

MASTER DEED

FOR

CHATHAM VILLAGE CONDOMINIUM

5881 Park Avenue, Memphis, Tennessee 38138

THIS MASTER DEED, made and entered into by CHATHAM VILLAGE LIMITED PARTNERSHIP, an Illinois Limited Partnership for convenience hereinafter referred to as the "Developer";

W I T N E S S E T H :

WHEREAS the Developer is the legal title holder of the following described real estate located in the County of Shelby, and State of Tennessee and described as:

Part of Lot 21, Bennett's Ridgeway Farm Subdivision, as shown on plat of record in Plat Book 7, Page 104, Register's Office of Shelby County, Tennessee, and more particularly described as follows:

Beginning at a point in the east line of Lynnfield Road at the end of a proposed 30 foot radius curve, said curve connecting the east line of Lynnfield Road with the proposed south line of Park Avenue, said point being 25 feet east of the present centerline of Lynnfield Road as measured at right angles thereto; thence south along the east line of Lynnfield Road, parallel with and 25 feet east of said centerline 786.63 feet to a point; thence east at an interior angle of 90 degrees 783.75 feet to a point; thence north and parallel with Lynnfield Road and at an interior angle of 90 degrees 859.26 feet to a point in the proposed south line of Park Avenue, said point being 45 feet south of the present centerline of Park Avenue as measured at right angles thereto; thence west along the proposed south line of Park Avenue, parallel with and 45 feet south of said centerline, and at an interior angle of 86 degrees and 46 minutes 756.65 feet to a point at the beginning of said proposed 30 foot radius curve; thence southwardly along the arc of said curve 45.43 feet to the point of beginning.

Subject to the following:

- (a) Easement recorded in Book 5884, Page 161, for drainage, in the Register's Office of Shelby County, Tennessee.
- (b) Easement recorded as Instrument E4 1741, for water, in the Register's Office of Shelby County, Tennessee.
- (c) Easement recorded as Instrument E4 8833, for sanitary sewer, in the Register's Office of Shelby County, Tennessee.
- (d) Easement recorded as Instrument E9 8519, for underground electric lines, in the Register's Office of Shelby County, Tennessee.
- (e) Easement recorded as Instrument F7 9934, for underground electric lines, in the Register's Office of Shelby County, Tennessee.
- (f) Easement recorded as Instrument G3 7336, for sanitary sewer and use of Party House, in the Register's Office of Shelby County, Tennessee.

- (g) Easement recorded as Instrument G8 6693, for sanitary sewer, in the Register's Office of Shelby County, Tennessee.

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; 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 or 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 premises and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of residence on the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property;

NOW, THEREFORE, the Developer, as the legal title holder of the real estate hereinabove described, 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.
 - (b) "Association" means the Chatham Village Homeowners Association, Inc., a not-for-profit corporation.
 - (c) "Board" means the Board of Directors of the Chatham Village Homeowners Association, Inc.
 - (d) "Buildings" mean the buildings located on the Parcel and forming part of the Property and containing the Units. The Buildings are delineated on Exhibit A attached hereto.
 - (e) "By-Laws" means the By-Laws of the Chatham Village Homeowners Association, Inc., attached hereto as Exhibit C and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Master Deed dealing with the administration and maintenance of the Property shall be deemed to be part of the By-Laws.
 - (f) "Common Elements" means all of the Property except for the Units, and, without limiting the generality of the foregoing, shall include those items defined as "general common elements" in the Act, including the following:
 - (1) The Parcel;
 - (2) All foundations, bearing walls and columns, roofs, carports, halls, lobbies, stairways, and entrances and exits or communication ways;
 - (3) All basements, flat roofs, yards and gardens, except as otherwise herein provided or stipulated;
 - (4) All compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks and pumps, swimming pools, and the like;

- (5) All garbage incinerators and, in general, all devices or installations existing for common use;
- (6) All swimming pools, club rooms and recreational facilities;
- (7) Pipes, ducts, electrical wiring and conduits (except pipes, ducts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit).
- (8) All other elements of the Buildings desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime established by this Master Deed.

The Common Elements shall remain undivided and shall not be the subject of an action for partition.

