

This Instrument Prepared By:  
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Chattanooga, TN 37402

BOOK 2844 PAGE 122

MC  
Terry

(M)

MASTER DEED  
FOR  
CONTINENTAL CONDOMINIUM  
1414 Continental Drive, Chattanooga, Tennessee

THIS MASTER DEED made and entered into by Continental Equity Investments, Inc., a Tennessee corporation, (hereinafter referred to as the "Developer"):

W I T N E S S E T H

WHEREAS, the Developer is the legal title holder to certain real estate located in the City of Chattanooga, County of Hamilton, and State of Tennessee, more particularly described in Exhibit A, attached hereto and made a part hereof as fully set forth herein, (hereinafter referred to as "Parcel"); and

WHEREAS, the Developer intends to and does hereby submit the above described Parcel of real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in anywise pertaining thereto (hereinafter called the "Property") to the provisions of the Horizontal Property Act of the State of Tennessee as amended; and

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

NOW, therefore, the Developer, as the legal title holder of the Property described in Exhibit A and for the purposes above set forth, declares as follows:

1. DEFINITIONS. As used herein, unless the context otherwise requires:

(a) "Act" means the Horizontal Property Act of the State of Tennessee, as amended.

(b) "Association" means the Continental Condominium Association, Inc., a Tennessee not-for-profit corporation.

(c) "Board" or "Board of Directors" means the Board of Directors of the Association.

(d) "Building" means all structures or structural improvements located on the Parcel and forming part of the Property submitted to the provisions of the Act and containing one or more Units, as shown by the surveys of the respective floors of said structural improvements included in the Plat.

(e) "Bylaws" means the Bylaws of the Association, attached hereto as Exhibit E and by this reference made a part hereof, as amended from time to time.

(f) "Common Elements" means General Common Elements and Limited Common Elements.

(g) "Common Expenses" means the proposed or actual expenses affecting the Property, including reserves, lawfully assessed by the Board. Such Common Expenses shall consist of the expenses of the administration, management, maintenance, operation, repair or replacement of and additions to the Common Elements and any other expenses incurred in conformance with the Act, this Master Deed and the Bylaws, including expenses agreed upon as Common Expenses by a Majority of the Unit Owners and expenses declared to be Common Expenses by this Master Deed or by the Bylaws.

(h) "Council of Co-Owners" means all of the Unit Owners, which Council of Co-Owners has been incorporated as the Association, as set forth in Exhibit D.

(i) "Developer" means Continental Equity Investments, Inc., a Tennessee corporation, and any successor or assign of said corporation provided such successor or assign is designated in writing by said corporation.

(j) "Director" means a member of the Board of Directors.

(k) "First Board" means the Board of Directors appointed by the Developer.

(l) "First Mortgagees" means the holder of a Recorded first Mortgage or deed of trust.

(m) "General Common Elements" means all portions of the Property, including, without limitation, the land, foundations, bearings, walls and columns, roofs, hallways, stairways, entrances and exits, lobby, sun deck, swimming pools, rods, laundry room, mechanical equipment areas, storage areas, office of the building manager, incinerator, elevators, basements, boilers, the boiler room, roofs, pipes, water tanks

and pumps, ducts, electrical wiring and conduits, central heating systems, public utility lines, parking areas, yards and gardens, structural parts of the Building, outside walks and driveways, party room, landscaping and all other portions of the Property except the individual Units and except the Limited Common Elements, desirably or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime established by this Master Deed. Structural columns and load bearing walls located within the boundaries of a Unit shall be part of the General Common Elements. Any references to "General Common Elements" appearing on the Plat (except references to Limited Common Elements) shall be deemed solely for purposes of general information and shall not be limiting in any way, nor shall any such reference define the General Common Elements in any way.

(n) "Initial Management Agreement" means the initial management agreement between the Developer, on behalf of the Association, and a management company, which may be a corporation related to the Developer, to act as Managing Agent for the Property.

(o) "Insurance Trustee" means a lending institution in the metropolitan Chattanooga, Tennessee area with trust powers as may be designated by the Board to hold insurance proceeds in trust.

(p) "Lender" means any owner or holder, or any successor or assign thereof of a Recorded Mortgage or deed of trust on the Property, or any portion thereof, or any interest of such Unit Owner, or any successor or assign of such a mortgagee, or any bank, insurance company, mortgage bank, savings and loan association, or other financial institution, institutional investor or institutional lender or its affiliates.

(q) "Limited Common Elements" means all Common Elements designated as serving or serving exclusively a single Unit or one or more adjoining Units to the exclusion of other Units as an appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit or Units either in this Master Deed or on the Plat or by the Board. Said Limited Common Elements shall include, but not be limited to, pipes, ducts, electrical wiring or air conditioning and heating elements and conduits located entirely within a Unit or adjoining Units and serving only such Unit or Units, such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows, balconies or patios, and entryways, and all associated fixtures and structures therein, as lie outside the Unit boundaries and serve exclusively a single Unit or adjoining Units, as aforesaid. The balconies at the Building constituting Limited Common Elements are designated on the Plat by the letter "B" followed by the number of the Unit exclusively served by such balcony, and similarly any patios are designated on the Plat by the letter "P" followed by the number of the Unit exclusively served by such patio.

(r) "Managing Agent" means the management company or manager hired by the Board to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board.

(s) "Master Deed" means this instrument, by which the Property is submitted to the provisions of the Act, as hereinafter provided, and such Master Deed as amended from time to time.

(t) "Majority" or "Majority of the Unit Owners" means the owners of more than fifty percent (50%) in the aggregate of the undivided ownership interest in the Common Elements. Any specified percentage of Unit Owners means that percentage of Unit Owners who in the aggregate own such specified percentage of the entire undivided ownership of the Common Elements.

(u) "Mortgage" means a mortgage or deed of trust covering a Unit and the undivided interest in the Common Elements appurtenant thereto.

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

(w) "Parcel" means the parcel or tract of real estate, described or referred to above in the Master Deed, submitted as provided herein to the provisions of the Act and more particularly described in Exhibit A.

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

(y) "Flat" means the plats of survey of the Parcel and or the floor and elevation plans and drawings of all Units in the Property submitted to the provisions of the Act, said Plat being attached hereto as Exhibit B and by this reference made a part hereof and recorded simultaneously with the recording of this Master Deed. The plat contains a legal description of the Parcel, the location of the Buildings on the Parcel with Buildings denoted by letter and a description and location for each Unit.

(z) "Property" means all the land, property and space comprising the Parcel, and all improvements and structures erected, constructed or contained therein or thereon, including the Building and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.

(aa) "Record", "Recording", "Recorded" or "Recordation" refers to the record or recording in the office of the Register of Deeds in Hamilton County, Tennessee.

(bb) "Unit" means a part of the Property designated and intended for any type of independent use so specified as a Unit and listed on Exhibit C, attached hereto, and as set forth on the Plat, attached hereto as Exhibit B, and having lawful access to a public way. Each Unit shall consist of the

space enclosed and bounded by the horizontal and vertical planes as shown on said Plat, and shall include all improvements and decorating contained within such area, including any plumbing and electrical fixtures, wall and floor coverings, paneling, molding, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished interior surfaces of the walls, floor and ceilings constituting the perimeter boundaries of such area; provided, however, that no structural components of the Building, and no pipes, wires, conduits, flues, shafts, chutes, ducts, public utility lines or other apparatus situated within such Unit and forming part of any system serving one or more other Units or any portion of the General Common Elements shall be deemed to be a part of such Unit. Any Unit may be jointly or commonly owned by more than one Person.

(cc) "Unit Owner" means the Person or Persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and of the undivided interest in the Common Elements appurtenant thereto, but shall not include those having an interest in a Unit merely as security for the performance of an obligation. Unless specifically provided otherwise herein, the Developer shall be deemed a Unit Owner so long as it is the legal title holder of any Unit.

2. SUBMISSION OF PROPERTY TO THE ACT AND THE NAME OF THE CONDOMINIUM. The Developer as the legal title holder in fee simple of the Parcel, expressly intends to and by Recording this Master Deed does hereby, submit the Parcel and the Property as described in Exhibit A to the provisions of the Horizontal Property Act of the State of Tennessee, as amended. Upon the Recording of this Master Deed the Parcel and the Property, as a whole, shall be named and may be commonly referred to as the Continental Condominium.

3. PLAT. The Plat sets forth a survey of the land, a graphic description of the existing improvements and plot plan thereof in sufficient detail to identify the Common Elements and each Unit and their respective location and approximate dimensions and other data.

4. UNITS. The legal description of each Unit shall consist of the distinguishing number or other symbol for such Unit as shown on the Plat. Every deed, lease, Mortgage or other instrument shall legally describe a Unit by its identifying number or symbol as shown on the Plat and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided in this Master Deed, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat.

5. NO PARTITION. The Common Elements shall remain undivided and shall not be the object of an action for partition or division of the co-ownership thereof so long as suitable for a condominium regime, and in any event, all Mortgages must be paid

in full prior to bringing an action for partition or the consent of all mortgagees must be first obtained.

6. (a) ASSOCIATION OF UNIT OWNERS AND ADMINISTRATION AND OPERATION OF THE PROPERTY. There has been or will be formed, pursuant to the Charter attached hereto as Exhibit D and made a part hereof, an Association having the name "Continental Condominium Association, Inc.", a Tennessee not-for-profit corporation, which Association shall be the governing body for all of the Unit Owners, for the maintenance, repair, replacement, administration and operation of the Property, as provided in the Act, this Master Deed and the Bylaws. The Association shall have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Act, this Master Deed or the Bylaws. All of the Unit Owners irrevocably constitute and appoint the Association, in their names, as attorney in fact to effectuate the above. The Bylaws for the Association shall be the Bylaws attached to the Master Deed as Exhibit E and made a part hereof. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the Bylaws and of the Act. Subject to the Act and Paragraph 10 below, the Board shall have standing to act in a representative capacity in relation to matters involving the Common Elements or more than one Unit, on behalf of the Unit Owners, as their interests may appear. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and all funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners in accordance with the provisions of the Master Deed and Bylaws. Each Unit Owner shall be a member of the Association so long as he is a Unit Owner. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. Upon the reallocation or reapportionment between two or more Unit Owners of their respective percentages of ownership in the Common Elements, as provided under this Master Deed or under the Act, each such Unit Owner shall be a member of the Association in accordance with the percentage of said Unit Owner's ownership interest in the Common Elements following such reallocation or reapportionment. The aggregate number of votes for all members of the Association shall be one hundred (100) and shall be divided among the respective percentages of ownership interest in the Common Elements as set forth in Exhibit C attached hereto.

(b) MANAGEMENT OF PROPERTY. The Board shall have the authority to engage the services of a Managing Agent to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of subparagraph (c) below. The cost of such services shall be a Common Expense.

(c) INITIAL MANAGEMENT CONTRACT. Provided that it receives the prior written approval of the Unit Owners owning a majority of the total ownership of the Common Elements, excluding the Developer as a Unit Owner, the First Board, appointed as provided herein, may ratify and approve an Initial Management Agreement between the Developer, on behalf of the Association, and a management company, which may be a corporation related to the Developer to act as Managing Agent for the Property, which ratification and approval shall not be subject to the provisions of Article IV, Section 6 of the Bylaws of the Association. Any agreement for professional management other than the Initial Management Contract for the condominium project whether by the Developer, its successors and assigns, or any other person or entity, may be terminated on ninety (90) days written notice and the terms of any such contract shall so provide and shall not be of a duration in excess of one (1) year.

(d) APARTMENTS FOR BUILDING PERSONNEL. Provided that it receives the prior written approval of the Unit Owners owning a majority of the total ownership of the Common Elements, excluding the Developer as a Unit Owner, the Board shall have authority to lease or purchase and Mortgage one or more Units or other residential quarters for Building personnel. All rental or interest or other sums paid by the Association pursuant to any such lease agreement, purchase or Mortgage shall be part of the Common Expenses. The Board shall have authority to make such Mortgage arrangements and other such financing arrangements and levy special assessments proportionately among the respective Unit Owners, as the Board may deem desirable, in order to close and consummate the purchase or lease of a Unit, or interest therein, by the Association. However, no such financing arrangement may be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein, to be purchased or leased, and the percentage interest in the Common Elements appurtenant thereto.

(e) USE BY DEVELOPER. During the period of sale of any Units by the Developer, the Developer and Developer's respective agents, employees, successors, assigns, contractors, subcontractors, brokers, licensees, and invitees and the respective agents and employees thereof shall be entitled to use, parking, access, ingress to and egress from the Building, Property, and Common Elements without charges, as may be required for purposes of sale of Units and other activities of Developer on or about the Property and the Building. While the Developer owns any Unit and until each Unit sold by it is occupied by the purchasers thereof, the Developer and their respective agents and employees and the respective agents and employees thereof may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units or a portion of the Common Elements without charge, as a sales office, administrative office, management

office, or other uses and offices incidental to Developer's use of the Building and Property, and may maintain customary signs, banners and flags in connection therewith. This section may only be amended or modified with the express written consent of the Developer.

(f) NON-LIABILITY OF THE DIRECTORS, BOARD, OFFICERS AND DEVELOPER. Neither the Directors, Board, officers of the Association, nor the Developer shall be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Directors, Board, officers, or Developer, except for any acts or omissions found by a court to constitute a crime, gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the Directors, Board, officers, or Developer and their respective devisees, legatees, heirs, executors, administrators, legal representatives, successors and assigns in accordance with the provisions of Article VIII of the Bylaws. Notwithstanding the foregoing provisions, the Developer in its capacity as a Unit Owner shall be subject to the liability standards which affect all other Unit Owners.

