

EXHIBIT B

BYLAWS OF REID HILL COMMONS TOWNHOUSE CORPORATION

ARTICLE I

OFFICE

Section 1. Principal Office. The principal office of the Corporation shall be maintained at 2200 Abbott Martin Road, Nashville, Tennessee 37215.

Section 2. Place of Meetings. All meetings of the Corporation shall be held at its principal office unless some other place is stated in the call.

ARTICLE II

RIGHTS OF DECLARANT DURING DEVELOPMENT PERIOD

Section 1. Development Period. As used in these By-Laws, the term "Development Period" means the period of time commencing on the date of the Recording of the Declaration and ending on the day that is the earlier to occur of (a) the day that is four (4) months after the date on which at least seventy-five percent (75%) of the Units have been conveyed to the initial purchasers thereof by Declarant or Builder, as the case may be, or (b) the day that is five (5) years after the first conveyance of a Unit to the initial purchaser thereof by Declarant or Builder, as the case may be, or (c) any day prior to the days specified in clauses (a) or (b) of this sentence on which Declarant, in its sole discretion, elects to terminate the Development Period by calling the First Annual Meeting (as hereinafter defined). For purposes of the foregoing, "Unit" at any time shall be deemed to include not only completed Units owned by Declarant or Builder, as the case may be, at such time, but also shall include (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]). No transfer or conveyance of a Unit or any interest therein between Declarant and Builder shall be regarded as a conveyance of a Unit to the "initial purchaser thereof" as contemplated by this definition.

Section 2. Meetings of Corporation. Notwithstanding those provisions of Article III that are to the contrary, meetings of the Corporation during the Development Period shall take place only upon the call of Declarant. At any such meeting, Declarant may (but shall not be required to) submit to a vote of the Unit Owners any matter that properly may come before a meeting of

the Corporation, and the provisions of Article III shall be applicable to all proceedings in connection with any matter so submitted. Except as provided in the immediately preceding sentence, and notwithstanding any provision of Article III that is to the contrary, during the Development Period Declarant in its sole discretion shall determine all matters that may properly come before the Board or the Corporation.

Section 3. Board of Directors. Notwithstanding those provisions of Article IV that are to the contrary, during the Development Period (a) the Board (as hereinafter defined) shall be composed of such number of persons (not to exceed five (5)) as Declarant from time to time shall determine, and (b) the members of the Board shall be appointed by Declarant from time to time, shall serve for such terms and shall be subject to removal by Declarant, all as Declarant shall determine in its sole discretion; *provided, however*, that no such director's term shall extend later than the date of the First Annual Meeting.

Section 4. Officers. Notwithstanding those provisions of Article V that are to the contrary, during the Development Period the officers of the Corporation shall be appointed by Declarant from time to time, shall serve for such terms and shall be subject to removal by Declarant, all as Declarant shall determine in its sole discretion; *provided, however*, that no such officer's term shall extend later than the organizational meeting of the new Board following the First Annual Meeting.

Section 5. Amendment of By-Laws During Development Period. Nothing contained in this Article II shall be deemed to give Declarant any right or power to amend these By-Laws or any of the Rules and Regulations (as hereinafter defined) during the Development Period without the consent or approval of the number of Unit Owners required hereunder for such purpose. Notwithstanding the provisions of Articles VI and X, these By-Laws and the Rules and Regulations may not be amended by the Unit Owners during the Development Period without the express written approval of Declarant.

ARTICLE III

UNIT OWNERS; MEETINGS

Section 1. Annual Meeting. The annual meeting of the Corporation (except for the First Annual Meeting, as hereinafter defined) shall be held on the first Monday of the fourth (4th) calendar month following the close of the Corporation's fiscal year. The first annual meeting of the Corporation (the "First Annual Meeting") will be called by Declarant at such time as, in its discretion, it deems best, but in no event shall such meeting take place later than the expiration of the Development Period.

Section 2. Special Meetings. Special meetings may be held at any time upon the call of the President or upon the call of not less than ten percent (10%) of the Unit Owners. Upon receipt of such call, the Secretary shall send out notices of the meeting to all members of the Corporation.

Section 3. Notice of Meetings. A written or printed notice of every meeting of the Corporation, stating whether it is an annual meeting or special meeting, the authority for the call of the meeting, the place, day and hour thereof and the purpose therefor, shall be given by the Secretary or the person or persons calling the meeting at least three days before the date set for such meeting. Such notice shall be given to each member in any of the following ways: (a) by any manner permitted under the Declaration, or (b) by leaving the same with him personally, or (c) by leaving the same at the residence or usual place of business of such member, or (d) by mailing it, postage prepaid, addressed to such member at his address as it appears on the records of the Corporation, or (e) if such member cannot be located by reasonable efforts, by posting said notice in the main lobby of the Buildings. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings at such meeting.

Section 4. Waiver of Notice. The presence of all the members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any member shall, at the opening of such meeting, object to the holding of the same for noncompliance with the provisions of Section 3 of this Article III. Any meeting so held without objection shall, notwithstanding the fact that no notice thereof was given, or that the notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken; *provided, however*, that where a member has pledged his vote by mortgage, deed of trust or agreement of sale, only the presence of the pledgee will be counted in determining whether notice is waived with regard to business dealing with such matters upon which the member's vote is so pledged.

Section 5. Quorum: Voting. At any meeting of the Corporation, sixty-seven percent (67%) of the Unit Owners, present or by proxy, shall constitute a quorum and, except as otherwise provided herein, in the Declaration or in the Act, the concurring vote of a Majority of the Unit Owners shall be valid and binding upon the Corporation. In the event a member has pledged his vote by mortgage, deed of trust or agreement of sale, the member's vote will be recognized in computing a quorum with respect to any business conducted concerning such matters upon which said member's vote is so pledged or mortgaged unless the mortgage, deed of trust or agreement of sale provides otherwise, in which event such instruments shall control. In the event of such mortgage or pledge, the Unit Owner shall provide the Corporation with a copy of the pledging or mortgaging instrument.

Section 6. Membership: Voting. Any Person or combination thereof owning any Unit duly Recorded in his or its name, the ownership of which shall be determined by the records of the Register's Office for Williamson County, Tennessee (including Declarant and Builder, as to any and all Units owned thereby), shall be a member of the Corporation, and either in person or by proxy entitled to a vote equivalent to one vote for each Unit so owned at all meetings of the Corporation. Any provision of the Declaration or these By-Laws to the contrary notwithstanding, coowners or joint owners shall be deemed one Unit Owner and one member. The authority given by a member to another person to represent such member at meetings of the Corporation shall be in writing, signed by such member (or if a Unit is jointly owned then by coowners or joint owners, by all such coowners or joint owners; or if such member is not a natural person, by the proper representative(s) thereof), and shall be filed with the Secretary, and

unless limited by its terms, such authority shall be deemed good until revoked in a writing filed with the Secretary. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Corporation with respect to any Unit owned or held by him in such capacity, whether or not the same shall have been transferred to his name by a duly Recorded conveyance. In case such Unit shall not have so been transferred to his name, he shall satisfy the Secretary that he is the executor, administrator, guardian or trustee holding such Unit in such capacity. Whenever any such Unit is owned by two or more persons jointly according to the Record, the vote therefor may be exercised by any one of the owners present in the absence of protest by the other or others; *provided, however*, that when the vote of an owner or owners has been pledged by mortgage or deed of trust of Record, only the vote of the pledgee will be recognized upon those matters upon which the owner's or owners' vote is so pledged except as otherwise provided in Section 5.

To the fullest extent permissible under applicable law and any applicable rules or regulations of the Federal National Mortgage Corporation, a Unit Owner who is delinquent in the payment of any assessments or other amounts owed to the Corporation by such Unit Owner, and any representative of any such Unit Owner, shall not be entitled to exercise the privilege of voting on matters submitted to a vote of the Unit Owners although such Unit Owner may be counted for the purpose of determining whether a quorum is present at a meeting of the Corporation.

For purposes of determining membership in the Corporation and voting rights at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]).

Section 7. Adjournment. Any meeting of the Corporation may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted by a quorum at the meeting originally called.

ARTICLE IV

BOARD OF DIRECTORS; MEETINGS

Section 1. Number and Qualification. The affairs of the Corporation shall be governed by a board of directors (the "Board") composed of five (5) persons, and all such directors shall be Unit Owners (or owners of an interest in a Unit).

Section 2. Powers and Duties. The Board shall have all of the powers and duties granted thereto in the Declaration and all other powers and duties necessary for the administration of the affairs of the Corporation, and may do all such acts and things as are not by law, by the Declaration or by these By-Laws directed to be exercised and done by the Unit Owners.

Section 3. Other Powers and Duties. In addition to duties imposed by the Declaration, these By-Laws or by resolutions of the Corporation, the Board shall have the following powers and duties:

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

(b) to administer the affairs of the Corporation and the Property;

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

(1) any management agreement relating to the Property shall be terminable for cause without penalty upon not more than thirty (30) days' notice and shall have a term of not less than one (1) year nor more than three (3) years, which term shall be renewable upon approval of the Board; and

(2) any management agreement relating to the Property entered into by Declarant prior to the expiration of the Development Period shall be terminable by the Corporation without cause at any time after expiration of the Development Period;

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

(e) to adopt rules and regulations, with written notice thereof to all Unit Owners, governing 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 surveillance, maintenance, repair and replacement of the Common Elements and the Buildings and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or the Managing Agent;

(g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, to engage or contract for the services of others, 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 such employees or other personnel who

may be the employees of a Managing Agent);

(h) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board as provided in the Declaration and these By-Laws;

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

(j) to determine, review and approve the annual budget for the Corporation and to provide the manner of assessing and collecting from the Unit Owners their respective shares of the expenses of the Corporation and the Property, as hereinafter provided;

(k) to provide for the preparation of financial statements for the Corporation from time to time;

(l) to enter into any lease agreement for lease of premises suitable for use as custodian apartments, upon such terms as the Board may approve;

(m) unless otherwise provided herein or in the Declaration, to comply with the instructions of a Majority of the Unit Owners as expressed in a resolution duly adopted at any annual or special meeting of the Corporation;

(n) to obtain and maintain insurance policies as required by the Declaration and these By-Laws, and in this regard, annually to review the amounts of coverage afforded by such policies;

(o) to borrow money for the purposes of repair or restoration of the Common Elements without the approval of the members of the Corporation; and

(p) to exercise all other powers and duties of the board of administration or Unit Owners as a group that are provided in the Act, and all powers and duties of a board of managers or a board of directors referred to in the Declaration or these By-Laws.

The Corporation shall not in any event be bound, either directly or indirectly, by any contract or lease entered into by the Declarant on behalf of the Corporation (including management contracts) unless such contract or lease contains a right of termination that is exercisable without cause and without penalty at any time after the expiration of the Development Period.

Section 4. Manager or Managing Agent; Employees Generally. The Managing Agent shall perform such duties and services including the duties listed in Section 3 of this Article IV, as are authorized by the Board. The duties conferred upon the Managing Agent by the Board may be revoked, modified or amplified at any time by the vote of the Corporation in a duly constituted meeting. The Board or the Managing Agent (with the approval of the Board) may

employ any other employee or agents to perform such duties at such salaries as the Board may establish. The Board may enter into such service contracts on behalf of the Corporation as are necessary and appropriate and shall have authority, but not the obligation, to assume, on behalf of the Corporation, any initial service contracts entered into by Declarant that comply with the requirements and limitations imposed herein.

Section 5. Election and Term of Office. The directors of the Corporation shall be elected by the affirmative vote of a Majority of the Unit Owners. At the First Annual Meeting, the terms of office for the first board of directors (the "First Board") shall be fixed wherein one (1) director shall serve for one (1) year, two (2) directors shall serve for two (2) years and two (2) directors for three (3) years.

At the expiration of the initial term of office of each respective director, his successor shall be elected by all those entitled to vote to serve a term of three (3) years. The directors shall hold office until their successors have been elected and hold their first meeting.

Section 6. Vacancies. Vacancies in the Board caused by any reason other than the removal of a director by a vote of the Corporation shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at the next annual meeting of the Corporation.

Section 7. Removal of Directors. At any regular meeting or special meeting duly called, any one or more of the elected directors may be removed with or without cause by not less than sixty-seven percent (67%) of the Unit Owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting.

Section 8. Compensation. No compensation shall be paid to directors for their services as directors. No remuneration shall be paid to a director for services performed by him for the Corporation in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board before the services are undertaken. A director may not be an employee of the Corporation.

Section 9. Organizational Meeting. The first meeting of a newly elected Board shall be held within one week of election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing the whole Board is present.

Section 10. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by not less than sixty-seven percent (67%) of the directors. Notice of regular meetings of the Board shall be given to each director, personally or by mail, addressed to his residence, or by telephone, at least three days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board may be called by the

President on three days' notice to each director, given personally or by mail, addressed to his residence, or by telephone, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of not less than two (2) directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Board of Directors' Quorum. At all meetings of the Board, sixty-seven percent (67%) of the directors shall constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting to a different time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Bonds of Officers and Employees. The Board shall require that all officers and employees (including any management agent) of the Corporation handling or responsible for corporate funds shall be covered by blanket fidelity bonds naming the Corporation as obligee, which bonds shall be in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Property. Each such bond shall contain an agreement to notify the Board, the holder of a first mortgage or deed of trust on a Unit and every other person in interest who shall have requested such notice at least thirty (30) days' prior notice of any cancellation or material alteration of such bond. The premiums on such bonds shall be paid by the Corporation as a common expense of the Corporation.

ARTICLE V

OFFICERS

Section 1. Designation. The principal officers of the Corporation shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board. The directors may appoint an assistant treasurer, an assistant secretary and such other officers as in their judgment may be necessary. An officer may serve in more than one capacity; *provided, however,* that there shall be no less than two (2) persons serving as officers; and further *provided* that no one person shall serve as both President and Secretary simultaneously.

Section 2. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board for such purpose.

Section 4. President. The President shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board. He shall have all of the general powers and duties that are usually vested in the office of president of an association of property owners, including the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Corporation.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President also shall perform such other duties as from time to time shall be imposed upon him by the Board.

Section 6. Treasurer. The Treasurer shall have the responsibility for Corporation funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Corporation. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Corporation in such depositories as from time to time may be designated by the Board.

Section 7. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Board or of the Corporation, shall give all notices as provided by these By-Laws and shall have other powers and duties as may be incidental to the office of Secretary, given him by these By-Laws or assigned to him from time to time by the directors. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

ARTICLE VI

OBLIGATIONS OF THE UNIT OWNERS

Section 1. Expenses, Assessments. As provided in the Declaration, the Unit Owners shall contribute, *pro rata* on the basis of their respective Proportionate Shares, to the expenses of administration and operation of the Common Elements and the Corporation, including insurance premiums and the costs of operation, maintenance, repair and replacement of and additions to the Common Elements, together with any other expenses or liabilities incurred by the Corporation in accordance with the Declaration and these By-Laws and the establishment of appropriate reserves with respect to the foregoing pursuant to this Declaration and the By-Laws. The Board shall fix a monthly charge for each Unit in an amount sufficient to provide for the Unit Owner's Proportionate Share of all such current expenses, reasonable reserves for future expenses of administration, reasonable reserves for the expenses of utilities, periodic maintenance, repair and replacement associated with the Common Elements and such other expenses as the Board may

deem proper, subject to adjustment from time to time as the Board may deem necessary. Such monthly charge shall be due and payable in advance on the first day of every month, shall bear interest at the Delinquency Interest Rate from the date due until paid, and such charges, together with interest as aforesaid and reasonable attorney's fees of the Corporation (all as provided in the Declaration) shall be a lien on the Unit, assessed prior in right to all other charges whatsoever except assessments, liens and charges in favor of the State of Tennessee, Williamson County or the Municipality for taxes past due and unpaid on such Unit, and amounts and liabilities secured by first mortgage instruments duly Recorded. In the event any Unit Owner is delinquent in the payment of any monthly assessment for a period in excess of thirty (30) days, the Corporation is authorized to sever or disconnect all utility connections to his Unit, *provided* such severance or disconnection does not invalidate the Corporation's fire and casualty insurance, and to take such other actions as are authorized by the Declaration.

Section 2. Working Capital and Reserve Funds.

(a) A working capital fund shall be maintained by the Corporation to insure that the Corporation will have funds available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or advisable by the Board. The working capital fund shall be maintained in an account for the use and benefit of the Corporation, and disbursements from such fund shall be made as directed by the Board. Declarant shall establish the initial working capital fund in an aggregate amount equal to two months' estimated assessments for each Unit. Each Unit's share of the working capital fund will be collected and transferred to the Corporation at the time of the closing of the sale of such Unit. Declarant may not use working capital funds to defray its expenses, reserve contributions or make up budget deficits during the Development Period; however, upon the sale of an unsold Unit by Declarant, Declarant may reimburse itself for funds paid by it to the Corporation for such Unit's share of the working capital fund by using funds collected at the closing of such sale. Amounts paid into the working capital fund shall in no event be considered advance payment(s) of regular monthly assessments.

(b) A reserve fund shall be maintained by the Corporation to insure that the Corporation will have funds available for the replacement of and any necessary additions to the Common Elements. The reserve fund shall be funded from the regular monthly assessments for common expenses and shall be maintained in an account for the use and benefit of the Corporation. Disbursements from such fund shall be made as directed by the Board.

Section 3. Maintenance and Repair. Every Unit Owner shall perform promptly all maintenance and repair work within or with respect to his Unit that is the responsibility of such Unit Owner and that, if omitted, would affect the Property in its entirety or a part belonging to other Unit Owners, and is responsible for the damages and liabilities that his failure to do so may cause.

Section 4. Use of Units. All Units shall be used in accordance with the provisions of the By-Laws, the Declaration and the Rules and Regulations.

Section 5. Rules and Regulations. In order to assure the peaceful and orderly use and enjoyment of the Buildings and Common Elements of the Property, the Board from time to time may adopt, modify and revoke in whole or in part such reasonable rules and regulations, to be called Rules and Regulations, governing the conduct of persons in said Property as it may deem necessary. The Rules and Regulations also shall be subject to any additions, modifications and revocations adopted by a vote of not less than sixty-seven percent (67%) of the members of the Corporation at any meeting duly called for that purpose. The Rules and Regulations, upon adoption, and every amendment, modification and revocation thereof, shall be delivered promptly to each Unit Owner and shall be binding upon all members and occupants of the Property.

The initial Rules and Regulations shall be these:

(1) Units shall be occupied in a manner consistent with rules and regulations promulgated by the Secretary of Housing and Urban Development for 55-or-older housing pursuant to Housing for Older Persons Act of 1995, as codified at 42 U.S.C. § 3607(b)(2)(C).

(2) No exterior of any Unit or the windows or doors thereof or any other portions of the Common Elements shall be painted or decorated by any Unit Owner in any manner without prior consent of the Board.

(3) No furniture, equipment or other personal articles shall be placed in the entrances, stairwells or other Common Elements.

(4) No Unit Owner shall make or permit any noise or objectionable odor that will disturb or annoy the Occupants of any of the Units in the Property or do or permit anything to be done therein that will interfere with the rights, comfort or convenience of other Unit Owners.

(5) Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.

(6) No shades, awnings, window guards, ventilators, fans or external air-conditioning devices shall be used in or about the Buildings or Common Elements except such as shall have been approved by the Board.

(7) No window shutters shall be used in or about the Buildings or Common Elements except as shall have been approved in writing by the Board.

(8) No sign, notice, lettering or advertisement shall be inscribed or exposed on or at any window, door or other part of the Property, except such as shall have been approved in writing by the Board, nor shall anything be projected out of any window of the Buildings without similar approval.

(9) All garbage and refuse from the Buildings shall be deposited only in sanitary containers, and disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

(10) Water closets and other water apparatus in the Buildings shall not be used for any purposes other than those for which they were constructed, nor shall any sweepings, rubbish, rags, paper, ashes or any other article be thrown into the same. Any damage resulting from misuse of any water closet or other apparatus shall be paid for by the Unit Owner causing such damage.

(11) No animals shall be raised, bred or kept in any Unit, except for dogs, household cats and small birds owned as household pets by a Unit Owner, provided that said pets are not kept for any commercial purpose, that said pets 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, and that said pets shall not, in the judgment of the Board, constitute a nuisance to others.

All dogs owned by Unit Owners and kept in a Unit shall be on leash while outside the Unit. All such dogs shall be exercised by the owner in the area(s) designated by the Board for such purposes.

The Board in its discretion may limit the number of dogs and cats per Unit to not more than two (2) dogs or two (2) cats or one (1) cat and one (1) dog.

(12) No radio or television aerial shall be attached to or hung from the exterior of the Buildings without written approval of the Board.

(13) The agents of the Managing Agent, and any contractor or workman authorized by the Managing Agent, may enter any Unit at any reasonable hour of the day for any purpose permitted under the terms of the Declaration, the By-Laws or the Rules and Regulations.

(14) The Managing Agent may retain a passkey to each Unit. No Unit Owner shall alter any lock on any door leading to his Unit without the prior consent of the Managing Agent or the Board. If such consent is given, the Unit Owner shall provide the Managing Agent with a key for the Managing Agent's use.

(15) No Unit Owner or Occupant nor any family member, agent, invitee, guest or licensee of a Unit Owner or Occupant shall be allowed on the roof of the Buildings or in any heating, air-conditioning or electrical equipment rooms constituting Common Elements without the express permission of the Managing Agent or the Board.

(16) All damage to the Buildings or Common Elements caused by the moving or carrying of any article therein shall be paid by the Unit Owner responsible for the presence of such article.

(17) No Unit Owner shall interfere in any manner with any portion of the heating, air-conditioning or lighting apparatus constituting part of the Common Elements and not part of the Unit Owner's Unit.

(18) No Unit Owner shall use or permit to be brought into the Buildings any flammable oils or fluids such as gasoline, kerosene, naphtha or benzene, or other explosives or articles deemed extra hazardous to life, limb or property, without in each case obtaining the written consent of the Board.

(19) Garage doors shall be kept fully closed except when opened for the purposes of ingress and egress.

(20) The Unit Owners shall not be allowed to put their names on or near any entry to the Buildings or entrance to any Unit except in accordance with rules and regulations prescribed from time to time by the Board.

