C. Organizational Meeting. The organizational meeting of a newly elected Board of Directors shall be held within fourteen (14) days of their election at such time and at such place as shall be fixed by the Directors at the Association meeting at which they were elected, and no further notice of the organizational meeting shall be necessary in order to legally constitute such a meeting, providing a quorum of the Board of Directors shall be present.

D. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a Majority of the Directors, but at least one (1) such meeting shall be held each fiscal year. Notice of regular meetings shall be given by the Secretary or other designated person to each director, personally or by mail, email, telephone, or telefax, at least three (3) days prior to the day named for such meetings, unless notice is waived.

E. Special Meetings. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of any two (2) Directors. Not less than three (3) days' notice of a meeting shall be given to each Director personally, by mail, email, telephone, or telefax, which notice shall state the time, place, and purpose of the meeting.

F. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by a member of the Board of Directors at any meeting of the Board shall be deemed a waiver of notice by him or her. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting. In the discretion of the Board of Directors, meetings of the Board of Directors or portions thereof may be open to Members of the Association for observation or participation in such manner and to the extent the Board of Directors may deem appropriate.

G. Quorum and Adjourned Meetings. At all meetings of the Board of Directors, a Majority of the Directors shall constitute a quorum for the transaction of business and acts of the Majority of Directors present at a meeting at which a quorum is present shall be acts of the Board of Directors, unless otherwise provided in the Charter and/or the Declaration. If any Directors' meeting cannot be organized because a quorum is not present, the Directors who are present may adjourn the meeting from time to time until a quorum is present.

H. Removal of Members of the Board of Directors. At any duly held regular or special meeting of the Members, any one or more Directors may be removed with or without cause by 2/3rds of the votes held by the Members represented, and a successor may immediately be elected (or appointed, as applicable) to fill the vacancy thus created. Each person so elected shall be a Director for the remainder of the term of the Director whose term he is filling and until his successor is duly elected and qualified. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting.

I. Vacancies. Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members of the Association shall be filled by a vote of a Majority of the remaining Directors at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy; provided, however, in the event that the vacancies on the Board

of Directors (other than by Declarant removal) result in only one Director remaining on the Board, a special meeting of the Association shall be called by the President in order to fill such vacancies. Each person so elected at a special meeting of the Association shall serve as a Director for the remainder of the term of the Director whose term he or she is filling and until his successor is duly elected and qualified. If the vacancy has been filled by a vote of the remaining Directors, each person so elected shall be a director until his or her successor is elected at the next meeting of the Association.

J. Consent in Lieu of Meeting and Vote. Anything to the contrary in these Bylaws, the Charter, or the Declaration notwithstanding, the entire Board of Directors shall have the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote if the entire Board of Directors, or all the directors empowered to act, whichever the case may be, shall consent in writing to such action.

K. Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, except as provided by the Declaration, these Bylaws, the Act, or applicable law. The Board of Directors shall have, subject to the aforementioned limitations, the powers and duties necessary for the administration of the affairs of the Association and of the Condominium, which shall include, but not be limited to, the following:

1. To make, levy, and collect assessments against Members and Members' Units to pay Common Expenses, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

2. To cause the Common Elements to be maintained according to as set forth in the Declaration and as required by law;

3. To make and amend rules and regulations governing the use of the \ Property for the use and benefit of the Members, so long as such rules and regulations and other limitations that may be placed upon the use of the Property do not conflict with the terms of the Charter and/or the Declaration;

4. To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, as may be necessary or convenient in the operation and management of the Common Elements and in accomplishing the purposes set forth in the Charter or the Declaration;

5. To contract for the management of the Association, and to delegate to such manager all of the powers and duties of the Association, subject to the limitations of the Declaration and the Act, with the cost of employing such manager to be a part of the Common Expenses (and provided that the fee paid to any such manager shall not exceed the market rate for such services);

6. To comply with and to enforce by legal means all terms and conditions of the Declaration, the Charter, these Bylaws, and any rules and regulations now or hereafter promulgated governing the use of the Condominium;

7. To pay all taxes and assessments that are liens against any part of the Property and to assess the same against the Members and their respective Units;