(g) BOARD'S DETERMINATION BINDING. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of the Master Deed or Bylaws, such dispute or disagreement shall be submitted to the Board and the determination thereof by the Board, provided that it is not arbitrary or capricious, shall be final and binding on each and all such Unit Owners, subject to the right of Unit Owners to seek other remedies provided by law after such determination by the Board.

(h) BOARD AUTHORITY TO PERMIT USE BY OTHERS. The Board shall have the authority to permit Persons other than Unit Owners to use portions of the Common Elements, including clubrooms and recreational facilities, upon such terms as the Board shall deem advisable. All proceeds and revenues, if any, received from such use of the Common Elements shall be used to defray Common Expenses in such manner as the Board shall determine.

7. OWNERSHIP IN THE COMMON ELEMENTS. Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in Exhibit C attached hereto and made a part hereof as though fully set forth this Master Deed, having been computed and determined in accordance with the Act, and shall remain constant unless hereafter changed by amendment, to this Master Deed, as provided in subparagraphs 13(c) or 13(e) or Paragraph 19 or 20 of this Master Deed, or unless hereafter changed by amendment to this Master Deed consented to in writing by two-thirds (2/3) of the Unit Owners, and, in either case, such amendment is Recorded in accordance with the Act and Paragraph 23, below. Said ownership interest in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentage of ownership. Except as provided in this Master Deed,



the ownership interest in the Common Elements shall remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements, and any agreement or covenant to the contrary shall be void. The ownership of each Unit shall not be conveyed, transferred, encumbered or otherwise affected separate from the percentage of ownership in the Common Elements corresponding to said Unit. The undivided percentage of ownership in the Common Elements corresponding to any Unit shall be deemed conveyed, transferred, encumbered or otherwise affected with that Unit, even though the legal description in the instrument conveying, transferring, encumbering or otherwise affecting said Unit may refer only to the fee title to that Unit and not expressly mention or describe the percentage of ownership in the Common Elements corresponding to that Unit, or may refer to an incorrect percentage for that Unit.

8. USE OF COMMON ELEMENTS. (a) Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements, the parking areas which are governed by subparagraph 8(c) below, and portions of the Property subject to leases, easements, licenses, and concessions made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to not only each Unit Owner, but also to his agents, servants, tenants, family members, invitees and licensees. However, the Limited Common Elements designated as serving or serving exclusively a single Unit or one or more adjoining Units are hereby assigned to such Unit or Units and the use and possession of such Limited Common Elements are reserved to the lawful occupants of such Unit or Units. Such rights to use the Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act, Master Deed, Bylaws and rules and regulations of the Association. In addition, the Association shall have the authority to lease, grant concessions, grant easements or grant licenses with respect to parts of the Common Elements, subject to the provisions of the Master Deed and Bylaws, and such rights to use the Common Elements including but not limited to the Limited Common Elements shall be subject to the provisions of any such lease, concession, license and easement. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

(b) The storage lockers and mailboxes located in the Building shall be part of the Common Elements and shall be allocated and re-allocated to Unit Owners from time to time in such manner and subject to such rules and regulations as the Board of Directors may prescribe.

(c) The parking areas of the Building shall be part of the General Common Elements and shall be operated and maintained as the Board of Directors shall deem necessary. The Board may charge all users of the covered parking areas, including Unit Owners, fees for parking vehicles and shall establish such other rules and regulations regarding the operation and maintenance of the entire parking area. The Board shall have the right to:

(1) lease or rent and assign any such individual covered parking areas to Persons desiring to use the same;

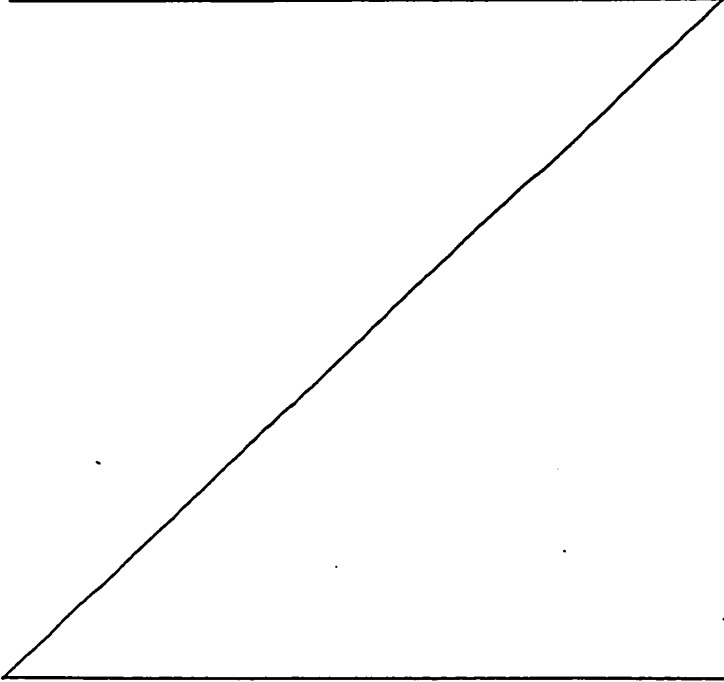
(2) lease and assign the covered parking areas as a whole to a tenant who will operate the same; or

(3) enter into a management or operating agreement with an individual or other entity which shall operate or manage the entire parking area on behalf of the Association. Unit Owners shall be given preference over non Unit Owners in the leasing or rental of individual parking spaces in the covered parking areas, and every Unit shall be entitled to the assignment of at least one parking space, but not necessarily a covered parking space, subject to the provisions herein.

(d) The provisions of paragraph 8(c) above notwithstanding, unless it receives the prior written approval of the Unit Owners owning a majority of the total ownership of the Common Elements, excluding the Developer as a Unit Owner, the First Board will not (i) lease or assign the covered parking area as a whole to a tenant (ii) enter into a management or operating agreement with an entity managing the entire parking area on behalf of the Association (iii) charge any Unit Owner a separate fee for vehicle parking or (iv) construct additional covered parking spaces at the cost of the Association or any Unit Owner other than the Developer. Further, the First Board shall not change the existing covered parking location or quantity of parking spaces for any initial purchaser of a Unit, provided that the First Board shall have the right to reassign the unused parking spaces of any Unit Owners with more parking spaces than automobiles garaged in the covered parking areas, but provided further that such reassignment shall be made only as needed to accommodate new Unit Owners.

9. COMMON EXPENSES. (a) Each Unit Owner, including the Developer, shall pay his proportionate share of the Common Expenses. Except for its responsibilities as a Unit Owner, as provided herein, the Developer shall not have the responsibility for the maintenance, repair or replacement of any part of the Common Elements after the date the Developer delivers its deed to the first purchaser of a Unit. Such proportionate share of the Common Expenses for each Unit Owner shall be in the same ratio as his percentage of ownership in the Common Elements. Payments of Common Expenses, including any payment thereof required by

contract for sale of a Unit, shall be in such amounts and at such times as determined in the manner provided in the Bylaws. No Unit Owner shall be exempt from payment of his proportionate share of the Common Expenses by waiver or non-use or non-enjoyment of the Common Elements or by abandonment of his Unit. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof together with any reasonable late charges and further, together with interest thereon at the maximum contract rate as may then be permitted under the law of the State of Tennessee from and after the date said Common Expenses are assessed shall constitute a lien on the interest of such Unit Owner in the Property and his Unit as provided in the Act. Provided, however, that such lien shall be subordinate to the lien of any prior Recorded Mortgage or deed of trust on the Property or any portion thereof, or on any interest of such Unit Owner, which Mortgage or deed of trust is Recorded prior to the date such lien for unpaid Common Expenses attaches and is owned or held by any Lender, except for the amount of said proportionate share of such Common Expenses which become due and payable from and after the date on



which such Lender either takes possession of the property or interest encumbered by such Mortgage or deed of trust, or accepts a conveyance, transfer or assignment of the Unit or of any interest therein (other than as security) in lieu of any foreclosure of such Mortgage or deed of trust. This provision shall not be amended, modified or rescinded without the prior written consent of all Lenders who are the holders or owners of a Mortgage or deed of trust Recorded prior to the date of such amendment, modification or rescission.

(b) A Unit Owner or mortgagee of a Unit shall have the right to acquire from the Association a certificate showing the amount of unpaid assessments with respect to the Unit. The Association may not enforce against a mortgagee who relies on the certificate any indebtedness as of that date in excess of the amount shown thereon. A purchaser of a Unit shall have the right to acquire from the Association an estoppel letter effective on the date of closing of the Unit, stating that no unpaid assessments or other obligations with respect to the Unit are due from the purchaser. In addition the Board shall upon request of a Unit Owner or a prospective purchaser of a Unit prepare and deliver a letter stating either that there are no delinquent or unpaid assessments, fees or other obligations outstanding in respect to such Unit, or enumerating any outstanding and unpaid delinquent assessments, fees and other obligations. The Association shall have the right to exercise and to enforce any and all rights and remedies as provided or available at law or in equity for the collection of unpaid assessments or other obligations owing to the Association by its former Unit Owners.

(c) An adequate reserve fund for the replacement of Common Elements will be established and funded by regular monthly payments.

10. MORTGAGES AND OTHER LIENS. (a) Each Unit Owner shall have the right, subject to the provisions herein, to make or create, or cause to be made or created, any Mortgage or other lien on or affecting his respective Unit together with his respective ownership interest in the Common Elements, provided however that, from the date this Master Deed is Recorded, no Unit Owner shall have the right or authority to make or create, or cause to be made or created, any Mortgage or other lien on or affecting the Property or any part thereof, except only to the extent of his own Unit and the respective percentage interest in the Common Elements corresponding thereto. The Developer shall have the right to make or create, or cause to be made or created, one or more Mortgages or other liens on or affecting all or some of the Units to which it then owns fee simple title, and the Common Elements appurtenant thereto.

(b) Subsequent to the Recording of this Master Deed, no liens of any nature shall be created or arise against any portion of the Property except against any individual Unit or Units. No labor performed or materials furnished with the

consent or at the request of a particular Unit Owner shall be the basis for the filing of a mechanic's lien claim against any other Unit. If the performance of the labor or furnishing of the materials is expressly authorized by the Board, each Unit Owner shall be deemed to have expressly authorized and consented to such performance of labor and furnishing of materials, and each Unit Owner shall be liable for the payment of his Unit's proportionate share of any due and payable indebtedness, as set forth in the Act. A Unit Owner shall not be liable for any claims, damages or judgments entered as a result of any action or inaction of the Board other than for mechanic's liens as set forth above. Each Unit Owner's liability for any judgment entered against the Board or the Association shall be limited to his proportionate share of the indebtedness, as set forth in the Act, whether collection is sought through assessment or otherwise.

11. SEPARATE REAL ESTATE TAXES. Real estate taxes, special assessments, and any other special taxes or charges of the State of Tennessee or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon real property shall be separately assessed against and levied upon each Unit and its corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that such taxes, special assessments or charges for any year are not separately assessed and levied upon each Unit, but rather are assessed and levied upon the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the Common Elements and in said event such taxes shall be a Common Expense. Without limiting the authority of the Board provided for elsewhere herein, the Board acting on behalf of all Unit Owners shall have the power to seek relief from or to collect from the Unit Owners their proportionate share of any such taxes, special assessments or charges, whether assessed and levied on each Unit separately or on the Property as a whole, and to charge and collect all expenses incurred in connection therewith as a Common Expense.

12. INSURANCE. (a) The Board shall have the authority to and shall obtain insurance for the Property, exclusive of the additions within, improvements to and decorating of the Units or Limited Common Elements by the Unit Owners, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Common Elements and the Units, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed the cost of restoring the Common Elements, Units or any part thereof to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board of the

Association, as the trustee for each of the Unit Owners in direct ratio to said Unit Owner's respective percentage of ownership in the Common Elements, as set forth in the Master Deed, and for the holders of Mortgages on each Unit, if any. Each such policy of insurance shall also contain, if possible, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a Common Expense. The Board shall notify all Persons insured under such policy in the event of any cancellation thereof.

(b) The Board shall also have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and worker's compensation and other liability insurance as it deems desirable, insuring the Unit Owners, individually and severally, any mortgagee of record, the Association, its officers, Directors and Board, the Developer, and the Managing Agent, if any, and their respective employees and agents and all Persons acting as their respective agents, from liability in connection with the ownership, existence, use or management of the Property. The Developer and the Developer's representatives shall be included as additional insureds in their capacities as Unit Owners and Board members. The Unit Owners shall be included as additional insureds but only with respect to that portion of the premises not reserved for their exclusive use. Each such policy of insurance shall cover claims of one or more insured parties against other insured parties and shall also contain a waiver of subrogation rights by the insurer against such insured persons or entities. Each such policy also shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association or any other Unit Owner. The premiums for such insurance shall be a Common Expense. The Board shall notify all persons insured under any such public liability policy in the event of any cancellation thereof, and shall retain in safekeeping any such public liability policy for twenty (20) years after the expiration date of the policy.

The comprehensive public liability insurance shall cover all the Common Elements, public ways and commercial spaces owned by the Association whether or not the same are leased to a third party. Coverage shall be for at least \$1,000,000 or such greater amounts as may be required by private institutional Mortgage investors, for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include without limitation legal liability of the insureds for property damage, bodily injuries and deaths of Persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be cancelled or substantially modified, by any party, without at least 10 days prior written notice to the Association and to each holder of a first Mortgage which is listed as a scheduled holder of a first Mortgage in the insurance policy.