(21) The Unit Owners shall keep the interiors of their Units clean and free from obstructions. The Board and the Managing Agent assume no liability for loss or damage to articles stored or placed in the Buildings.

(22) Any damage to the Buildings or equipment caused by Unit Owners or their family members, agents, invitees, guests or licensees shall be repaired at the expense of the Unit Owners responsible.

(23) Unit Owners shall be held responsible for the actions of their family members, agents, invitees, guests and licensees.

(24) Complaints regarding the management of the Buildings and grounds or regarding the actions of other Unit Owners shall be made in writing to the President of the Corporation.

(25) Supplies, goods and packages of every kind are to be delivered in such manner as the Board may prescribe, and the Board is not responsible for the loss or damage of any such property, notwithstanding such loss or damage that may occur through the carelessness or negligence of the employees of the Buildings.

(26) No Unit shall be used or occupied in such manner as to obstruct or interfere with the enjoyment of Occupants or other residents of adjoining Units, nor shall any nuisance or illegal activity be committed or permitted to occur in or about any Unit or upon any part of the Common Elements.

(27) The Common Elements are intended for use for the purpose of affording movement within and among the Buildings and of providing access to the Units. No part of the Common Elements shall be obstructed so as to interfere with its use for the purposes hereinabove recited, nor shall any part of the Common Elements (except the

maintenance storage room(s)) be used for general storage purposes after the completion of the construction of the Buildings by Declarant, nor shall anything be done therein or thereon in any manner that may increase the rate of hazard and liability insurance covering said area and the improvements situated thereon.

(28) The use of the Units, the Buildings and the Common Elements by the Unit Owners and their family members, agents, invitees, guests and licensees at all times shall comply with all applicable laws, ordinances and regulations, including any restrictions on use imposed by applicable building codes.

(29) These Rules and Regulations may be added to, amended or repealed at any time by the Board.

Section 6. Remedies. In the event of any violation of the provisions of the Act, the Declaration, these By-Laws or the Rules and Regulations by any Unit Owner (either by his own conduct or by the conduct of any occupant of his Unit), the Corporation, or its successors or assigns, shall have each and all of the rights and remedies that may be provided for in the Act, the Declaration, these By-Laws or the Rules and Regulations, or that may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner 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 for the right to take possession of the Unit and to sell the same as provided hereinafter, or for any combination of remedies or for any other relief. All expenses of the Corporation in connection with any such actions or proceedings, including court costs, attorney's fees, other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the Delinquency Interest Rate 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 Corporation shall have a lien for all of the same, as well as for nonpayment of common expenses, upon the Unit, and its appurtenant interest in the Common Elements, of such defaulting Unit Owner and upon all his additions and improvements thereto, all as provided in the Declaration; *provided, however*, that such lien shall be subordinate to the lien of a first mortgage or deed of trust on the Unit as provided in the Declaration. In the event of any such default by any Unit Owner, 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 and be secured by the lien hereinabove provided. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board, on behalf of the Corporation. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of Record of mortgage and deed of trust liens against the Units.

The violation of any restriction, condition, rule or regulation adopted by the Board or the breach of any covenant or provision contained in the Act, the Declaration, these By-Laws or the Rules and Regulations shall give the Board, acting on behalf of the Corporation, the right, in addition to any other rights provided for in these By-laws: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the

Property upon which or as to which such violation or breach exists, and summarily to 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 hereof, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass, or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach, or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) 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.

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 the Declaration, these By-Laws or the Rules and Regulations, 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 from the Board to cure such violation, then the Board shall have the power to issue to said defaulting Unit Owner a notice in writing terminating the rights of 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, on behalf of the Corporation, 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 right, title and interest of said defaulting Unit 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 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 attorney's 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 or liens hereunder, 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 ownership interest 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. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take title to the Unit sold subject to the Declaration and these By-Laws.

Section 7. Right of Entry. The Managing Agent or any person authorized by the Board shall have the right to enter each Unit at any time in cases of emergency and at all other reasonable times if the Unit Owner or Occupant is present. Every Unit Owner and Occupant shall permit other Unit Owners or their representatives to enter his Unit at reasonable times for the purpose of performing authorized installations, alterations or repairs to any Common Elements therein for central services *provided* that requests for entry are made in advance.

Section 8. Title. Every Unit Owner shall promptly cause to be duly Recorded in the Register's Office for Williamson County, Tennessee, the deed, lease, assignment or other conveyance to him of his Unit or other evidence of his title thereto and file such evidence of his

title with the Board through the Secretary, and the Secretary shall maintain such information in the record of ownership of the Corporation.

Section 9. Deeds of Trust and Mortgages. Any holder, insurer or guarantor of a deed of trust or mortgage with respect to a Unit may file a copy of such instrument with the Board through the Secretary, or otherwise identify to the Board through the Secretary the name and address of such holder, insurer or guarantor and the number or address of the corresponding Unit, and the Secretary shall be required to notify such holder, insurer or guarantor of:

(a) Any condemnation loss or any casualty loss that affects a material portion of the Property or the Unit covered by such mortgage or deed of trust;

(b) Any delinquency in the payment of expenses or charges owed relating to the Unit encumbered by such mortgage or deed of trust that remains uncured for sixty (60) days, and that the holder or mortgagee may, at its option, pay such delinquent expenses;

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

(d) Any proposed action that would require the consent of a specified percentage of deed of trust or mortgage lien holders.

Any holder of a deed of trust or mortgage with respect to a Unit may, upon written request to the Board through the Secretary, receive a copy of the Corporation's financial statement for the immediately preceding fiscal year.

Section 10. Insurance. The Board on behalf of the Corporation, as a common expense, shall at all times keep the Buildings insured as provided in the Declaration, and from time to time upon receipt thereof cause to be deposited promptly with the Unit Owners and mortgagees of the Units or interests therein, true copies of such insurance policies or current certificates thereof, without prejudice to the right of any Unit Owner to insure his Unit for his own benefit.

In every case of such loss or damage, all insurance proceeds shall be applied as set forth in the Declaration. If reasonably available, every such policy of insurance shall:

(a) provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of, any other insurance obtained by or for any Unit Owner;

(b) contain no provision relieving the insurer from liability for loss occurring while the hazard to the Buildings is increased, regardless of whether within the knowledge or control of the Board, or because of any breach of warranty or condition of any other act or neglect by the Board or any Unit Owner or Occupant or any other person under any of them;

ARTICLE VII

EXECUTION OF INSTRUMENTS

Section 1. Instruments Generally. All checks, drafts, notes, bonds, acceptances, contracts and other instruments, except conveyances, shall be signed by such person(s) as shall be designated by general resolution applicable thereto.

ARTICLE VIII

LIABILITY OF OFFICERS, DIRECTORS AND MEMBERS; INDEMNIFICATION; INSURANCE

Section 1. Exculpation. No director or officer of the Corporation shall be liable for acts or defaults of any other officer or member or for any loss sustained by the Corporation or any member thereof, unless the same has resulted from his own willful misconduct or gross negligence.

Section 2. Indemnification. The Corporation shall indemnify and advance expenses to each director and officer of the Corporation and to each member of any committee appointed by the Board pursuant to these By-Laws (and, in either case, his or its heirs, executors, administrators, successors and assigns, as the case may be), to the full extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted. The Corporation may indemnify and advance expenses to Declarant and to any employee or agent of the Corporation who is not a director or officer (and his or its heirs, executors, administrators, successors and assigns, as the case may be) to the same extent as to a director or officer, if the Board determines that to do so is in the best interests of the Corporation. The Corporation also may indemnify and advance expenses to Declarant and to any employee or agent of the Corporation who is not a director or officer (and his or its heirs, executors, administrators, successors and assigns, as the case may be) to the extent, consistent with public policy, that may be provided by the charter of the Corporation, these By-Laws, general or specific action of the Board or contract.

Section 3. Non-Exclusivity of Rights. The indemnification and advancement of expenses provisions of Section 2 of this Article VIII shall not be exclusive of any other right that any person (and his or its heirs, executors, administrators, successors and assigns, as the case may be) may have or hereafter acquire under any statute, provision of the charter of the Corporation, provision of these By-Laws, resolution adopted by the members, resolution adopted by the Board, agreement or policy of insurance, purchased by the Corporation or otherwise, both as to action in his official capacity and as to action in another capacity.

Section 4. Insurance. The Corporation at its expense may maintain insurance to protect itself, Declarant and any individual who is or was a director, officer, employee or agent of the Corporation, or who, while in the capacity of Declarant or a director, officer, employee or agent of the Corporation, is or was serving at the request of the Board or its President as a director,

officer, partner, manager, trustee, employee or agent of another corporation, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise against any expense, liability, loss or damage, regardless of whether the Corporation would have the power to indemnify such person against such expense, liability, loss or damage under this Article, the Act or the Tennessee Nonprofit Corporation Act.

Section 5. Miscellaneous. The Corporation and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge the Corporation's 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, officers, members of such committees, employees, agents or Declarant, or out of the aforesaid indemnity in favor of the directors, officers, members of such committees, employees, agents or Declarant, shall be limited to such Unit Owner's Proportionate Share of the total liability thereunder or hereunder. Every agreement made by the directors, officers, members of such committees, employees, agents, Declarant or the Managing Agent on behalf of the Unit Owners shall provide that the directors, officers, members of such committees, employees, agents, Declarant or the Managing Agent, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such Unit Owner's Proportionate Share of the total liability thereunder.

ARTICLE IX

MISCELLANEOUS

Section 1. Books and Records. Current copies of the Declaration, the charter of the Corporation, these By-Laws, other rules and regulations concerning the Property and the books, records and financial statements of the Corporation shall be available for inspection by any Unit Owner or by any holder, guarantor or insurer of any first mortgage or deed of trust covering a Unit at the principal office of the Corporation. For purposes of this paragraph, "available" shall mean available for inspection, upon request, during normal business hours. Copies may be purchased by such persons at reasonable cost, to be established from time to time by the Board.

Section 2. Financial Statements. A statement of assets and liabilities and a statement of revenues and expenses for the Corporation shall be prepared for each fiscal year of the Corporation. These statements shall be audited by an independent certified public accountant selected by the Board. Said financial statements shall be available within one hundred twenty (120) days of the Corporation's fiscal year-end, and shall be provided to any holder, insurer or guarantor of any first mortgage or deed of trust on a Unit who submits a written request therefor.

Section 3. Amendment of By-Laws. Except as otherwise specifically provided in the Declaration or these By-Laws, these By-Laws may be amended, modified or revoked in any respect from time to time only by the vote of not less than sixty-seven percent (67%) of the Unit Owners; *provided, however*, that (a) the approval of Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by

Eligible Mortgagees shall be required for the amendment of any provision of these By-Laws that relates to any Major Decision, (b) the contents of these By-Laws always shall contain those particulars that are required to be contained herein by the Act, and (c) no modification of or amendment to these By-Laws shall be valid unless set forth in an amendment to the Declaration.

Section 4. Conflict. In the event of any conflict between the provisions of these By-Laws on the one hand and the provisions of the Declaration or the Act on the other hand, the latter shall govern and apply.

Section 5. Terminology. When used herein, the singular shall include the plural, and vice versa, and the masculine, feminine or neuter gender shall include all other genders, as the context requires.

Section 6. Terms Defined in Declaration. Capitalized terms not defined herein shall have the meaning given them in that certain Declaration of Covenants, Conditions and Restrictions for Reid Hill Commons executed by Reid Hill Commons Land Investors, a general partnership, to which these By-Laws are attached and of which these By-Laws are a part.

THIS INSTRUMENT PREPARED BY:
BASS, BERRY & SIMS PLC (JST)
315 Deaderick Street, Suite 2700
Nashville, Tennessee 37238-3001

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

REID HILL COMMONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made and entered into by REID HILL COMMONS LAND INVESTORS, a general partnership composed of John T. Rochford and Charles K. Evans;

WITNESSETH:

WHEREAS, Declarant (as hereinafter defined) is the legal title holder of the Parcel (as hereinafter defined); and

WHEREAS, Declarant intends to and does hereby submit the Parcel, together with all of the rest of the Property (as hereinafter defined), to the provisions of the Act (as hereinafter defined) subject to and upon the terms and conditions hereinafter set forth; and

WHEREAS, Declarant 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 other Persons hereafter having any interest in the Property shall hold said interest subject to, certain rights, easements and privileges in, over and upon the Property and certain mutually beneficial covenants, conditions, restrictions and obligations with respect to the proper use, conduct and maintenance thereof, all as more particularly hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of ownership and use of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property;

NOW, THEREFORE, for the purposes above set forth, Declarant declares as follows:

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

"Act" means the Tennessee Horizontal Property Act, Tenn. Code Ann. §§66-27-101--66-27-123, as amended.

"Additional Real Property" means the Entire Tract less and except the portion thereof more particularly described on attached Exhibit A.

"Board" means the board of directors of the Corporation.

"Builder" means Rochford and its permitted successors and assigns in the capacity of Builder pursuant to this Declaration, including any successor Builder designated by Developer as provided in Paragraph 29.

"Buildings" mean the buildings located on the Parcel and forming part of the Property and containing the Units. The Buildings are delineated on the Plat.

"By-Laws" means the By-Laws of the Corporation attached hereto as Exhibit B and by this reference made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Declaration dealing with the administration and maintenance of the Property shall be deemed to be part of the By-Laws.

"Common Elements" means all of the Property except for the Units and the Private Elements 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 drives, access roads, parking areas and open spaces on the Parcel as shown on the Plat;
- (3) All foundations, main walls and columns, roofs, garages, carports, halls, lobbies, stairways and entrances and exits or communication ways;
- (4) All basements, flat roofs, yards and gardens, except as otherwise herein provided or stipulated;
- (5) All compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks and pumps, and the like;
- (6) Pipes, ducts, electrical wiring and conduits (except pipes, ducts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit); and
- (7) In general, all devices or installations existing for common use and all other elements of the Property necessary for the existence, upkeep and safety of the regime established by this Declaration;

provided, however, that notwithstanding anything herein to the contrary, Private Elements shall not be considered to be Common Elements.

"Corporation" means Reid Hill Commons Townhouse Corporation, a Tennessee nonprofit corporation.

"Declarant" means Developer and its successors, successors-in-title and assigns as Declarant hereunder, *provided* that any such successor or assign is designated in writing by Developer or a successor Declarant as a successor or assign of the rights of Declarant set forth herein. Without limiting the foregoing, "Declarant" shall mean and include Builder to the extent provided in Paragraph 29.

"Declaration" means this Declaration of Covenants, Conditions and Restrictions for Reid Hill Commons, as the same may be amended, modified or supplemented from time to time.

"Delinquency Interest Rate" means an annual percentage rate equal to two percentage points (2%) in excess of the "Prime Rate" from time to time published in the Money Rates section of The Wall Street Journal, which rate as published on the last publication day in any month shall be deemed to be the appropriate reference rate for the entire next succeeding calendar month; provided, however, that in no event shall the Delinquency Interest Rate exceed the maximum contract rate of interest from time to time allowed to be charged under applicable law. Should The Wall Street Journal cease the publication of its Prime Rate, the Board shall designate a comparable reference rate.

"Developer" means Reid Hill Commons Land Investors, a general partnership composed of John T. Rochford and Charles K. Evans, and its successors, successors-in-title and assigns, provided that any such successor or assign is (1) a successor in title to Developer's title to all of the remaining Property not transferred to Builder pursuant to the provisions of this Declaration, and (2) designated in writing by Developer as a successor or assign of the rights of Developer set forth herein.

"Development Period" means the period of time commencing on the date of the Recording of this Declaration and ending on the day that is the earlier to occur of (a) the day that is four (4) months after the date on which at least seventy-five percent (75%) of the Units have been conveyed to the initial purchasers thereof by Declarant or Builder, as the case may be, or (b) the day that is five (5) years after the first conveyance of a Unit to the initial purchaser thereof by Declarant or Builder, as the case may be, or (c) any day prior to the days specified in clauses (a) or (b) of this sentence on which Declarant in its sole discretion elects to terminate the Development Period by calling the First Annual Meeting (as defined in the By-Laws). For purposes of the foregoing, "Unit" at any time shall be deemed to include not only completed Units owned by Declarant or Builder, as the case may be, at such time, but also shall include (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]). No

transfer or conveyance of a Unit or any interest therein between Declarant and Builder shall be regarded as a conveyance of a Unit to the "initial purchaser thereof" as contemplated by this definition.

"Entire Tract" means the real estate in Williamson County, Tennessee more particularly described on attached Exhibit C.

"Eligible Mortgagee" means any holder of a first deed of trust or mortgage encumbering a Unit who has submitted to the Corporation a written request to notify such holder of any proposed action requiring the consent of a specified percentage of all such holders who have submitted such a request, and who has received from the Corporation a written acknowledgment of receipt of the request.

"Limited Common Elements" means all Common Elements exclusively serving only a single Unit or adjoining Units as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit(s) either in this Declaration, on the Plat or by the Board, including (1) roofs, foundations, floors, walls and ceilings, and all associated fixtures and structures that may be located therein, (2) heating and air conditioning equipment, water heaters, pipes, plumbing, ducts, electrical wiring and conduits, and (3) drives, garages, carports, patios, decks, porches, balconies, gardens and fencing around patios or gardens.

"Major Decisions" has the meaning set forth in Paragraph 21.

"Majority" or "Majority of the Unit Owners" means Unit Owners owning more than fifty percent (50%) of the Units. For purposes of applying this definition at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]).

"Managing Agent" has the meaning set forth in Paragraph 5.

"Municipality" means the City of Franklin, Tennessee.

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

"Parcel" means the real estate in Williamson County, Tennessee, more particularly described on attached Exhibit A, as such Parcel may be expanded pursuant to the provisions of Paragraph 30.

"Person" means a natural person, corporation, partnership, limited liability company, trustee or other legal entity capable of holding title to real property.

"Plat" means the Final Subdivision Plat of Reid Hill Commons, Section Two, Revision 1, (Resubdivision of Lot 4), showing the number of each Unit and expressing its area, location and other data necessary for identification, of Record in Plat Book P33, page 97, as the same from time to time hereafter may be supplemented, revised or amended in accordance with the provisions of this Declaration (including Paragraph 30).

"Private Elements" means and includes the lot area upon which a Unit is located and the improvements located thereon, together with any other property and interests in property constituting "private elements" for such Unit pursuant to the Act or this Declaration, for which fee simple ownership and exclusive use is reserved only to that Unit as provided in this Declaration. Limited Common Elements located upon Private Elements shall be deemed to be Private Elements.

"Property" means all the land, property and space comprising the Parcel, and all buildings, structures and other improvements now or hereafter erected, constructed or contained therein or thereon, including the Buildings and all easements, rights, privileges and appurtenances belonging or in any way pertaining thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners.

"Proportionate Share" means the respective proportionate share of a Unit Owner in the aggregate undivided ownership interest in the Common Elements and in the aggregate membership in the Corporation, which shall be calculated as provided in Exhibit D.

"Record", "Recorded" or "Recording" refers to the record or recording in the Office of the Register of Deeds in Williamson County, Tennessee.

"Rochford" means Rochford Realty and Construction Co., Inc., a Tennessee corporation.

"Unit" means an enclosed space intended for occupancy as a single family residential living unit and consisting of one or more rooms occupying all or part of a floor or floors in a Building, together with the corresponding Private Elements, which residential living unit and corresponding Private Elements are not owned in common with the Unit Owners of other Units. It is intended that the term "Unit" as used in this Declaration shall have the same meaning as the term "apartment" as used in the Act. Each Unit is numbered as shown on the Plat.

"Unit Owner" means, collectively if more than one, the Person(s) whose estate(s) or interest(s) aggregate fee simple ownership of a Unit and the undivided interest in the Common Elements appurtenant thereto, and such term shall be deemed to have the same

meaning as the term "coowner" as used in the Act. For purposes of applying this definition at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]).

The foregoing definitions shall apply equally to both the singular and plural forms of the terms defined.

2. Submission of Property to the Act. Declarant, as the legal title holder in fee simple of the Property, expressly intends to, and by executing and Recording this Declaration does hereby, submit and subject the Parcel and the rest of the Property to the provisions of the Act pursuant to the terms hereof. The Property shall be known and may be referred to collectively as "Reid Hill Commons".

3. Plat. The Plat, which is incorporated herein by this reference thereto, sets forth the Unit numbers, areas, locations and other data 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 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. Corporation as Governing Body for Unit Owners: Administration and Operation of the Property.

(a) Corporation. The Corporation, which has been or will be incorporated, 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 Declaration and the By-Laws. The By-Laws for the Corporation shall be the By-Laws attached to this Declaration as Exhibit B and made a part hereof, as the same may be amended or modified from time to time pursuant to the provisions hereof and thereof. The Board shall be elected and shall serve in accordance with the provisions of the By-Laws. The fiscal year of the Corporation shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Corporation shall not be deemed to be conducting a business of any kind. All activities undertaken by the Corporation shall be for the sole benefit of the Unit Owners, and all funds received by the Corporation shall be held and applied by it for the use and benefit of the Unit Owners in

accordance with the provisions of the Act, this Declaration and the By-Laws. Each Unit Owner shall be a member of the Corporation and shall own a Proportionate Share of the total membership in the Corporation for 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 and Proportionate Share of the total membership in the Corporation. The aggregate number of votes for all members of the Corporation shall be equal to the number of Units, and the Unit Owners' ownership of the total membership in the Corporation shall be pro rata in accordance with the respective Proportionate Shares of each. For purposes of determining membership in the Corporation and voting rights at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]).

The word "townhouse" has been included in the Corporation's name only for purposes of complying with provisions of the Act relating to planned unit developments, and shall not be deemed to create or establish a requirement for any particular configuration or architectural style for the construction of the Buildings.

(b) Management of Property. The Board shall have the authority to engage the services of an agent (sometimes herein 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 5(c). The cost of such services shall be a common expense, as defined in Paragraph 10.

(c) Initial Management Agreement. The first Board, appointed as provided in the By-Laws, shall have the authority, but not the obligation, to ratify and approve any management agreement between Declarant, on behalf of the Corporation, and a Managing Agent, which shall be determined in the Board's sole discretion. Such management agreement, if any, shall contain such terms, conditions and provisions as the Board shall determine are appropriate.