8. To carry insurance for the protection of the Members and the Association as provided in the Declaration;

9. To employ personnel (including, without limitation, attorneys and accountants) for reasonable compensation to perform the services required for proper administration of the Association, with such costs to be Common Expenses;

10. With unanimous vote of the Board, to borrow money for the maintenance, well-being and any replacement of the Property, the repayment of which shall be Common Expenses;

11. To cause to be kept a complete record of all its acts and corporate affairs and to present a summary report thereof to the Members at the annual meeting or at any special meeting;

12. To delegate to the Members responsibilities concerning the maintenance, repair, replacement, and insurance of portions of the Property; and

13. To exercise any other power necessary and proper for the governance of the Association, the performance of the Association's duties under the Declaration, or the exercise of the Association's rights under the Declaration.

L. Eligibility of Directors. Nothing contained in these Bylaws shall prohibit a Director from being an officer, nor preclude the Board of Directors from employing a Director as an employee of the Association or contracting with a Director for the management of the Condominium, subject, however, to the limitations contained herein and in the Declaration.

V. Officers

A. Designation. The executive officers of the Association shall be a President and a Secretary, each of whom shall be elected annually by the Board of Directors at any meeting. The Board of Directors may also appoint such other officers as in its judgment may be necessary to manage the affairs of the Association. Any person may hold two (2) or more offices, except that the President shall not also be the Secretary or an Assistant Secretary.

B. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the Board of Directors meeting following each annual meeting of the Members, and such officers shall hold office at the pleasure of the Board of Directors.

C. Removal of Officers. Upon any affirmative vote of a Majority of all Directors, any officer may be removed, either with or without cause, after opportunity for a hearing, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purposes. Vacancy in any office from whatever cause shall be filled by the Board of Directors by Majority vote of all Directors, at any regular or special meetings of the Board of Directors.

D. Duties and Responsibilities of Officers.

1. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and the Board of Directors. He or she shall have all the powers and duties which are usually vested in the office of the President of an association including but not limited to the power to appoint committees from among the Members from time to time, as he or she may in his or her discretion determine appropriate, to assist in the conduct of the affairs of the Association.

2. The Secretary shall keep the minutes of all proceedings of the Board of Directors and the Members and shall keep the minute book and record all proceedings therein. He or she shall be responsible for serving all meeting notices to the Members and directors, and such other notices as required by law. He or she shall keep the books and records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the Secretary of an association and as may be required by the directors or President. He or she shall keep the Assessment rolls and accounts of the Members; he or she shall keep the books of the Association in accordance with good accounting practices; and he or she shall perform all other duties incident to the office of Treasurer.

E. Amendments to Declaration. Pursuant to the Declaration and Tennessee Code Annotated section 66-27-406(a)(5), the President or the Secretary, or either of them acting alone, may prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

VI. Compensation, Indemnification, and Exculpability of Officers, Directors, and Committee Members

A. Compensation. No compensation shall be paid any officer or any Director or committee member for acting as such officer or Director, unless the Board of Directors acting unanimously determines that such compensation is appropriate. Nothing herein stated shall prevent any officer, Director, or committee member from being reimbursed for reasonable, out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association; provided, however, that any such expenses incurred or services rendered shall have been authorized in advance by the Board of Directors.

B. Indemnification. Each Director, officer, or committee member of the Association shall be indemnified by the Association against all actual, out-of-pocket expenses and liabilities, including reasonable attorneys' fees, incurred by or imposed upon him, in connection with any proceeding to which he may be a party or in any settlement thereof, by reason of his being or having been a director, committee member, or agent of the Association, whether or not he is a director, committee member, or officer at the time such expenses are incurred, except in such cases wherein he is adjudged guilty of willful misfeasance or gross negligence in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director, officer, or committee member may be entitled.

C. Exculpability. Unless acting in bad faith, neither the Board of Directors as a body nor any Director, officer, committee member, or agent of the Association, shall be personally liable to any Member in any respect for any action or lack of action arising out of the execution of his office. Each Member shall be bound by the good faith actions of the Board of Directors, officers, committee members, and agents of the Association, in the execution of the duties of said directors, officers, committee members, or agents.