(c) The Board shall also have authority to and may obtain such insurance as it deems desirable and increase insurance limits, in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officer of the Association, and member of any committee appointed pursuant to the Bylaws of the Association from liability arising from the fact that said Person is or was a Director or officer of the Association, or a member of such a committee. The premiums for such insurance shall be a Common Expense.

(d) If the Property is located in an area identified by the U.S. Secretary of Housing and Urban Development or his successor as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Board shall obtain a "blanket" policy of flood insurance on the Property in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the first Mortgages on the Units comprising the Property. The premiums for such insurance shall be a Common Expense.

(e) The Board shall also have authority to and may obtain:

(1) fidelity coverage to protect against dishonest acts on the part of officers, Directors, trustees, and employees of the Association and all others who handle or are responsible for handling funds of the Association including the Managing Agent. Such insurance shall name the Association as the insured and shall be in an amount sufficient to provide protection which is in no event less than one and one-half times the Association's estimated annual operating expenses and reserves; and

(2) such other insurance as it deems desirable or necessary for the Property or any aspect of the ownership, operation or management thereof, in such amounts, from such sources and in such forms as the Board deems desirable. The premiums for such insurance shall be a Common Expense.

(f) A Unit Owner shall be liable for any claim, damage or judgment entered as a result of the use or operation of his Unit or caused by his own conduct. Each Unit Owner shall be responsible for obtaining his own insurance on the contents of his own Unit and the contents of the Limited Common Elements serving his Unit, as well as his additions and improvements thereto, decorating, furnishings and personal property therein, and personal property stored elsewhere on the Property. In addition, in the event a Unit Owner desires to insure against his personal liability and loss or damage by fire or other hazards above and beyond the extent that his liability loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owners as part of the Common Expenses, as above

provided, said Unit Owner may, at his option and expense, obtain additional insurance.

(g) All physical damage insurance policies purchased by the Board shall be for the benefit of the Association, the Unit Owners, their mortgagees, and the Developer, as their interests may appear, and shall provide that, with respect to any single loss, if the proceeds thereof exceed one hundred thousand dollars (\$100,000) then all such proceeds shall be paid in trust to the Insurance Trustee designated for that purpose by the Board.

In the event of a casualty or loss aforesaid, the Board shall enter into an insurance trust agreement with the Insurance Trustee which shall provide that the Insurance Trustee shall not be liable for payment of premiums, the renewal of the policies, the sufficiency of the coverage, the form or contents of the policies, the correctness of any amounts received on account of the proceeds of any insurance policies nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in this Master Deed and the Bylaws, for the benefit of the insureds and their beneficiaries thereunder.

If such proceeds do not exceed one hundred thousand dollars (\$100,000) then all such proceeds shall be paid to the Board to be applied pursuant to the terms contained herein. The Board is hereby irrevocably appointed the trustee for each Unit Owner, each mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Property to adjust and settle all claims arising under insurance policies purchased by the Board and to execute and deliver releases upon the payment of claims.

(h) No provision contained herein shall give a Unit Owner or any other party priority over the first Mortgage or first deed of trust of a Unit in the event of a distribution of the insurance proceeds covering losses from damage or destruction to a Unit, Units or the Common Elements.

13. CASUALTY AND EMINENT DOMAIN. (a) In the event of a fire or any other disaster causing loss, damage, or destruction to or of the Property, the proceeds of any policy insuring against the same and payable by reason thereof, if sufficient to reconstruct the Property, shall be applied to such reconstruction. As used throughout this Paragraph 13, reconstruction means restoration of the Property to substantially the same condition in which it existed prior to the fire or other disaster, with each Unit and the Common Elements having the same vertical and horizontal boundaries as prior thereto.

(b) In the event of a fire or any other disaster causing loss, damage or destruction to or of the Property, if the Property is not insured against the peril causing the same or the proceeds of any policy insuring against the same and payable by



reason thereof are insufficient to reconstruct the Property, and fewer than fifty percent (50%) of the Units are rendered uninhabitable by such fire or other disaster, provision for reconstruction of the Property may be made by the affirmative vote of the Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements voting at a meeting called for such purpose. Any such meeting shall be held within thirty (30) days following the final adjustment of insurance claims, if any. Otherwise such meeting shall be held within ninety (90) days after such fire or other disaster. At any such meeting, the Board or its representative shall present to the Unit Owners present an estimate of the cost of such reconstruction and the estimated amount of necessary special assessments against each Unit Owner, in order to pay therefor. If the Property is reconstructed, any such insurance proceeds shall be applied thereto, and special assessments may be made against the Unit Owners in order to pay the balance of the cost thereof.

(c) In the event of a fire or any other disaster causing loss, damage or destruction to or of the Property, if the Property is not insured against the peril causing the same or the proceeds of any policy insuring against the same and payable by reason thereof are insufficient to reconstruct the Property, and if provision for reconstruction of the Property is not made pursuant to subparagraph 13(b) above, then provision for withdrawal of any portion of the Property from the provisions of the Act may be made by the affirmative vote of the Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements. Any such meeting shall be held within sixty (60) days following the final adjustment of insurance claims, if any. Otherwise such meeting shall be held within ninety (90) days after such fire or other disaster. Upon any such withdrawal of any Unit or portion thereof, the percentage of ownership in the Common Elements appurtenant thereto shall be reallocated among the remaining Units not so withdrawn on the basis of the relative percentages of ownership in the Common Elements appurtenant to each such remaining Unit. If only a portion of a Unit is withdrawn, the percentage of ownership in the Common Elements appurtenant to such Unit shall be reduced accordingly, upon the basis of the diminution in market value of such Unit, as determined by the Board. Any such insurance proceeds shall be allocated, on the basis of square footage withdrawn or such other equitable basis as the Board may determine, among the Units or portions thereof, the portions of the Limited Common Elements, and the portions of the General Common Elements withdrawn. As compensation for such withdrawals:

(1) any such insurance proceeds allocated to withdrawn Units or portions thereof shall be applied in payment to the Unit Owners thereof in proportion to their relative percentages of ownership in the Common Elements appurtenant to such withdrawn Units, or portions thereof;

(2) any such insurance proceeds allocated to withdrawn portions of the Limited Common Elements shall be applied in payment to the Unit Owners entitled to their use in proportion to their relative percentages of ownership in the Common Elements appurtenant to the Units served by such Limited Common Elements, and

(3) any such insurance proceeds allocated to withdrawn portions of the General Common Elements, shall be applied in payment to all Unit Owners in proportion to their relative percentages of ownership in the Common Elements. Upon withdrawal of any Unit or portion thereof, the Unit Owner thereof shall be relieved of any further responsibility or liability for the payment of any assessments therefor, if the entire Unit is withdrawn, or for the payment of a portion of such assessments proportional to the diminution in square footage of such Unit, if only a portion of the Unit is withdrawn.

(d) In the event of a fire or any other disaster causing loss, damage, or destruction to or of the Property, if the Property is not insured against the peril causing the same or the proceeds of any policy insuring against the same and payable by reason thereof are insufficient to reconstruct the Property, and if provision for neither reconstruction nor withdrawal is made pursuant to subparagraph 13(b) and (c) above, then the provisions of the Act shall apply.

(e) In the event any portion of the Property is taken by eminent domain proceedings, provision for withdrawal from the provisions of the Act of such portion so taken may be made by the Board. Upon any such withdrawal of any Unit or portion thereof, the percentage of ownership in the Common Elements appurtenant to such withdrawn Unit or portion shall be reallocated, with relief of responsibility or liability for payment of all or a portion of assessments therefor, and any condemnation award or other proceeds resulting from such proceeding shall be allocated and paid, in the same manner as provided by subparagraph 13(c) above with respect to casualty to the Property and insurance proceeds resulting therefrom.

(f) The provisions of this Paragraph 13 shall be subject to the rights, if any, of the holders of Mortgages on the Property or any part thereof or on any or all of the Units and the Common Elements appurtenant thereto. The withdrawal and reapportionment contemplated by subparagraphs 13(c) and (e) above shall be effective upon execution and Recordation of an amendment to this Master Deed and an amended Plat, in accordance with the provisions of Paragraph 23(b) below. No provision contained herein shall give a Unit Owner or any other party priority over the first Mortgage or first deed of trust of a Unit in the event of a distribution of the proceeds covering losses from a taking

of a Unit, Units or the Common Elements by condemnation or eminent domain. In the event of any loss mentioned herein, each first Mortgagee of Record will be given prior and timely written notice thereof.

14. MAINTENANCE, REPAIRS AND REPLACEMENTS. (a) Each Unit Owner, at his own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within his own Unit, including without limitation the HVAC unit and water heater located within and serving only his Unit. Maintenance of, repairs to and replacements within the Common Elements shall be the responsibility of and shall be furnished by the Association. The cost of maintenance of, repairs to and replacements within the Common Elements shall be part of the Common Expenses, subject to the Bylaws and the rules and regulations of the Association. However, at the discretion of the Board, maintenance of, repairs to and replacements within the Limited Common Elements may be assessed in whole or in part to Unit Owners benefitted thereby, and further, at the discretion of the Board, the Board may direct Unit Owners who stand to be benefitted by such maintenance of, repairs to and replacement within the Limited Common Elements to arrange for such maintenance, repairs and replacement in the name and for the account of such benefitted Unit Owners, pay the cost thereof with their own funds, and procure and deliver to the Board such lien waivers and contractor's and sub-contractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

(b) In addition to the discretionary authority provided herein for maintenance of all or any portion of the Common Elements, the Board shall have the authority to maintain and repair any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board to protect the Common Elements or preserve the appearance and value of the Property, and the Unit Owner of said Unit has failed or refused to perform said maintenance or repair directed by the Board; and the Board shall have the right to levy a special assessment against the Unit Owner of such Unit for the cost and expenses incurred for such necessary maintenance or repair.

(c) If, due to the act or negligence of a Unit Owner, or of his agent, servant, tenant, family member, invitee, licensee or household pet, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repair or replacement are required, the cost of which would otherwise be a Common Expense, then such Unit Owner shall pay for such damage or such maintenance, repair and replacement, as may be determined by the Association; however, the provisions of this Paragraph 14 are subject to the provisions of Paragraph 12 hereof providing for waiver of subrogation rights with respect to casualty damage insured against by reason of policies of insurance maintained by the Board.

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

15. ALTERATIONS, ADDITIONS OR IMPROVEMENTS. (a) Except as provided in Paragraph 15(b) below, no alteration of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize and charge as Common Expenses, costs for alterations, additions and improvements of the Common Elements as provided in the Bylaws. Any Unit Owner may make any non structural alterations, additions or improvements within the Unit of the Unit Owner without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

(b) That part of the Common Elements separating and located between and exclusively serving two or more adjacent Units used together, (including, without limitation, portions of any hallway and any walls), and any portion of the Common Elements which, by reason of the design or construction of any Unit, is necessary or advantageous to the owner thereof to use or occupy for any reasonable use appurtenant to said Unit, may be altered to afford ingress and egress to and from such Unit or Units and to afford exclusiveness and privacy to the Occupants of such Unit or Units when using such portion of the Common Elements, and that part of the Common Elements so altered shall constitute a Limited Common Element appurtenant to said Unit or Units and may be used exclusively by the Unit Owner or Owners of such Unit or Units provided:

(1) such Unit Owner or Owners shall enter into a license agreement with the Association providing for such alterations and usage, such license agreement to be in form and substance satisfactory to the Board,

(2) such alterations shall not weaken, impair, or endanger any of the Common Elements or any Unit;

(3) the Unit Owner or Owners desiring to make such alterations shall notify the Board of the nature thereof not later than ten (10) days prior to commencing work and shall receive approval in advance from the Board;

(4) the expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alterations,

(5) such Unit Owner or Owners shall pay in full the expense of restoring such Common Elements to their condition prior to such alterations in the event such Units shall cease to be used together, as aforesaid or in the event the use and occupancy of such portion of the Common Elements by such Unit Owner, as aforesaid, shall cease (and upon such restoration, such portion of the Common Elements shall cease to be a Limited Common Element appurtenant to said Unit or Units, as aforesaid); and

(6) such alterations shall not interfere with or be detrimental to the reasonable use and enjoyment of the Property by other Unit Owners, including without limitation, reasonable access and ingress to and egress from the other Units in any hallway affected by any such alterations.

16. DECORATING. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his own Unit and within the Limited Common Elements serving his Unit, as may be required from time to time, including, but not limited to, painting, wall papering, washing, cleaning, panelling, floor covering, draperies, window shades, curtains, lighting and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings of his Unit and all balconies, patios and terraces appurtenant thereto, and such Unit Owner shall maintain said interior surfaces in good condition at his sole expense as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each such Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. Decorating of the Common Elements (other than interior surfaces within the Units as above provided and other than of Limited Common Elements) and any redecorating of Units, to the extent such redecorating of Units is made necessary by damage to Units caused by maintenance, repair or replacement of the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses. The interiors of all windows forming part of a perimeter wall of a Unit shall be cleaned and washed at the expense of the Unit Owner of that Unit. No Unit Owner shall enclose the balcony or terrace of this Unit or any part thereof, without having first obtained the prior written approval of the Board with respect to the materials, plans and specifications for such enclosure. No Unit Owner shall decorate the portions of such balcony or terrace visible from outside such Unit in any manner which detracts from the appearance of the Buildings and the determination of the Board on such matters shall be final.