(d) Use by Declarant and Builder. During the period of sale by Declarant or Builder of any Units, Declarant and Builder and their respective agents, employees, contractors and subcontractors shall be entitled to access and ingress to and egress from the Property as may be required for purposes of said sale of Units. While Declarant or Builder owns any of the Units and until each Unit sold by Declarant or Builder is occupied by a purchaser other than Declarant or Builder, Declarant or Builder and their respective employees may use and show one or more of such unsold or unoccupied Units

as a model Unit or Units, may use one or more of such unsold or unoccupied Units as a sales office and may maintain customary signs in connection therewith.

(e) Non-Liability of Directors, Board, Officers, Declarant and Builder; Indemnity. To the fullest extent permitted by law, the Board, the individual members thereof, the officers of the Corporation, Declarant, Builder and the officers, managers, directors, agents and employees of Declarant and Builder shall not be personally liable to the Corporation or the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board, Declarant, Builder, members, officers, managers, directors, agents and employees, except for any acts or omissions found by a court to constitute gross negligence or willful misconduct. The Corporation shall indemnify and hold harmless each of the Board, Declarant, Builder and the aforesaid members, officers, managers, directors, agents and employees, 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 this Declaration or the 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 undivided ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in Exhibit D, determined without reference to Units that may be constructed on those portions of the Additional Real Property, if any, that have not been incorporated into the Parcel. The percentages of ownership interests set forth in Exhibit D shall remain constant unless hereafter changed as provided in Paragraph 13 or Paragraph 30 or otherwise by Recorded amendment to this Declaration consented to in writing by the Unit Owners and Eligible Mortgagees in accordance with Paragraph 21. Said ownership interests in the Common Elements shall be undivided interests, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership. The percentage ownership in the Common Elements corresponding to each Unit shall not be conveyed separately from that Unit, and any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the Common Elements shall be void unless the corresponding Unit to which that interest is allocated is also transferred. The percentage 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. The Common Elements shall remain undivided and shall not be the subject of any partition action.

Declarant shall not retain any ownership interest in or other rights to the Common Elements except in its capacity as a Unit Owner.

8. Use of the Common Elements. Subject to the provisions of the Act, this Declaration and the By-Laws, each Unit Owner shall have the unrestricted 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 and ingress to, egress from and use, occupancy and enjoyment of the Unit owned by such Unit Owner. Such right to use the Common Elements shall extend not only to each Unit Owner, but also to his agents, customers, guests, visitors, invitees and licensees. Each Unit Owner of a Unit benefited by Limited Common Elements shall have exclusive use and possession of such elements contiguous to and serving such Unit alone or with adjoining Units. Such rights to use the Common Elements, including Limited Common Elements, shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws and the rules and regulations of the Corporation. In the event of any dispute regarding use of the Common Elements, the Board's determination regarding such use shall be final and binding upon all interested parties, to the extent permitted by applicable law. In addition to the foregoing, the Corporation shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of this Declaration and the By-Laws. All income derived by the Corporation from leases, concessions or other sources shall be held and used for the benefit of the members of the Corporation, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

9. Storage Areas and Parking. Any storage areas located on the Property, except those inside the Units and those that 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.

Parking spaces within the Parcel that are not Limited Common Elements shall be part of the Common Elements, and shall be used by the 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.

10. Common Expenses.

(a) Common Expenses. Each Unit Owner, including Declarant (so long as Declarant is a Unit Owner) to the extent hereinafter provided, shall pay his Proportionate Share of the expenses of the administration and operation of the Common Elements and the Corporation, including insurance premiums and the costs of operation, maintenance, repair and replacement of and additions to the Common Elements, together with any other expenses or liabilities incurred by the Corporation in accordance with the Declaration and these By-Laws and the establishment of appropriate reserves with respect to the foregoing pursuant to this Declaration and the By-Laws (collectively, "common expenses"); *provided, however*, that except as otherwise provided in Paragraph 14, any such expenses with respect to Limited Common Elements shall be borne by the Unit Owners to whose Units such Limited Common Elements are appurtenant in accordance with such Unit Owners' relative Proportionate Shares. Payment of common expenses, including any prepayment thereof required by a 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 of the 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 common expenses when due, the amount thereof, together with interest thereon at the Delinquency Interest Rate from the date that said common expenses become due and payable, plus reasonable attorney's fees incurred by the Corporation in the collection thereof or the enforcement of the lien herein provided, shall constitute a lien on the interest of such Unit Owner in his Unit and in the Property as provided in the Act. The sale or conveyance of a Unit shall in all cases be subject to all unpaid assessments against the Unit Owner thereof for his Proportionate Share of the common expenses, and if the same are not paid by the owner thereof prior to any sale or conveyance, shall be a lien against the Unit and shall be payable by the new Unit Owner thereof. Likewise, all taxes and other levies and assessments by governmental taxing bodies shall be a lien against individual Units.

The assessments against a Unit for common expenses will commence as of the date that such Unit is completed and ready for occupancy, as evidenced by a certificate of occupancy or similar approval issued by the appropriate governmental authority, and for purposes of determining Proportionate Shares with respect to assessments for common expenses, Units that are not completed and ready for occupancy shall not be taken into account. Notwithstanding the foregoing, neither Declarant nor Builder shall have any liability for assessments in respect of unsold Units prior to the day that is sixty (60) days after the date on which the first Unit is conveyed to the initial purchaser thereof (other than Declarant or Builder), after which time all completed Units shall be allocated full assessments.

Subsequent to the date of Recording of this Declaration but prior to the expiration of the Development Period, Declarant shall fund any deficit in the operations of the Corporation after application of available funds from assessments for common expenses in respect of Units previously sold. After the expiration of the Development Period, (1) the liability of Declarant for payment of assessments for common expenses in respect of Units owned by it shall not exceed an aggregate amount equal to the lesser of (x) the amount of the assessments for such Units as such assessments accrue and become payable, or (y) the amount necessary from time to time to fund any deficit in the operations of the Corporation after application of available funds from assessments for common expenses in respect of Units previously sold, and (2) Declarant shall have no responsibility for the maintenance, repair or replacement of any of the Common Elements or any other items to be paid for as common expenses except for its responsibilities as a Unit Owner as provided herein; however, should Declarant advance any of its own funds for such expenses, it shall be entitled to a credit for all sums so paid against the assessments that it is required to pay as a Unit Owner.

(b) Grant of Lien. FOR AND IN CONSIDERATION OF the foregoing, the privileges and protections of this Declaration and the By-Laws and the mutual enjoyment and use of the Common Elements and the rest of the Property, 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's fees, a lien is expressly retained in favor of the Corporation on each and every Unit Owner's Unit and Proportionate Share of the Common Elements.

(c) Protection of Certain Mortgages and Deeds of Trust. The lien for common expenses payable by a Unit Owner is and shall be subordinate to the lien of a first mortgage or deed of trust encumbering the corresponding Unit, except for the corresponding Proportionate Share of common expenses that 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. The lien for common expenses will not be affected by any sale or transfer of a Unit except in the case of a foreclosure of a first mortgage or deed of trust encumbering such Unit (or a conveyance in lieu thereof), in which event such foreclosure or conveyance will extinguish the lien for the amount of the corresponding Proportionate Share of common expenses that became due and payable prior thereto but will not relieve any subsequent owner from liability for the payment of assessments arising thereafter.

Any delinquent common expense assessments that are extinguished by virtue of the foreclosure of or other exercise of remedies under any such mortgage or deed of trust may be reallocated and assessed to all of the Units as a common expense.

11. Mortgages and Deeds of Trust.

(a) Each Unit Owner shall have the right, subject to the provisions hereof, 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 grant, make or create, or cause to be granted, made or created, 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.

(b) Any holder, insurer or guarantor of a deed of trust or mortgage on a Unit may file with the Corporation a written request for the information listed below in this subparagraph (b). Such request shall state the requesting party's identity and address and the Unit number or address of the Unit encumbered by the corresponding deed of trust or mortgage. Such request shall be effective only upon delivery to such holder, insurer or guarantor, at the address specified in the request, of the Corporation's written acknowledgment of receipt of the request, and upon the effectiveness of such request such holder, insurer or guarantor shall be entitled to timely written notice of:

(1) any condemnation or casualty loss that affects a material portion of the Property or the Unit encumbered by the corresponding deed of trust or mortgage,

(2) any sixty (60) day delinquency in the payment of any assessments or charges owed by the Unit Owner who owns the Unit encumbered by the corresponding deed of trust or mortgage,

(3) a lapse, cancellation or material modification of any insurance policy maintained by the Corporation, and

(4) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

12. Separate Utility and Tax Assessments.

(a) Utility services for Units shall be separately metered, and all utility charges for Units shall be assessed to and constitute the sole responsibility of the respective Unit Owners thereof. In the event that any utility services are not separately metered, the charges for such utility services shall be paid by the Unit Owners served thereby *pro rata* in accordance with their relative Proportionate Shares.

(b) Real estate taxes shall be separately assessed 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 assessed to each Unit Owner, but rather are assessed on the Property as a whole, then such taxes shall be treated as a common expense and each Unit Owner shall pay his Proportionate Share thereof.

13. Insurance; Damage or Destruction; Reconstruction.

(a) The Board (or the Declarant prior to passing control of the Corporation to the Unit Owners) 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 and such other hazards as are covered under standard "all risk" coverage, for the full insurable replacement cost of the Property, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements, the 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, as the trustee for each of the Unit Owners in accordance with their respective Proportionate Shares, as set forth in this Declaration, and for the holders of mortgages on his Unit, if any. The policy of insurance shall also contain, if available at reasonable expense, 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.

(b) In the event of damage to or destruction of any part of the Buildings or any other structures or improvements constituting a part of the Property as a result of fire or other casualty covered by insurance maintained by the Board pursuant hereto (unless more than two-thirds of all the Buildings and Common Elements require 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 proceeds are insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners directly affected by the damage, *pro rata* in accordance with their relative Proportionate Shares. 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, on or about 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.

(c) If the whole or more than two-thirds (2/3) of all the Buildings and Common Elements are destroyed or damaged by fire or other casualty, as determined by the Board, and if not less than sixty-seven percent (67%) of the Unit Owners, together with Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees, determine that reconstruction shall not take place, then reconstruction shall not be required. In such event, the Board, as soon as is reasonably practicable and as agent for the Unit Owners, shall sell the Property, in its then condition, free from the effect of this Declaration, which shall terminate upon such sale, on terms satisfactory to the Board, and the net proceeds of such sale and of all insurance policies shall thereupon be distributed to the Unit Owners and their mortgagees, as their interests may appear. If and to the extent requested by the Board, the Unit Owners shall join in any conveyance necessary to facilitate such sale. 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 it does not, any Unit Owner or mortgagee may, Record a sworn declaration setting forth such fact and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in this Declaration 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.

(d) Reconstruction also shall not be compulsory where the whole or more than two-thirds (2/3) of any one of the Buildings is destroyed, as determined by the Board; *provided, however*, that unless more than two-thirds of all the Buildings and Common Elements require reconstruction, the destroyed Building shall be reconstructed as hereinabove provided if any one or more of the Unit Owner(s) directly affected or an Eligible Mortgagee thereof so directs. If such Building is not to be reconstructed, the net proceeds of insurance policies shall be divided among all the Unit Owners directly

affected by the casualty and their mortgagees *pro rata* in accordance with the relative Proportionate Shares of the affected Unit Owners, after paying from the share of each such affected Unit Owner (1) the costs of removing debris and returning the site to a condition compatible with the overall appearance of the Property, including landscaping, and (2) the amount of any unpaid liens on the Unit of such Unit Owner, in the order of priority of such liens. Notwithstanding the foregoing, 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 quitclaiming his interest in his Unit or the affected portion thereof to the remaining Unit Owners, *pro rata* in accordance with their relative Proportionate Shares, and also delivers to the Board a recordable release of any liens on his Unit or the affected portion thereof. Upon the Recording of the aforesaid deeds and releases, each such Unit or affected portion thereof shall be deemed withdrawn and thereafter to be Common Elements. Upon the withdrawal of any Unit or portion thereof, the percentage interest in the Common Elements allocable to such Unit shall be reallocated among the remaining Units on the basis of the relative percentage 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.

(e) The Board also shall have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable (but in no event less than \$1,000,000), and worker's compensation insurance and other liability insurance as it deems desirable, insuring each Unit Owner, the mortgagee(s) of Record, if any, the Corporation, the Board, Declarant, Builder, any Managing Agent and their respective members, officers, directors, agents and employees, from (1) liability in connection with the Common Elements, and (2) liability arising out of legal proceedings relating to employment contracts to which the Corporation is a party (to the extent such insurance is reasonably available). 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 in amounts corresponding to such Unit Owner's Proportionate Share. The Board shall retain in safekeeping any such public liability policy for twenty-three (23) years after the expiration date of the policy.

(f) If the Property is located in an area designated by the Department of Housing and Urban Development as having special flood hazards, then the Board also shall have authority to and shall obtain insurance against damage or destruction occasioned by floods in an amount equal to 100% of the insurable value of the Property or, if less, the maximum amount of insurance coverage available. The premiums for such insurance shall be a common expense.

(g) The Board also shall have authority to and may obtain such other insurance and bonds, including fidelity insurance and bonds, 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 Corporation, and each member of any committee appointed pursuant to the By-Laws of the Corporation, from liability arising from the fact that said person is or was director or officer of the Corporation, or a member of any such committee. The premiums for such insurance and bonds shall be a common expense.

(h) Each Unit Owner shall be responsible for obtaining his own insurance on his possessions within and any other contents of his own Unit, the Private Elements corresponding to his Unit and the Limited Common Elements serving his Unit, as well as his additions and improvements thereto, all decorations, furnishings and personal property therein and any 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 the benefit of 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.

(a) Maintenance of, repairs to and replacements of and within the Common Elements shall be the responsibility of and shall be furnished by the Corporation. The cost of maintenance of, repairs to and replacements of or within the Common Elements shall be part of the common expenses, subject to the provisions of this Declaration, the By-Laws and the rules and regulations of the Corporation.

(b) If, due to the act or neglect of a Unit Owner, or of his agent, invitee or licensee, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repair or replacement are required that otherwise would 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 Corporation, to the extent not covered by the Corporation's insurance or sufficient proceeds are not collected from the insurance carrier.

(c) Each Unit Owner, at his own expense, shall be responsible for and shall furnish all maintenance of, repairs to and replacements with respect to the Unit of such Unit Owner and the corresponding Limited Common Elements appurtenant thereto. At the discretion of the Board, the Board may direct Unit Owners who stand to be benefited by maintenance of, repairs to and replacements of and within Limited Common Elements to arrange for such maintenance, repairs and replacement in the name and for the account of such benefited 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; *provided, however*, that if, in order to maintain, repair or replace the electrical wiring, plumbing or other utilities of a Unit, it shall become necessary to gain entry to another Unit, it shall be the responsibility of the

Corporation to provide such maintenance, repair or replacement, but the cost of such maintenance, repair or replacement may be assessed to the Unit Owners benefited thereby as hereinabove provided.

(d) Notwithstanding the provisions of the preceding subparagraph (c), the Board may, in its discretion, determine and direct that the Corporation shall be responsible for and shall furnish the maintenance of, repairs to and replacements within specified categories of Limited Common Elements or Private Elements (such as, but not limited to, roofs, foundations and exterior walls of Units, drives, garages, carports, patios, decks, porches, balconies, gardens and fencing around patios or gardens), and that the cost of same shall be part of the common expenses, subject to the provisions of this Declaration, the By-Laws and the rules and regulations of the Corporation; *provided* that any such determination with respect to any category of Limited Common Elements or Private Elements shall be made uniformly with respect to the entire Property.

(e) The authorized representatives of the Corporation, the Board or 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 any maintenance, repairs or replacements of or 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 16, no alteration of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written consent 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 non-structural alterations, additions or improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall be responsible for any damages to other Units, the Common Elements, the Property or any part thereof resulting from such alterations, additions or improvements.

16. Decorations; Cleaning. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorations and cleaning within his own Unit and the Limited Common Elements serving his Unit, as may be required from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting and other furnishings and decorations. Each Unit Owner shall be entitled to the exclusive use of his Unit, and such Unit Owner at his sole expense shall maintain said Unit, including the corresponding Private Elements, in good condition, as may be required from time to time. Said maintenance and use of the Unit shall be subject to the rules and regulations of the Corporation, but each Unit Owner shall have the right to decorate the interior of his Unit from time to time as he may see fit and at his sole expense. Decorations of the Common Elements (other than Limited Common Elements) and any redecoration of Units, to the extent such redecoration of Units is made necessary by damage to Units caused by maintenance, repair or replacement of the Common Elements by the Corporation, shall be furnished by the Corporation

as part of the common expenses. All windows and screens 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. Easements and Encroachments.

(a) 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, due to engineering errors, errors in original construction, reconstruction or repair, settlement or shifting of a Building or movement of any portion of any other improvements on the Property or any similar cause, 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; provided, however, that in no event shall an easement for encroachment be created in favor of a Unit Owner if said encroachment occurred due to the willful act of said Unit Owner, and further provided that the physical boundaries of a Unit following construction or any reconstruction or repair thereof will be in substantial accord with the description of those boundaries in this Declaration.

(b) Each Unit Owner shall have a perpetual and non-exclusive easement for ingress and egress to his Unit, in, upon, over, under, across and through the Common Elements (other than Limited Common Elements the enjoyment, benefit or use of which is reserved exclusively to other Unit Owners), which easement shall be appurtenant to the Unit of such Unit Owner and shall pass with the Unit estate as and when a transfer or conveyance of ownership of the Unit occurs.

(c) Declarant hereby reserves a perpetual and non-exclusive easement in, upon, over, under, across and through the Common Elements for the purpose of the installation, maintenance, repair and replacement of sewer, water, electric power and telephone pipes, lines, mains, conduits, poles or transformers, facilities for cable television and similar systems, and any and all other equipment or machinery necessary or incidental to the proper functioning of any utilities systems servicing the Property, which easement shall be for the benefit of the Declarant and any governmental agency, utility company or other entity (public or private) that requires the same for the purpose of furnishing one or more of the foregoing services.

(d) Declarant hereby reserves an easement in, upon, over, under, across and through the Common Elements during the Development Period in order to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction of the Units and the Common Elements and the sale of the Units, including a business office, sales office, storage area, construction yards, signs and model Units, and for a period of two (2) years thereafter, in order to make any repairs to improvements on the Property, including the Units, that Declarant may deem necessary or that may be required pursuant to contracts of sale made with purchasers of Units.

(e) In accordance with the specifications of each governmental body having jurisdiction over the construction of public roads, the right and easement is hereby reserved by the Declarant to construct all streets, roads, alleys or other ways as now or hereafter may be shown on the Plat, or any recorded plat, at such grades or elevations as Declarant in its sole discretion may deem proper. For the purpose of constructing such streets, roads, alleys or ways, Declarant additionally shall have a temporary construction easement, not exceeding ten (10) feet in width, upon and along the Common Elements for the construction of same, and no Unit Owner shall have any right of action or claim for damages against anyone on account of the grade or elevation at which such road, street, alley or public way hereafter may be constructed, or on account of any bank slopes constructed within the limits of said ten (10) foot easement.

(f) A perpetual and non-exclusive easement of unobstructed ingress and egress in, upon, over, under, across and through the Common Elements is hereby reserved to the Declarant and the Corporation for the purpose of maintaining, repairing and replacing the Common Elements or any equipment, facilities or fixtures affecting or servicing the Common Elements; *provided* that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner or Occupant, except that, in the case of an emergency, such right of entry shall be immediate and absolute, regardless of whether the Unit Owner or Occupant is present at the time or whether request is made.

(g) An easement is hereby established for the benefit of the Municipality in, upon, over, under, across and through the Property for the setting, removing and reading of water meters, for maintaining and replacing water, sewage and drainage facilities, for police protection, fire fighting and garbage collection and the rendering of such other public services as are appropriate and necessary for the use and enjoyment of the Property. In no case shall the Municipality be responsible for failing to provide any emergency or regular fire, police or other public service to the Property or to any Unit Owner or Occupant, when such failure is due to the lack of access to such area as a result of inadequate design or construction, blocking of access routes or any other factor within the control of the Declarant or any Unit Owner or Occupant.

18. Transfer of a Unit.

(a) Leases. Unless the approval of the Board is first obtained, no Unit or interest therein shall be leased by a Unit Owner other than Declarant. Any lease made by a Unit Owner other than Declarant without first obtaining Board approval shall be voidable at the Board's option upon five (5) days' written notice to the Unit Owner. Nothing contained in this Declaration shall restrict the ability of Declarant to lease any Units owned by Declarant for such periods of time and upon such terms and conditions as Declarant deems appropriate. Any lease or rental agreement with respect to a Unit must be in writing and subject to applicable requirements of the Act, this Declaration, the By-Laws and the rules and regulations of the Corporation.

(b) Corporation's Right to Purchase. The Board shall have the power and authority to bid for and purchase, for and on behalf of the Corporation, any Unit, or interest therein, that is offered for sale by the Unit Owner or 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 not less than sixty-seven percent (67%) of the Unit Owners. Such consent shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for said Unit.

(c) Financing of Purchase by Corporation. The Board shall have authority to make such mortgage arrangements and special assessments proportional among the respective Unit Owners, and such other financing arrangements, as the Board may deem desirable, in order to close and consummate the purchase of a Unit, or interest therein, by the Corporation. Notwithstanding the foregoing, 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 and the percentage interest in the Common Elements appurtenant thereto.

(d) Miscellaneous.

(1) The Corporation shall hold title to any Unit, pursuant to the terms hereof, in the name of the Corporation, or a nominee thereof designated 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 Corporation 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 Corporation to purchase said Unit unless not less than sixty-seven percent (67%) of the Unit Owners first authorize the sale for such lesser amount.

(2) 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.

19. Use and Occupancy Restrictions.

(a) Subject to the provisions of the By-Laws, no part of the Property may be used for purposes other than for single family residences and the related common purposes for which the Property was designed and as allowed by applicable zoning laws. Each Unit or any two or more adjoining Units used together shall be used as a single family residence or for such other use as is permitted by this Declaration, and for no other purpose. The foregoing restrictions as to residential use shall not be construed to prohibit a Unit Owner from: (1) maintaining his personal professional library within his Unit, (2) keeping his professional or personal business records or accounts within his Unit, or (3) handling his professional or personal business telephone calls, other electronic communications or correspondence within his Unit; such uses being hereby expressly

declared to be incident to the principal residential use and not in violation of said restrictions.