- (g) "Developer" means Chatham Village Limited Partnership, an Illinois Limited Partnership, its successors and assigns, provided such successors or assigns are designated in writing by Developer as a successor or assign of the rights of Developer set forth herein.
- (h) "Limited Common Elements" means all Common Elements contiguous to and serving exclusively a single Unit or one or more adjoining Units as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit or Units either in this Master Deed, on the Plat or by the Board. Said Limited Common Elements shall include, but shall not be limited to, the separate furnace, air conditioner and water heater located within or adjacent to a Unit and serving only such Unit, pipes, ducts, electrical wiring and conduits located entirely within a Unit or adjoining Units and serving only such Unit or Units, any balconies and patios and such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows, fences and entryways, and all associated fixtures and structures therein, as lie outside the Unit boundaries.
- (i) "Majority" or "majority of the Unit Owners" means the owners of more than fifty per cent (50%) of the undivided ownership of the Common Elements. Any specific 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.
- (j) "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.
- (k) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.
- (l) "Parcel" means the parcel or tract of real estate, described above in this Master Deed, submitted to the provisions of the Act.
- (m) "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.
- (n) "Plat" means the plat of survey of the Parcel submitted to the provisions of the Act showing the number of each Unit, expressing its area, location and other data necessary for identification, said Plat being attached hereto as Exhibit A and made a part hereof and recorded simultaneously with the recording of this Master Deed.

- (o) "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.
- (p) "Record" or "Recording" refers to the record or recording in the office of the Register of Deeds in Shelby County, Tennessee.
- (q) "Unit" means an enclosed space consisting of one or more rooms occupying all or part of a floor or floors in the Buildings, which enclosed space is not owned in common with the Unit Owners of other Units. Each Unit is numbered as shown on the Plat, and the boundaries of each Unit shall be and are the interior surfaces of its perimeter walls, floor and ceilings and a Unit includes both the portion of the Buildings so described and the air space so encompassed, excepting Common Elements. Any Unit may be jointly or commonly owned by more than one Person. It is intended that the term "Unit" as used in this master deed shall have the same meaning as the term "Apartment" as used in the Act.
- (r) "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, and shall be deemed the same as a "co-owner" under the Act. Unless specifically provided otherwise herein, the Developer shall be deemed a Unit Owner so long as it is the legal title holder of any Unit.

2. Submission of Property to the Act. 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 and subject the Parcel and the Property to the provisions of the Horizontal Property Act of the State of Tennessee.

3. Plat. The Plat sets forth the numbers, areas, locations and other data, as required by the Act.

4. Units. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat. Every deed, lease, mortgage, deed of trust 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 by the Act, 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. (a) Association of Unit Owners and Administration and Operation of the Property. There has been or will be formed an Association having the name Chatham Village Homeowners Association, 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 By-Laws. The By-Laws for the Association shall be the By-Laws attached to the Master Deed as Exhibit C and made a part hereof. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the By-Laws.

the fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the 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 By-Laws. 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. The aggregate number of votes for all members of the Association 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, as set forth in Exhibit B hereto.

(b) Management of Property. The Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of subparagraph (c) below. The cost of such services shall be a common expense, as defined in Paragraph 10 below.

(c) Initial Management Contract. The First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, which will be a corporation related to the Developer, to act as Managing Agent for the Property for an initial term of one (1) year commencing on the date of the first unit closing and continuing thereafter from year to year until terminated by either party upon not less than ninety (90) days notice thereof, at an annual rate of Thirty One Thousand Eight Hundred Dollars (\$31,800.00), which ratification and approval shall not be subject to the provisions of Article IV, Section 6 of the By-Laws of the Association.

(d) Apartments for Building Personnel. The Board shall have authority to lease, purchase and mortgage a Unit, Units or other residential quarters for a building manager and engineer. All rental or debt service paid by the Association pursuant to a lease agreement shall be a general common expense, as defined in Paragraph 10 below.

(e) Use by Developer. During the period of sale by the Developer of any Units, the Developer, and said Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of said sale of Units. While the Developer owns any of the Units and until each unit sold by it is occupied by the purchasers, the Developer and its employees 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 as a sales office, and may maintain customary signs in connection therewith.

(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 gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the directors, Board, officers or Developer, and their respective heirs, executors, administrators, successors and assigns in accordance with the provisions of Article VIII of the By-Laws.

6. 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 By-Laws, the determination thereof by the Board shall be final and binding on each and all such Unit Owners.

7. Ownership of 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 B attached hereto and made a part hereof as though fully set forth herein. The percentages of ownership interests set forth in Exhibit B shall remain constant unless hereafter changed by recorded amendment to this Master Deed consented to in writing by the Unit Owners, in accordance with Paragraph 21, 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 percentages of ownership. The ownership of each Unit shall not be conveyed 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 or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering said Unit may refer only to the fee title to that Unit. Such Common Elements are not the subject of any partition action.

8. Use of the Common Elements. Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements and portions of the Property subject to leases 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, customers, invitees and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements contiguous to and serving such Unit alone or with adjoining 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, By-Laws and rules and regulations of the Association. In addition, the Association shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of the Master Deed and By-Laws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

Parking spaces and carports within the Parcel shall be part of the Common Elements, and may be allocated and re-allocated, from time to time, to the respective Unit Owners, and shall be used by such Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe, and parking spaces not so used by Unit Owners may be rented or otherwise used in such manner as the Board may prescribe.