VII. FISCAL MANAGEMENT

A. Assessments.

1. The Board of Directors shall adopt a budget for each fiscal year of the Association and such budget shall contain estimates of the amount of monies deemed necessary for the Common

Expenses, the manner of expenditure thereof, and the proposed assessments against each Owner. Each Owner shall be obligated to pay its share of the Common Expenses (based upon Percentage Interests) assessed against it by the Board of Directors in accordance with the Declaration, the Charter, these Bylaws, or applicable law. The timing and due dates of such payments shall, subject to the terms of the Declaration, be established by the Board of Directors.

2. The Board of Directors shall give notice to each Unit Owner, in writing, of the amount estimated by the Board of Directors for Common Expenses for the management and operation of the Association for the next ensuing budget period and the proposed annual assessments, directed to the Unit Owner at its last known address by ordinary mail or by hand delivery. Said notice shall be conclusively presumed to have been delivered five (5) days after deposit in the United States mail.

3. The omission by the Board of Directors, before the expiration of any year, to fix the assessment thereunder for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration and Bylaws or a release of any Owner from the obligation to pay the assessments, or an installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall be adjusted as provided in the Declaration until a new assessment is fixed.

B. Other Assessments. In addition to the annual Assessments authorized by Section A of this Article VII, the Board of Directors may levy such other assessments as may be permitted pursuant to the Declaration.

C. Reserves. The Board of Directors shall not be obligated to expend all of the Assessments collected in any accounting period, but must establish and maintain reasonable reserves for the periodic maintenance, repair, and replacement of the Common Elements, which reserves will be established and maintained out of the annual Assessments.

D. Depository. The depository of the Association shall be such bank or banks and/or federal savings and loan associations as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be by such persons as are authorized by the Directors.

E. Examination of Books and Records. The Board of Directors shall keep a detailed account, in chronological order, of the receipts and expenditures affecting the Condominium and its administration and specifying the maintenance and repair expense of the Common Elements and any other expenses incurred. Such books, the vouchers accrediting the entries made thereon, copies of the Declaration, these Bylaws, any rules and regulations, and other books, records, and financial statements of the Association shall be maintained at the principal office of the Association and shall be available for inspection by Members or by a Member's authorized agent, holders, insurers, and guarantors of Mortgages that are secured by Units in the Condominium during normal business hours or under any other reasonable circumstances. Such books and records shall be audited annually at the expense of the Association.

F. Management Contracts. The Association may enter into reasonable professional management contracts or other agreements reasonably attendant to the fulfillment of the Association's duties set forth in the Declaration, including contracts with a Unit Owner or an affiliate of a Unit Owner, provided that the fees charged or the terms of any such contract are established on an arms-length basis and shall be no less favorable to the Association or the other Owners than fees or terms which could be obtained from an unaffiliated third party.

G. Fidelity Bonds. The Association shall, subject to the provisions of the Declaration, maintain blanket fidelity bonds for all persons who either handle or are responsible for funds held or administered by the Association, whether or not they receive compensation for such services. Any management agent handling funds for the Association must also be covered by a fidelity bond.

H. Interest and Attorneys' Fees. The Board of Directors shall have the option, in connection with the collection of any charge or assessment from a Unit Owner, to impose a late fee pursuant to the terms of the Declaration. In the event attorneys' fees or other costs are incurred by the Board of Directors in the collection of any such charge or Assessment, the Unit Owner shall be responsible for payment of all such reasonable attorneys' fees and other costs, in addition to such other costs allowable by law.

J. Annual Report. An accounting of the accounts of the Association shall be made annually, the cost of the annual accounting shall be deemed a Common Expense, and a copy of the report of such accounting shall be furnished to each Member not later than March 1 of the year following the year for which the report is made. In addition, any holder of a first Mortgage on a Unit shall, upon written request, be entitled to a copy of the report provided it pays any reasonable expenses of the Association incurred in rendering such copy.

X. ENFORCEMENT

A. Enforcement. The Board of Directors shall have the power, at its sole option, subject to the terms and conditions of the Declaration, to enforce the terms of the Declaration and this instrument or any rule or regulation promulgated pursuant thereto, by any or all of the following: lawful self-help; sending notice to the offending party to cause certain things to be done or undone, restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof; complaint to the duly constituted authorities; or by taking any other action before any court, summary or otherwise, as may be provided by law and/or the Declaration.