(b) The Property is intended and will be operated for occupancy by persons 55 years of age or older as contemplated by, and in compliance with applicable requirements of, the Housing for Older Persons Act of 1995, as codified at 42 U.S.C. § 3607(b)(2)(C), which requires, among other things, that eighty percent (80%) of the occupied Units be occupied by at least one person who is 55 years of age or older (subject to certain regulatory exceptions and exclusions). The Board, on behalf of the Corporation, shall publish and adhere to policies and procedures that demonstrate this intent, and shall cause the Property to be operated in compliance with applicable rules issued by the Secretary of Housing and Urban Development for verification of occupancy.

In order that the Corporation may assure compliance with all applicable legal and regulatory requirements under or pursuant to the Housing for Older Persons Act of 1995 relating to occupancy of a specified percentage of the Units by persons 55 years of age or older, each Unit Owner, by acceptance of a conveyance of his Unit, shall be deemed to have agreed as follows:

(1) Unless otherwise specifically approved in writing by the Board, each occupied Unit shall be occupied by at least one Occupant 55 years of age or older.

(2) Upon the request of the Board, each Unit Owner will provide any information or documentation reasonably requested by the Board in order to verify the extent to which the Units are occupied by persons 55 years of age or older, including any information or documentation specified in applicable regulations promulgated by the United States Department of Housing and Urban Development. The Unit Owners will cooperate with any periodic occupancy surveys conducted by the Board.

(c) Subject to the approval of the Board, the part of the Common Elements separating and located between and exclusively serving two or more adjacent Units used together (including 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 Corporation, *provided* that (1) the expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alteration, (2) 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, and (3) 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 reasonable access and ingress to and egress from the other Units in the hallway affected by any such alteration.

(d) The Common Elements shall be used only by the Unit Owners and their family members, agents, invitees, guests and licensees for access and ingress to and egress from the respective Units and for such other purposes as are incidental to the ownership, use and enjoyment of the Units; *provided, however*, that receiving rooms, storage areas and other areas designed for a specific use shall be used only for 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 hereafter entered into by the Board at some future time, affecting any part or all of said Common Elements.

20. Remedies. In the event of any violation of the provisions of the Act or any of the covenants, conditions, restrictions or provisions of this Declaration or the By-Laws or any of the rules and regulations of the Corporation by any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit or any family member, invitee, guest or licensee thereof) the Corporation, or its successors or assigns, or the Board, or its agents, shall have each and all of the rights and remedies that may be provided for in the Act, this Declaration, the By-Laws or said rules and regulations, or that may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner or other Occupant 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 for any combination of remedies or for any other relief. All expenses of the Corporation, or its successors or assigns, or the Board, or its agents, 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 Delinquency Interest Rate 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 Corporation 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 first mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the corresponding Proportionate Share of said common expenses that become due and payable from and after the date on which the beneficiary of said mortgage or deed of trust either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security) or forecloses its mortgage or deed of trust. In the event of any such default by any Unit Owner, the Board and the 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 and secured by the lien hereinabove provided. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

A violation of the Act or any of the covenants, conditions, restrictions or provisions of this Declaration or the By-Laws or any of the rules and regulations of the Corporation shall give the Corporation, acting through the Board, the right, in addition to any other rights provided for

in this Declaration: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the Property upon which or as to which such violation or breach exists, and summarily to (i) 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 hereof (provided that an appropriate civil action shall be instituted before any items of construction may be altered or demolished), or (ii) take any other action reasonably required to remedy such violation, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) 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.

If any Unit Owner (either by his own conduct or the conduct of any other Occupant of his Unit or any family member, agent, invitee, guest or licensee thereof) shall violate the Act or any of the covenants, conditions, restrictions or provisions of this Declaration or the By-Laws or any of the rules and regulations of the Corporation, 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 from the Board to cure such violation, 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 Corporation, acting through 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 right, title and interest of said defaulting Unit 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 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 such proceeding and sale, and all such items shall be assessed against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments or liens hereunder, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser thereupon shall 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 Declaration.

21. Amendment.

(a) Except as otherwise provided in this Declaration, the provisions of this Declaration may be changed, modified or rescinded only by an instrument in writing,

setting forth such change, modification or rescission, signed by not less than sixty-seven percent (67%) of the Unit Owners and acknowledged.

(b) Notwithstanding the foregoing, the approval of Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees shall be required for (x) the amendment of any provision of this Declaration that relates to any of the following (sometimes referred to herein as "Major Decisions"), or (y) the approval by the Unit Owners of any matter that is submitted to a vote of the Unit Owners pursuant to this Declaration and that relates to any Major Decision:

- (1) voting rights,
- (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%) or the lien for assessments or the priority thereof,
- (3) reductions in reserves for maintenance, repair and replacement of the Common Elements,
- (4) responsibility for maintenance and repairs,
- (5) reallocation of interests in the Common Elements or rights to their use,
- (6) except as provided in subparagraph 21(d), redefinition of any Unit boundaries,
- (7) convertibility of Units into Common Elements and vice versa,
- (8) expansion or contraction of the Property, or the addition, annexation or withdrawal of property from the Property,
- (9) hazard or fidelity insurance requirements,
- (10) imposition of any restrictions on the leasing of units,
- (11) imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit,
- (12) a decision by the Corporation to establish self-management of the Property, if professional management had been required previously by this Declaration, the By-Laws or any Eligible Mortgagee,

(13) restoration or repair of the Property (after damage or partial condemnation) in a manner other than as specified by this Declaration or the By-Laws, or

(14) the protection or benefit of holders, insurers or guarantors of deeds of trust or mortgages on Units.

(c) Notwithstanding the foregoing, an amendment to this Declaration solely for the purpose of setting forth a modification of or amendment to the By-Laws, as provided in Article IX, Section 3 of the By-Laws, need only be executed on behalf of the Corporation by the President (or other duly authorized officer) of the Corporation and accompanied by the affidavit of such officer to the effect that such amendment or modification was approved in accordance with the provisions of Article IX, Section 3 of the By-Laws and that such officer was duly authorized to execute and deliver such amendment.

(d) Notwithstanding the foregoing, only Declarant need execute an amendment to this Declaration, the Plat or the By-Laws to correct clerical or scrivener's errors or to reflect the actual locations and areas of the Units as built, and the joinder or approval of the Corporation, the Unit Owners or Eligible Mortgagees shall not be required.

(e) Notwithstanding the foregoing, any termination of this Declaration by the Unit Owners other than as provided in Paragraphs 13 and 27 may not be effected without the concurrence of Eligible Mortgagees representing at least sixty-seven percent (67%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees

(f) Whenever pursuant to this Declaration or the By-Laws the agreement, concurrence or approval of an Eligible Mortgagee is required or otherwise sought, such Eligible Mortgagee's agreement, concurrence or approval may be assumed if it fails to submit a response to a written proposal for an amendment or other action within thirty (30) days after it receives proper notice of the proposal by certified or registered mail, return receipt requested.

(g) Notwithstanding the foregoing, if the Act, this Declaration or the By-Laws requires the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration or the By-Laws, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all Unit Owners or all lien holders or both as required by the Act, this Declaration or the By-Laws. The change, modification or rescission, whether accomplished under either of the provisions of this Paragraph 21, shall be effective upon the Recording of such instrument; *provided, however*, that no provisions in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act.

22. Notices. Notices provided for in the Act, this Declaration or the By-Laws shall be in writing, and shall be addressed as follows:

- (a) to the Corporation or the Board, as the case may be, c/o Rochford Realty and Construction Co., Inc., 2200 Abbott Martin Road, Nashville, Tennessee 37215,
- (b) to Declarant c/o Rochford Realty and Construction Co., Inc., 2200 Abbott Martin Road, Nashville, Tennessee 37215, with a copy to Builder,
- (c) to Builder c/o Rochford Realty and Construction Co., Inc., 2200 Abbott Martin Road, Nashville, Tennessee 37215, and
- (d) to each Unit Owner at his Unit.

Notwithstanding the foregoing, Declarant, Builder, the Corporation or the 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 Corporation. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgment of the receipt thereof.

23. Severability. If any provision of this Declaration or the By-Laws, or any section, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the By-Laws and 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 Declaration 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 Declaration otherwise would 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 Elizabeth II, Queen of England.

25. Rights and Obligations. Each grantee of Declarant, by the acceptance of a deed of conveyance with respect to any part of the Property, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges of, and the jurisdiction, rights and powers created or reserved by, this Declaration. All future Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. Any restrictions or rules in the By-Laws that are more than administrative in nature such as, but not limited to, reservations in favor of and future rights of Declarant, are hereby incorporated into and made a part of this Declaration 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 the Property, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every such 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, as they may be amended from time to time. The acceptance of a deed of conveyance, devise of or lease to a Unit, or the entering into occupancy of any Unit, shall constitute an agreement that the provisions of the 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 this Declaration, the By-Laws and the rules and regulations promulgated thereunder may be incorporated by reference in, and become part of, any agreement between any first mortgagee and any Unit Owner who enters into such agreement with a first mortgagee. When so incorporated, any default in the terms and conditions of this Declaration, the By-Laws or the said 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 of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiary or beneficiaries thereunder shall be considered the Unit Owner for all purposes and 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 created hereunder, and such 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.

(a) In the event of a taking of a part of the Common Elements through condemnation or by exercise of the power of eminent domain, the award made for such taking shall be payable to the Corporation. The Corporation is hereby designated to represent the Unit Owners in any such proceedings and any related negotiations, settlements or agreements, and is hereby appointed the agent and attorney-in-fact of the Unit Owners for such purposes. 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 contractor(s) 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 one

hundred twenty (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.

(b) If the whole or more than two-thirds (2/3) of all the Buildings and Common Elements are taken through condemnation or by exercise of the power of eminent domain, as determined by the Board, and if not less than sixty-seven percent (67%) of the Unit Owners, together with Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees, determine that restoration of the affected portion(s) of the Property is not feasible or otherwise shall not take place, then such restoration shall not be required. In such event, the Board, as soon as is reasonably practicable and as agent for the Unit Owners, shall sell the Property, in its then condition, free from the effect of this Declaration, which shall terminate upon such sale, on terms satisfactory to the Board, and the net proceeds of such sale and of all condemnation awards shall thereupon be distributed to the Unit Owners and their mortgagees, as their interests may appear. If and to the extent requested by the Board, the Unit Owners shall join in any conveyance necessary to facilitate such sale. 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 it does not, any Unit Owner or mortgagee may, Record a sworn declaration setting forth such fact and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in this Declaration 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.

28. Rights Reserved. The Unit Owners' rights of enjoyment in the Common Elements shall be subject to:

(a) The right of the Corporation, as provided in the 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 Corporation to charge reasonable fees for the use of designated parts of the Common Elements; and

(c) The right of the Corporation 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, nor any determination as to the purposes or conditions thereof, shall be effective unless Declarant (or its successors or assigns) and a Majority of the Unit Owners have approved such dedication, transfer, purpose or condition; and

(d) The right of Declarant, at its sole expense, to relocate, expand, modify, reduce, enlarge or extend existing driveways, parking areas and yard and to construct, relocate, expand, modify, reduce, enlarge or extend sewers, utility lines or service connections in order to serve the Buildings; and

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

29. Special Provisions Relating to Builder.

(a) Declarant has designated and by these presents hereby designates Rochford as Builder pursuant to this Declaration. Rochford, for so long as Rochford is the Builder, shall be the exclusive builder of Units and, subject to the provisions of this Paragraph 29, shall have all of the rights, privileges, options, powers, remedies and benefits of Builder provided herein.

(b) Subject to the limitations set forth in this Paragraph 29, Developer, as Declarant, hereby assigns to Builder, and Builder shall have, may exercise and shall be entitled to the benefit of, all of the rights, powers, privileges, options and remedies of Declarant pursuant to this Declaration, the By-Laws and the Act. The designation of Builder and this assignment to Builder shall be and remain in full force and effect until an instrument of revocation is executed by Developer and duly Recorded; *provided, however,* that the designation of Builder and this assignment to Builder may not be revoked unless (1) Builder has defaulted in the performance of a material contractual obligation of Builder to Developer and, if such default is subject to a cure right, has failed to cure such default within the applicable cure period, or (2) Builder in its discretion executes a written acknowledgment of such revocation. Upon revocation of the designation of Builder and this assignment to Builder, Builder immediately shall be divested of all of its rights as Declarant pursuant to this Declaration, and such rights automatically shall revert to Developer; *provided, however,* that (1) Developer shall not be responsible for curing any default or failure of any Person designated as Builder to perform as Declarant hereunder, it being expressly acknowledged that any Person designated as Builder hereunder shall remain responsible for all of its obligations as Declarant hereunder accruing during the time that such designation was in effect, and (2) no such revocation shall affect any right of Builder, such as a right to indemnification, with respect to events and occurrences during the time such designation was in effect. Upon any such revocation, Developer may designate a successor Builder by instrument duly Recorded.

(c) Subject to the limitations set forth in this Paragraph 29, Developer, as Declarant, hereby delegates to Builder, and Builder shall be responsible for the performance of, all of the duties and obligations of Declarant pursuant to this Declaration, the By-Laws and the Act.

(d) The rights assigned and duties delegated to Builder by Developer may not be further assigned or delegated by Builder without the express written consent of Developer, which shall not be withheld unreasonably.

(e) Builder shall notify Developer of each conveyance of a Unit by Builder with reasonable promptness following such conveyance.

(f) Builder hereby agrees to indemnify Developer and hold Developer harmless from any loss, liability, damage or expense, including reasonable attorney's fees, incurred by Developer as a result of the actions of Builder pursuant to this Declaration, the By-Laws and the Act; *provided, however*, that this indemnity shall not extend to any loss, liability, damage or expense resulting from the fault of Developer (other than liability based solely on a claim that Developer was negligent in its selection of Builder hereunder). This indemnity shall extend to and include all losses, liabilities, damages and expenses that are the responsibility of Builder, as Declarant, and that accrue prior to Developer's revocation of the assignment of Declarant's rights to Builder pursuant to subparagraph 29(b).

(g) Until such time as Developer no longer has an interest in the Property, other than solely as a Unit Owner, and notwithstanding any provision of this Paragraph 29 to the contrary:

(1) The appointment of the Board pursuant to the provisions of Article II, Section 3 of the By-Laws shall be subject to the approval of Developer, such approval not to be withheld unreasonably.

(2) No change, modification or amendment of this Declaration or the By-Laws that would delete, rescind, limit, impair or in any other manner adversely affect any right, remedy, easement, reservation, power, benefit or privilege afforded to, or that would expand, increase or extend any duty or obligation of, Declarant hereunder shall be effective without the express written consent of Developer.

30. Expansion of Property.

(a) Notwithstanding anything to the contrary contained in this Declaration, Declarant hereby reserves the right (but shall be under no obligation), in its sole discretion, at any time and from time to time within five (5) years of the Recording of this Declaration, to amend or supplement this Declaration or the Plat without the consent of the Corporation, the Board, any Unit Owner, any Person having a contractual right to acquire a Unit or any other Person (including the holder of any mortgage or deed of trust with respect to a Unit) to incorporate in the Parcel and the Property all or any portion of the Additional Real Property (which term as used herein shall mean and refer to all or any portion of such real property), on which Declarant may construct or cause to be constructed not more than eighty-one (81) additional Units and certain Common Elements, thereby subjecting the same to all of the terms, conditions and provisions of the

Act and this Declaration as if such Additional Real Property had been a part of the Property on the date hereof. Any such amendment(s) or supplement(s) to this Declaration or the Plat shall be effective upon Recording and collectively shall include (1) a description of the Additional Real Property so incorporated, and (2) the number of Units added to the Property by such amendment and the cumulative total number of Units. Amendments or supplements to the Plat shall depict all of the Property as expanded pursuant to such amendment or supplement, and such revised Plat shall amend, supersede and replace the Plat as theretofore in effect. Effective upon the Recording of any such amendment or supplement, the respective percentage ownership interests of the Units in the Common Elements shall be deemed adjusted as provided in Exhibit D without further action by Declarant or any other Person. Any and all such amendments or supplements and the corresponding adjustments in the respective percentage ownership interests in the Common Elements shall be binding upon all Unit Owners, the holders of all mortgages or deeds of trust encumbering Units and every other Person having an interest in the Property or any one or more Units.

(b) All improvements on or to any Additional Real Property constituting Common Elements (excluding Limited Common Elements) will be consistent with the initial improvements in structure type and quality of construction.

(c) This Declaration shall not be deemed to place any encumbrance, restriction or limitation of any kind upon the Additional Real Property unless the same is incorporated in the Property as hereinabove provided within five (5) years of the Recording of this Declaration.

(d) Nothing contained in this Paragraph 30 shall be construed to authorize or permit annexation of any other or further land to the Property except by an amendment duly adopted pursuant to Paragraph 21.

31. Regulation by the City of Franklin. Each Unit Owner hereby agrees that the Municipality is authorized and empowered to require the Corporation and each Unit Owner, jointly and/or severally, to provide for the orderly maintenance and upkeep of the Common Elements, including all private roads and drives located on and serving the Property. In the event that the Municipality or any properly authorized agent thereof determines that the Common Elements are being maintained in a manner that is dangerous or detrimental to public health, safety and welfare pursuant to the provisions of the Franklin Municipal Charter and Code, the Municipality and its agents may upon ten (10) days' notice to the Corporation enter upon the Common Elements and make any repairs or improvements to the Common Elements that the Municipality and its agents deem necessary to remedy such conditions. Thereafter, the Corporation and each Unit Owner shall be obligated to pay to the Municipality its costs for all improvements, work or labor supplied or furnished to the Common Elements. The obligation to pay said costs shall be a personal obligation of the Corporation and each Unit Owner, jointly and severally. All such costs shall be paid to the Municipality within thirty (30) days of receipt from the Municipality of a statement for such costs, which receipt shall be required to be served upon the President of the Corporation only. All Unit Owners hereby waive notice of receipt of said statement for such costs. In order to secure payment at and after the due date, there shall arise a

continuing lien and charge against each Unit in favor of the Municipality, the amount of which shall include costs and reasonable attorneys' fees to the extent permissible by law. The Municipality may bring an action at law against the Corporation or any Unit Owner, or foreclose the lien against any property owned by any Unit Owner. Neither the Corporation nor any Unit Owner may waive or otherwise avoid liability for the cost incurred by the Municipality as described herein.

32. Miscellaneous Provisions.

(a) This Declaration shall be construed in accordance with and governed by the laws of the State of Tennessee.

(b) The use of defined terms herein and in the By-Laws is for convenience of reference and shall not be deemed to be limiting or to have any other substantive effect with respect to the Persons or things to which reference is made through the use of such defined terms. Paragraph headings herein and in the By-Laws are included for convenience of reference only, shall not constitute a part hereof for any other purpose and in no way define, limit or describe the scope or intent of any provision hereof or thereof.

(c) Any reference herein or in the By-Laws to any instrument, document or agreement, by whatever terminology used, shall be deemed to include any and all amendments, restatements, modifications, supplements, extensions, renewals or replacements thereof as the context may require.

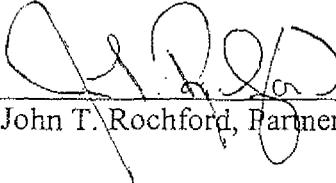
(d) All references herein to the preamble, the recitals or paragraphs, subparagraphs or exhibits are to the preamble, recitals, paragraphs, subparagraphs and exhibits of or to this Declaration unless otherwise specified. All references in the By-Laws to articles, sections, paragraphs or subparagraphs are to articles, sections, paragraphs and subparagraphs of the By-Laws unless otherwise specified. The words "hereof", "herein" and "hereunder" and words of similar import, when used in this Declaration, refer to this Declaration as a whole and not to any particular provision of this Declaration.

(e) When used herein and in the By-Laws, (1) the singular shall include the plural, and vice versa, and the use of the masculine, feminine or neuter gender shall include all other genders, as appropriate, (2) "include", "includes" and "including" shall be deemed to be followed by "without limitation" regardless of whether such words or words of like import in fact follow same, and (3) unless the context clearly indicates otherwise, the disjunctive "or" shall include the conjunctive "and".

(f) Any reference herein to any law shall be a reference to such law as in effect from time to time and shall include any rules and regulations promulgated or published thereunder and published interpretations thereof.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by its duly authorized officer this 4TH day of September, 2002.

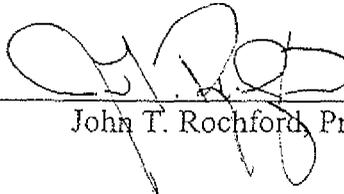
REID HILL COMMONS LAND INVESTORS

By: 

John T. Rochford, Partner

ACCEPTED AND AGREED TO by Builder this 4TH day of September, 2002.

ROCHFORD REALTY AND CONSTRUCTION CO.,
INC.

By: 

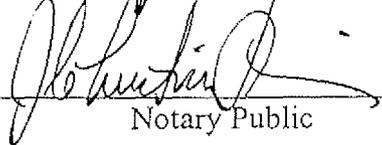
John T. Rochford, President

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public having authority in and for the State and County aforesaid, John T. Rochford, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is a partner of REID HILL COMMONS LAND INVESTORS, the within-named bargainer, a general partnership, and is authorized by the general partnership to execute this instrument on behalf of the general partnership.

WITNESS my hand, at office, this 4 day of September, 2002.



Notary Public

My Commission Expires:

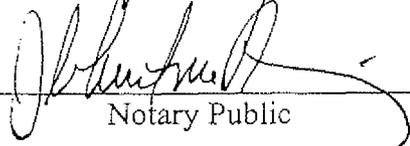
March 29, 2003

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public having authority in and for the State and County aforesaid, John T. Rochford, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the President of ROCHFORD REALTY AND CONSTRUCTION CO., INC., the within-named bargainer, a corporation, and is authorized by the corporation to execute this instrument on behalf of the corporation.

WITNESS my hand, at office, this 4 day of September, 2002.