9. Storage Areas. The storage areas on the Property, except those inside the Units and those which are Limited Common Elements, shall be part of the Common Elements and shall be allocated and re-allocated, from time to time, to the respective Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe, and storage areas not so allocated may be rented in such manner as the Board may prescribe.

10. (a) Common Expenses. Each Unit Owner, including the Developer, shall pay his proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with the Master Deed and By-Laws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair thereof and any and all replacements and additions thereto. Except for its responsibilities as a Unit Owner, as provided herein, Developer shall not have any responsibility for the maintenance, repair or replacements of any part of the Common Elements after the date this Master Deed is Recorded. Such proportionate share of the common expenses for each Unit Owner shall be in accordance with his percentage of ownership in the Common Elements. Payment of common expenses, including any prepayment 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 By-Laws. No Unit Owner shall be exempt from payment of his proportionate share of the common expenses by waiver or non-use or enjoyment of the Common or Limited 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 interest thereon at the rate of 10% per annum, or such greater percentage as may then be permitted under the law of the State of Tennessee, after said common expenses become due and payable, shall constitute a lien on the interest of such Unit Owner in his Unit and in the Property as provided in the Act.

(b) Enforcement of Lien. FOR AND IN CONSIDERATION of the privileges, protections, mutual enjoyment and use of the Common Elements and the premises contained herein, the receipt of which is hereby acknowledged and any assumption of the obligations by transferees as required hereunder, and to secure the payment of said Common Expenses, principal, interest, and attorney fees, a lien is expressly retained by the Association on each and every Unit Owner's Unit and prorata interest in the Common Elements (referred to in this subparagraph 10(b) as "property").

And now, for the purpose of better and more effectually securing the payment of said lien indebtedness; rendering unnecessary court proceedings for the enforcement of said lien in the event of the non-payment of said indebtedness and payments thereof, as they become due, and for the consideration of one dollar paid in cash, receipt of which is acknowledged, the said Unit Owners, their heirs, administrators, and assigns, hereinafter referred to as trustors, hereby transfer and convey unto John Maxwell, Jr., Trustee, his successors and assigns, the property hereinbefore described, with the appurtenances, estate, title and interest thereto belonging upon the following uses and trusts:

Trustors agree to pay their prorata share of Common Expenses when due and further agree to pay all taxes and assessments thereon, general or special, and to pay them when due, and, upon demand of said trustee or the lawful owner and holder of said indebtedness, to pay, discharge, or remove, any and all liens (except a First Mortgage or Deed of Trust) which may be hereafter placed against said property and which shall adversely affect the lien of this instrument or enforcement of the terms and provisions hereof; to keep the improvements on said property in good repair and preservation, and in case the trustee or his successors or the lawful owner and holder of said indebtedness shall hereafter be required to appear in any court or tribunal to enforce, or defend the title to, or possession of, said property, or the lien of this instrument, or appear in any court to prove the above indebtedness, all the costs and expenses of such appearance or proceedings, together

with a reasonable attorney's fee, shall be allowed, and be payable by trustors upon demand of the trustee or lawful owner or holder of said indebtedness, and, upon failure to do any of these things, then said trustee, or the lawful owner and holder of said indebtedness may do any or all of these things and the amounts so paid shall bear 10 percent interest from the date of payment and shall be and become a part of the indebtedness secured hereby.

Now, if trustors shall pay their prorata share of Common Expenses aforesaid when due, and pay any and all other sums when due, as aforesaid, then this trust conveyance shall be of no further force or effect. But if said indebtedness, or any payment thereof, or interest thereon, is not paid promptly when due, or if, failing to pay said other sums when due, as herein provided, trustors fail to reimburse the trustee, or lawful owner and holder of said indebtedness for all sums, with interest, so expended by said trustee, or lawful owner and holder of said indebtedness, within thirty days from date of such payment, this trust conveyance shall remain in full force and effect, and the said trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty days' notice by three publications in any newspaper, daily or weekly, published in Shelby County, Tennessee, to sell said property at the front door of the Court House in said County to the highest bidder for cash, at public outcry, free from the equity of redemption, homestead, dower and all other exemptions of every kind, which are hereby expressly waived; and the said trustee, or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Association may bid at any sale under this trust conveyance. The trustee may, at any time after default in the payment of any of said indebtedness, enter and take possession of said property, and shall only account for the net rents actually received by him. It is further agreed that, in the event the trustee fails, before selling said property, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the trustee of a deed for said property. In case of sale hereunder, the proceeds will be applied by the trustee as follows:

- (1) To the payment of all costs, charges and expenses of executing this conveyance and enforcing said lien as herein provided; also reasonable attorney's fees for advice in the premises, or for instituting or defending any litigation which may arise on account of the execution of this conveyance, or the enforcement of said lien; also the expenses of any such litigation.
- (2) To the payment of all taxes which may be unpaid on said premises.
- (3) To the payment of all unpaid indebtedness herein secured, and any and all sums expended in the protection of said property, as herein authorized.
- (4) The residue, if any, will be paid to trustors, their order, representatives or assigns.