B. Waiver. No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

XI. AMENDMENTS

Subject to the provisions contained in the Declaration and in the Act, these Bylaws may be altered or repealed, or new Bylaws may be made, at any meeting of the Members of the Association or the Board of Directors duly held for such purpose, previous to which written notice shall have been sent, a quorum being present, by an affirmative vote of 100% of the votes in the Association or all of the Directors. Directors and Members not present at the meetings considering the amendment may express their approval in writing. Any amendment that would require the amendment of the Declaration or that would necessitate the approval of such amendment to the Declaration by a Mortgagee pursuant to provisions of the Declaration, must be approved and consented to by Mortgagees holding first Mortgages with respect to Units representing at least 100% of such Units. These Bylaws shall be amended, if necessary, so as to make the same consistent with the provisions of the Declaration.

XII. CONFLICT; INVALIDITY

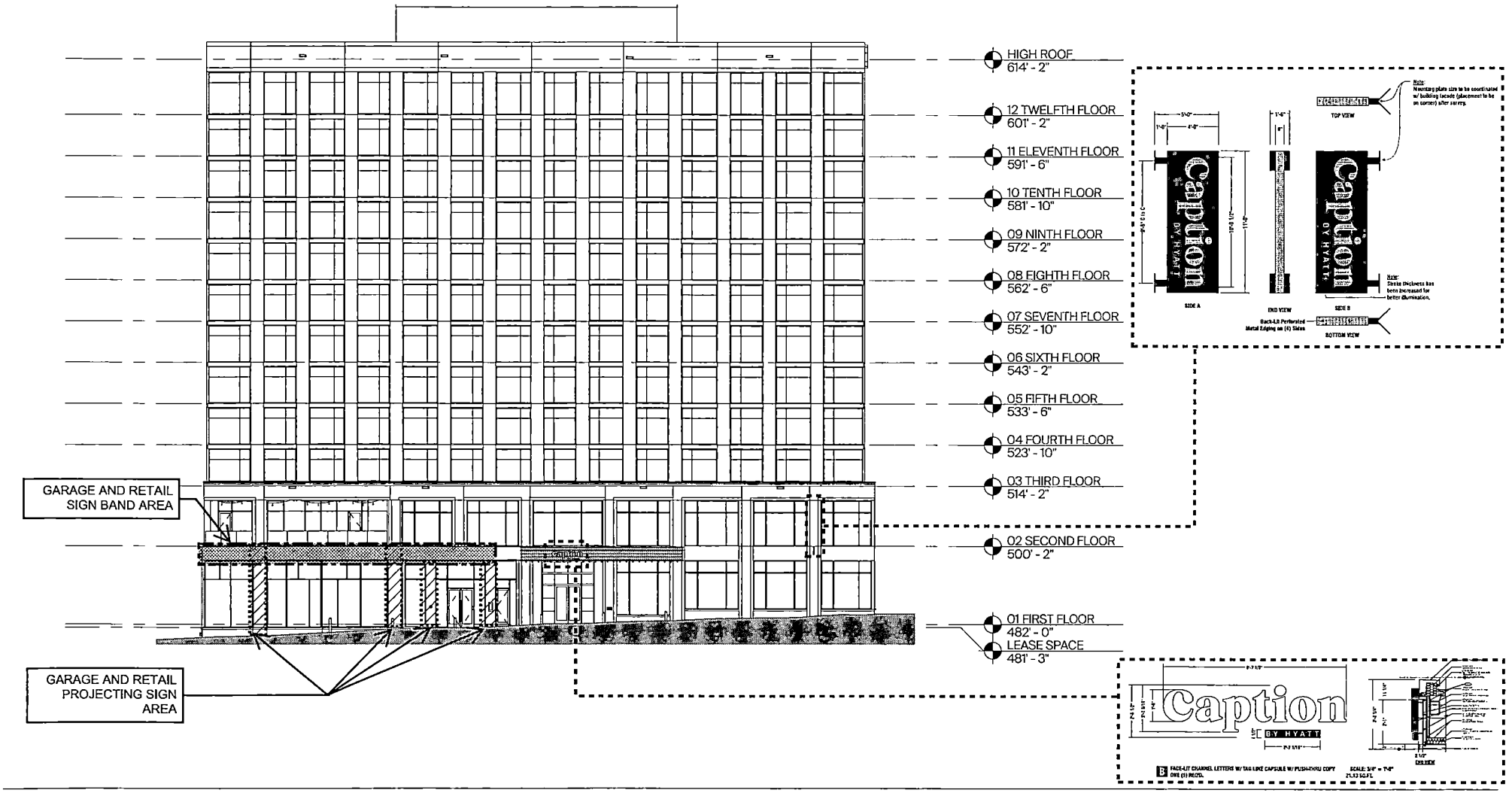
A. Conflict. Anything to the contrary herein notwithstanding, if any provision of these Bylaws is in conflict with or contradiction of the Declaration or the Charter, or with the requirements of