Notary Public

My Commission Expires:

March 29, 2003

EXHIBIT A

[Description of Parcel]

BEING the property depicted on the Final Subdivision Plat of Reid Hill Commons, Section Two, Revision 1 (Resubdivision of Lot 4), as of record in Plat Book P33, page 97, Register's Office for Williamson County, Tennessee, to which plat reference is here made for a more complete description of said property.

BEING THE SAME property conveyed to Reid Hill Commons Land Investors, a general partnership, by deed of record in Deed Book 581, page 950, Register's Office for Williamson County, Tennessee.

EXHIBIT B**BYLAWS OF
REID HILL COMMONS TOWNHOUSE CORPORATION****ARTICLE I****OFFICE**

Section 1. Principal Office. The principal office of the Corporation shall be maintained at 2200 Abbott Martin Road, Nashville, Tennessee 37215.

Section 2. Place of Meetings. All meetings of the Corporation shall be held at its principal office unless some other place is stated in the call.

ARTICLE II**RIGHTS OF DECLARANT DURING DEVELOPMENT PERIOD**

Section 1. Development Period. As used in these By-Laws, the term "Development Period" means the period of time commencing on the date of the Recording of the Declaration and ending on the day that is the earlier to occur of (a) the day that is four (4) months after the date on which at least seventy-five percent (75%) of the Units have been conveyed to the initial purchasers thereof by Declarant or Builder, as the case may be, or (b) the day that is five (5) years after the first conveyance of a Unit to the initial purchaser thereof by Declarant or Builder, as the case may be, or (c) any day prior to the days specified in clauses (a) or (b) of this sentence on which Declarant, in its sole discretion, elects to terminate the Development Period by calling the First Annual Meeting (as hereinafter defined). For purposes of the foregoing, "Unit" at any time shall be deemed to include not only completed Units owned by Declarant or Builder, as the case may be, at such time, but also shall include (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]). No transfer or conveyance of a Unit or any interest therein between Declarant and Builder shall be regarded as a conveyance of a Unit to the "initial purchaser thereof" as contemplated by this definition.

Section 2. Meetings of Corporation. Notwithstanding those provisions of Article III that are to the contrary, meetings of the Corporation during the Development Period shall take place only upon the call of Declarant. At any such meeting, Declarant may (but shall not be required to) submit to a vote of the Unit Owners any matter that properly may come before a meeting of

the Corporation, and the provisions of Article III shall be applicable to all proceedings in connection with any matter so submitted. Except as provided in the immediately preceding sentence, and notwithstanding any provision of Article III that is to the contrary, during the Development Period Declarant in its sole discretion shall determine all matters that may properly come before the Board or the Corporation.

Section 3. Board of Directors. Notwithstanding those provisions of Article IV that are to the contrary, during the Development Period (a) the Board (as hereinafter defined) shall be composed of such number of persons (not to exceed five (5)) as Declarant from time to time shall determine, and (b) the members of the Board shall be appointed by Declarant from time to time, shall serve for such terms and shall be subject to removal by Declarant, all as Declarant shall determine in its sole discretion; *provided, however*, that no such director's term shall extend later than the date of the First Annual Meeting.

Section 4. Officers. Notwithstanding those provisions of Article V that are to the contrary, during the Development Period the officers of the Corporation shall be appointed by Declarant from time to time, shall serve for such terms and shall be subject to removal by Declarant, all as Declarant shall determine in its sole discretion; *provided, however*, that no such officer's term shall extend later than the organizational meeting of the new Board following the First Annual Meeting.

Section 5. Amendment of By-Laws During Development Period. Nothing contained in this Article II shall be deemed to give Declarant any right or power to amend these By-Laws or any of the Rules and Regulations (as hereinafter defined) during the Development Period without the consent or approval of the number of Unit Owners required hereunder for such purpose. Notwithstanding the provisions of Articles VI and X, these By-Laws and the Rules and Regulations may not be amended by the Unit Owners during the Development Period without the express written approval of Declarant.

ARTICLE III

UNIT OWNERS; MEETINGS

Section 1. Annual Meeting. The annual meeting of the Corporation (except for the First Annual Meeting, as hereinafter defined) shall be held on the first Monday of the fourth (4th) calendar month following the close of the Corporation's fiscal year. The first annual meeting of the Corporation (the "First Annual Meeting") will be called by Declarant at such time as, in its discretion, it deems best, but in no event shall such meeting take place later than the expiration of the Development Period.

Section 2. Special Meetings. Special meetings may be held at any time upon the call of the President or upon the call of not less than ten percent (10%) of the Unit Owners. Upon receipt of such call, the Secretary shall send out notices of the meeting to all members of the Corporation.

Section 3. Notice of Meetings. A written or printed notice of every meeting of the Corporation, stating whether it is an annual meeting or special meeting, the authority for the call of the meeting, the place, day and hour thereof and the purpose therefor, shall be given by the Secretary or the person or persons calling the meeting at least three days before the date set for such meeting. Such notice shall be given to each member In any of the following ways: (a) by any manner permitted under the Declaration, or (b) by leaving the same with him personally, or (c) by leaving the same at the residence or usual place of business of such member, or (d) by mailing it, postage prepaid, addressed to such member at his address as it appears on the records of the Corporation, or (e) if such member cannot be located by reasonable efforts, by posting said notice in the main lobby of the Buildings. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings at such meeting.

Section 4. Waiver of Notice. The presence of all the members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any member shall, at the opening of such meeting, object to the holding of the same for noncompliance with the provisions of Section 3 of this Article III. Any meeting so held without objection shall, notwithstanding the fact that no notice thereof was given, or that the notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken; *provided, however*, that where a member has pledged his vote by mortgage, deed of trust or agreement of sale, only the presence of the pledgee will be counted in determining whether notice is waived with regard to business dealing with such matters upon which the member's vote is so pledged.

Section 5. Quorum; Voting. At any meeting of the Corporation, sixty-seven percent (67%) of the Unit Owners, present or by proxy, shall constitute a quorum and, except as otherwise provided herein, in the Declaration or in the Act, the concurring vote of a Majority of the Unit Owners shall be valid and binding upon the Corporation. In the event a member has pledged his vote by mortgage, deed of trust or agreement of sale, the member's vote will be recognized in computing a quorum with respect to any business conducted concerning such matters upon which said member's vote is so pledged or mortgaged unless the mortgage, deed of trust or agreement of sale provides otherwise, in which event such instruments shall control. In the event of such mortgage or pledge, the Unit Owner shall provide the Corporation with a copy of the pledging or mortgaging instrument.

Section 6. Membership; Voting. Any Person or combination thereof owning any Unit duly Recorded in his or its name, the ownership of which shall be determined by the records of the Register's Office for Williamson County, Tennessee (including Declarant and Builder, as to any and all Units owned thereby), shall be a member of the Corporation, and either in person or by proxy entitled to a vote equivalent to one vote for each Unit so owned at all meetings of the Corporation. Any provision of the Declaration or these By-Laws to the contrary notwithstanding, coowners or joint owners shall be deemed one Unit Owner and one member. The authority given by a member to another person to represent such member at meetings of the Corporation shall be in writing, signed by such member (or if a Unit is jointly owned then by coowners or joint owners, by all such coowners or joint owners; or if such member is not a natural person, by the proper representative(s) thereof), and shall be filed with the Secretary, and

unless limited by its terms, such authority shall be deemed good until revoked in a writing filed with the Secretary. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Corporation with respect to any Unit owned or held by him in such capacity, whether or not the same shall have been transferred to his name by a duly Recorded conveyance. In case such Unit shall not have so been transferred to his name, he shall satisfy the Secretary that he is the executor, administrator, guardian or trustee holding such Unit in such capacity. Whenever any such Unit is owned by two or more persons jointly according to the Record, the vote therefor may be exercised by any one of the owners present in the absence of protest by the other or others; *provided, however*, that when the vote of an owner or owners has been pledged by mortgage or deed of trust of Record, only the vote of the pledgee will be recognized upon those matters upon which the owner's or owners' vote is so pledged except as otherwise provided in Section 5.

To the fullest extent permissible under applicable law and any applicable rules or regulations of the Federal National Mortgage Corporation, a Unit Owner who is delinquent in the payment of any assessments or other amounts owed to the Corporation by such Unit Owner, and any representative of any such Unit Owner, shall not be entitled to exercise the privilege of voting on matters submitted to a vote of the Unit Owners although such Unit Owner may be counted for the purpose of determining whether a quorum is present at a meeting of the Corporation.

For purposes of determining membership in the Corporation and voting rights at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to (1) any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time, and (2) the maximum number of Units that may be constructed on those portions of the Additional Real Property, if any, that have not been, but still may be, incorporated into the Parcel at such time (for purposes of this clause (2), the maximum number of Units that may be constructed on the entire Parcel if all of the Additional Real Property is incorporated therein is eighty-one [81]).

Section 7. Adjournment. Any meeting of the Corporation may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted by a quorum at the meeting originally called.

ARTICLE IV

BOARD OF DIRECTORS; MEETINGS

Section 1. Number and Qualification. The affairs of the Corporation shall be governed by a board of directors (the "Board") composed of five (5) persons, and all such directors shall be Unit Owners (or owners of an interest in a Unit).

Section 2. Powers and Duties. The Board shall have all of the powers and duties granted thereto in the Declaration and all other powers and duties necessary for the administration of the affairs of the Corporation, and may do all such acts and things as are not by law, by the Declaration or by these By-Laws directed to be exercised and done by the Unit Owners.

Section 3. Other Powers and Duties. In addition to duties imposed by the Declaration, these By-Laws or by resolutions of the Corporation, the Board shall have the following powers and duties:

- (a) to elect and remove the officers of the Corporation as hereinafter provided;
- (b) to administer the affairs of the Corporation and the Property;
- (c) to engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; *provided, however*, that:
 - (1) any management agreement relating to the Property shall be terminable for cause without penalty upon not more than thirty (30) days' notice and shall have a term of not less than one (1) year nor more than three (3) years, which term shall be renewable upon approval of the Board; and
 - (2) any management agreement relating to the Property entered into by Declarant prior to the expiration of the Development Period shall be terminable by the Corporation without cause at any time after expiration of the Development Period;
- (d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;
- (e) to adopt rules and regulations, with written notice thereof to all Unit Owners, governing 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 surveillance, maintenance, repair and replacement of the Common Elements and the Buildings and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or the Managing Agent;
- (g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, to engage or contract for the services of others, 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 such employees or other personnel who

may be the employees of a Managing Agent);

(h) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board as provided in the Declaration and these By-Laws;

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

(j) to determine, review and approve the annual budget for the Corporation and to provide the manner of assessing and collecting from the Unit Owners their respective shares of the expenses of the Corporation and the Property, as hereinafter provided;

(k) to provide for the preparation of financial statements for the Corporation from time to time;

(l) to enter into any lease agreement for lease of premises suitable for use as custodian apartments, upon such terms as the Board may approve;

(m) unless otherwise provided herein or in the Declaration, to comply with the instructions of a Majority of the Unit Owners as expressed in a resolution duly adopted at any annual or special meeting of the Corporation;

(n) to obtain and maintain insurance policies as required by the Declaration and these By-Laws, and in this regard, annually to review the amounts of coverage afforded by such policies;

(o) to borrow money for the purposes of repair or restoration of the Common Elements without the approval of the members of the Corporation; and

(p) to exercise all other powers and duties of the board of administration or Unit Owners as a group that are provided in the Act, and all powers and duties of a board of managers or a board of directors referred to in the Declaration or these By-Laws.

The Corporation shall not in any event be bound, either directly or indirectly, by any contract or lease entered into by the Declarant on behalf of the Corporation (including management contracts) unless such contract or lease contains a right of termination that is exercisable without cause and without penalty at any time after the expiration of the Development Period.

Section 4. Manager or Managing Agent; Employees Generally. The Managing Agent shall perform such duties and services including the duties listed in Section 3 of this Article IV, as are authorized by the Board. The duties conferred upon the Managing Agent by the Board may be revoked, modified or amplified at any time by the vote of the Corporation in a duly constituted meeting. The Board or the Managing Agent (with the approval of the Board) may

employ any other employee or agents to perform such duties at such salaries as the Board may establish. The Board may enter into such service contracts on behalf of the Corporation as are necessary and appropriate and shall have authority, but not the obligation, to assume, on behalf of the Corporation, any initial service contracts entered into by Declarant that comply with the requirements and limitations imposed herein.

Section 5. Election and Term of Office. The directors of the Corporation shall be elected by the affirmative vote of a Majority of the Unit Owners. At the First Annual Meeting, the terms of office for the first board of directors (the "First Board") shall be fixed wherein one (1) director shall serve for one (1) year, two (2) directors shall serve for two (2) years and two (2) directors for three (3) years.

At the expiration of the initial term of office of each respective director, his successor shall be elected by all those entitled to vote to serve a term of three (3) years. The directors shall hold office until their successors have been elected and hold their first meeting.

Section 6. Vacancies. Vacancies in the Board caused by any reason other than the removal of a director by a vote of the Corporation shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at the next annual meeting of the Corporation.

Section 7. Removal of Directors. At any regular meeting or special meeting duly called, any one or more of the elected directors may be removed with or without cause by not less than sixty-seven percent (67%) of the Unit Owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting.

Section 8. Compensation. No compensation shall be paid to directors for their services as directors. No remuneration shall be paid to a director for services performed by him for the Corporation in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board before the services are undertaken. A director may not be an employee of the Corporation.

Section 9. Organizational Meeting. The first meeting of a newly elected Board shall be held within one week of election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing the whole Board is present.

Section 10. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by not less than sixty-seven percent (67%) of the directors. Notice of regular meetings of the Board shall be given to each director, personally or by mail, addressed to his residence, or by telephone, at least three days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board may be called by the

President on three days' notice to each director, given personally or by mail, addressed to his residence, or by telephone, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of not less than two (2) directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Board of Directors' Quorum. At all meetings of the Board, sixty-seven percent (67%) of the directors shall constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting to a different time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Bonds of Officers and Employees. The Board shall require that all officers and employees (including any management agent) of the Corporation handling or responsible for corporate funds shall be covered by blanket fidelity bonds naming the Corporation as obligee, which bonds shall be in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Property. Each such bond shall contain an agreement to notify the Board, the holder of a first mortgage or deed of trust on a Unit and every other person in interest who shall have requested such notice at least thirty (30) days' prior notice of any cancellation or material alteration of such bond. The premiums on such bonds shall be paid by the Corporation as a common expense of the Corporation.

ARTICLE V

OFFICERS

Section 1. Designation. The principal officers of the Corporation shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board. The directors may appoint an assistant treasurer, an assistant secretary and such other officers as in their judgment may be necessary. An officer may serve in more than one capacity; *provided, however,* that there shall be no less than two (2) persons serving as officers; and further *provided* that no one person shall serve as both President and Secretary simultaneously.

Section 2. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board for such purpose.

Section 4. President. The President shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board. He shall have all of the general powers and duties that are usually vested in the office of president of an association of property owners, including the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Corporation.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President also shall perform such other duties as from time to time shall be imposed upon him by the Board.

Section 6. Treasurer. The Treasurer shall have the responsibility for Corporation funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Corporation. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Corporation in such depositories as from time to time may be designated by the Board.

Section 7. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Board or of the Corporation, shall give all notices as provided by these By-Laws and shall have other powers and duties as may be incidental to the office of Secretary, given him by these By-Laws or assigned to him from time to time by the directors. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

ARTICLE VI

OBLIGATIONS OF THE UNIT OWNERS

Section 1. Expenses, Assessments. As provided in the Declaration, the Unit Owners shall contribute, *pro rata* on the basis of their respective Proportionate Shares, to the expenses of administration and operation of the Common Elements and the Corporation, including insurance premiums and the costs of operation, maintenance, repair and replacement of and additions to the Common Elements, together with any other expenses or liabilities incurred by the Corporation in accordance with the Declaration and these By-Laws and the establishment of appropriate reserves with respect to the foregoing pursuant to this Declaration and the By-Laws. The Board shall fix a monthly charge for each Unit in an amount sufficient to provide for the Unit Owner's Proportionate Share of all such current expenses, reasonable reserves for future expenses of administration, reasonable reserves for the expenses of utilities, periodic maintenance, repair and replacement associated with the Common Elements and such other expenses as the Board may

deem proper, subject to adjustment from time to time as the Board may deem necessary. Such monthly charge shall be due and payable in advance on the first day of every month, shall bear interest at the Delinquency Interest Rate from the date due until paid, and such charges, together with interest as aforesaid and reasonable attorney's fees of the Corporation (all as provided in the Declaration) shall be a lien on the Unit, assessed prior in right to all other charges whatsoever except assessments, liens and charges in favor of the State of Tennessee, Williamson County or the Municipality for taxes past due and unpaid on such Unit, and amounts and liabilities secured by first mortgage instruments duly Recorded. In the event any Unit Owner is delinquent in the payment of any monthly assessment for a period in excess of thirty (30) days, the Corporation is authorized to sever or disconnect all utility connections to his Unit, *provided* such severance or disconnection does not invalidate the Corporation's fire and casualty insurance, and to take such other actions as are authorized by the Declaration.

Section 2. Working Capital and Reserve Funds.

(a) A working capital fund shall be maintained by the Corporation to insure that the Corporation will have funds available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or advisable by the Board. The working capital fund shall be maintained in an account for the use and benefit of the Corporation, and disbursements from such fund shall be made as directed by the Board. Declarant shall establish the initial working capital fund in an aggregate amount equal to two months' estimated assessments for each Unit. Each Unit's share of the working capital fund will be collected and transferred to the Corporation at the time of the closing of the sale of such Unit. Declarant may not use working capital funds to defray its expenses, reserve contributions or make up budget deficits during the Development Period; however, upon the sale of an unsold Unit by Declarant, Declarant may reimburse itself for funds paid by it to the Corporation for such Unit's share of the working capital fund by using funds collected at the closing of such sale. Amounts paid into the working capital fund shall in no event be considered advance payment(s) of regular monthly assessments.

(b) A reserve fund shall be maintained by the Corporation to insure that the Corporation will have funds available for the replacement of and any necessary additions to the Common Elements. The reserve fund shall be funded from the regular monthly assessments for common expenses and shall be maintained in an account for the use and benefit of the Corporation. Disbursements from such fund shall be made as directed by the Board.

Section 3. Maintenance and Repair. Every Unit Owner shall perform promptly all maintenance and repair work within or with respect to his Unit that is the responsibility of such Unit Owner and that, if omitted, would affect the Property in its entirety or a part belonging to other Unit Owners, and is responsible for the damages and liabilities that his failure to do so may cause.

Section 4. Use of Units. All Units shall be used in accordance with the provisions of the By-Laws, the Declaration and the Rules and Regulations.

Section 5. Rules and Regulations. In order to assure the peaceful and orderly use and enjoyment of the Buildings and Common Elements of the Property, the Board from time to time may adopt, modify and revoke in whole or in part such reasonable rules and regulations, to be called Rules and Regulations, governing the conduct of persons in said Property as it may deem necessary. The Rules and Regulations also shall be subject to any additions, modifications and revocations adopted by a vote of not less than sixty-seven percent (67%) of the members of the Corporation at any meeting duly called for that purpose. The Rules and Regulations, upon adoption, and every amendment, modification and revocation thereof, shall be delivered promptly to each Unit Owner and shall be binding upon all members and occupants of the Property.

The initial Rules and Regulations shall be these:

- (1) Units shall be occupied in a manner consistent with rules and regulations promulgated by the Secretary of Housing and Urban Development for 55-or-older housing pursuant to Housing for Older Persons Act of 1995, as codified at 42 U.S.C. § 3607(b)(2)(C).
- (2) No exterior of any Unit or the windows or doors thereof or any other portions of the Common Elements shall be painted or decorated by any Unit Owner in any manner without prior consent of the Board.
- (3) No furniture, equipment or other personal articles shall be placed in the entrances, stairwells or other Common Elements.
- (4) No Unit Owner shall make or permit any noise or objectionable odor that will disturb or annoy the Occupants of any of the Units in the Property or do or permit anything to be done therein that will interfere with the rights, comfort or convenience of other Unit Owners.
- (5) Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.
- (6) No shades, awnings, window guards, ventilators, fans or external air-conditioning devices shall be used in or about the Buildings or Common Elements except such as shall have been approved by the Board.
- (7) No window shutters shall be used in or about the Buildings or Common Elements except as shall have been approved in writing by the Board.
- (8) No sign, notice, lettering or advertisement shall be inscribed or exposed on or at any window, door or other part of the Property, except such as shall have been approved in writing by the Board, nor shall anything be projected out of any window of the Buildings without similar approval.

(9) All garbage and refuse from the Buildings shall be deposited only in sanitary containers, and disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

(10) Water closets and other water apparatus in the Buildings shall not be used for any purposes other than those for which they were constructed, nor shall any sweepings, rubbish, rags, paper, ashes or any other article be thrown into the same. Any damage resulting from misuse of any water closet or other apparatus shall be paid for by the Unit Owner causing such damage.

(11) No animals shall be raised, bred or kept in any Unit, except for dogs, household cats and small birds owned as household pets by a Unit Owner, provided that said pets are not kept for any commercial purpose, that said pets 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, and that said pets shall not, in the judgment of the Board, constitute a nuisance to others.

All dogs owned by Unit Owners and kept in a Unit shall be on leash while outside the Unit. All such dogs shall be exercised by the owner in the area(s) designated by the Board for such purposes.

The Board in its discretion may limit the number of dogs and cats per Unit to not more than two (2) dogs or two (2) cats or one (1) cat and one (1) dog.

(12) No radio or television aerial shall be attached to or hung from the exterior of the Buildings without written approval of the Board.

(13) The agents of the Managing Agent, and any contractor or workman authorized by the Managing Agent, may enter any Unit at any reasonable hour of the day for any purpose permitted under the terms of the Declaration, the By-Laws or the Rules and Regulations.

(14) The Managing Agent may retain a passkey to each Unit. No Unit Owner shall alter any lock on any door leading to his Unit without the prior consent of the Managing Agent or the Board. If such consent is given, the Unit Owner shall provide the Managing Agent with a key for the Managing Agent's use.

(15) No Unit Owner or Occupant nor any family member, agent, invitee, guest or licensee of a Unit Owner or Occupant shall be allowed on the roof of the Buildings or in any heating, air-conditioning or electrical equipment rooms constituting Common Elements without the express permission of the Managing Agent or the Board.