In case of the death, absence, resignation, inability, or refusal to act of said trustee at any time when action under the foregoing power and trusts may be required or for any other reason, the Board of Directors on behalf of the lawful owner and holder of said lien is hereby authorized and empowered to name and appoint a successor to execute this trust by an instrument in writing to be recorded in the Register's Office for Shelby County, Tennessee, and the title herein conveyed to the above named trustee shall be vested in said successor.

The word "Trustors" when used herein shall apply to parties both singular and plural.

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

11. Mortgages and Deeds of Trust. Each Unit Owner shall have the right, subject to the provisions herein, to make separate mortgages and deeds of trust for his respective Unit together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create, or cause to be made or created from the date hereof, any mortgage, deed of trust or other lien on or affecting the Property or any part thereof, except only to the extent of his own Unit and the respective percentage interest in the Common Elements corresponding thereto.

12. Separate Real Estate Taxes. Real estate taxes shall be separately taxed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner shall pay 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.

13. Insurance. 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 his Unit, if any. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements.

In the event of damage to or destruction of any building as a result of fire or other casualty covered by insurance proceeds (unless more than two thirds of any Building or all Buildings requires reconstruction) the Board shall, in its sole and absolute discretion, determine and without intervention of any Unit Owner arrange for the prompt repair and restoration of the damaged portions of all Units, Buildings and Common Elements substantially in accordance with the original plans and specifications therefor. Where

the insurance indemnity is insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners directly affected by the damage, in proportion to each Unit's percentage of ownership in the Common Elements. The Board shall not be responsible for the repair, replacement or restoration of any wall, ceiling or floor decorations or covering or furniture, furnishings, fixtures, appliances or equipment installed in the Unit by a Unit Owner or Occupant or any other personal property located on the Property owned by a Unit Owner or Occupant unless insurance therefor is specifically provided for in the insurance policy obtained by the Board. The Board in its sole discretion shall determine which Unit Owners are directly affected by the damage.

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

Reconstruction also shall not be compulsory where the whole or more than two-thirds of any Building is destroyed as determined by the Board. In such case, and unless otherwise unanimously agreed upon by the Unit Owners directly affected, the net proceeds of insurance policies shall be divided among all the Unit Owners directly affected by the casualty in proportion to their respective common interests as determined in the sole discretion of the Board, after paying from the share of each affected Unit Owner the just amount of any unpaid liens on his Unit, in the order of priority of such liens. Provided, however, that no such disbursement of the aforesaid insurance proceeds shall occur, unless simultaneously with such disbursement each affected Unit Owner delivers to the Board a recordable deed quit claiming his interest in his Unit or affected portion thereof to the Association and also delivers to the Board a recordable release of any liens on his Unit or affected portion thereof. Upon the recording of the aforesaid deeds and releases each such Unit or affected portion thereof shall be deemed thereafter to be Common Elements. Upon the withdrawal of any Unit or portion thereof, the percentage of interest in the Common Elements appurtenant to such Unit or portion thereof shall be reallocated among the remaining units on the basis of the percentage of interest of each remaining unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that unit shall be reduced accordingly, as determined by the Board. After the Board has effected any such withdrawal, the responsibility for the payment of assessments for any such withdrawn Unit or portion thereof shall cease.

The Board shall also have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workmen's compensation insurance and other liability insurance as it deems desirable, insuring each Unit Owner, mortgagee of record, if any, the

Association, its officers, directors, Board and employees, the Developer, and the Managing Agent, if any, from liability in connection with the Common Elements. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for his corresponding percentage of ownership in the Common Elements. The Board shall retain in safe-keeping any such public liability policy for twenty-three (23) years after the expiration date of the policy.

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

Each Unit Owner shall be responsible for obtaining his own insurance on the contents of his own Unit and 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.

14. Maintenance, Repairs and Replacements. Each Unit Owner, at his own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within his own 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 By-Laws, rules and regulations of the Association. The expenses for the maintenance, repair or replacement of a Unit's water heater, furnace, air conditioner, and heating and air conditioning ducts shall be borne by the owner of the Unit to which such Limited Common Elements are appurtenant and at the discretion of the Board, maintenance of, repairs to and replacements within the other 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.

If due to the act or neglect 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 which would otherwise be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repair or replacements, as may be determined by the Association, to the extent not covered by the Association's insurance or sufficient proceeds are not collected from the insurance carrier.