any law or regulation, then the requirements of said Declaration, Charter, law, or regulation shall be deemed controlling.

B. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the enforceability or affect the remaining provisions of the Bylaws.

EXHIBIT "E"

SIGNAGE

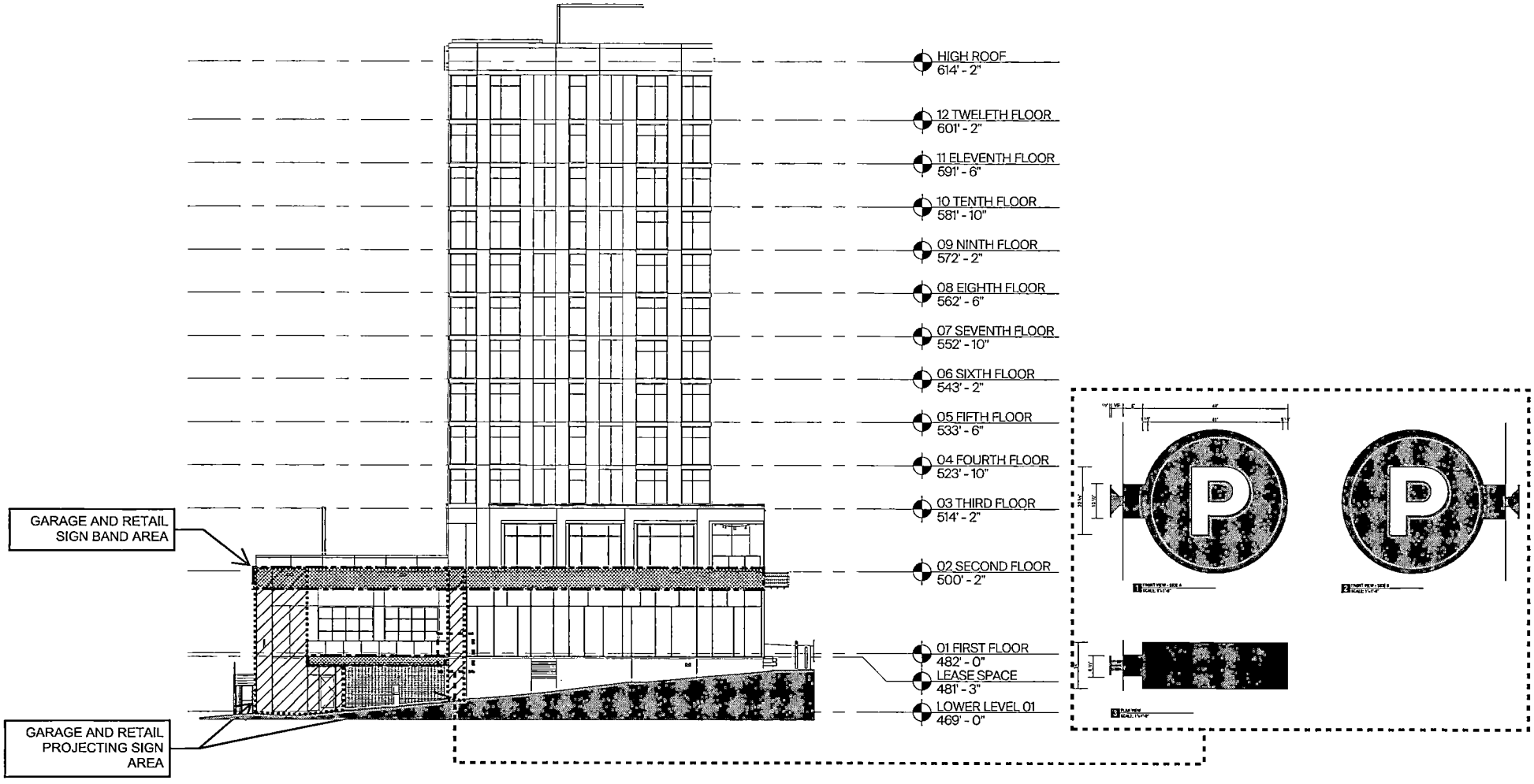


HASTINGS
© 2025

CAPTION BY HYATT

WEST ELEVATION - RETAIL SIGNAGE

03/26/25

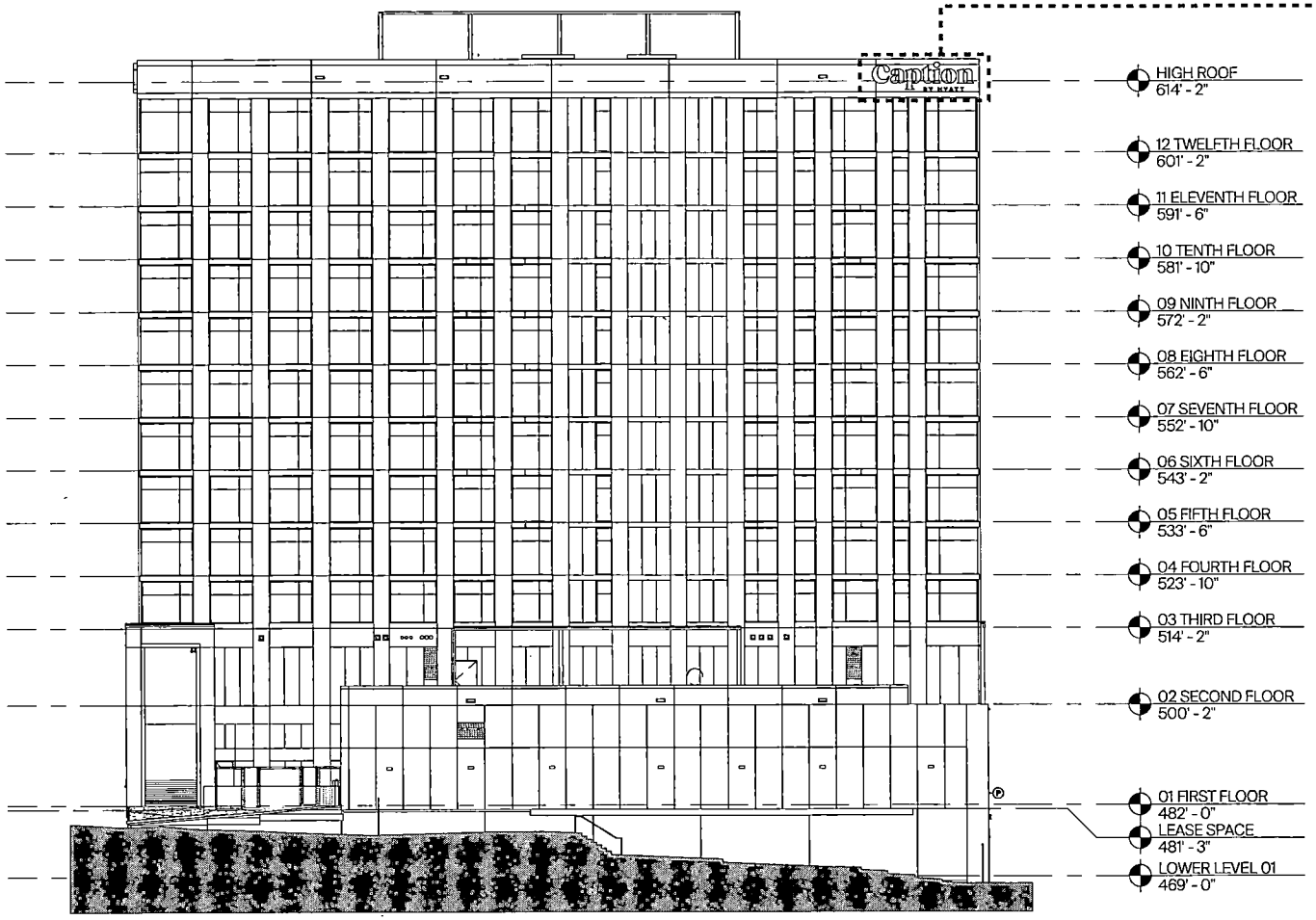


HASTINGS
© 2025