(16) All damage to the Buildings or Common Elements caused by the moving or carrying of any article therein shall be paid by the Unit Owner responsible for the presence of such article.

(17) No Unit Owner shall interfere in any manner with any portion of the heating, air-conditioning or lighting apparatus constituting part of the Common Elements and not part of the Unit Owner's Unit.

(18) No Unit Owner shall use or permit to be brought into the Buildings any flammable oils or fluids such as gasoline, kerosene, naphtha or benzene, or other explosives or articles deemed extra hazardous to life, limb or property, without in each case obtaining the written consent of the Board.

(19) Garage doors shall be kept fully closed except when opened for the purposes of ingress and egress.

(20) The Unit Owners shall not be allowed to put their names on or near any entry to the Buildings or entrance to any Unit except in accordance with rules and regulations prescribed from time to time by the Board.

(21) The Unit Owners shall keep the interiors of their Units clean and free from obstructions. The Board and the Managing Agent assume no liability for loss or damage to articles stored or placed in the Buildings.

(22) Any damage to the Buildings or equipment caused by Unit Owners or their family members, agents, invitees, guests or licensees shall be repaired at the expense of the Unit Owners responsible.

(23) Unit Owners shall be held responsible for the actions of their family members, agents, invitees, guests and licensees.

(24) Complaints regarding the management of the Buildings and grounds or regarding the actions of other Unit Owners shall be made in writing to the President of the Corporation.

(25) Supplies, goods and packages of every kind are to be delivered in such manner as the Board may prescribe, and the Board is not responsible for the loss or damage of any such property, notwithstanding such loss or damage that may occur through the carelessness or negligence of the employees of the Buildings.

(26) No Unit shall be used or occupied in such manner as to obstruct or interfere with the enjoyment of Occupants or other residents of adjoining Units, nor shall any nuisance or illegal activity be committed or permitted to occur in or about any Unit or upon any part of the Common Elements.

(27) The Common Elements are intended for use for the purpose of affording movement within and among the Buildings and of providing access to the Units. No part of the Common Elements shall be obstructed so as to interfere with its use for the purposes hereinabove recited, nor shall any part of the Common Elements (except the

maintenance storage room(s)) be used for general storage purposes after the completion of the construction of the Buildings by Declarant, nor shall anything be done therein or thereon in any manner that may increase the rate of hazard and liability insurance covering said area and the improvements situated thereon.

(28) The use of the Units, the Buildings and the Common Elements by the Unit Owners and their family members, agents, invitees, guests and licensees at all times shall comply with all applicable laws, ordinances and regulations, including any restrictions on use imposed by applicable building codes.

(29) These Rules and Regulations may be added to, amended or repealed at any time by the Board.

Section 6. Remedies. In the event of any violation of the provisions of the Act, the Declaration, these By-Laws or the Rules and Regulations by any Unit Owner (either by his own conduct or by the conduct of any occupant of his Unit), the Corporation, or its successors or assigns, shall have each and all of the rights and remedies that may be provided for in the Act, the Declaration, these By-Laws or the Rules and Regulations, or that may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner 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 for the right to take possession of the Unit and to sell the same as provided hereinafter, or for any combination of remedies or for any other relief. All expenses of the Corporation in connection with any such actions or proceedings, including court costs, attorney's fees, other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the Delinquency Interest Rate 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 Corporation shall have a lien for all of the same, as well as for nonpayment of common expenses, upon the Unit, and its appurtenant interest in the Common Elements, of such defaulting Unit Owner and upon all his additions and improvements thereto, all as provided in the Declaration; *provided, however*, that such lien shall be subordinate to the lien of a first mortgage or deed of trust on the Unit as provided in the Declaration. In the event of any such default by any Unit Owner, 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 and be secured by the lien hereinabove provided. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board, on behalf of the Corporation. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of Record of mortgage and deed of trust liens against the Units.

The violation of any restriction, condition, rule or regulation adopted by the Board or the breach of any covenant or provision contained in the Act, the Declaration, these By-Laws or the Rules and Regulations shall give the Board, acting on behalf of the Corporation, the right, in addition to any other rights provided for in these By-laws: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the

Property upon which or as to which such violation or breach exists, and summarily to 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 hereof, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass, or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach, or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) 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.

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 the Declaration, these By-Laws or the Rules and Regulations, 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 from the Board to cure such violation, then the Board shall have the power to issue to said defaulting Unit Owner a notice in writing terminating the rights of 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, on behalf of the Corporation, 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 right, title and interest of said defaulting Unit 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 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 attorney's 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 or liens hereunder, 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 ownership interest 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. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take title to the Unit sold subject to the Declaration and these By-Laws.

Section 7. Right of Entry. The Managing Agent or any person authorized by the Board shall have the right to enter each Unit at any time in cases of emergency and at all other reasonable times if the Unit Owner or Occupant is present. Every Unit Owner and Occupant shall permit other Unit Owners or their representatives to enter his Unit at reasonable times for the purpose of performing authorized installations, alterations or repairs to any Common Elements therein for central services *provided* that requests for entry are made in advance.

Section 8. Title. Every Unit Owner shall promptly cause to be duly Recorded in the Register's Office for Williamson County, Tennessee, the deed, lease, assignment or other conveyance to him of his Unit or other evidence of his title thereto and file such evidence of his

title with the Board through the Secretary, and the Secretary shall maintain such information in the record of ownership of the Corporation.

Section 9. Deeds of Trust and Mortgages. Any holder, insurer or guarantor of a deed of trust or mortgage with respect to a Unit may file a copy of such instrument with the Board through the Secretary, or otherwise identify to the Board through the Secretary the name and address of such holder, insurer or guarantor and the number or address of the corresponding Unit, and the Secretary shall be required to notify such holder, insurer or guarantor of:

(a) Any condemnation loss or any casualty loss that affects a material portion of the Property or the Unit covered by such mortgage or deed of trust;

(b) Any delinquency in the payment of expenses or charges owed relating to the Unit encumbered by such mortgage or deed of trust that remains uncured for sixty (60) days, and that the holder or mortgagee may, at its option, pay such delinquent expenses;

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

(d) Any proposed action that would require the consent of a specified percentage of deed of trust or mortgage lien holders.

Any holder of a deed of trust or mortgage with respect to a Unit may, upon written request to the Board through the Secretary, receive a copy of the Corporation's financial statement for the immediately preceding fiscal year.

Section 10. Insurance. The Board on behalf of the Corporation, as a common expense, shall at all times keep the Buildings insured as provided in the Declaration, and from time to time upon receipt thereof cause to be deposited promptly with the Unit Owners and mortgagees of the Units or interests therein, true copies of such insurance policies or current certificates thereof, without prejudice to the right of any Unit Owner to insure his Unit for his own benefit.

In every case of such loss or damage, all insurance proceeds shall be applied as set forth in the Declaration. If reasonably available, every such policy of insurance shall:

(a) provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration or contribution by reason of, any other insurance obtained by or for any Unit Owner;

(b) contain no provision relieving the insurer from liability for loss occurring while the hazard to the Buildings is increased, regardless of whether within the knowledge or control of the Board, or because of any breach of warranty or condition of any other act or neglect by the Board or any Unit Owner or Occupant or any other person under any of them;

(c) provide that such policy may not be canceled (regardless of whether requested by the Board), except by the insurer giving at least thirty (30) days' prior written notice thereof to the Board, the Unit Owners, each holder of a first mortgage or deed of trust relating to a Unit who has filed a copy thereof with the Board as hereinabove provided, and every other person in interest who shall have requested such notice of the insurer;

(d) contain a waiver by the insurer of any right of subrogation to any right of the Board or Unit Owners against any of them or any other person under them; and

(e) contain a standard mortgagee clause that shall:

(1) provide that any preference to a mortgagee in such policy shall mean and include all holders of mortgages on any Unit, in their respective order and preference, whether or not named therein;

(2) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, any Unit Owner or Occupant or any person under any of them;

(3) waive any provision invalidating such mortgagee clauses by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, and any requirement that the mortgagee pay any premium thereon, and any contribution clause; and

(4) provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Corporation.

The Board, on behalf of the Corporation, as a common expense, also shall effect and maintain comprehensive general liability insurance as provided in the Declaration, and from time to time upon receipt thereof cause to be deposited promptly with the Unit Owners and mortgagees of the Units or interests therein, current certificates of such insurance, without prejudice to the right of any Unit Owner to maintain additional liability insurance with respect to his Unit.

If the Property is located in an area designated by the Department of Housing and Urban Development as having special flood hazards, then the Board, on behalf of the Corporation, as a common expense, also shall effect and maintain flood hazard insurance as provided in the Declaration.

ARTICLE VII

EXECUTION OF INSTRUMENTS

Section 1. Instruments Generally. All checks, drafts, notes, bonds, acceptances, contracts and other instruments, except conveyances, shall be signed by such person(s) as shall be designated by general resolution applicable thereto.

ARTICLE VIII

LIABILITY OF OFFICERS, DIRECTORS AND MEMBERS; INDEMNIFICATION; INSURANCE

Section 1. Exculpation. No director or officer of the Corporation shall be liable for acts or defaults of any other officer or member or for any loss sustained by the Corporation or any member thereof, unless the same has resulted from his own willful misconduct or gross negligence.

Section 2. Indemnification. The Corporation shall indemnify and advance expenses to each director and officer of the Corporation and to each member of any committee appointed by the Board pursuant to these By-Laws (and, in either case, his or its heirs, executors, administrators, successors and assigns, as the case may be), to the full extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted. The Corporation may indemnify and advance expenses to Declarant and to any employee or agent of the Corporation who is not a director or officer (and his or its heirs, executors, administrators, successors and assigns, as the case may be) to the same extent as to a director or officer, if the Board determines that to do so is in the best interests of the Corporation. The Corporation also may indemnify and advance expenses to Declarant and to any employee or agent of the Corporation who is not a director or officer (and his or its heirs, executors, administrators, successors and assigns, as the case may be) to the extent, consistent with public policy, that may be provided by the charter of the Corporation, these By-Laws, general or specific action of the Board or contract.

Section 3. Non-Exclusivity of Rights. The indemnification and advancement of expenses provisions of Section 2 of this Article VIII shall not be exclusive of any other right that any person (and his or its heirs, executors, administrators, successors and assigns, as the case may be) may have or hereafter acquire under any statute, provision of the charter of the Corporation, provision of these By-Laws, resolution adopted by the members, resolution adopted by the Board, agreement or policy of insurance, purchased by the Corporation or otherwise, both as to action in his official capacity and as to action in another capacity.

Section 4. Insurance. The Corporation at its expense may maintain insurance to protect itself, Declarant and any individual who is or was a director, officer, employee or agent of the Corporation, or who, while in the capacity of Declarant or a director, officer, employee or agent of the Corporation, is or was serving at the request of the Board or its President as a director,

officer, partner, manager, trustee, employee or agent of another corporation, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise against any expense, liability, loss or damage, regardless of whether the Corporation would have the power to indemnify such person against such expense, liability, loss or damage under this Article, the Act or the Tennessee Nonprofit Corporation Act.

Section 5. Miscellaneous. The Corporation and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge the Corporation's 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, officers, members of such committees, employees, agents or Declarant, or out of the aforesaid indemnity in favor of the directors, officers, members of such committees, employees, agents or Declarant, shall be limited to such Unit Owner's Proportionate Share of the total liability thereunder or hereunder. Every agreement made by the directors, officers, members of such committees, employees, agents, Declarant or the Managing Agent on behalf of the Unit Owners shall provide that the directors, officers, members of such committees, employees, agents, Declarant or the Managing Agent, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such Unit Owner's Proportionate Share of the total liability thereunder.

ARTICLE IX

MISCELLANEOUS

Section 1. Books and Records. Current copies of the Declaration, the charter of the Corporation, these By-Laws, other rules and regulations concerning the Property and the books, records and financial statements of the Corporation shall be available for inspection by any Unit Owner or by any holder, guarantor or insurer of any first mortgage or deed of trust covering a Unit at the principal office of the Corporation. For purposes of this paragraph, "available" shall mean available for inspection, upon request, during normal business hours. Copies may be purchased by such persons at reasonable cost, to be established from time to time by the Board.

Section 2. Financial Statements. A statement of assets and liabilities and a statement of revenues and expenses for the Corporation shall be prepared for each fiscal year of the Corporation. These statements shall be audited by an independent certified public accountant selected by the Board. Said financial statements shall be available within one hundred twenty (120) days of the Corporation's fiscal year-end, and shall be provided to any holder, insurer or guarantor of any first mortgage or deed of trust on a Unit who submits a written request therefor.

Section 3. Amendment of By-Laws. Except as otherwise specifically provided in the Declaration or these By-Laws, these By-Laws may be amended, modified or revoked in any respect from time to time only by the vote of not less than sixty-seven percent (67%) of the Unit Owners; *provided, however*, that (a) the approval of Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by

Eligible Mortgagees shall be required for the amendment of any provision of these By-Laws that relates to any Major Decision, (b) the contents of these By-Laws always shall contain those particulars that are required to be contained herein by the Act, and (c) no modification of or amendment to these By-Laws shall be valid unless set forth in an amendment to the Declaration.

Section 4. Conflict. In the event of any conflict between the provisions of these By-Laws on the one hand and the provisions of the Declaration or the Act on the other hand, the latter shall govern and apply.

Section 5. Terminology. When used herein, the singular shall include the plural, and vice versa, and the masculine, feminine or neuter gender shall include all other genders, as the context requires.

Section 6. Terms Defined in Declaration. Capitalized terms not defined herein shall have the meaning given them in that certain Declaration of Covenants, Conditions and Restrictions for Reid Hill Commons executed by Reid Hill Commons Land Investors, a general partnership, to which these By-Laws are attached and of which these By-Laws are a part.

EXHIBIT C

[Description of Entire Tract]

EXHIBIT "e"

Legal Description of the Property

Tract 1:

A tract of land lying in Franklin, Williamson County, Tennessee, being part of Parcel 19.03 on Tax Map 64 (i.e. Deed Book 605, Page 702) and more particularly described as follows:

Beginning at a highway monument on the southerly right-of-way of Highway 96 West at Boyd Mill Road thence;

1. North $86^{\circ} 54' 38''$ East, 913.01 feet, to a point on said right-of-way thence;
2. South $03^{\circ} 05' 22''$ East, 235.00 feet, to a point, thence;
3. South $44^{\circ} 19' 10''$ East, 508.94 feet, to a point, thence;
4. North $87^{\circ} 59' 22''$ West, 450.13 feet, to a point, thence;
5. North $87^{\circ} 47' 22''$ West, 452.12 feet, to a point, thence;
6. North $88^{\circ} 40' 22''$ West, 587.33 feet, to a point, thence;
7. North $00^{\circ} 20' 38''$ East, 256.62 feet, to a point, thence;
8. Following a curve to the left, with a Radius of 848.51 feet, a length of curve of 242.77 feet, a curve tangent of 122.22 feet, a chord length of 241.94 feet, a chord bearing of North $33^{\circ} 43' 38''$ East, and a Delta of $16^{\circ} 23' 34''$, to a point, thence;
9. North $57^{\circ} 56' 38''$ East, 86.10 feet to the point of beginning.

Tract 2:

A tract of land lying in Franklin, Williamson County, Tennessee, being part of Parcel 19.03 on Tax Map 54 (i.e. Deed Book 605, Page 702) and more particularly described as follows:

Beginning at a common property corner of Parcel 19.03, Tax Map 64 and Parcel 1.06 Tax Map 63 and located on the southerly right-of-way of Highway 96 West, as shown on a survey by Joe A. Payne R.L.S. dated December 30, 1987, thence from said common property corner thence;

1. South $01^{\circ} 17' 38''$ West, 334.13 feet, to a point, thence;
2. South $01^{\circ} 45' 38''$ West, 299.76 feet, to a point, thence;

3. North 87° 59' 22" West, 160.00 feet, to a point, thence;
4. North 44° 19' 10" West, 508.94 feet, to a point, thence;
5. North 03° 05' 22" West, 235.00 feet, to a point, thence;
6. North 86° 54' 38" East, 399.99 feet, to a point, thence;
7. Following a curve to the right along said right-of-way with a Radius of 11,400.00 feet, a length of 145.69 feet, a tangent of 72.84 feet, a chord length of 145.69 feet, a chord bearing of North 87° 16' 38" East, and a Delta of 00° 43' 56" to the point of beginning.

Tracts 1 and 2, containing in the aggregate 20.85 acres, more or less.

Tract 3:

A tract of land lying in Franklin, Williamson County, Tennessee, being part of Parcel 1.06 Tax Map 63 (i.e., Deed Book 581, Page 950 R.O.W.C., Tennessee) and more particularly described as follows:

Beginning at a common property corner of Parcel 19.03, Tax Map 64 and Parcel 1.06, Tax Map 63 and located on the southerly right-of-way of Highway 96 West, as shown on a survey by Joe A. Payne, R.L.S. dated December 30, 1987, thence from said common property corner, thence;

1. Following a curve to the right with a Radius of 11,400.00 feet, a length of curve of 703.80 feet, a tangent of 352.01 feet, a chord length of 703.69 feet, a chord bearing of South 89° 31' 20" West and a Delta of 03° 32' 14" to a point, thence;
2. South 03° 25' 28" East, 258.09 feet, to a point, thence;
3. South 86° 47' 10" West, 726.82 feet, to a point, thence;
4. North 01° 17' 38" East, 292.59 feet, to the point of beginning.

Tract 4:

A tract of land lying in Franklin, Williamson County, Tennessee, being part of Parcel 1.06 Tax Map 63 and more particularly described as follows:

Beginning at a point on the southerly right-of-way of Highway 96 West and a corner of Section One Spencer Hall (i.e., Plat Book 22, Page 99, R.O.W.C., TN) thence from the point of beginning:

1. South 68° 27' 58" West, 451.98 feet, to a point, thence;

2. South $02^{\circ} 29' 08''$ West, 272.39 feet, to a point, thence;
3. South $88^{\circ} 05' 43''$ West, 789.13 feet, to a point, thence;
4. North $01^{\circ} 26' 13''$ East, 154.66 feet, to a point, thence;
5. Following a curve to the left with a Radius of 2167.19 feet, a length of 225.54 feet, a tangent of 112.87 feet, a chord bearing of 225.44 feet, a chord bearing of North $89^{\circ} 46' 39''$ East, and a Delta of $05^{\circ} 57' 46''$ to a point, thence;
6. North $88^{\circ} 05' 43''$ East, 83.29 feet, to a point, thence;
7. Following a curve to the left with a Radius of 5.01 feet, a length of 7.28 feet, a tangent of 4.45 feet, a chord length of 6.66 feet, a chord bearing of North $46^{\circ} 21' 25''$ East and a Delta of $05^{\circ} 57' 46''$ to a point, thence;
8. Following a curve to the right with a Radius of 65.00 feet, a length of 53.04 feet, a tangent of 28.10 feet, a chord length of 51.58 feet, a chord bearing of North $28^{\circ} 01' 42''$ East, and a Delta of $46^{\circ} 45' 12''$ to a point, thence;
9. North $01^{\circ} 54' 17''$ West, 102.88 feet, to a point, thence;
10. North $88^{\circ} 05' 43''$ East, 220.58 feet, to a point, thence;
11. North $15^{\circ} 42' 34''$ East, 240.39 feet, to a point, thence;
12. Following a curve to the right with a Radius of 11,400.00 feet, a length of 603.50 feet, a tangent of 301.82 feet, a chord length of 603.43 feet, a chord bearing of South $81^{\circ} 49' 14''$ East and a Delta $03^{\circ} 01' 59''$ to the point of beginning.

Tracts 3 and 4, containing in the aggregate 11.05 acres, more or less.

Being the same property conveyed to Reid Hill Commons Land Investors by deed of record in Book 2256 Page 859, Register's Office for Williamson County, Tennessee.

EXHIBIT "C"
 Legal Description of the Property
 (Continued)

Tract 5:

A tract of land in the 5th Civil District of Williamson County, Tennessee being Parcel 19.02 on Tax Map 64, according to a boundary survey by F. Roberts Alley & Associates, dated September 21, 1999 and more particularly described as follows:

Commencing at an existing iron pin located next to a Highway Monument, on the southerly margin of State Route 96; thence South $01^{\circ} 17' 30''$ West, 292.59 feet to an existing iron pin, being the northwest corner of said Parcel 19.02 and the point of beginning; thence

1. North $86^{\circ} 47' 10''$ East, 1,085.08 feet to an existing iron pin located on the westerly margin of Down Blvd.; thence
2. South $01^{\circ} 26' 12''$ West, along said westerly margin, 391.88 feet to a new iron pin; thence
3. South $86^{\circ} 44' 34''$ West, 1,086.62 feet, to an existing iron pin; thence
4. North $0^{\circ} 39' 04''$ East, 392.82 feet, to the point of beginning.

This tract contains 424,554 square feet or 9.75 acres more or less.

Being the same property conveyed to Reid Hill Commons Land Investors, a Tennessee general partnership by deed of record in Book 2240, page 106, Register's Office for Williamson County, Tennessee.

Included in the above described property but expressly excluded therefrom is the following described property:

A tract of land lying in Franklin, Williamson County, Tennessee, being part of Parcel 13 Tax Map 77 and more particularly described as follows:

1. Commencing at a point, said point being South $01^{\circ} 26' 12''$ West, 222.87 feet from a point where the southerly right-of-way of Highway 96 West and the westerly right-of-way of Downs Boulevard intersect, thence from said point;
2. South $01^{\circ} 26' 12''$ West, 80.06 feet, to a point, thence;
3. South $89^{\circ} 11' 24''$ West, 351.83 feet, to a point, thence;
4. North $03^{\circ} 25' 28''$ West, 65.04 feet, to a point, thence;
5. North $86^{\circ} 47' 10''$ East, 358.25 feet to a point of beginning.

Containing 25,724 square feet or .59 acres more or less

EXHIBIT D

[Calculation of Proportionate Shares]

Each Unit Owner is allocated a percentage undivided ownership interest in the Common Elements and a percentage ownership of the total membership in the Corporation in an amount equal to the product obtained by multiplying (a) the fraction obtained by dividing (i) the number of Units owned by such Unit Owner by (ii) the total number of Units constituting a part of the Property, by (b) one hundred percent (100%).