The authorized representatives of the Association, Board or of the Managing Agent with approval of the Board shall be entitled to reasonable access to the individual Units and Limited Common Elements as may be required in connection with the preservation of any individual Unit or Limited Common

Elements in the event of an emergency, or in connection with maintenance of, repairs or replacements within the Common Elements, Limited Common Elements or any equipment, facilities or fixtures affecting or serving other Units, Common Elements and Limited Common Elements or to make any alteration required by any governmental authority.

15. Alterations, Additions or Improvements. Except as provided in Paragraph 19 herein, 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 alterations, additions and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make 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.

16. Decorating. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his own Unit and Limited Common Elements serving his Unit, as may be required from time to time, including 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, floor and ceilings of his Unit, 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 Unit 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. 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.

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

18. Transfer of a Unit - First Option to Association.

A. Unrestricted Transfers. Subject to subparagraph B, below, a Unit Owner may, without restriction under this Master Deed, sell, give, devise, lease or otherwise transfer his Unit, or any interest therein, to his spouse, or to his child, parent, brother, sister, grandchild or descendant 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 spouse, child, parent, brother, sister, grandchild or descendant or any one or more of them. Notice of any such unrestricted transfer shall be given to the Board within five (5) days following consummation of such transfer.

B. Limit On Term of Lease. No Unit, or interest therein, shall be leased by a Unit Owner for a term greater than two (2) years. A copy of every such lease, as and when executed, shall be furnished to the Board. The lessee under every such lease shall be bound by and subject to all of the obligations, under the Master Deed and By-Laws, of the Unit Owner making such lease and the lease 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 subleasing thereunder, the provisions below with respect to the Association's right of first option shall again apply to said Unit.

C. Notice to Association of Certain Transfers. Whenever a Unit Owner shall propose to sell, give, devise, lease or otherwise transfer his Unit, or any interest therein, to any person or entity other than a person or entity described in subparagraph A, above, said Unit Owner shall give the Association not less than thirty (30) days prior written notice of the proposed transfer which notice shall briefly describe the type of transfer proposed by the Unit Owner and shall state the name, address and financial and character references of the proposed transferee. The notice shall also include a copy of the proposed lease, contract for sale or other documents, if any effecting said transfer.

D. Association's First Option.

- (a) If Proposed Transfer is a Sale or Lease. If a Unit Owner proposes to sell or lease his Unit or any interest therein, to any person or entity other than a person or entity described in subparagraph A, above, for a period of thirty (30) days following the date notice of said proposed transfer is given to the Association, the Association shall have the first right, at its option, to purchase or lease such Unit from said Unit Owner (the "transferring party") upon the terms described in said notice.
- (b) If Proposed Transfer is a Gift. If a Unit Owner proposes to make a gift of his Unit, or any interest therein, to any person or entity other than a person or entity described in subparagraph A, above, for a period of thirty (30) days following the date notice of said proposed transfer is given to the Association, the Association shall have the first right, at its option, to purchase such Unit. The price to be paid by the Association for said Unit, or interest therein, shall be agreed upon by said Unit Owner (the "transferring party") and the Association, or, if not promptly agreed upon, shall be determined in accordance with the procedure set forth in subparagraph E below.
- (c) If Proposed Transfer is Upon the Death of a Unit Owner. If a Unit Owner dies and under applicable law his Unit, or any interest therein, is subject to a probate proceeding, then during a period of six (6) months after appointment of a personal representative of said deceased Unit Owner, the Association shall have the first right at its option, to purchase said Unit either from the devisee thereof named in the deceased Unit Owner's will, if any, or from the appointed personal representative of such deceased Unit Owner who is empowered or authorized to sell the Unit (the "transferring party"). However, the foregoing option shall not apply to any such transfer upon the death of a Unit Owner to a person or entity described in subparagraph A, above. The price to be paid by the Association for said Unit, or interest therein, shall be agreed upon by the Association and said transferring party, or, if not promptly agreed upon, shall be determined in accordance with the procedure set forth in subparagraph E, below.

E. Determination of Disputed Purchase Price. If the price to be paid by the Association for a Unit or interest therein, pursuant to subparagraph D(b) and (c) above, is not promptly agreed upon, said price shall be equal to the fair market value of the Unit, as determined by an M.A.I. appraiser mutually agreed upon by the transferring party and the Association, and, in the event of no prompt agreement on said appraiser, by a majority decision of three M.A.I. appraisers, one chosen by the transferring party, one chosen by the Association and the third chosen

by the two appraisers. The cost of said appraiser or appraisers shall be paid one-half by the transferring party and one-half by the Association as a common expense.

F. Election Not to Exercise First Option. 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 promptly give written notice of said election to the transferring party. Upon receipt of notice of a proposed transfer, the Board shall, within ten (10) days thereafter, hold a meeting of directors or poll all directors for the purpose of voting upon whether the Board shall elect not to exercise the Association's first option hereunder. The Association shall be deemed to have elected not to exercise its first option if either (i) the Association notifies the transferring party that it has elected not to exercise its option, or (ii) the Association fails to notify the transferring party, before expiration of the applicable option period provided herein, that the Association elects to exercise its option.