CAPTION BY HYATT

NORTH ELEVATION - RETAIL SIGNAGE

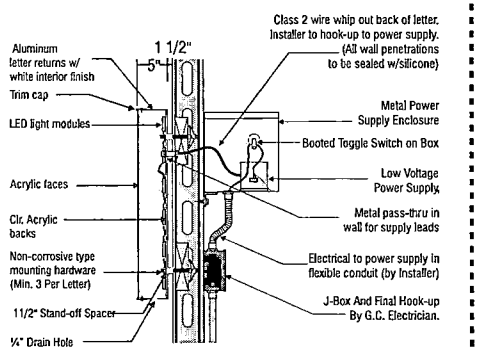
03/26/25





A 38" FACE/HALO LIT SKY SIGN
TWO (2) REQ'D.

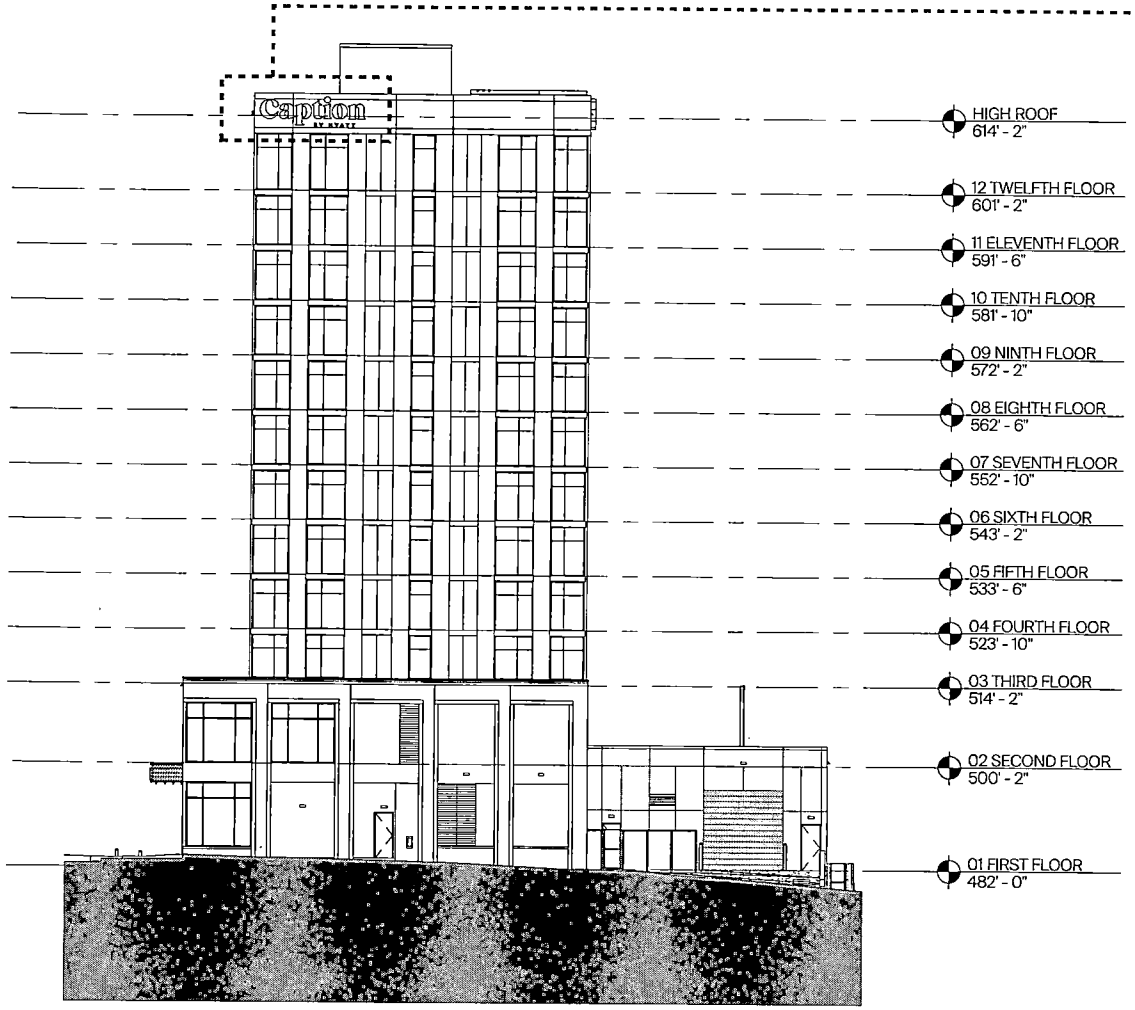
SCALE: 3/8" = 1'-0"
87.94 SQ.FT.