State of Tennessee, County of WILLIAMSON
Received for record the 11 day of
SEPTEMBER 2002 at 3:47 PM. (REC# 494935)
Recorded in official records
Book 2552 pages 543- 602
Notebook 70 Page 76
State Tax \$.00 Clerks Fee \$.00
Recording \$ 302.00, Total \$ 302.00
Register of Deeds SADIE WADE
Deputy Register KELLY FALKNER

Rochford Realty and Construction Company, Inc.
Limited Home Warranty

Warranty Information:

Homeowner(s): _____

Covered Home located at: (Street Address)

Date of Completion: _____

Sales Price: \$ _____

Home Buyer Acknowledgment of Limited Home Warranty and Arbitration:

I/we acknowledge and agree all disputes, including claims of fraud or fraudulent inducement, under and relating to the Limited Home Warranty (including disputes in which issues are to be submitted to arbitration; alleged breach of the Limited Home Warranty; and alleged violations of statutes or regulations relating to consumer protection or unfair trade practices) shall be submitted to binding arbitration before an independent third party arbitration organization, with each party responsible for their own attorney fees and costs. I/we agree that the decision of the arbitrator(s) shall be binding on all parties. Any such binding arbitration(s) shall be conducted in accordance with the rules and procedures applicable to the arbitration organization hearing the dispute or, where those rules are silent, the United States Arbitration Act. The parties hereby agree that any and all disputes arising out of or related to their agreement or this Warranty or the construction or condition of the premises shall be resolved by binding arbitration in accordance with the rules and procedures of the American Arbitration Association or its successor (or an equivalent organization as selected by Builder. In addition, Buyer agrees that Buyer may not initiate any arbitration proceeding for any claim arising out of the agreement or the Warranty or relating to the construction or condition of the premises unless and until Buyer has first given builder specific written notice and a reasonable opportunity after such notice to cure any default, including the repair of the premises, in accordance with the Warranty. The provisions of this paragraph survive settlement. This arbitration clause is governed by the Federal Arbitration Act.

Homeowners Signatures:

Dated: _____

Introduction

The first section of this warranty (hereafter "Warranty" or "Limited Warranty") contains the limited warranty. The second section is a list of Performance Standards to which Rochford (hereinafter "Builder") and the Homeowner(s) agree to under this Warranty. Specific items under the Performance Standards are listed under separate areas of coverage. Within the Performance Standards, all items are covered during the Warranty period only. This Warranty and the agreement between the parties and any and all disputes arising out of or related to their agreement or this Warranty or the construction or condition of the premises shall be governed by the laws of the State of Tennessee. This Warranty is not assignable and is for the protection of the original Buyer only. No representations or warranties exist other than what is expressed herein. No oral agreements, whether express or implied, are binding on Builder, including but not limited to, the warranties of good workmanship, liability, merchantability and fitness for a particular purpose. Builder also disclaims and waives any responsibility for toxic, hazardous or other conditions in soils or any responsibility to investigate or remediate the presence of such conditions should they exist.

Section I: Coverage

- A. During the Warranty period, which commences on the day that title to the Covered Home transfers to the Homeowner(s), and ends at midnight on the 365th day thereafter, Builder assures that the Covered Home will be free from:
1. Defects in materials or workmanship as defined in the Performance Standards except as they apply to defects in appliances, fixtures and equipment which are not covered by this Warranty.
 2. Defects in the electrical, plumbing and mechanical systems as defined in the Performance Standards, including the wiring, piping and ductwork portions of the systems.

NOTE: Defects in any of the Covered Home's electrical, plumbing and mechanical systems resulting from failures in an appliance, fixture or piece of equipment which are covered by a manufacturer's warranty are NOT covered by this Warranty.

- B. Common elements of condominiums as they pertain to this Warranty will be warranted against defects as stated in sections A and B. Common elements are defined as any portion of a primary condominium structure which is provided for the common use of the residents of the structure. Coverage for the common elements shall commence on the date the primary structure is complete or the use and occupancy of the first unit, whichever is first. Where applicable, repairs of major portions of the condominium common elements (i.e. stairwells, decks, balconies and arches of the structure) deemed defective by a licensed engineer selected by Builder, are covered under this Warranty to assure that the health and

safety of the occupants is not affected. If a defect in the common elements affects individual units, these defects will also be covered. Limited common areas shall be covered under their own warranty as provided under this document for individual units or homes.

C. MAJOR STRUCTURAL DEFECTS LIMITED WARRANTY

1. This Warranty also provides coverage for Major Structural Defects as herein defined, in the Covered Home, which occur during the Warranty period.
2. Subject to the limits provided in this Warranty, Builder will repair or replace a covered Major Structural Defect or pay the Homeowner(s) the reasonable actual cost of such repair or replacement. The choice as to repair, replacement or payment to the Homeowner(s) shall be solely that of Builder and Builder shall have total discretion as to the method and the manner of repair and/or replacement of the Major Structural Defect. The Homeowner(s) herein agrees to the method and manner of repair and/or replacement selected by Builder.

Repair of the Major Structural Defect is limited to:

- a. The repair of damage to the load-bearing portions of the Covered Home, which is necessary to restore its load-bearing ability.
 - b. The repair of damage to the load-bearing portions of the Covered Home, which make the structure unsafe, unsanitary or otherwise unlivable.
3. Unless prohibited by applicable law, Builder is responsible to the Homeowner for construction deficiencies and Major Structural Defects arising during the term of coverage. The maximum amount payable under this Warranty is the actual cost to correct a deficiency or the original sales price of the Covered Home as shown in this Warranty, whichever is less. Repair and/or replacement made under the terms and conditions of this Warranty shall not extend the term of the Warranty.

Section II: What Builder Will Do

If a defect occurs on an item during the Warranty period, and the item is covered by the Warranty, Builder will repair or replace the defective item. Builders' total liability under this Warranty for the repair or replacement of defective items is limited to the original purchase price of the Covered Home. The choice to repair or replace a defective item is solely that of Builder. Any repair or replacement shall not extend the Warranty period or any applicable part thereof, nor shall such repair give rise to a separate cause of action against Builder so as to create a new period of limitations within which Builder

may be sued, nor does such repair to the original Warranty period. The Homeowner(s) herein agrees to the method and manner of repair and/ or replacement selected by Builder.

Section III: What the Homeowner(s) Must Do

- A. If the Homeowner(s) has a complaint on any item covered by this Warranty under Section I A, B or C during the applicable part of the Warranty period, the Homeowner(s) must send a clear and specific written complaint to Builder (stating the date on which the defect occurred). This written notice must be received by Builder no later than the last day of the expiration of the Warranty period. In case of an emergency problem, the Homeowner(s) must notify Builder immediately in order that further damages can be mitigated. The Homeowner(s) should take immediate action if circumstances dictate the need. Builder will not be responsible for the repair for damages resulting from a homeowner's failure to report an emergency problem.

If such notice is not received by Builder by the deadline set forth above, a claim or complaint for the defect will be deemed to have been waived by the Homeowner(s) and the claim or complaint will be rejected by Builder.

- B. Should a Major Structural Defect (as defined below) occur during the Warranty term, the Homeowner(s) must notify Builder in writing within a reasonable time after the structural defect arises, and in any event no later than the last day prior to the expiration of the Warranty term, specifically listing in the written notice to Builder the following:

1. The date the defect was first noticed, and
2. The specific nature of the defect.

If such notice is not received by Builder by the deadline set forth above, a claim or complaint for the defect will be deemed to have been waived by the Homeowner(s) and the claim or complaint will be rejected by Builder.

If, in the opinion of Builder, there is reasonable cause to agree with the Homeowner(s) claim of a Major Structural Defect, a representative of Builder will inspect the alleged defect. Upon concurrence of the claim being a Major Structural Defect under the Warranty, Builder will arrange to correct the problem.

If Builder does not concur with the assertions of the Homeowner(s), Builder may arrange for an independent state licensed engineer to observe the alleged defects. If the engineer's written report does not identify the problem as being a Major Structural Defect under the Warranty, the claim will be denied. If the engineer's written report identifies the problem as being a Major Structural Defect under the Warranty, Builder will arrange to correct the problem.

Section IV: Condominium

When the Covered Home is a condominium unit, the Homeowner(s) may file and pursue any claim against Builder directly provided such claim is solely for the limited common area. Claims involving common elements may only be filed by the Association directly against Builder provided the approval is given by a majority of the Board of Directors and is in concurrence with the separate Homeowners Association documents.

Section V: Major Structural Defect

A. "Major Structural Defect" is actual physical damage to the following designated load-bearing portions of the Covered Home when the actual physical damage is caused by failure or defect of such load-bearing portions:

1. Foundation systems and footings;
2. Supporting beams and headers;
3. Ceiling and floor joists, girders;
4. Lintels;
5. Load-bearing columns, partitions and walls;
6. Walls and partitions;
7. Structural floor systems;
8. Roof framing systems, roof rafters, sheathing and trusses.

The actual physical damage must affect the load-bearing function to the extent that the Covered Home becomes unsafe, unsanitary or otherwise uninhabitable and the repair will be limited to ensure only that the Covered Home is restored to a condition approximating the condition just prior to the defect; not to a "like new" condition. However, Builder will repair or replace or pay the reasonable cost of repair or replacement of designated non-load-bearing portions of the Covered Home, and systems of the Covered Home, which make the Covered Home unsafe, unsanitary or otherwise unlivable and were damaged by a Major Structural Defect, such as the restoration of the functionality of damaged windows, exterior doors, and the electrical, plumbing, heating, cooling and ventilating systems. The option to repair or to pay the reasonable cost is solely the Builder's. All repairs and/ or replacements made by Builder will be covered for the balance of the Warranty term.

Specific elements of non-load-bearing elements which are deemed not to have structural defect potential are:

1. Non-load-bearing partitions and walls;
2. Wall tile or coverings;
3. Plaster, laths, or drywall;
4. Flooring or sub-flooring material;
5. Brick, stucco, or stone veneer;

6. Any type exterior siding;
7. Roof shingles and tar paper;
8. Heating, cooling, ventilating, plumbing, electrical and mechanical systems;
9. Appliances, fixtures, or items of equipment;
10. Doors, trim, cabinets, hardware, paint, stains;
11. Insulation;
12. CATV- telephone- alarms- intercoms

B. Should a Major Structural Defect occur within the Warranty term, the Homeowner(s) must notify Builder as set forth in Section III above. This notification, fully describing the defect must be given within a reasonable time after the Major Structural Defect arises, and in any event no later than the day prior to the expiration of the Warranty. Any claims reported after the last day of the expiration of the Warranty term are not covered.

Section VI: Exclusions

Consequential Damages Are Excluded

A. The following are excluded from coverage under this Warranty:

1. Defects in outbuildings, including detached carports and detached garages (except those outbuildings which contain the plumbing, electrical, heating, cooling or ventilation systems serving the Covered Home); patios, walkways, driveways; swimming pools and other recreational facilities; fences, boundary walls, retaining walls; bulkheads (except where boundary walls, retaining walls and bulkheads are necessary for the structural stability of the Covered Home); landscaping (including sodding, seeding, shrubs, trees and plantings); off-site improvement, or any other improvements made after the effective date of this Warranty; or
2. Contamination caused or created by natural or man-made chemicals, compounds or substances, or breakdown or adverse effect of compounds, chemicals, or substances used in the construction of the Covered Home which does not result in physical damage to the structure. Such contamination is not covered even if the home is rendered uninhabitable unless physical damage is sustained; or
3. Damage to any additions to the Covered Home which were not constructed by Builder and which were not included in the purchase price paid to Builder for the Covered Home; or
4. Any damage that is caused or made worse by:

- a. Dampness or condensation due to the failure of the Homeowner(s) to maintain adequate ventilation; or
 - b. Changes in grading done by anyone other than Builder or its employees, agents or subcontractors, and authorized by Builder in the original construction of the Covered Home; or
 - c. Failure by the Homeowner(s) to give notice to Builder of any defects within the time period set forth herein; or
 - d. Negligence in proper maintenance and/or operation of any one of the systems covered under this Warranty; or
 - e. Changes, alterations or additions made to the Covered Home by anyone other than those performed by Builder under the obligations of this Warranty; or
 - f. Failure by the Homeowner(s) or anyone other than the Builder to comply with the warranty requirements of manufacturers of appliances, equipment or fixtures; or
5. Any defect in, or caused by, materials or work done to the Covered Home which is supplied by anyone other than Builder, its employees or agents or subcontractors acting on Builders' behalf; or
 6. Normal wear and tear or normal deterioration; or
 7. Any loss or damage which the Homeowner(s) have not taken timely action to prevent or minimize; or
 8. Any damage caused by soil movement, if compensation is provided by state legislation or covered by other insurance or any damage as a result of insufficient (or change in) adequate load-bearing capacity of the soil, sub-soils or surfaces of the soil; or
 9. Insect damage; or
 10. Loss or damage not caused by defect in the construction of the Covered Home by Builder, its employees, agents or subcontractors, but resulting from accidents of riot or civil commotion or Acts of God, including but not limited to fire, explosion, smoke, water escape, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood, mudslide, sinkhole, earthquake, volcanic eruption, radiation contamination, or bio-haz mat and changes in the level of the underground water table; or

11. Any loss or damage which may arise while the Covered Home is being used primarily for non-residential purposes; or any illegal operation or characteristics; or
12. Any condition which does not result in actual physical damage to the Covered Home; or
13. Cost of transportation, food, storage, moving, shelter or other incidental expenses related to relocation during repair;
14. Any claim reported to Builder after an unreasonable delay or later than the expiration of the Warranty term.

Section VII: General Conditions

- A. **Mortgagee Clause:** Builder will, where applicable, make payment for any claim to the Homeowner(s) and the Mortgagee as their respective interests may appear. In all cases, payment must meet the guidelines of the governmental agency providing financing of the subject property.
- B. **Resale:** Only the original title holder to the home including the Mortgagee is entitled to coverage under this policy. Original buyer(s) agrees that no claim shall exist in any event beyond the terms outlined within these documents.
- C. **Delay:** If Builder performance or its obligations are delayed by any event not resulting from its own conduct, Builder will be excused from performing until the effect of that event is remedied or not a factor.

Examples of such events: Acts of God or common enemy, war, civil commotion, sovereign conduct, weather, or act of persons who are not parties to this Agreement.
- D. **Warranties:** In the event Builder repairs or replaces, or pays the cost of repairing or replacing any defect covered by this Warranty for which you are covered by other insurance or warranties, you must, upon request by Builder, assign the proceeds of such repair, replacement or payment to Builder.
- E. **Access to Premises:** By accepting this Warranty, the Homeowner(s) agree to and understand that access to, on, through or within the Covered Home and related premises during reasonable workday hours will be available so that any deficiency may be corrected and the Warranty service performed.
- F. **General:** Should any provisions of this Warranty be deemed by a court of competent jurisdiction to be unenforceable, that determination will not affect the enforceability of the remaining provisions. Use of one gender in this Warranty includes all other genders; and use of the plural includes the singular as may be

appropriate. This Warranty is to be covered by and construed in accordance with Tennessee law.

Section VIII: Definitions

- A. Dwelling or Home: A single or multi-family structure for residential use.
- B. Approved Standards: The federal, state, county or local building standards or codes affecting construction standards, plumbing, electrical, heating, cooling and ventilating systems in the area in which the Covered Home is built.
- C. Major Structural Defect: Actual physical damage to designated load-bearing portions of the Covered Home when the actual physical damage is caused by failure or defect of such load-bearing portions. The actual physical damage must affect the load-bearing function to the extent that the Covered Home becomes unsafe, unsanitary or otherwise uninhabitable. (See Section V).
- D. Consequential Damage: Any property damage or bodily injury which follows as a result of structural damage, including defects in plumbing, electrical, heating, cooling or ventilation systems or any other items covered by this Warranty.
- E. Performance Standards: The standards contained in this Warranty are industry wide quality construction standards for home construction. They are used to determine the validity of homeowner complaints related to deficient workmanship and materials and major mechanical systems on warranted items during the Warranty period.
- F. Warranty Document: The written terms of this Warranty.

Performance Standards

Important Notice

When determining responsibility under these Performance Standards, only reports from Builder approved outside construction consultants (inspection firms, contractors, etc.) will be considered. Some outside firms and individuals feel it is their responsibility to locate possible problems rather than to resolve issues under consideration and they regularly address items not covered under the terms of this Warranty. The Homeowner(s) is provided the opportunity to inspect the Covered Home prior to closing, at which time the Homeowner(s) should verify that the following standards have been met by Builder. By closing on the purchase and taking title to the Covered Home, Homeowner(s) waive any complaint as to any alleged violation of the Performance Standards at the time of closing. **The following are the standards used by Builder.**

I. Site Work

Site Grading

- * POSSIBLE DEFICIENCY: Settling of ground around foundation, utility trenches, or other areas.

PERFORMANCE STANDARD: Settling of ground around foundation, utility trenches or other filled areas shall not interfere with water drainage away from the unit.

BUILDER RESPONSIBILITY: Builder shall fill those areas where proper drainage has been affected. This shall be done one time only, during the Warranty term. The Homeowner(s) shall be responsible for replacement of all grass, shrubs and landscaping in the affected area.

Site Drainage:

- * POSSIBLE DEFICIENCY: Improper drainage of the site.

PERFORMANCE STANDARD: Necessary grades and swales will be completed by Builder to insure proper drainage away from the unit. Standing or ponding water shall not remain for extended periods in the immediate area after a rain (generally no more than 24 hours), except swales which drain longer than other areas, or where sump pumps discharge. A longer drainage period can be expected in this area but generally no more than 48 hours. A possibility of standing water after a heavy rainfall should be anticipated. Grading determination shall not be made while there is frost or snow on the ground, or while the ground is saturated.

BUILDER RESPONSIBILITY: Builder is responsible only for initial establishment of proper grades and swales.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) is responsible for maintaining proper grades and swales once they have been properly completed. Damage caused by Homeowner(s) installed decks, pools, patios, planter, etc. which interfere with proper site drainage are not covered. Erosion due to heavy rains and storms is not covered.

II: Concrete

Expansion and Contraction of Joints:

- * **POSSIBLE DEFICIENCY:** Separation or movement of concrete slab within the structure at expansion, contraction and/ or isolation joints causing random cracking.

PERFORMANCE STANDARD: Concrete slabs within the structure are designed to move at expansion, contraction and/ or isolation joints. Expansion and contraction causes random cracking in concrete slabs.

BUILDER RESPONSIBILITY: None.

Cast-In-Place Concrete:

- * **POSSIBLE DEFICIENCY:** Basement or foundation wall cracks.

PERFORMANCE STANDARD: Shrinkage cracks greater than 1/8 inch in width will be repaired.

BUILDER RESPONSIBILITY: Builder will repair cracks in excess of 1/8 inch in width by surface patching or other methods as determined by Builder.

- * **POSSIBLE DEFICIENCY:** Cracking of basement floor.

PERFORMANCE STANDARD: Minor cracks in concrete basement floors are normal. Cracks exceeding 3/16 inch in width or 1/8 inch in vertical displacement shall be repaired.

BUILDER RESPONSIBILITY: Builder will repair cracks exceeding maximum tolerances by surface patching or other methods as determined by Builder. Builder is not responsible for color variation.

- * **POSSIBLE DEFICIENCY:** Cracking of slab in attached garage.

PERFORMANCE STANDARD: Cracks in garage slabs in excess of ¼ inch in vertical displacement will be repaired.

BUILDER RESPONSIBILITY: Builder will repair cracks exceeding maximum tolerances by surface patching, or other methods as determined by Builder. Builder is not responsible for color variation.

- * POSSIBLE DEFICIENCY: Uneven concrete floors/ slabs.

PERFORMANCE STANDARD: Except for basement floors or where a floor, or portion of a floor, has been designed for specific drainage purposes, concrete floors in rooms designed for habitability shall not have pits, depressions or areas of unevenness exceeding ¼ inch in 36 inches.

BUILDER RESPONSIBILITY: Builder shall correct or repair to meet the Performance Standard with the use of epoxy filler or grout to raise the uneven surface to within tolerance. Any color change in the patch shall be acceptable. Builder is not responsible for color variation.

- * POSSIBLE DEFICIENCY: Cracks in concrete slab-on-grade floors with finish flooring.

PERFORMANCE STANDARD: Cracks which rupture the finish flooring material shall be repaired.

BUILDER RESPONSIBILITY: Builder shall repair cracks, so they are not readily apparent. Builder is not responsible for repairing or replacing the finish flooring material.

- * POSSIBLE DEFICIENCY: Pitting, scaling or spalling of concrete work covered under this Limited Warranty.

PERFORMANCE STANDARD: None

BUILDER RESPONSIBILITY: None.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will avoid damaging the surface by the use of salts and chemicals not specifically designed for the use on these surfaces.

- * POSSIBLE DEFICIENCY: Settling, heaving, or separating of stoops, steps or garage floors structurally attached to the unit.

PERFORMANCE STANDARD: Stoops, steps or garage floors should not settle, heave or separate in excess of 1 inch from the house structures.

BUILDER RESPONSIBILITY: Builder will take whatever corrective action it determines is required to meet the Performance Standard.

- * POSSIBLE DEFICIENCY: Standing water on stoops.

PERFORMANCE STANDARD: Water should drain from all outdoor stoops and steps. Minor water standing on stoops for a short period after rain is a possibility.

BUILDER RESPONSIBILITY: Builder shall provide drainage of steps and stoops, including installing weep holes in the concrete as needed.

III. Masonry

Unit Masonry:

- * POSSIBLE DEFICIENCY: Non structural foundation wall cracks.

PERFORMANCE STANDARD: Small cracks not affecting structural stability are not unusual in mortar joints of masonry walls. Cracks greater than 1/8 inch in width will be repaired.

BUILDER RESPONSIBILITY: Builder will repair cracks in excess of 1/8 inch by pointing or patching. These deficiencies shall be reported and repairs made during the Warranty period. Builder is not responsible for variation in color of repair.

- * POSSIBLE DEFICIENCY: Cracks in masonry walls or veneer.

PERFORMANCE STANDARD: Small cracks due to shrinkage are common in mortar joints in masonry construction. Cracks greater than 3/8 inch in width will be repaired.