17. EASEMENTS AFFECTING THE PROPERTY. Without hereby limiting the Board's authority to grant easements from time to time with respect to parts of the Common Elements, as set forth in Paragraph 8 hereof, each Unit Owner shall take title to his Unit subject to, and the rights of the Unit Owners to use the Common Elements shall be subject to, the following:

(a) If any portion of the Common Elements encroaches or shall hereafter encroach upon any Unit, or any Unit encroaches or shall hereafter encroach upon any portion of the Common Elements or any other Unit, there are hereby granted and reserved mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachment, so long as the same shall exist; provided, however, that no such easement shall arise in favor of any Unit Owner if the encroachment interferes with the structural integrity of any of the Common Elements or the use and enjoyment thereof by other Unit Owners; and provided further that no such easement shall arise in favor of any Unit Owner who creates an encroachment by its intentional or negligent conduct, or that of his agent.

(b) All suppliers of utilities, including cable TV, serving the Property may be granted non-exclusive easements at the discretion of the Board to install, lay, construct, operate, maintain, renew, repair and replace conduits, ducts, cables, pipes and wires and other equipment or structural components in, to, over, under, across and through any portion of the Common Elements or any portion of the walls of a Unit (whether or not such walls lie in whole or in part within the Unit boundaries) for the purpose of providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property or any part thereof for said purpose. In addition the Board, at its discretion, may grant such other easements as the Board may deem desirable.

18. SALE OR LEASE OF A UNIT. (a) With the exception of subsection (b) below (unless otherwise specified), this Section 18 shall not apply to the sale or lease of a Unit by a Unit Owner to such Unit Owner's spouse, child, parent, grandparent, brother, sister, grandchild or descendant (hereinafter collectively "Family Members"), or to any one or more of them, or to any trustee of a trust, the sole beneficiary of which is the Unit Owner or ~~his Family Members or any one or more of them~~, or to any partnership of which the Unit Owner or his Family Members or any one or more of them are the sole partners. It is provided, however, that notice of such sale or lease shall be given by the Unit Owner to the Board within ten (10) days following the consummation of such sale or lease.

(b) A copy of any lease of a Unit or interest therein, as and when executed, shall be furnished to the Board. The lessee under every such lease shall be bound by and subject to

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all of the obligations under the Master Deed and By-Laws of the Unit Owner making such lease and the lease, if any, shall expressly so provide. The Unit Owner making such lease shall not be relieved thereby from any of said obligations. Upon the expiration or termination of such lease, or in the event of any attempted assigning or subleasing thereunder, the provisions of this Section 18 shall again apply to said Unit or interest therein.

(c) Whenever a Unit Owner shall propose to sell or lease (such lease to be in accordance with subparagraph (b) above) his Unit, or any interest therein, to any person or entity other than a person or entity described in subsection (a) above, said Unit Owner shall give the Board not less than twenty (20) days prior written notice of the proposed sale or lease, which notice shall briefly describe the type of sale or lease proposed by the Unit Owner and shall state the name, address, and occupation or employment, if any, of the proposed purchaser or lessee. The notice shall also include a copy of the proposed lease, contract for sale or other documents effecting said sale or lease and all pertinent terms and conditions of such sale or lease. Such documentation shall include evidence that the Unit Owner has received a bona fide offer for such sale or lease, a bona fide offer being defined herein as an offer in writing, binding upon the offeror, and containing all of the pertinent terms and conditions of such sale or lease. For a period of twenty (20) days following the date notice of said proposed sale or lease is given to the Board, the Association shall have the first and exclusive right, at its option, to purchase or lease such Unit or interest therein from said Unit Owner upon the terms and for the amount described in said notice.

(d) The Board shall have authority, on behalf of and in the name of the Association, to elect not to exercise the Association's first option hereunder, and shall give written notice of said election to the Unit Owner within twenty (20) days following its receipt of the notice required above. The Association shall be deemed to have elected not to exercise its first option if either (i) the Board notifies the Unit Owner that it has elected not to exercise its option, or (ii) the Board fails to notify the Unit Owner, before the expiration of the applicable option period provided herein, that the Association elects to exercise its option.

(e) If the Board elects not to exercise the Association's first option, the Unit Owner may proceed to close said proposed sale or lease upon the terms and conditions of the proposed lease or contract for sale provided that such Unit shall not be sold or leased to any party other than the party designated to the Board in the Unit Owner's required notice nor for any lower purchase price or rental terms, as is appropriate, nor

on any more favorable terms and conditions than those set forth in such notice required in subsection (c) above. If the Unit is not sold or leased in accordance with the preceding sentence, said sale or lease of the Unit, or any interest therein, again shall become subject to the Association's right of first option, as provided herein. The right of first option of purchase shall be a continuing right and the nonexercise of the right shall not be deemed a waiver thereof against any subsequent Unit Owner.

(f) A certificate executed by the President, Vice-President, Secretary or other duly authorized officer of the Association certifying that the Association, by its Board, has elected not to exercise its first option shall be conclusive evidence of such election and of a Unit Owner's compliance with the provisions hereof. Such a certificate shall be furnished to a Unit Owner upon his compliance with the provisions hereof, provided the Unit Owner requests such certificate from the Association.

(g) If the Board, after obtaining the required approval of the Association, desires to exercise the Association's option to purchase or lease said Unit, then the Board shall notify the Unit Owner of its decision within the twenty (20) day period set forth hereinabove. Thereafter the Board promptly shall execute a contract to purchase or a lease, as is appropriate, and shall consummate said contract to purchase or said lease in accordance with the terms of the bona fide offer of which the Unit Owner notified the Board pursuant to subsection (c).

(h) A sale or lease of a Unit by the Developer shall not be subject to the provisions of this Section 18. The Developer reserves the right to sell or lease any unsold Unit owned by it under such terms and conditions as it shall deem proper.

(i) A sale or lease of a Unit or interest therein by the holder of a first mortgage on a Unit, which holder comes into possession of the mortgaged Unit through foreclosure or other judicial sale or through any conveyance made to such first mortgage holder in lieu of foreclosure, shall not be subject to the provisions of this Section 18. Such first mortgage holder shall be entitled to do any of the following, all without being subject to any of the provisions of this Section 18:

- (i) Foreclose or take title to a Unit pursuant to the remedies provided in the mortgage, or
- (ii) Accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor; or
- (iii) Sell or lease a Unit acquired by the mortgagee.



(j) The Association shall hold title to the fee or leasehold interest of any Unit or interest therein, pursuant to the terms hereof, in the name of the Association or a nominee thereof delegated by the Board, for the sole benefit of all Unit Owners. The Board shall have the authority at any time to sell, lease or sublease said Unit or any interest therein on behalf of the Association upon such terms as the Board shall deem desirable, but in no event shall a Unit or interest therein be sold for less than the amount paid by the Association to purchase said Unit unless Unit Owners owning not less than seventy-five (75%) percent of the total ownership of the Common Elements first authorize the sale for such lesser amount.

(k) The provisions of this Section 18 with respect to the Association's right of first option shall be and remain in full force and effect until the Property as a whole shall be sold or removed from the provisions of the Act, as provided therein, unless the provisions of this Section 18 are sooner rescinded or amended by the Unit Owners in the manner provided herein.

(l) The Board may from time to time adopt rules and regulations not inconsistent with the provisions of this Section 18 for the purpose of implementing and effectuating said provisions.

(m) If any sale or lease of a Unit is made or attempted without complying with the provisions of this Section 18, such sale or lease shall be subject to each and all of the rights and options of and remedies and actions available to the Association hereunder and otherwise.

(n) Except as otherwise provided in the Master Deed or in the By-Laws, in the event of any transfer of a Unit or any interest therein, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments of the transferor accrued and payable prior to the date of transfer.

(o) Except as otherwise restricted in this Master Deed, a Unit is freely alienable as provided by applicable law.

19. TRANSFER OF LIMITED COMMON ELEMENTS. The use of Limited Common Elements may be transferred between Unit Owners having rights thereto at their expense, provided that such transfer is made in compliance with the Act and the requirements of this Paragraph 19. Rights and obligations with respect to any of the Limited Common Elements shall not be affected, nor shall any transfer thereof be effective, unless such transfer is in compliance with the requirements of this Paragraph 19. Each such

transfer shall be made by an amendment to this Master Deed executed by all Unit Owners who are parties to the transfer and consented to by their mortgagees and all other Unit Owners who have any right to use the Limited Common Elements affected thereby. Such amendment shall contain a certificate showing that a copy of the amendment has been delivered to and approved in writing by the Board, and shall contain a statement from the Unit Owners involved in the transfer setting forth any reapportionment of their respective percentages of ownership in the Common Elements resulting therefrom, and the aggregate sum of which percentage interests shall not thereby change. If such Unit Owners cannot agree upon such reapportionment, the Board shall make such reapportionment. No such transfer shall be effective until such amendment is recorded. This paragraph shall not be amended, changed or modified without the prior written consent of the First Mortgagees of the affected Units in the Building at the time of such amendment, modification or rescission.

20. SUBDIVISION OR COMBINATION OF UNITS. (a) Subject to the provisions of the Act and all other governmental laws, ordinances, rules and regulations, a Unit may be subdivided by the Unit Owner thereof into two or more separate new Units. A Unit or any portion thereof may be transferred by the Unit Owner thereof to the Unit Owner of a Unit or Units adjacent thereto, and may be combined with such adjacent Unit or Units, and made a part thereof, for use together with such adjacent Unit or Units (thereby forming a new larger Unit). The Common Elements affected by such subdivision or transfer and combination may be located or relocated, as required to effect such subdivision or transfer and combination, provided that such subdivision or transfer and combination is made in compliance with the following provisions. No rights and obligations with respect to any Unit shall be affected, no percentage of ownership in the Common Elements shall be reallocated, and no such subdivision or transfer and combination shall be effective, unless the same is expressly provided for in this Paragraph 20 and unless the same is made in compliance with the requirements of this Paragraph 20. The Unit Owner or Unit Owners desiring to make such subdivision or transfer and combination shall make written application to the Board requesting an amendment to this Declaration (including the Plat) and containing:

(1) a survey of the proposed alterations of the affected Unit or Units and the affected Common Elements, and

(2) a proposed reallocation to the new Units to be created by such proposed subdivision or transfer of the percentage of interest in the Common Elements appurtenant to such affected Unit or Units, and

(3) setting forth whether the Limited Common Elements serving such affected Unit or Units should be assigned to each new Unit or a fewer than all of the new Units to be created by the proposed subdivision or transfer.

(b) Any Unit Owner desiring to alter any part of the Common Elements separating and located between and exclusively serving one or more Units to be transferred and combined pursuant to the provisions of this Paragraph 20 shall in addition comply with the applicable provisions of Paragraph 15(b) above. No such proposed subdivision or transfer and combination shall be effective unless first approved in writing by a majority of members of the Board, which approval shall not be unreasonably withheld. If so approved by the Board, such proposed subdivision or transfer and combination shall be effective upon Recording of an amendment to this Master Deed, consistent with and reflecting said subdivision or transfer and combination, and executed by the Unit Owner or Owners and the mortgagees of the Units involved therein, together with an amended Plat, in accordance with the Act, and the provisions of Paragraph 23(b) below. Any expenses incurred in connection with accomplishing any such subdivision or transfer and combination, as provided hereunder, including without limitation, attorneys' fees, shall be paid by the Unit Owners of the Units involved, and such Unit Owners shall be jointly and severally liable for the payment thereof. Notwithstanding the foregoing, the foregoing provisions shall not apply to Units which are owned by the Developer or any subsidiary or affiliate of the Developer. No Unit may be partitioned or subdivided without the prior written approval of the holder of any first Mortgage on such Unit. This paragraph shall not be amended, changed or modified without the prior written consent of the First Mortgagees of the affected Units in the Building at the time of such amendment, modification or rescission.

21. USE AND OCCUPANCY RESTRICTIONS. (a) Subject to the provisions of this Master Deed and Bylaws, no part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed except for the parking areas, which shall be used for vehicular parking purposes. Each Unit or any two or more adjoining Units used together shall be used as a single family residence or such other use permitted by this Master Deed, and for no other purpose, except that a professional or quasi-professional Occupant using a Unit as a residence may also use that Unit as an ancillary or secondary facility to an office established elsewhere. Such uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit an Occupant or Unit Owner from:

- (1) maintaining his personal professional library;
- (2) keeping his personal business or professional records or accounts;

(3) handling his personal business or professional telephone calls or correspondence;

(4) or apply to the Developer during the period of Unit sales or promotion.

(b) Except for the covered parking portion of the Common Elements, the Common Elements shall be used only by the Unit Owners and Occupants and their guests, servants, tenants, family members, customers, invitees and licensees and shall be used only for access and ingress to and egress from the respective Units and for such other purposes incidental to use of the Units; provided, however, the parking areas, laundry rooms, party rooms, receiving rooms, storage areas, swimming pool areas and areas designated for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession, license or easement presently in existence or entered into by the Board at some future time affecting any part or all of said Common Elements.