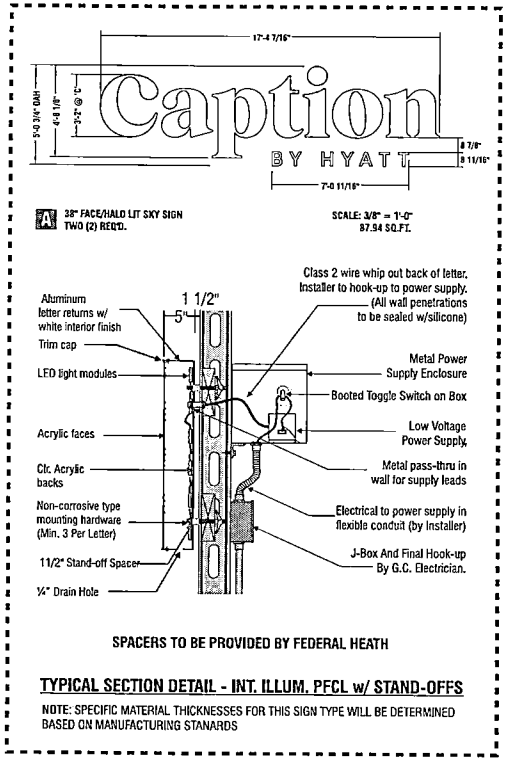


SPACERS TO BE PROVIDED BY FEDERAL HEATH

TYPICAL SECTION DETAIL - INT. ILLUM. PFCL w/ STAND-OFFS

NOTE: SPECIFIC MATERIAL THICKNESSES FOR THIS SIGN TYPE WILL BE DETERMINED BASED ON MANUFACTURING STANARDS





SPACERS TO BE PROVIDED BY FEDERAL HEATH

TYPICAL SECTION DETAIL - INT. ILLUM. PFCL w/ STAND-OFFS

NOTE: SPECIFIC MATERIAL THICKNESSES FOR THIS SIGN TYPE WILL BE DETERMINED BASED ON MANUFACTURING STANARDS

EXHIBIT "F"

DISCLOSURES

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

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

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

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

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

(f) Concrete surfaces in portions of the Building are subject to cracking due to (i) water penetration, (ii) expansion and contraction of the concrete with temperature changes, (iii) building settlement, and (iv) other circumstances or conditions. Declarant shall not be liable for any such cracking.

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

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

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

(j) Declarant may be constructing portions of the Condominium and engaging in other construction activities related to the improvement of Common Elements and Units. Such construction activities may, from time to time, produce certain conditions on the Condominium, including, without limitation: (A) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (B) smoke; (C) noxious, toxic, or corrosive fumes or gases; (D) obnoxious odors; (E) dust, dirt or flying ash; (F) unusual fire or explosion hazards; (G) temporary interruption of utilities; and/or (H) other conditions that may threaten the security or safety of Persons on the Condominium. Notwithstanding the foregoing, such conditions on the Condominium resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

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

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

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

(n) The Condominium may be subject to erosion and/or flooding during intense or prolonged periods of rain.

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

(p) Elevators serving the building may malfunction from time to time and become stuck between levels for temporary periods. Neither Declarant nor the Association shall be liable for any such malfunctions

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

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

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

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

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

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