If the Association elects not to exercise its first option, in the case of a proposed sale, lease or gift of a Unit, the transferring party may proceed to close said proposed transfer any time within forty-five (45) days after said election. Thereafter, said transfer of the Unit, or any interest therein, shall become again subject to the Association's right of first option, as herein provided.

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 in writing and pays the Association a reasonable fee for said certificate.

G. Election to Exercise First Option. The Board shall have authority to recommend to the Unit Owners that the Association elect to exercise its option. Upon receipt of notice of a proposed transfer, the Board shall, within ten (10) days thereafter, hold a meeting of directors or poll all directors for the purpose of voting upon whether the Board should make such recommendation. In the event the Board decides not to recommend that the Association elect to exercise its option, then notice of the Board's decision shall be promptly given to the transferring party.

In the event the Board shall decide to recommend to the Unit Owners that the Association elect to exercise its option, the Board shall call and hold a meeting of all the Unit Owners, within the twenty (20) days following its determination to recommend such election, for the purpose of voting upon whether the Association will elect to exercise its option. If Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements, by affirmative vote at such meeting or by written proxy or consent, elect to exercise the Association's option, then the Board shall promptly give written notice of said election to the transferring party.

The Association shall be deemed to have exercised its option hereunder if it tenders the required sum of money to the transferring party within the applicable option period provided herein.

H. Association's Right to Purchase at a Foreclosure Sale. The Board shall have the power and authority to bid and purchase, for and on behalf of the Association, any Unit, or interest therein, at a sale pursuant to a deed of trust or 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 Element. Such consent shall set forth a maximum price which the Board or its duly authorized agent may bid and pay for said Unit.

I. Financing of Purchase by Association. The Board shall have authority to make such mortgage arrangements and special arrangements, 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.

J. Miscellaneous.

- (a) A transfer or lease of a Unit, or interest therein, by or to the Board, the Developer or the holder of any deed of trust or mortgage on a Unit which comes into possession of the mortgaged Unit pursuant to remedies provided in such deed of trust or mortgage, or pursuant to foreclosure of such deed of trust or mortgage, or pursuant to a deed (or assignment) in lieu of foreclosure of such deed or trust or mortgage, shall not be subject to the provisions of this Paragraph 18.
- (b) The Association shall hold title to or lease any Unit, 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 on behalf of the Association upon such terms as the Board shall deem desirable, but in no event shall a Unit be sold for less than the amount paid by the Association to purchase said Unit unless Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements first authorize the sale for such lesser amount.
- (c) All notices referred to or required under this Paragraph 18 shall be given in the manner provided in this Master Deed for the giving of notices.
- (d) The provisions of this Paragraph 18 with respect to the Association's right of first option shall be and remain in full force and effect until control of the Property is transferred to the Association in accordance with Articles I and II of the By-Laws.
- (e) The Board may adopt rules and regulations, from time to time, not inconsistent with the provisions of this Paragraph 18, for the purpose of implementing and effectuating said provisions.
- (f) If any transfer or lease of a Unit is made or attempted without complying with the provisions of this Paragraph 18, such transfer 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.
- (g) 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.
- (h) The purpose of this option is to insure a complete and orderly conversion and sell out and is for the benefit of the Unit Owners. It is not to be construed as a means of illegal discrimination.

19. Use and Occupancy Restrictions. Subject to the provisions of the By-Laws, no part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed and as allowed by municipal zoning laws. Each Unit or any two or more adjoining Units used together shall be used as a residence or such other use permitted by this Master Deed, and for no other purpose, except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from: (a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions or municipal zoning law.

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) may be altered to afford ingress and egress to and from such Units and to afford privacy to the Occupants of such Units when using such Common Elements, and that part of the Common Elements so altered may be used by the Unit Owner or Owners of such Units as a licensee pursuant to a license agreement with the Association, provided (a) the expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alteration; (b) such Unit Owner or Owners shall pay in full the expense of restoring such Common Elements to their condition prior to such alteration in the event such Units shall cease to be used together, as aforesaid; (c) such alteration shall not interfere with use and enjoyment of the Common Elements (other than the aforesaid part of the Common Elements separating such adjacent Units), including without limitation, reasonable access and ingress to and egress from the other Units in the hallway affected by any such alteration.

The Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, family members, customers, invitees and licensees for access, ingress to and egress from the respective Units and for such other purposes incidental to use of the Units; provided however, the laundry room, party rooms, receiving rooms, storage areas, swimming pool area and other areas designed 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 or easement, presently in existence or entered into by the Board at some future time, affecting any part of all of said Common Elements.