(c) Without limiting the generality of the foregoing provisions of this Paragraph 21, use of the Property by the Unit Owners shall be subject to the following restrictions:

(1) Nothing shall be stored in the Common Elements without prior consent of the Board except as otherwise herein expressly provided;

(2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in or on the Common Elements which will result in the cancellation of insurance on any Unit, or any part of the Common Elements, or which will be in violation of any law;

(3) No waste shall be committed in or on the Common Elements;

(4) Subject to Developer's rights under Paragraph 6(e) of this Master Deed, no sign of any kind shall be displayed to the public view on or from any Unit or the Common Elements without the prior written consent of the Board or the written consent of the Managing Agent acting in accord with the Board's direction;

(5) No noxious or offensive activity shall be carried on or in any Unit or on or in the Common Elements nor shall anything be done therein which may be or become an annoyance or nuisance to the other Unit Owners;

(6) Except as expressly provided hereinabove, nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Board;

(7) No structure of a temporary character, trailer, tent, shack, garage, barn, or other out-building shall be permitted on the Property at any time temporarily or permanently, except with the prior written consent of the Board; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the Buildings or any portion thereof;

(8) Outdoor drying of clothes shall not be permitted;

(9) Parking of vehicles in driveways and parking areas shall be subject to the rules and regulations of the Board applicable thereto;

(10) Except within individual Units, no planting, transplanting or gardening shall be done and no fences, hedges or walls shall be erected or maintained upon the Property, except as approved by the Board;

(11) Motorcycles, motorbikes, motor scooters or other similar vehicles shall not be operated within the Property except for the purpose of transportation directly from a parking space to a point outside the Property, or from a point outside the Property directly to a parking space;

(12) Without limiting its rule-making authority under this Master Deed, the Bylaws or the rules and regulations the Board is specifically authorized, in its discretion, to assign and to reassign parking spaces and storage areas to particular Unit Owners.

22. REMEDIES. (a) In the event of any violation of the provisions of the Act, Master Deed, Bylaws or rules and regulations of the Board or Association by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit) the Association, or its successors and assigns, or the Board, or its agents, shall have each and all of the rights and remedies which may be provided for in the Act, Master Deed, Bylaws, the rules and regulations of the Association or the laws of the State of Tennessee, or which may be provided or permitted at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and such Unit Owner's interest in the Property, and to sell the

same, as hereinafter in this paragraph provided, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum contract rate per annum permitted by law shall be charged to and assessed against such defaulting Unit Owner until paid, and shall be added to and deemed part of his respective share of the Common Expenses, and the Board shall have a lien for all of the same, as well as for non-payment of his respective share of the Common Expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Unit Owner and upon all of his additions and improvements thereto, provided, however, that such lien shall be subordinate to the lien of any prior Recorded first Mortgage or deed of trust on the Property or any portion thereof, or on any interest of such Unit Owner, except for the amount of the proportionate share of said Common Expenses which become due and payable from and after the date on which the said Mortgage owner or holder either takes possession of the Unit or interest encumbered by such Mortgage or deed of trust, accepts a conveyance of any interest therein (other than as a security) or files suit or commences other proceedings to foreclose such Mortgage or deed of trust and causes a receiver to be appointed. In the event of any such default by any Unit Owner, the Board and the manager or Managing Agent, if so authorized by the Board, shall have the authority to correct such default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner, together with interest thereon at the rate aforesaid. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. This provision shall not be amended, modified or rescinded without the prior written consent of all Lenders who are the holders or owners of a Mortgage or deed of trust Recorded prior to the date of such amendment, modification or rescission.

(b) The violation of any provisions of the Act, this Master Deed, the Bylaws or the rules and regulations of the Association by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit) shall give the Board, and its employees and agents, the right, in addition to any other rights provided for in this Master Deed:

(1) to enter upon the Unit, or any portion of the Property upon which, or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of the Act, this Master Deed, the Bylaws or such rules and regulations, as the case may be, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass, or

(2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; or

(3) to take possession of such Unit Owner's interest in the Property and to maintain an action for possession of such Unit in the manner provided by law. The failure of any Unit Owner to comply with the provisions of the Master Deed, Bylaws, Charter, or the rules and regulations of the Association will give rise to a cause of action in any aggrieved Unit Owner for the recovery of damages, for injunctive relief, or both.

(c) If any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit) shall violate any provision of the Act, this Master Deed or the regulations of the Association, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any ten (10) day period after such written notice or request to cure such violation from the Board, then the Board shall have the power to issue to said defaulting Unit Owner a notice in writing terminating the rights of the said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his Unit, and thereupon an action in equity may be filed by the Board against said defaulting Unit Owner for a decree of mandatory injunction against such defaulting Unit Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of said violation, and ordering that all the right, title and interest of said defaulting Unit Owner in the Property shall be sold (subject to the lien of any existing Mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Unit Owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit ownership sold subject to this Master Deed.

23. AMENDMENT. (a) Subject to the requirements of this Paragraph 23 and of Paragraphs 9, 19, and 20 above, and except as otherwise provided in subparagraphs 13(c) and (e), and 17(c) above, and subparagraphs 23(b) and (c) below, the provisions of this Master Deed may be amended, modified or rescinded by an instrument in writing setting forth such change, amendment, modification or rescission and duly adopted by the affirmative vote of Unit Owners owning not less than eighty percent (80%) of the total ownership of the Common Elements, and duly acknowledged before a notary public provided however, that all holders of a Recorded Mortgage or deed of trust encumbering any one or more Units in the Building shall be notified by certified mail of any such change, amendment, modification or rescission and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument effecting such amendment, modification or rescission. No such amendment, modification or rescission shall change the boundaries of any Unit, the undivided interest in the Common Elements appurtenant to any Unit, the number of votes in the Association allocated to any Unit, or the liability for Common Expenses appertaining to any Unit, except to the extent authorized by this Master Deed or by the Act. The Master Deed shall not be amended to remove the Property from the provisions of the Act without the consent of all mortgagees.

(b) Where the provisions of either subparagraphs 13(c) or (e) have been complied with, relating to casualty or eminent domain, or the provisions of Paragraph 20 have been complied with, relating to subdivision or transfer and combination of Units, or the provisions of Paragraph 20 have been complied with, relating to the transfer of Limited Common Elements, the Secretary of the Board shall execute and Record an amendment to this Master Deed setting forth all pertinent aspects of the events or transactions resulting in such amendment, and a legal description sufficient to indicate the location of the property involved in said events or transactions, and specifying any resultant reapportionment of percentages of ownership in the Common Elements, and shall concurrently therewith Record either an amended Plat depicting the same and conforming to the requirements of the Act, or a certification of the Plat previously Recorded, that is in accordance with the certification requirements of the Act, provided however that any such amendment to this Master Deed, amended Plat or certification shall be prepared at the expense of the Unit Owners affected thereby if made pursuant to Paragraph 19 and 20 or subparagraphs 23(b) and (c) hereof.

(c) If the Act, this Master Deed, or the Bylaws require the consent or agreement of all Unit Owners, all Lenders and/or of all holders of a Recorded Mortgage or deed of trust encumbering any one or more Units in the Building, or both, for any action specified in the Act or in this Master Deed, then any instrument changing, amending, modifying or rescinding any



provision of this Master Deed with respect to such action shall be signed by all Unit Owners, all such mortgagees and/or all such lien holders, or both as the case may be, as required by the Act, this Master Deed or the Bylaws.

(d) Notwithstanding the above, the Developer shall have the right and authority, without the joinder or consent of any other party, to make any amendment of this Master Deed, including each of its exhibits, so long as such changes

(1) do not change the location of individual Units, or

(2) do not substantially decrease the size of any Unit, or

(3) do not change the voting right of any Unit, and so long as such amendments or changes are limited to

(i) renumbering of Units, or

(ii) making any amendments which may be necessary in order to correct any erroneous description or

(iii) showing any necessary utility or other easements or matters which are encumbrances against the Property, or

(iv) clarifying any apparently conflicting provision hereof, or

(v) correcting any mistakes or error of a clerical nature resulting from typographical or similar errors.

(e) Any change, amendment, modification, or rescission of this Master Deed pursuant to this Paragraph 23 or any other provision of this Master Deed or of the Act shall be valid and effective only upon the Recording thereof, together with an amended Plat if required hereby or by the Act, in the Office of the Register of Deeds of Hamilton County, Tennessee. This Master Deed may not be amended, modified, or rescinded so as to conflict with the provisions of the Act.

24. RIGHTS RESERVED. The Unit Owner's rights of enjoyment of the Common Elements as herein created shall be subject to:

(a) The right of the Association to suspend the enjoyment rights of any member in utilities, ingress and egress, and all other rights in the Common Elements for any period during

which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations; and

(b) The right of the Association to charge reasonable fees for the use of any portion of the Common Elements; and

(c) The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Board, provided that no such diminution, dedication, transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless the Developer, (so long as the Developer owns a Unit or Units) and Unit Owners owning not less than ninety percent (90%) of the total ownership of the Common Elements agree to such dedication, transfer, purpose or condition; and

(d) The right of the Association to grant such easements and rights-of-way to such utility companies or public agencies or authorities as it shall deem necessary for the proper servicing and maintenance of the Common Elements and the individual Units.

25. RIGHTS OF MORTGAGEES. (a) Each of the following actions shall require the prior written approval of all holders or owners of a Recorded Mortgage or deed of trust constituting a first Mortgage lien on any one or more Units as of the date such action is taken.

(1) Removal of the Property from the provisions of the Act, except for removal provided by law in the case of destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(2) Any amendment to this Master Deed which changes the percentage interest of the Unit Owners in the Common Elements, except amendments made pursuant to Paragraphs 13 and 15 hereof;

(3) Use of hazard insurance proceeds for losses to the Property (whether to individual Units or Common Elements) for other than the repair, replacement, or reconstruction of such improvements, except in the case of substantial loss to the Units and/or Common Elements as provided herein.

(4) Abandon or terminate the project except where abandonment or termination is provided by law in the case of substantial destruction by fire or other casualty or in the case of taking by condemnation or eminent domain.

(5) Any amendment to this Paragraph 25(a) or to any other provision in this Master Deed which specifically grants rights to the holders of such first Mortgages or deeds of trust.

(b) Upon written request, any Mortgagee shall be entitled to:

(1) inspect the books and records relating to the Property during normal business hours, upon reasonable notice;

(2) receive a copy of the annual financial statement of the Association which is prepared for the Association and distributed to Unit Owners;

(3) written notice of all meetings of the Association and shall be permitted to designate a representative to attend all such meetings;

(4) notice of any default in the obligations hereunder of the Unit Owner or Owners of such Unit or Units encumbered by such first Mortgage lien, not cured within thirty (30) days after notice of such default has been sent to such Unit Owner or Owners by the Association;

(5) notice of any material amendment to this Master Deed, the Bylaws or the Charter of the Association. However, the Association's failure to provide any of the foregoing to a First Mortgagee who has so requested same shall not affect the validity of any action or decision which is related to the foregoing, nor shall the Association have any liability on account of its good faith failure to so provide.

(c) Upon written request, a First Mortgagee of any one or more Units shall be entitled to timely written notice in the event of any substantial damage to or destruction of such Unit or Units, or of any part of the Common Elements or, if such Unit or Units, or any portion thereof, or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority. No Unit Owner or other party shall be entitled to priority over such First Mortgagee with respect to the distribution to such Unit Owner or other party, with respect to such Unit, of any insurance proceeds payable by reason of such damage or destruction or of the proceeds of any such condemnation award or settlement.

(d) The provisions hereof are in addition to all other rights of mortgagees herein contained or under law.

(e) When notice is to be given to any First Mortgagee hereunder, the Board shall also give such notice to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guaranteeing Mortgages of Units in the condominium, if the Board has notice of such participation. The Association may rely upon the information contained in the book entitled "Mortgages of Units" as must be established pursuant to the Bylaws, for a list of mortgagees to be notified hereby.

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

27. HEADINGS. The headings of paragraphs and sections in this Master Deed and the Bylaws are for convenience or reference only and shall not in any way limit or define the content or substance of such paragraphs and sections.

28. NUMBER AND GENDER. As used in this Master Deed, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

29. SEVERABILITY. If any provision of the Master Deed or Bylaws, or any section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Master Deed and the Bylaws and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby and the remainder of this Master Deed or the Bylaws shall be construed as if such invalid part was never included therein.

30. PERPETUITIES AND RESTRAINTS ON ALIENATION. If any of the options, privileges, covenants or rights created by this

Master Deed shall be unlawful, void or voidable for violation of the rule of property known as the rule against perpetuities, then such provision shall continue in force and effect only until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States, Ronald Reagan.

31. RIGHTS AND OBLIGATIONS. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction, rights and powers created or reserved by this Master Deed. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the Parcel, the Property, or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Master Deed were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

32. NOTICES. Notices provided for in the Act, Master Deed or Bylaws shall be in writing, and shall be addressed to the Association or Board, or any Unit Owner, as the case may be, at 1414 Continental Drive, Chattanooga, Tennessee, or such other address as hereinafter provided. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered two (2) business days after mailing by United States first class, registered or certified mail, or when delivered in person.

Upon written request to the Board, the holder of any Recorded Mortgage or deed of trust encumbering any one or more Units in the Building shall be given a copy of all notices permitted or required by this Master Deed, the Bylaws or the Act to be given to the Unit Owner or Owners whose Unit is subject to such Mortgage or deed of trust.

IN WITNESS WHEREOF, the said Continental Equity Investments, Inc., as Developer, has caused this instrument to be executed this 31<sup>st</sup> day of August, 1982.

CONTINENTAL EQUITY INVESTMENTS, INC.

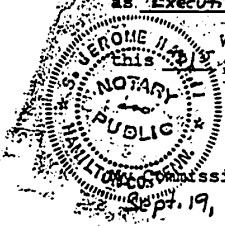
By: T. E. Schmitt, Executive Vice-Pres.  
 \_\_\_\_\_  
 RM

STATE OF Tennessee  
COUNTY OF Hamilton

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Before me, J. Jerome Hale, II, of the state and county aforesaid, personally appeared T. E. Schmitt and Executive Vte-Pres. with whom I am personally acquainted, and who, upon oath, acknowledged themselves to be Executive Vte-Pres. of Continental Equity Investments, Inc., and that they as such Executive Vte-Pres. and Executive Vte-Pres. being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by themselves as Executive Vte-Pres. and Executive Vte-Pres.

WITNESS my hand and seal, at office in Cookeville, TN. this 13<sup>th</sup> day of August, 1982.



J. Jerome Hale, II  
Notary Public

TRACT NO. ONE (1): Beginning at an iron pipe in the East line of Hixson Pike, said pipe being Northeasterly 1042.4 feet from the Northwestern corner of the Clint McDade 8.7 acre tract; thence South 54 degrees 53 minutes 16 seconds East, a distance of 676.71 feet to an iron pipe, said point being the beginning point of Tract No. 2, thence following along with the Western and Northern sides of Tract No. 2 the following five (5) calls, North 35 degrees 41 minutes East, a distance of 240 feet to a point, thence South 86 degrees 45 minutes East a distance of 308.0 feet to a point, thence North 77 degrees 00 minutes East a distance of 140.0 feet to a point, thence South 50 degrees 50 minutes East a distance of 201.0 feet to a point, thence South 84 degrees 00 minutes East a distance of 247.0 feet to a point, said point being the Northeast corner of the above mentioned Tract No. 2 and being a point on the Western line of Tract No. 6 Rivermont, thence following along with said Western line of Tract No. 6, North 01 degree 12 minutes East a distance of 226.5 feet to a point, thence North 47 degrees 05 minutes West a distance of 236.0 feet to a point, said point being the Southeast corner of Tract No. 4 Rivermont, thence following along with the above mentioned Southern line of Tract No. 4 the following three (3) calls, North 62 degrees 08 minutes West a distance of 523.5 feet to a point, thence North 83 degrees 05 minutes West a distance of 248.0 feet to a point, thence North 79 degrees 05 minutes West a distance of 281.8 feet to a point, said point lying on the East R.O.W. line of Hixson Pike, thence following along with said East R.O.W. line, South 58 degrees 50 minutes 44 seconds West a distance of 148.68 feet to a point marking a curve to the left (said curve having a delta of 24 degrees 04 minutes 44 seconds and a radius of 435.64 feet) thence following along with said curve to the left a distance of 183.08 feet to a point marking the end of said curve, thence continuing along with said East R.O.W. line, South 34 degrees 46 minutes West a distance of 220.01 feet to the point of beginning, containing 16.0 acres all as shown on Action Consultants, Inc. Drawing and File No. 1185-1-14 Sheet 1 of 8.

TRACT NO. TWO (2): Beginning at an iron pipe, located South 54 degrees 53 minutes 16 seconds East a distance of 676.71 feet from the point of beginning of the above mentioned Tract No. 1, thence South 54 degrees 55 minutes 16 seconds East a distance of 820.0 feet to a point in the Northwestern R.O.W. line of a farm road 40 feet wide; thence along the Northwestern R.O.W. line of said farm road North 64 degrees 25 minutes 27 seconds East a distance of 263.1 feet to a point in the Southwestern corner of Tract No. 6, Rivermont; thence along the Western line of Tract No. 6, Rivermont, North 12 degrees 06 minutes 08 seconds East a distance of 362.75 feet to a point, thence North 01 degree 12 seconds East a distance of 59.6 feet to a point located on the Eastern line of the above mentioned Tract No. 1, thence following along with the Southern line of Tract No. 1 the following five (5) calls, North 84 degrees 00 minutes West a distance of 247.0 feet to a point, thence North 50 degrees 50 minutes West a distance of 201.0 feet to a point, thence South 77 degrees 00 minutes West a distance of 140.0 feet to a point, thence North 86 degrees 45 minutes West a distance of 308.0 feet to a point, thence South 35 degrees 41 minutes West a distance of 240.0 feet to the point of beginning containing 9.42 acres all as shown on Action Consultants, Inc. Drawing and File No. 1185-1-14 sheet 1 of 8.

TRACT NO. THREE (3): Beginning at an iron pipe, said iron pipe being the same point as the beginning point of the above mentioned Tract No. 1, thence, following along with the Southern line of Tract No. 1, South 54 degrees 53 minutes 16 seconds East a distance of 139.0 feet to a point, thence leaving said Southern line South 36 degrees 30 minutes West a distance of 23.0 feet to a point, thence South 52 degrees 20 minutes West a distance of 31.0 feet to a point, thence South 72 degrees 30 minutes West a distance of 210.0 feet to a point lying on the Eastern R.O.W. line of Hixson Pike, thence following along with said Eastern R.O.W. line North 34 degrees 46 minutes East a distance of 220.0 feet to the point of beginning, containing 0.41 acres, all as shown on Action Consultants, Inc. Drawing and File No. 1185-1-14 sheet 1 of 8.

SUBJECT TO Drainage Easement as provided for by Final Decree in Cause No. 23385 in the Circuit Court of Hamilton County, Tennessee, Division I.

EXHIBIT C (Continued)  
 THE CONTINENTAL CONDOMINIUM

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Unit Numbers	Unit Type	% of Ownership	Monthly Assessments
302	2 Bedroom, 2 Bath (C)	.941	151.00
310	2 Bedroom, 2 Bath (C)	.941	151.00
311	2 Bedroom, 2 Bath (C)	.941	151.00
401	2 Bedroom, 2 Bath (C)	.941	151.00
402	2 Bedroom, 2 Bath (C)	.941	151.00
411	2 Bedroom, 2 Bath (C)	.941	151.00
412	2 Bedroom, 2 Bath (C)	.941	151.00
501	2 Bedroom, 2 Bath (C)	.941	151.00
502	2 Bedroom, 2 Bath (C)	.941	151.00
509	2 Bedroom, 2 Bath (C)	.941	151.00
510	2 Bedroom, 2 Bath (C)	.941	151.00
607	2 Bedroom, 2 Bath (C)	.941	151.00
608	2 Bedroom, 2 Bath (C)	.941	151.00
707	2 Bedroom, 2 Bath (C)	.941	151.00
708	2 Bedroom, 2 Bath (C)	.941	151.00
801	2 Bedroom, 2 Bath (C)	.941	151.00
802	2 Bedroom, 2 Bath (C)	.941	151.00
809	2 Bedroom, 2 Bath (C)	.941	151.00
810	2 Bedroom, 2 Bath (C)	.941	151.00
901	2 Bedroom, 2 Bath (C)	.941	151.00
902	2 Bedroom, 2 Bath (C)	.941	151.00
907	2 Bedroom, 2 Bath (C)	.941	151.00
908	2 Bedroom, 2 Bath (C)	.941	151.00
1001	2 Bedroom, 2 Bath (C)	.941	151.00
1007	2 Bedroom, 2 Bath (C)	.941	151.00
1008	2 Bedroom, 2 Bath (C)	.941	151.00
1107	2 Bedroom, 2 Bath (C)	.941	151.00
1108	2 Bedroom, 2 Bath (C)	.941	151.00
1207	2 Bedroom, 2 Bath (C)	.941	151.00
1208	2 Bedroom, 2 Bath (C)	.941	151.00
105	2 Bedroom, 2 Bath (SP)	.838	134.00
109	2 Bedroom, 2 Bath (SP)	.895	144.00
110	2 Bedroom, 2 Bath (SP)	.895	144.00
603	2 Bedroom, 2 Bath (F)	.913	147.00
604	2 Bedroom, 2 Bath (F)	.913	147.00
703	2 Bedroom, 2 Bath (F)	.913	147.00
704	2 Bedroom, 2 Bath (F)	.913	147.00
308	2 Bedroom, 2 Bath (D)	1.169	188.00
503	2 Bedroom, 2 Bath (D)	1.183	190.00
504	2 Bedroom, 2 Bath (D)	1.183	190.00
605	2 Bedroom, 2 Bath (D)	1.169	188.00
606	2 Bedroom, 2 Bath (D)	1.169	188.00
705	2 Bedroom, 2 Bath (D)	1.169	188.00
706	2 Bedroom, 2 Bath (D)	1.169	188.00
803	2 Bedroom, 2 Bath (D)	1.183	190.00
804	2 Bedroom, 2 Bath (D)	1.183	190.00
805	2 Bedroom, 2 Bath (D)	1.169	188.00



## EXHIBIT C

THE CONTINENTAL CONDOMINIUM

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Unit Numbers	Unit Type	% of Ownership	Monthly Assessments
205	1 Bedroom, 1 Bath (A)	.549	88.00
206	1 Bedroom, 1 Bath (A)	.549	88.00
207	1 Bedroom, 1 Bath (A)	.535	86.00
208	1 Bedroom, 1 Bath (A)	.535	86.00
305	1 Bedroom, 1 Bath (A)	.549	88.00
306	1 Bedroom, 1 Bath (A)	.549	88.00
307	1 Bedroom, 1 Bath (A)	.535	86.00
405	1 Bedroom, 1 Bath (A)	.549	88.00
406	1 Bedroom, 1 Bath (A)	.549	88.00
407	1 Bedroom, 1 Bath (A)	.535	86.00
408	1 Bedroom, 1 Bath (A)	.535	86.00
505	1 Bedroom, 1 Bath (A)	.535	86.00
506	1 Bedroom, 1 Bath (A)	.535	86.00
806	1 Bedroom, 1 Bath (A)	.535	86.00
1003	1 Bedroom, 1 Bath (A)	.549	88.00
1004	1 Bedroom, 1 Bath (A)	.549	88.00
1103	1 Bedroom, 1 Bath (A)	.549	88.00
1104	1 Bedroom, 1 Bath (A)	.549	88.00
1203	1 Bedroom, 1 Bath (A)	.549	88.00
1204	1 Bedroom, 1 Bath (A)	.549	88.00
103	1 Bedroom, 1 Bath (B)	.624	100.00
104	1 Bedroom, 1 Bath (B)	.624	100.00
107	1 Bedroom, 1 Bath (B)	.624	100.00
108	1 Bedroom, 1 Bath (B)	.624	100.00
203	1 Bedroom, 1 Bath (B)	.624	100.00
204	1 Bedroom, 1 Bath (B)	.624	100.00
209	1 Bedroom, 1 Bath (B)	.624	100.00
210	1 Bedroom, 1 Bath (B)	.624	100.00
303	1 Bedroom, 1 Bath (B)	.624	100.00
304	1 Bedroom, 1 Bath (B)	.624	100.00
309	1 Bedroom, 1 Bath (B)	.624	100.00
403	1 Bedroom, 1 Bath (B)	.624	100.00
404	1 Bedroom, 1 Bath (B)	.624	100.00
408	1 Bedroom, 1 Bath (B)	.624	100.00
410	1 Bedroom, 1 Bath (B)	.624	100.00
507	1 Bedroom, 1 Bath (B)	.624	100.00
508	1 Bedroom, 1 Bath (B)	.624	100.00
808	1 Bedroom, 1 Bath (B)	.624	100.00
1000	1 Bedroom, 1 Bath (B)	.624	100.00
101	2 Bedroom, 2 Bath (C)	.941	151.00
102	2 Bedroom, 2 Bath (C)	.941	151.00
201	2 Bedroom, 2 Bath (C)	.941	151.00
202	2 Bedroom, 2 Bath (C)	.941	151.00
211	2 Bedroom, 2 Bath (C)	.941	151.00
212	2 Bedroom, 2 Bath (C)	.941	151.00
301	2 Bedroom, 2 Bath (C)	.941	151.00

## EXHIBIT C (Continued)

## THE CONTINENTAL CONDOMINIUM

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<u>Unit Numbers</u>	<u>Unit Type</u>	<u>% of Ownership</u>	<u>Monthly Assessments</u>
903	2 Bedroom, 2 Bath (D)	1.183	190.00
904	2 Bedroom, 2 Bath (D)	1.183	190.00
905	2 Bedroom, 2 Bath (D)	1.169	188.00
906	2 Bedroom, 2 Bath (D)	1.169	188.00
1005	2 Bedroom, 2 Bath (D)	1.169	188.00
1006	2 Bedroom, 2 Bath (D)	1.169	188.00
1105	2 Bedroom, 2 Bath (D)	1.169	188.00
1106	2 Bedroom, 2 Bath (D)	1.169	188.00
1205	2 Bedroom, 2 Bath (D)	1.169	188.00
1206	2 Bedroom, 2 Bath (D)	1.169	188.00
1002	3 Bedroom, 3 Bath (G)	1.575	253.00
1101	3 Bedroom, 3 Bath (G)	1.575	253.00
1102	3 Bedroom, 3 Bath (G)	1.575	253.00
1201	3 Bedroom, 3 Bath (G)	1.575	253.00
1202	3 Bedroom, 3 Bath (G)	1.575	253.00
601	3 Bedroom, 3 Bath (E)	1.210	194.00
602	3 Bedroom, 3 Bath (E)	1.210	194.00
701	3 Bedroom, 3 Bath (E)	1.210	194.00
702	3 Bedroom, 3 Bath (E)	1.210	194.00

EXHIBIT D  
CHARTER  
OF  
CONTINENTAL CONDOMINIUM ASSOCIATION, INC.

The undersigned is a natural person, having capacity to contract and acting as the Incorporator of a corporation under the Tennessee General Corporation Act, adopts the following Charter for such corporation:

1. The name of the corporation is: Continental Condominium Association, Inc.
2. The duration of the corporation is perpetual.
3. The address of the principal office of the corporation in the State of Tennessee shall be 1414 Continental Drive, Chattanooga, Tennessee, and such other addresses as may be adopted by the corporation.
4. The corporation is not for profit.
5. The corporation is organized for the purpose of administering, on a non-profit basis, and through a Council of Co-Owners and a Board of Directors, the condominium project known as Continental Condominium, including the maintenance, preservation and architectural control of the improvements and common area of said condominium project.