20. Remedies. In the event of any violation of the provisions of the Act, Master Deed, By-Laws or rules and regulations of the Board or Association by any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) the Association, or its successors or assigns, or the Board, or its agent, shall have each and all of the rights and remedies which may be provided for in the Act, Master Deed, By-Laws, or said rules and regulations, or which may be available 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 to sell the same as provided in Paragraph 10(b) and as provided hereinafter in this Paragraph 20, 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 attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of ten percent (10%) per annum until paid, shall be charged to and assessed against such defaulting Unit Owner,

and shall be added to and deemed part of his respective share of the common expenses, and the 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 and upon all of his personal property in his Unit or located elsewhere on the Property, provided, however, that such lien shall be subordinate to the lien of a recorded first mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of said common expenses which become due and payable from and after the date on which the said mortgage or deed of trust owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security).

If any Unit Owner (either by his own conduct or by the conduct of any other occupant of his Unit) shall violate the Act, or any of the covenants or restrictions or provisions of this Master Deed or the regulations adopted by the Board, 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 Owner a notice in writing terminating the rights of the said defaulting 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 Owner for a decree of mandatory injunction against such defaulting Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting 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 Owner in the Property shall be sold (subject to the lien of any existing deed of trust or 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 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, reasonably attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting 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 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.

21. Amendment. The provisions of this Master Deed may be changed, modified or rescinded by an instrument in writing, setting forth such change, modification or rescission, signed by Unit Owners owning not less than sixty-seven per cent (67%) of the total ownership of Common Elements and acknowledged, provided, however, that all lien holders of record have been notified by certified mail of such change, modification or rescission, and an affidavit by the secretary of the Association certifying to such mailing is made a part of such instrument.

However, if the Act, the Master Deed or the By-Laws require the consent or agereement of all Unit Owners or of all lien holders for any action specified in the Act or in this Master Deed, then any instrument changing, modifying or rescinding any provision of this Master Deed with respect to such action shall be signed by all the Unit Owners or all lien holders or both as required by the Act or this Master Deed. The change, modification or rescission, whether accomplished under either of the provisions of the preceding two paragraphs, shall be effective upon recording of such instrument in the office of the Register of Deeds of Shelby County, Tennessee; provided, however, that no provisions in this Master Deed may be changed, modified or rescinded so as to conflict with the provisions of the Act.

22. Notices. Notices provided for in the Act, Master Deed or By-Laws shall be in writing, and shall be addressed to the Association or Board, or any Unit Owner, as the case may be, at 5881 Park Avenue, Memphis, Tennessee, or at 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 when mailed by United States registered or certified mail, or when delivered in person with written acknowledgement of the receipt thereof.

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

23. Severability. If any provision of the Master Deed or By-Laws, 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 By-Laws 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 By-Laws shall be construed as if such invalid part was never included therein.

24. 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 against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States, James Earl Carter, and the Governor of Tennessee, Lamar Alexander.

25. 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, liens and charges, and the jurisdiction, rights and powers created or reserved by this Master Deed. All future Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Master Deed. Any restrictions or rules in the By-Laws which are more than administrative in nature such as, but not limited to, reservations and future rights of the Developer are hereby incorporated into and made a part of this Master Deed by reference. 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 said land, 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.

All present and future Unit Owners, tenants and occupants of a Unit shall be subject to, and shall comply with, the provisions of the By-Laws appended hereto and recorded herewith, pursuant to Tennessee Code Annotated Sec. 64-2711, as they may be amended from time to time. The acceptance of a deed of conveyance devise or of a lease to a Unit, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the said By-Laws and any Rules and Regulations promulgated thereunder, as they may be amended from time to time, are assumed, accepted and ratified by such Unit Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease, thereof.

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

26. Trustee as Unit Owner. In the event title to any Unit is conveyed to a land title holding trust, under the terms of which all powers or 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 Declaration 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. Condemnation. In the event of a taking in condemnation or by eminent domain of a part of the Common Elements, each first mortgagee of record will be given prior and timely written notice. Any award made for such taking shall be payable to the Board for and on behalf of the Association. If a majority of the Board in their sole and absolute discretion approve the repair and restoration of such Common Elements the Board shall arrange for the repair and restoration of such Common Elements, and the Board shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that the Board does not approve the repair and commence restoration of such Common Elements within 120 days after taking by the public or private authority, the Board shall disburse the net proceeds of such award on the basis of each Unit's percentage of ownership in the Common Elements.

28. Rights Reserved. The Unit Owner's rights of enjoyment in the property commonly owned by the Association as herein created shall be subject to:

- (a) The right of the Association, as provided in its By-Laws, 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 the parts 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 members entitled to vote thereon, provided that no such diminution or dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless the Developer, (its successors or assigns) and members of the Association entitled to cast 90% of the total votes of all classes of members entitled to vote has been recorded, agreeing 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.