Further purposes of the corporation include the promotion of the health, safety and welfare of the residents of Continental Condominium and any additions thereto, including the power to:

- (a) Exercise all of the powers and privileges, and perform all of the duties and obligations, of the Council of Co-Owners, as set forth in that certain Master Deed establishing a Horizontal Property Regime for Continental Condominium, to be recorded in the Register's Office of Hamilton County, Tennessee, as the same may be amended from time to time.
- (b) Fix, levy, collect and enforce payment of all charges and assessments pursuant to the terms of the Master Deed, pay all expenses called for thereunder, including such licenses, tax or other governmental charges levied or imposed against the property of the Association.
- (c) Have and exercise any and all powers, rights and privileges which a corporation organized under the provisions of the General Corporation Act of the State of Tennessee relating to non-profit corporations may now or hereafter have or exercise.

6. This corporation is to have members. Every person or entity who is a record owner of a condominium unit in Continental Condominium shall be a member. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to, and may not be separated from, ownership of any unit which is subject to assessment by the Council of Co-Owners.

7. Other provisions:

(a) Amendment of this Charter shall require the affirmative vote of Co-Owners representing at least two-thirds (2/3) of the total ownership in the Common Elements as defined in the aforesaid Master Deed.

(b) The affairs of the corporation shall be managed by a Board of Directors of six (6) persons. Except for the initial members of the Board of Directors, each member of the Board of Directors shall either be the owner of a unit or of an interest therein, or, in the event of ownership of a unit by a partnership, trustee, corporation or other entity, a partner, trustee, officer or other designated representative thereof.

(c) The initial members of the Board of Directors shall be six (6) and shall be:

Thomas E. Schmitt	3340 Peachtree Rd. N.E., Suite 2350 Atlanta, Georgia 30326
Albert Johnson, Sr.	128 Clarendon Nashville, Tennessee 37205
Thomas A. Lupton, Jr.	407 West Brow Road Lookout Mountain, Tennessee 37350
James M. Gallagher, Jr.	1414 Continental Drive Chattanooga, Tennessee 37405
John Reynolds	176 Cottonwood Drive Franklin, Tennessee 37064
Sherry Key	1138 Falling Water Smyrna, Georgia 30080

WITNESS my hand this \_\_\_\_ day of \_\_\_\_\_, 1982.

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DESIGNATION OF REGISTERED AGENT

TO THE SECRETARY OF STATE OF TENNESSEE:

In accordance with the provisions of Title 48, Chapter 12, Tennessee Code Annotated, Richard Hostetter, whose business address is c/o Miller & Martin, 10th Floor, Volunteer State Life Building, Chattanooga, Tennessee 37402 is hereby designated as Registered Agent for Continental Condominium Association, Inc.

Dated \_\_\_\_\_, 1982.

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EXHIBIT E  
BY-LAWS  
OF THE  
CONTINENTAL CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

Members  
(Unit Owners)

SECTION 1. ELIGIBILITY. The CONTINENTAL CONDOMINIUM ASSOCIATION, INC., a Tennessee not-for-profit corporation, shall have one class of membership, consisting of the respective Unit Owners of the Property known as the Continental Condominium, located at 1414 Continental Drive, Chattanooga, Tennessee. Each such Unit Owner's respective membership interest in the Association shall be in accordance with his respective percentage of ownership interest in the Common Elements of the Property.

SECTION 2. SUCCESSION. The membership in the Association of each Unit Owner shall automatically terminate when he ceases to be a Unit Owner, and upon conveyance, transfer or other disposition of a Unit Owner's ownership interest in the Property, said Unit Owner's membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest. Upon the conveyance, transfer, or other disposition of a portion of a Unit Owner's ownership interest, the transferring Unit Owner and the transferee thereof shall each be members of the Association in accordance with the percentage of ownership interest in the Common Elements of each following such conveyance or transfer.

SECTION 3. REGULAR MEETINGS. The Unit Owners shall hold a regular annual meeting, one of the purposes of which shall be to elect members of the Board. The first regular annual meeting of Unit Owners (the "First Meeting") may be held, subject to the terms hereof, on any date, at the option of the Board after the Developer has sold and delivered its deed to purchasers of Units having a total Common Element percentage in excess of 51% of the total Common Element percentage provided, however, that said First Meeting shall be held not later than sixty (60) days after the Developer has sold and delivered its deed for 75% of the Units or three (3) years after the date the Master Deed is Recorded, whichever is earlier ("Turnover Date"). For purposes of this provision, 75% of the Units shall mean Units which correspond in the aggregate to 75% of the undivided ownership of the Common Elements, as set forth in Exhibit C to the

Master Deed. Subsequent to the First Meeting, there shall be a regular annual meeting of Unit Owners held each year within 15 days of the anniversary of the First Meeting. All such meetings of Unit Owners shall be held at such place in Hamilton County, Tennessee, and at such time as specified in the written notice of such meeting, which shall be delivered to all Unit Owners at least ten (10) days and not more than thirty (30) days prior to the date of such meeting. Such notice shall also state the purpose of such meeting.

SECTION 4. SPECIAL MEETINGS. Special meetings of the Unit Owners may be called by the President or by a majority of the Directors of the Board, or by Unit Owners owning two-fifths (2/5) or more of the Common Elements. Special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days nor more than thirty (30) days prior to the date of said meeting, stating the date, time, place and purpose of said special meeting. Any matter subject to the approval of Unit Owners as set forth in the Act, Master Deed and By-laws shall be submitted to the Unit Owners by the Board at a special meeting called pursuant to the provisions of this paragraph.

SECTION 5. DELIVERY OF NOTICE OF MEETINGS. Notices of meetings shall be delivered by or at the direction of the Secretary of the Association, and may be delivered either personally or by mail to a Unit Owner at the address given to the Board by said Unit Owner for such purpose, or to the Unit Owner's Unit, if no address for such purpose has been given to the Board.

SECTION 6. VOTING. The aggregate number of votes for all Unit Owners shall be one hundred (100), and shall be divided among the respective Unit Owners in accordance with their respective percentages of ownership interest in the Common Elements. If any Unit Owner consists of more than one Person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one Person in accordance with the proxy or other designation made by the Persons constituting such Unit Owner. The Developer may exercise the voting rights with respect to Units owned by it. If a Unit Owner is a trust, then the voting rights of said Unit Owner may be exercised by a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a partnership, then the voting rights of said Unit Owner or beneficiary may be exercised by a general partner of such Unit Owner or beneficiary, and if a Unit Owner or such beneficiary or such partner is a corporation, then the voting rights of said Unit Owner, beneficiary or partner may be exercised by an officer or duly authorized agent of that corporation. The following matters shall require the approval of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements, by affirmative vote at a meeting duly called for that purpose or by written proxy or consent: (a) the merger or consolidation of the Association; (b) the sale, lease, exchange, Mortgage, pledge, or other disposition of all or substantially all of the Property and assets of the Association; and (c) the purchase or sale of land or Units on behalf of all Unit Owners.

SECTION 7. QUORUM. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding a Majority of the total ownership of the Common Elements. Except as otherwise provided in these By-laws or in the Master Deed, an affirmative vote by a majority (based upon their total ownership of the Common Elements) of the Unit Owners voting at such meeting at which a quorum is in attendance, shall be necessary to transact business and to adopt decisions binding upon all Unit Owners.

SECTION 8. RULES OF THE MEETING. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and Unit Owners.

## ARTICLE II

### Board of Directors

SECTION 1. NUMBER, ELECTION AND TERM OF OFFICE. The Board of Directors of the Association shall constitute the "board of administrators" provided for in the Horizontal Property Act of the State of Tennessee, as amended, and all rights, titles, powers, privileges and obligations vested in or imposed upon the "board of administrators" in said Act or in the Master Deed may be held or performed by the Association or by the duly elected members of the Board and their successors in office. Except as hereafter provided, the Board shall consist of six (6) Directors. Directors shall be elected by plurality vote at the regular annual meeting of Association members by the vote of Unit Owners, except the Directors of the First Board shall be appointed by the Developer. Those candidates for election as Director receiving the greatest number of votes cast either in person or by proxy at the meeting shall be elected. Every Director, except for the members of the First Board shall hold office for the term of three years. Directors may succeed themselves in office. Two (2) members of the First Board shall hold office until the first regular annual meeting of Association members, two (2) other members of the First Board shall hold office until the second regular annual meeting of Association members, and two (2) other members of the First Board shall hold office until the third regular meeting of the Association members.

SECTION 2. QUALIFICATION. Except for members of the First Board, each Director shall be a Unit Owner or the spouse of a Unit Owner, or, if a Unit Owner is a trustee of a trust, then a beneficiary of such trust may be a Director, and if a Unit Owner or such beneficiary is a partnership, then a general partner of such Unit Owner or beneficiary may be a Director and if a Unit Owner or such beneficiary or such partner is a corporation, then



an officer of such corporation or an agent appointed by the board of directors of such corporation may be a Director. If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

SECTION 3. VACANCIES. Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof, except that a vacant position on the Board which was last filled by a member of the First Board shall be filled by a person appointed by the Developer. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director which he succeeds.

SECTION 4. MEETINGS. At least four (4) regular meetings of the Board shall be held annually, one of which (the "Regular Annual Meeting of the Board") shall be held within ten (10) days after the regular annual meeting of Unit Owners. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours notice in writing to each Director, delivered personally or by mail or telegram. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting. Each Unit Owner shall receive at least 30 days prior notice (in the same manner as that provided herein for the giving of notice of the annual Unit Owners' meeting) of any meeting of the Board concerning the adoption of the proposed annual budget or any increase thereof, or concerning the establishment of an assessment. Meetings of the Board shall be open to members.

SECTION 5. REMOVAL. Any Director may be removed from office for cause by the vote of Unit Owners owning two-thirds (2/3) of the total undivided ownership of the Common Elements, provided however, a member of the Board appointed by the Developer may only be removed from office for cause by the vote of Unit Owners owning eighty percent (80%) of the total undivided ownership of the common elements.

SECTION 6. COMPENSATION. Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by the Unit Owners.

SECTION 7. QUORUM. A majority of the Directors shall constitute a quorum. An affirmative vote of a majority of those Directors present at a meeting at which a quorum is in attendance shall be necessary to transact business.

SECTION 8. POWERS AND DUTIES. The Board shall exercise for the Association all powers, duties and authority vested therein

by the Act, the Master Deed, the Charter or these By-laws, except for such powers, duties, and authority reserved thereby to the members of the Association. The powers and duties of the Board shall include, but shall not be limited to, the following:

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

(b) To administer the affairs of the Association and the Property;

(c) To engage the services of a Managing Agent to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that the First Board, appointed as provided herein, may ratify and approve an Initial Management Agreement between the Association, and a management company to act as Managing Agent for the Property, only if it has received the prior written approval of the Unit Owners owning a majority of the total ownership of the Common Elements, excluding the Developer as a Unit Owner. Such Agreement may be with a corporation related to the Developer, and such ratification and approval shall not be subject to the provisions of Article IV, Section 6 hereof;

(d) To administer, manage, and operate the Property, including the Common Elements, and to formulate policies therefor;

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

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

(g) To have access to each Unit from time to time as may be necessary for the maintenance, repair, or replacement of any Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to one or more other Units;

(h) To obtain adequate and appropriate kinds of insurance as provided in the Master Deed;

(i) To provide for the designation, employment and dismissal of employees and other personnel necessary or advisable for the maintenance and operation of the Common Elements,

including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent (and any employees or agents of the Managing Agent);

(j) To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board. Meetings of the committees shall be open to members;

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

(l) To estimate the amount of, prepare, adopt and distribute the annual budget, and to provide the manner of maintenance, repair, replacement, administration, management and assessing, levying or collecting from the Unit Owners their respective shares of the Common Expenses, as hereinafter provided;

(m) To keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;

(n) Provided that it receives the prior written approval of the Unit Owners owning a majority of the total ownership of the Common Elements, excluding the Developer as a Unit Owner, to enter into agreements or arrangements to lease one or more Units or other residential quarters for Building personnel upon such terms as the Board may approve, and to purchase, for and on behalf of the Association, one or more Units or other residential quarters for Building personnel, pursuant to the Master Deed;

(o) To bid and purchase, for and on behalf of the Association, any Unit, or interest therein, at a sale pursuant to a Mortgage foreclosure, a foreclosure of the lien for Common Expenses under the Act, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements, provided that such consent shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for such Unit or interest therein;

(p) To purchase or lease any Unit, or interest therein, upon the consent or approval of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements, provided that such consent shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for such Unit or interest therein;

(q) To make such Mortgage arrangements, levy special assessments proportionately among the respective Unit Owners, and make other financing arrangements, with the approval of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements, in order to close and consummate the purchase of a Unit, or interest therein, by the

Association, provided, however, that no such financing arrangement shall be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein, to be purchased or leased, and the percentage interest in the Common Elements appurtenant thereto;

(r) To own, encumber, convey and otherwise deal with Units conveyed to or purchased by the Association or the Board, for and on behalf of the Association, with the approval of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements;

(s) Unless otherwise provided herein or in the Master Deed, to comply with the instructions of a Majority of the Unit Owners as defined in the Master Deed as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners;

(t) To act in a representative capacity in relation to matters involving the Common Elements or more than one Unit, on behalf of the Unit Owners, as their interests may appear;

(u) To exercise all other powers and duties of the Board of Directors or Unit Owners as a group referred to in the Horizontal Property Act of the State of Tennessee, and all powers and duties of a Board of Directors referred to in the Master Deed or these By-laws.