29. Mortgagee Rights. The following provisions shall be fully effective and controlling over any terms of the Master Deed or By-Laws which are in conflict. Any portions of the Master Deed or By-Laws which are in conflict with this paragraph are hereby deleted and the following rights of mortgagees are itemized as follows:

- (a) A first mortgagee under a condominium unit at his request is entitled to written notification from the Association of any default by the mortgagor of such unit in the performance of such mortgagor's obligations under the Master Deed, By-Laws, or any of the condominium documents, which is not cured within thirty (30) days.
- (b) Any first mortgagee of a condominium unit who comes into possession of the unit pursuant to the remedies provided in the mortgage, deed of trust, foreclosure of the mortgage or deed of trust, or deed in lieu of foreclosure shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit, which accrue prior to the time such holder comes into possession of the unit (except for claims for a prorata share of such assessments or charges resulting from a prorata reallocation of such assessments or charges to all units including the mortgaged unit).
- (c) Unless all of the first mortgagees (based upon one (1) vote for each mortgage owned) of condominium units have given their prior written approval, the Association shall not be entitled to:
 - (i) Change the prorata interest or obligations of any condominium unit for (a) purposes of levying assessments or charges or allocating distribution of hazard insurance proceeds or condemnation awards and for (b) determining the prorata share of each unit in appurtenant real estate and any improvements thereon, which are owned by the unit owners in the condominium project in undivided prorata interests ("Common Elements").
 - (ii) Use hazard insurance proceeds for losses to any condominium property (whether to individual units or Common Elements) for other than the repair, replacement, or reconstructions of such improvements, except as provided by T.C.A. 64-2718 in case of substantial loss to the units and/or common elements to the condominium project.
 - (iii) 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.
 - (iv) Terminate professional management and assume self-management of the project.
- (d) First Mortgagees shall have the right to examine the books and records of the Association and/or the condominium project.
- (e) An adequate reserve fund for the replacement of Common Elements will be established and funded by regular monthly payments rather than by special assessments.
- (f) As set forth in T.C.A. 64-2720, all taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Tennessee shall relate only to the individual condominium unit and not to the condominium project as a whole.
- (g) No unit owner, or any other party shall have priority over any rights of the first mortgagees of condominium units pursuant to their mortgages in the case of a distribution to condominium unit owners of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or Common Elements.
- (h) Any agreement for professional management of the condominium project, whether it be by the Developer, its successors and assigns, or any other person or entity, may be terminated on ninety (90) days written notice and the terms of any such contract shall so provide and shall not be of a duration in excess of three (3) years.
- (i) The Association shall give to the Federal Home Loan Mortgage Corporation or any lending institution servicing such mortgages as are acquired by the Federal Home Loan Mortgage Corporation, notice in writing of any loss to or the taking of, the Common Elements of

the condominium project if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00). The Association may rely upon the information contained in the book entitled "Mortgages of Units" as must be established pursuant to the By-Laws, for a list of mortgagees to be notified hereby.

- (j) The interest of a first mortgagee in a mortgaged unit shall be superior to the interests of any other person, group, partnership, corporation or entity of any kind, including any interest the Board, the Developer or any Unit Owner may have in any portion of the premises, regardless of the nature of the interest or the manner in which it is acquired.
- (k) Notwithstanding the above, any first mortgagee shall have all of the rights granted to a first mortgagee herein, and in addition shall have all of the rights granted to an institutional first mortgagee under its Deed of Trust, and under the laws of the State of Tennessee.
- (l) No unit in the project may be partitioned or subdivided without the prior written approval of the holder of any first mortgage lien on such unit.
- (m) Unless two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned), or owners (other than the Developer) of the individual condominium units have given prior written approval, the Condominium Homeowners Association shall not be entitled to partition or subdivide any condominium unit.
- (n) In the event any portion of the Common Elements encroaches upon any unit or any unit encroaches upon the Common Elements as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the project, a valid easement for the encroachment and for the maintenance to the same shall exist so long as the encroachment exists.
- (o) With the exception of a lender in possession of a condominium unit following a default in first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no unit owner shall be permitted to lease his unit for transient or hotel purposes. No unit owner may lease less than the entire unit. Any lease agreement shall be in writing and provide that the terms of the lease shall be subject in all respects to the provisions and Master Deed and the By-Laws and that any failure by the Lessee to comply with the terms of such documents shall be a default under the lease.
- (p) The Owners Association will have a reasonable right of entry upon the unit premises to affect emergency or other necessary repairs which the unit owner has failed to perform.
- (q) In the event of substantial damage to or destruction of any Unit or any part of the Common Elements the institutional holder of any first mortgage on a Unit will be entitled to timely written notice thereof.