SECTION 9. NON-DELEGATION. Nothing in this Article or elsewhere in these By-laws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Unit owners.

### ARTICLE III

#### Officers

SECTION 1. DESIGNATION. At the First Meeting of the elected Board after the Turnover Date, the Directors present at said meeting shall elect the following officers of the Association by a majority vote:

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

(b) A Secretary, who shall keep the minutes of all meetings of the Board and of the Unit Owners, and shall be designated as the officer to mail and receive all notices served by or upon the Board or the Association and execute amendments to the Master

Deed (including the Plat) and these Bylaws, as provided in the Act, the Master Deed and these Bylaws, and shall, in general, perform all the duties incident to the office of Secretary, and may be a representative of the Managing Agent;

(c) A Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported;

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

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

SECTION 3. TERM OF OFFICE. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified, provided that any officer may succeed himself.

SECTION 4. VACANCIES. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at either a regular or special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by vote of two-thirds (2/3) of the total membership of the Board at a regular meeting or special meeting thereof.

SECTION 5. COMPENSATION. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by a Majority of the Unit Owners.

#### ARTICLE IV

##### Assessments

SECTION 1. ANNUAL BUDGET. The Board shall cause to be prepared and shall adopt and distribute to all Unit Owners a detailed estimated proposed annual budget for each fiscal year of the Association. Such budget shall set forth with particularity all anticipated Common Expenses by category as well as all anticipated assessments, other income, and cash requirements for the year, including, but not limited to, salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, contributions to reserves,

and all other Common Expenses. Such budget shall also set forth each Unit Owner's proposed annual Common Expenses assessment. To the extent that the aggregate assessments and other cash income collected from the Unit Owners during the preceding year are more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account in the budget. The annual budget shall also take into account the estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall also provide for a reserve for contingencies and a reserve for replacements, in reasonable amounts as determined by the Board. Each Unit Owner shall receive a copy of the proposed annual budget at least thirty (30) days prior to the adoption thereof by the Board.

SECTION 2. ASSESSMENTS. Unless otherwise directed by the Board, on or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as his respective monthly assessment for the Common Expenses, one-twelfth (1/12) of his proportionate share of the Common Expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with his respective ownership interest in the Common Elements. Notwithstanding the above, no Unit Owner shall be responsible for payment of its Common Expense assessment until the Developer has delivered its first deed to the first purchaser of a Unit. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment as last determined. Each Unit Owner shall pay his monthly assessment to the Managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of his obligation to pay his assessment by abandoning or not using his Unit, the Common Elements, or the Limited Common Elements.

SECTION 3. PARTIAL YEAR OR MONTH. For the first fiscal year of the Association the annual budget shall be as approved by the First Board prior to the conveyance of any Unit by the Developer to any individual purchaser thereof. If such first fiscal year, or any succeeding fiscal year, is less than a full year, then the monthly assessment for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget.

SECTION 4. ANNUAL REPORT. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner, an itemized accounting of the Common Expenses for the preceding year actually incurred and

paid, together with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves.

SECTION 5. SUPPLEMENTAL ASSESSMENTS. In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, or if there shall be any non-recurring Common Expenses or any Common Expenses not set forth in the annual budget as adopted, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of the year, or such nonrecurring Common Expenses or other Common Expenses, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made against each Unit Owner for his proportionate share thereof, provided, however, that or expenditures arising from maintenance of, repairs to and replacements within the Limited Common Elements may be assessed, in whole or in part, to the Unit Owners benefitted by such Limited Common Elements, as provided under Paragraph 14 of the Master Deed, provided however, that so long as the Developer owns a Unit or Units such special assessment shall require the Developer's prior written consent.

SECTION 6. EXPENDITURES. Except for the Initial Management Agreement described in Article II, Section 8(c) hereof and any other expenditures and contracts specifically authorized by the Master Deed and Bylaws, the Board shall not approve any expenditures in excess of Thirty-five Thousand Dollars (\$35,000) unless required for emergency repair, protection or operation of the Common Elements, nor enter any contract of more than five (5) years duration without the prior approval of two-thirds (2/3) of the total ownership of the Common Elements.

SECTION 7. LIENS.

(a) It shall be the duty of every Unit Owner to pay his proportionate share of the Common Expenses, as provided in the Master Deed and as assessed in the manner herein provided.

(b) If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof, together with any reasonable late fee or charge and further together with interest on such late Common Expense payment at the maximum rate permitted under the laws of the State of Tennessee from and after said Common Expenses become due and payable, shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit Owner in the Property, provided, however, that such lien shall be subordinate to the

lien of any first Mortgage or first deed of trust on the Property or any portion thereof, or on any interest of such Unit Owner, which first Mortgage or first deed of trust is Recorded prior to the date such lien for unpaid Common Expenses attaches and is owned or held by any Lender (as that term is defined in the Master Deed), except for the amount of said proportionate share of such Common Expenses which become due and payable from and after the date on which such Lender either takes possession of the property or interest encumbered by such first Mortgage or first deed of trust, or accepts a conveyance, transfer or assignment of the Unit or any interest therein (other than as security) in lieu of foreclosure of such Mortgage or deed of trust, or files suit to foreclose its Mortgage or deed of trust and causes a receiver to be appointed to take possession of the Unit. The provisions of this paragraph of this Section 7 shall not be amended, modified or rescinded without the prior written consent of all Lenders who are the holders or owners of a first Mortgage or first deed of trust Recorded prior to the date of such amendment, modification or rescission.

(c) The Association or its successors and assigns, or the Board or its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with legal interest and reasonable attorneys' fees to be fixed by the court. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Master Deed or these By-laws, or as are otherwise provided or permitted at law or in equity, for the collection of all unpaid assessments.

(d) A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

#### SECTION 8. RECORDS AND STATEMENT OF ACCOUNT.

(a) The Board shall cause to be kept detailed and accurate records, in chronological order, of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the Common Expenses incurred. Such records and the vouchers authorizing the payments involved shall be available for examination by the Unit Owners at convenient hours during week days. Payment vouchers may be approved in such manner as the Board may determine.

(b) The Board shall cause to be kept a book entitled "Mortgages of Units", in which shall be kept copies of all Mortgages of Units and other information pertaining thereto.



Provided, however, the Board or the Managing Agent shall not be liable for any damages whatsoever, for the failure to keep such book.

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

SECTION 9. STATEMENT OF ACCOUNT IN THE CASE OF A PROPOSED SALE. Within ten (10) days after receipt of a written request from a Unit Owner (together with payment of a reasonable fee, if any, set by the Board) the Board shall provide such Unit Owner with a statement containing the following information:

(a) The status of said Unit Owner's account and the amount of any unpaid assessments or other charges due and owing from the Unit Owner;

(b) A brief description of any expenditures for major repairs, alterations, additions, or improvements to the Common Elements which are anticipated by the Board for the period of twelve (12) months from the date of the statement; and

(c) The status and amount of any and all capital reserves.

SECTION 10. DISCHARGE OF LIENS. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

SECTION 11. HOLDING OF FUNDS. All funds collected hereunder shall be held and expended for the purposes designated herein and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners in the percentages set forth in Exhibit C to the Declaration.

#### ARTICLE V

##### Use and Occupancy Restrictions

SECTION 1. GENERAL. Each Unit Owner shall comply with the use and occupancy restrictions set forth in the Master Deed. No unlawful, noxious or offensive activities shall be carried on in

any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which, in the reasonable judgment of the Board, constitute an unreasonable annoyance, noise or disturbance to others, or unreasonably interferes with other Unit Owners' use of their Units and the Common Elements.

Each Unit Owner shall maintain his Unit in good condition and in good order and repair, at his own expense, and shall not do or allow anything to be done to his Unit which may increase the cost or cause the cancellation of insurance on other Units or on the Common Elements. No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside his Unit, or which may be visible from the outside of his Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of his Unit, or install outside his Unit any canopy or awning, or outside radio or television antenna, or other equipment, fixtures or items of any kind, without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's direction. The foregoing restriction as to use and occupancy shall not be construed to prohibit a Unit Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a balcony, patio or terrace constituting Limited Common Elements for such Unit Owner's Unit. Except for signs authorized under Paragraph 5(e) of the Master Deed and Section 4 of this Article 5, no owner of a Unit, shall display, hang, store or use any sign outside his Unit, in a hallway or elsewhere, or which may be visible from the outside of his Unit without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's direction.

**SECTION 2. ANIMALS.** No animals shall be raised, bred or kept in any Unit for any commercial purpose. Household pets of Occupants shall be kept in strict accordance with the administrative rules and regulations relating to household pets from time to time adopted or approved by the Board, provided that any such pet shall not in the judgment of the Board constitute an unreasonable annoyance, noise or disturbance to others.

**SECTION 3. TRASH.** Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner in strict accordance with the rules and regulations adopted or approved by the Board from time to time.

**SECTION 4. USE BY DEVELOPER.** During the period of sale of any Unit by the Developer, the Developer and its respective agents, employees, successors, assigns, contractors, subcontractors, brokers, licensees, invitees and the respective agents and employees thereof shall be entitled to use, parking,

access, ingress to and egress from the Building, Property, and Common Elements, without charge, as may be required for purposes of sale of Units and other activities of the Developer on or about the Property and Building. While the Developer owns any Units and until each Unit sold by it is occupied by the Purchasers thereof, the Developer and their respective agents and employees and the respective agents and employees thereof, may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units or a portion of the Common Elements, without charge, as a sales office, administrative office, management office or other uses and offices incidental to Developer's use of the Building and may further maintain such customary signs, banners, equipment and lighting in connection therewith. This section may only be amended or modified with the express written consent of the Developer.

SECTION 5. STORAGE. Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing and other articles, shall not be stored or kept in the corridors, hallways, or other common areas, except in the common storage area, if any, and in the storage lockers, if any, specifically designated by the Board or the Managing Agent, acting in accord with the Board's direction, for use by such Unit Owner.

SECTION 6. WIRING. No Unit Owner shall overload the electrical wiring in the Building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior written consent of the Board or the prior written consent of the Managing Agent, acting in accord with the Board's direction.

#### ARTICLE VI

##### Contractual Powers

A contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one or more of the Directors of this corporation are Directors, employees, or are financially interested, is not void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because the vote or votes of such Director or Directors are counted toward such authorization or approval, if the circumstances specified in either of the following subparagraphs exists:

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

(b) The contract or transaction is just and reasonable as to the Association at the time it is authorized or approved and the party asserting the fairness of the transaction establishing fairness;

Except as otherwise provided by Tennessee law, such common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies such a contract or transaction.

#### ARTICLE VII

##### Amendments

Subject to the requirements of Article IV, Section 7 and Article V, Section 4, hereof requiring the consent of certain lien holders under certain circumstances, these By-laws may be amended, modified or rescinded, from time to time, by means of an amendment of the Master Deed, of which these By-laws constitute a part. Any such amendment, modification or rescission shall be valid and effective only upon the recording thereof in the Office of the Register of Deeds of Hamilton County, Tennessee. Any such Recorded amendment, modification or rescission shall be maintained in the corporate records of the Association. These By-laws may not be amended, modified or rescinded so as to conflict with the provisions of the Act or the provisions of the Master Deed.

#### ARTICLE VIII

##### Indemnification

SECTION 1. GENERAL. The Association shall indemnify and hold harmless each of its Directors and officers, each member of any committee appointed pursuant to the By-laws of the Association, and the Board and the Developer against all contractual and other liabilities to others arising out of contracts made by, or other acts of, such Directors, Board, officers, committee members, and the Developer, on behalf of the Unit Owners, or arising out of their status as Directors, Board, officers, committee members, and the Developer, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees,

amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director, officer, Board, committee member or Developer, may be involved by virtue of such persons being or having been such Director, officer, Board, committee member or Developer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence, fraud or a crime in the performance of his duties as such Director, officer, Board, Committee member, or Developer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence, fraud or a crime in the performance of his duties as such Director, officer, Board, committee member or Developer.

SECTION 2. SUCCESS ON MERITS. To the extent that the Board, Developer, a director, officer of the Association or member of any committee appointed pursuant to the Bylaws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 of this Article VIII, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

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

SECTION 4. MISCELLANEOUS. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the Directors, Board, officers, members of such committees, or Developer, or out of the aforesaid indemnity in favor of the Directors, Board, officers, members of such committees, or Developer, shall be limited to such proportion of the total liability thereunder as said Unit Owner's percentage of interest in the Common Elements bears to the total

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STATE OF TENNESSEE

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

## ARTICLE IX

## Definition of Terms

The terms used in these By-laws to the extent they are defined therein, shall have the same definition as set forth in the Master Deed of Condominium Ownership for the Continental Condominium, which Master Deed is Recorded in the office of the Register of Deeds of Hamilton County, Tennessee. The words "member" or "members" as used in these By-laws means and shall refer to "Unit Owner" or "Unit Owners" as the case may be, as defined in the Master Deed.

## ARTICLE X

**NO TRANSFER TAX DUE**  
 Additional Powers **DOROTHY P. BRAAMER**  
 County Register

In addition to, and in furtherance of, the powers referred to in these By-laws, the Association shall (a) have all the powers permitted to be exercised by a not-for-profit corporation under the General Corporation Act of the State of Tennessee as amended, which are not inconsistent with the Horizontal Property Act of the State of Tennessee, as amended and (b) have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Master Deed, these By-laws or the Horizontal Property Act of the State of Tennessee, as amended. In the event of any conflict between the terms and provisions of these By-laws and the Master Deed, the provisions of the Master Deed shall control. These By-laws shall not be amended or altered in any manner inconsistent with the Master Deed.

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