BUILDER RESPONSIBILITY: Builder shall repair cracks in excess of Performance Standard by pointing or patching. These repairs shall be reported to Builder, but made close to the end of the Warranty period to allow expansion, contraction and normal settling. Builder will not be responsible for color variation between old and new mortar.

IV: Wood and Plastic

Rough Carpentry:

- * POSSIBLE DEFICIENCY: Floors or sub-floor seems loose.

PERFORMANCE STANDARD: Floor squeaks and loose sub-floor are often temporary conditions common in new construction, and a squeak-proof structure cannot be guaranteed.

BUILDER RESPONSIBILITY: Builder will correct the problem only if caused by an underlying construction defect.

* POSSIBLE DEFICIENCY: Uneven wood floors.

PERFORMANCE STANDARD: Floors shall not be more than ¼ inch out of level within any 32 inch horizontal measurement. Allowable floor and ceiling joist deflections are governed by the applicable building code.

BUILDER RESPONSIBILITY: Builder will correct or repair to meet Performance Standard.

* POSSIBLE DEFICIENCY: Bowed walls.

PERFORMANCE STANDARD: All interior and exterior walls have slight variances on finished surfaces. Any bowing of walls should not detract from or blemish a wall's finish surface. Any allowable structural deflections shall be governed by the governing approved building code.

BUILDER RESPONSIBILITY: Builder will correct or repair bowed walls as to allow no more than ¼ inch bow in 32 inches.

* POSSIBLE DEFICIENCY: Out of plumb walls.

PERFORMANCE STANDARD: Walls should not be more than ¼ inch out of plumb for any 32 inch vertical measurement.

BUILDER RESPONSIBILITY: Builder will repair to meet the Performance Standard.

Finish Carpentry (Interior):

* POSSIBLE DEFICIENCY: Poor quality of interior trim workmanship.

PERFORMANCE STANDARD: Joints in mouldings or joints between mouldings and adjacent surface shall not result in open joints exceeding 1/8 inch in width.

BUILDER RESPONSIBILITY: Builder will repair defective joints as defined. Caulking is acceptable. Builder is not responsible for color variation.

Finish Carpentry (Exterior):

- * POSSIBLE DEFICIENCY: Exterior finish siding has open joints between pieces of trim.

PERFORMANCE STANDARD: Joints between exterior trim elements, including siding and masonry, shall not result in open joints in excess of 3/8 inch. In all cases the exterior trim, masonry and siding shall be capable of performing its function to exclude the elements.

BUILDER RESPONSIBILITY: Builder will repair only once during the Warranty period. Caulking is acceptable.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain the exterior finish by periodic caulking and painting.

- * POSSIBLE DEFICIENCY: Inadequate clearance of wood siding from finished grade.

PERFORMANCE STANDARD: There should be a 6 inch clearance between the wood siding and the finished grade at the time of closing.

BUILDER RESPONSIBILITY: Builder will insure that there is a minimum 6 inch clearance between the siding and finished grade at the time of closing or first occupancy, whichever comes first.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain a 6 inch clearance between the siding and finished grade. If there is no such clearance at the time of closing, Homeowner(s) shall so notify Builder. If Homeowner fails to comply with this obligation, Homeowner(s) thereby waives the enforceability of this Performance Standard.

- * POSSIBLE DEFICIENCY: Counter tops separate from the wall.

PERFORMANCE STANDARD: Separations of counter tops from the walls will not exceed 3/8 inch.

BUILDER RESPONSIBILITY: Builder will repair only once during the Warranty period. Caulking is acceptable. Builder is not responsible for color variation.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will not overload cabinets.

V. Thermal and Moisture Protection

Waterproofing:

- * POSSIBLE DEFICIENCY: Leaks in basement.

PERFORMANCE STANDARD: Leaks resulting in actual trickling of water shall be repaired. Leaks caused by improper landscaping installed by anyone other than Builder or failure by the Homeowner or anyone other than Builder to maintain proper grades are not covered by this Warranty. Dampness of the walls or floors may occur in new construction and is not considered a deficiency.

BUILDER RESPONSIBILITY: Builder will take such action as necessary to correct basement leaks except where the cause is determined by Builder to result from Homeowner(s) action or negligence. **BUILDERS' SOLE RESPONSIBILITY UNDER THIS PARAGRAPH IS TO PREVENT WATER INTRUSION. UNDER NO CIRCUMSTANCE SHALL BUILDER BE RESPONSIBLE FOR CURING OR REMEDIATING MOLD OR MILDEW OR DAMAGES OR INJURIES ARISING FROM MOLD OR MILDEW.**

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain proper grade and drainage around the home.

- * POSSIBLE DEFICIENCY: Leaks in crawlspace.

PERFORMANCE STANDARD: Builder does not guarantee the crawlspace to be free of water leaks or moisture.

BUILDER RESPONSIBILITY: Builder will install positive drain to carry standing water outside of foundation.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain proper grade and drainage around the home.

Insulation:

- * POSSIBLE DEFICIENCY: Insufficient insulation.

PERFORMANCE STANDARD: Insulation will be installed in accordance with local applicable energy and building code requirements or, as applicable, FHA and VA requirements.

BUILDER RESPONSIBILITY: Builder will insulate the home as required to meet local energy and building requirements. This will not make a room sound proof.

Louvers and Vents:

- * POSSIBLE DEFICIENCY: Leaks due to snow or rain driven into the attic through louvers or vents.

PERFORMANCE STANDARD: Attic vent/louvers must be provided for proper ventilation of the attic space of the structure.

BUILDER RESPONSIBILITY: None.

Roofing and Siding:

- * POSSIBLE DEFICIENCY: Ice build-up on roof.

PERFORMANCE STANDARD: During prolonged cold spells, ice build-up is likely to occur at the eaves of a roof. This condition occurs when snow and ice accumulate and gutters and downspouts freeze up.

BUILDER RESPONSIBILITY: None

HOMEOWNER RESPONSIBILITY: Prevention of ice build-up on a roof is a Homeowner(s) maintenance item.

- * POSSIBLE DEFICIENCY: Roof or flashing leaks.

PERFORMANCE STANDARD: Roofs or flashing shall not leak under normally anticipated conditions, except where cause is determined to result from ice build-up or Homeowner(s) action or negligence.

BUILDER RESPONSIBILITY: Builder will repair any verified roof or flashing leaks not caused by ice build-up or Homeowner(s) action or negligence.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain the roof and periodically remove leaves, pine needles, and other debris from the roof surface, valley gutters and down spouts.

- * POSSIBLE DEFICIENCY: Standing water on flat roof.

PERFORMANCE STANDARD: Water shall drain from a flat roof except for minor ponding immediately following a rainfall unless the roof is specifically designed for water retention.

BUILDER RESPONSIBILITY: Builder will take corrective action to assure proper drainage of roof.

- * POSSIBLE DEFICIENCY: Declamation of veneer siding or joint separation.

PERFORMANCE STANDARD: All siding shall be installed according to the manufacturers and industry accepted standards. Separations and declamations shall be repaired or replaced.

BUILDER RESPONSIBILITY: Builder will repair or replace affected siding, as needed, unless caused by manufacturer's defect or Homeowner(s) neglect to maintain siding properly. Repaired area may not match in color and/or texture. For surfaces requiring paint, Builder will paint only the new materials. The Homeowner(s) can expect that the newly painted surface may not match original surface in color.

SHEET METAL:

- * POSSIBLE DEFICIENCY: Gutters and /or downspouts leak.

PERFORMANCE STANDARD: Gutters and downspouts shall not leak but gutters may overflow during heavy rain.

BUILDER RESPONSIBILITY: Builder will repair leaks one time during the Warranty period. Caulking is acceptable.

HOMEOWNER RESPONSIBILITY: Homeowner(s) will maintain caulking and sealing in exterior walls.

- * POSSIBLE DEFICIENCY: Water standing in gutters.

PERFORMANCE STANDARD: When gutters are unobstructed by debris, the water level shall not exceed one inch.

BUILDER RESPONSIBILITY: Builder will repair any deficiency once during the Warranty period. Builder is not responsible for color variation.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will keep leaves and debris out of gutters and downspouts to assure proper water flow. Homeowner(s) will maintain caulking and sealing in exterior walls.

- * POSSIBLE DEFICIENCY: Interior water seepage.

PERFORMANCE STANDARD: Caulking in areas where water is supplied such as sinks, tubs and showers is required to exclude penetrating water away from surrounding dry areas.

BUILDER RESPONSIBILITY: Once during the first year Builder will repair any area deemed to be deficient, to meet the performance standard. Builder is not responsible for color variation.

HOMEOWNER RESPONSIBILITY: Caulking is an on-going responsibility of the Homeowner(s).

VI: DOORS AND WINDOWS

WOOD AND PLASTIC DOORS:

- * POSSIBLE DEFICIENCY: Warpage of exterior doors.

PERFORMANCE STANDARD: Exterior doors may warp to some degree due to temperature differential on inside and outside surfaces. However, they shall not warp to the extent that they become inoperable or cease to be weather resistant or exceed the National Woodwork Manufacturer's Association Standards (1/4 inch, measured diagonally from corner to corner).

BUILDER RESPONSIBILITY: Builder will correct or replace and refinish defective doors during the Warranty period. Repairs or replacements may not match the original door, but will match as closely as possible.

HOMEOWNER RESPONSIBILITY: If the Homeowner(s) paints or stains the outside doors, the surface must be properly prepared before applying paint or stain.

- * POSSIBLE DEFICIENCY: Warpage of interior passage and closet doors.

PERFORMANCE STANDARD: Interior doors (full openings) shall not warp in excess of the National Woodwork Association Standards (1/4 inch measure diagonally from corner to corner).

BUILDER RESPONSIBILITY: Builder will correct or replace and refinish defective doors to match existing doors as nearly as possible during the Warranty period.

- * POSSIBLE DEFICIENCY: Shrinkage of insert panels reveal raw or unpainted wood edges.

PERFORMANCE STANDARD: Panels will naturally shrink and expand and may expose unpainted surface(s).

BUILDER RESPONSIBILITY: None.

- * POSSIBLE DEFICIENCY: Split in door panel.

PERFORMANCE STANDARD: Split panels shall not allow visible light or weather intrusion through the door.

BUILDER RESPONSIBILITY: Builder will, if light is visible, fill split and match paint or stain as closely as possible, one time during the Warranty period.

- * POSSIBLE DEFICIENCY: Malfunction of door locks and hardware.

PERFORMANCE STANDARD: Door locks and hardware shall operate as designed.

BUILDER/ HOMEOWNER RESPONSIBILITY: Correction of any defect shall be agreed upon prior to acceptance of the home.

GLASS:

- * POSSIBLE DEFICIENCY: Glass is broken or scratched.

PERFORMANCE STANDARD: None.

BUILDER RESPONSIBILITY: Defective glass not reported to Builder prior to closing is the Homeowner(s) responsibility.

TUB/ SHOWERS:

- * POSSIBLE DEFICIENCY: Tubs or cast tubs or showers may have a chip on finish.

PERFORMANCE STANDARD: Patching is acceptable.

BUILDER RESPONSIBILITY: Touch up with patch repair.

SLIDING DOORS:

- * POSSIBLE DEFICIENCY: Sliding doors do not operate properly.

PERFORMANCE STANDARD: Builder will assure that sliding doors are installed according to manufacturer specifications.

BUILDER RESPONSIBILITY: Builder will adjust or repair inoperative sliding doors, one time only, during the Warranty period.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) must maintain the sliding doors per manufacture specifications. The slide tracks must be kept clean and free of debris, the rollers lubricated and adjusted.

GARAGE DOORS ON ATTACHED GARAGES:

* POSSIBLE DEFICIENCY: Garage doors fail to operate under normal use.

PERFORMANCE STANDARD: Garage doors shall operate properly.

BUILDER RESPONSIBILITY: Builder shall correct or adjust garage doors as required, except where the cause is determined to result from Homeowner(s) negligence. If a Homeowner(s) installs a garage door opener, Builder will no longer be responsible for the operation of the garage door.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will lubricate all movable parts as mentioned in the operating manual.

* POSSIBLE DEFICIENCY: Garage doors allow intrusion of water or snow.

PERFORMANCE STANDARD: Garage doors will be installed as recommended by the manufacturer. Some intrusion of the elements can be expected under abnormal conditions.

BUILDER RESPONSIBILITY: Builder shall adjust or correct garage doors one time only during the Warranty period, unless intrusion of water or snow is caused by Homeowner(s) negligence, in which case Builder shall have no liability to adjust or correct garage door.

WOOD, PLASTIC, AND METAL WINDOWS:

* POSSIBLE DEFICIENCY: Malfunction of windows.

PERFORMANCE STANDARD: Windows will operate with reasonable ease, as designed. Condensation involving windows is a manufacturer's warranty issue.

BUILDER RESPONSIBILITY: Builder will correct as required.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will keep tracks and rollers cleaned, lubricated and adjusted.

* POSSIBLE DEFICIENCY: Condensation and/or frost on windows.

PERFORMANCE STANDARD: Windows will collect condensation on interior surfaces when extreme temperature differences and high humidity levels are present. Condensation is usually the result of climatic/ humidity conditions, sometimes created by the Homeowner(s) comfort preference. Condensation involving windows is a manufacturer's warranty issue.

BUILDER RESPONSIBILITY: Unless attributed to faulty installation, window condensation is a result of conditions beyond Builders' control. No corrective

action required. Condensation may form between layers of glass in insulated windows, but Builder has no responsibility.

HOMEOWNER RESPONSIBILITY: If a humidifier is installed, the Homeowner(s) will follow the manufacturer's recommendations for proper setting of the humidistat.

WEATHERSTRIPPING AND SEALS:

- * POSSIBLE DEFICIENCY: Air infiltration around doors and windows.

PERFORMANCE STANDARD: Infiltration is normally noticeable around doors and windows, especially during high winds. Poorly fitted weather stripping shall be adjusted or replaced.

BUILDER RESPONSIBILITY: Builder will adjust or correct improperly fitted doors, windows and weather stripping one time during the Warranty period.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) may need to have storm doors and windows installed to provide satisfactory solutions in high wind areas.

VII. FINISHES

LATH AND PLASTER

- * POSSIBLE DEFICIENCY: Cracks in interior wall and ceiling surfaces.

PERFORMANCE STANDARD: Hairline cracks are not unusual in interior wall and ceiling surfaces. Cracks greater than 1/8 inch in width are considered excessive.

BUILDER RESPONSIBILITY: Builder will repair cracks exceeding 1/8 inch in width as required, one time only, during the Warranty period. Builder is not responsible for color variation.

GYPSUM WALLBOARD:

- * POSSIBLE DEFICIENCY: Defects which appear during the Warranty such as nail pops, blisters in tape, or other blemishes.

PERFORMANCE STANDARD: Slight blemishes such as nail pops, seam lines and cracks not exceeding 1/8 inch in width are common in gypsum wallboard installations and are considered acceptable.

BUILDER RESPONSIBILITY: Builder will repair only cracks exceeding 1/8 inch in width, one time only, during the Warranty period. Builder is not

responsible for color variations in the paint or differences in finished texture. In any event any repair to drywall will be limited to drywall repair. Homeowner will be responsible for any paint touchup.

CERAMIC AND MARBLE TILE:

- * **POSSIBLE DEFICIENCY:** Ceramic or marble tile cracks or becomes loose.

PERFORMANCE STANDARD: Ceramic or marble tile cracks or becomes loose as a result of expansion or contraction of the surface upon which it is placed. Builders' responsibility as to this issue should be discussed and documented in a written agreement prior to closing to avoid misunderstandings. Unless otherwise agreed, the following Builder responsibilities apply.

BUILDER RESPONSIBILITY: None.

FINISHED WOOD FLOORING:

- * **POSSIBLE DEFICIENCY:** Wood flooring does not adhere.

PERFORMANCE STANDARD: Wood flooring shall not lift or become unglued.

BUILDER RESPONSIBILITY: Builder shall repair or replace, at Builders' sole option, the affected wood flooring as required. Builder shall not be responsible for color variation of wood flooring or for problems caused by Homeowner(s) neglect or abuse.

- * **POSSIBLE DEFICIENCY:** Cracks developing between floorboards.

PERFORMANCE STANDARD: Cracks in excess of 1/8 inch in width shall be corrected.

BUILDER RESPONSIBILITY: Builder will repair cracks in excess of 1/8 inch within the Warranty period by filling or replacing, at Builders' option.

RESILIENT FLOORING:

- * **POSSIBLE DEFICIENCY:** Nail pops appearing on the surface of resilient flooring.

PERFORMANCE STANDARD: Readily apparent nail pops will be repaired.

BUILDER RESPONSIBILITY: Builder shall correct nail pops which are above surface. Builder will repair or replace, at Builders' sole option, resilient floor covering in the affected area with similar material. Builder will not be responsible for discontinued patterns or color variations in the floor coverings.

- * POSSIBLE DEFICIENCY: All depressions or ridges exceeding 1/8 inch shall be repaired. The ridge or depression measurement is taken at the gap created at one end of a six-inch straight edge placed over the depression or ridge with three inches of the straight edge on one side of the defect, while held tightly to the floor.

PERFORMANCE STANDARDS: Builder will assure that the surface of the flooring does not have any observable cuts and gouges.

BUILDER RESPONSIBILITY: Builder will repair cuts and gouges reported in writing prior to closing or first occupancy, whichever occurs first.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will protect the resilient floor surface by having protective devices installed and/or maintained for appliances and furniture legs and feet.

- * POSSIBLE DEFICIENCY: Resilient flooring does not adhere.

PERFORMANCE STANDARD: Resilient flooring shall not lift, bubble or become unglued.

BUILDER RESPONSIBILITY: Builder shall repair or replace, at Builders' sole option, the affected resilient flooring as required. Builder shall not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by Homeowner(s) neglect or abuse.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will protect the resilient floor surface by having protective devices installed and/or maintained for appliances and furniture legs and feet.

PAINTING:

- * POSSIBLE DEFICIENCY: Exterior paint or stain peels, deteriorates or fades.

PERFORMANCE STANDARD: Exterior paints or stains should not fail during the Warranty period. Fading is normal and the degree is dependent on climatic conditions.

BUILDER RESPONSIBILITY: If paint or stain is defective, Builder will prepare and refinish affected areas, matching color as close as possible. Where finish deterioration affects the majority of a wall area, the whole area will be refinished. Builder will not be responsible for faded exterior paint on a door over which homeowner has installed a storm door, as the heat build-up between the two doors may cause paint to fade more rapidly than under other conditions.

HOMEOWNER RESPONSIBILITY: The homeowner(s) will maintain the exterior surfaces per the manufacturer specifications.

- * POSSIBLE DEFICIENCY: Deterioration of varnish or lacquer finishes.

PERFORMANCE STANDARD: Natural finishes on interior woodwork shall not deteriorate during the Warranty period. Varnish type finishes used on the exterior will deteriorate rapidly and are not covered by the Limited Warranty.

BUILDER RESPONSIBILITY: Builder will retouch affected areas of natural finish interior woodwork, attempting to match the color as closely as possible. Beyond completion of initial punchlist, signed by Homeowner, Builder is not responsible for interior touch up of walls on woodwork. As previously stated, any drywall repair by Builder will result in Homeowner responsibility for touch up. Where Builder does touch up, no guarantee exists as to paint match.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain these surfaces per the manufacturer specifications.

- * POSSIBLE DEFICIENCY: Mildew, mold or fungus.

PERFORMANCE STANDARD: Mildew or fungus may form if the structure is subject to abnormal exposures (i.e., rainfall, moisture or waterfront property).

BUILDER RESPONSIBILITY: None. UNDER NO CIRCUMSTANCE SHALL BUILDER BE RESPONSIBLE FOR CURING OR REMEDIATING MOLD OR MILDEW OR DAMAGES OR INJURIES ARISING FROM MOLD OR MILDEW.

HOMEOWNER RESPONSIBILITY: Mold and mildew control is a Homeowner(s) responsibility. The Homeowner(s) is responsible for cleaning and maintaining surfaces in order to minimize the presence of mildew and fungus.

WALL COVERINGS:

- * POSSIBLE DEFICIENCY: Peeling of any wall covering.

PERFORMANCE STANDARD: Peeling of wall covering shall not occur.

BUILDER RESPONSIBILITY: Builder shall replace or repair defective wall covering applications installed by Builder. Builder will not repair or replace any wall covering installed by others.

- * POSSIBLE DEFICIENCY: Edge mismatching in pattern of wall covering.

PERFORMANCE STANDARD: Not a construction defect, but should be called to Builder attention prior to closing. Builder bears no responsibility for repair or replacement of wall covering applied by others.

BUILDER RESPONSIBILITY: None

CARPETING:

- * POSSIBLE DEFICIENCY: Open carpet seams or stretching occurs.

PERFORMANCE STANDARD: Wall to wall carpeting, when stretched, shall not come loose from point of attachment.

BUILDER RESPONSIBILITY: Builder will correct if original installation was at direction of Builder.

- * POSSIBLE DEFICIENCY: Spots on carpet, minor fading.

PERFORMANCE STANDARD: Exposure to light and normal use can cause spots on carpet and /or minor fading.

BUILDER RESPONSIBILITY: None.

STUCCO:

- * POSSIBLE DEFICIENCY: Cracking occurs in exterior stucco wall surfaces.

PERFORMANCE STANDARD: Cracks are not unusual in exterior stucco wall surfaces. Cracks greater than 1/8 inch in width shall be repaired.

BUILDER RESPONSIBILITY: Builder shall surface repair cracks exceeding 1/8 inch in width, one time only, during the Warranty period. Builder is not responsible for color variation.

ROOF TILE:

- * POSSIBLE DEFICIENCY: Broken roof tile.

PERFORMANCE STANDARD: Not a construction defect, but should be called to Builders' attention prior to the purchase of the Covered Home from Builder by Homeowner(s).

BUILDER RESPONSIBILITY: Improper treatment can cause roof tile to crack. When cracked by Builder, employees of Builder, or sub-contractors of Builder, Builder shall be responsible for replacing roof tiles that are cracked.

VIII. SPECIALTIES

LOUVERS AND VENTS:

- * POSSIBLE DEFICIENCY: Inadequate ventilation of attics and crawl spaces.

PERFORMANCE STANDARD: Attic/crawl spaces shall have a ventilation area as required by the approved building code.

BUILDER RESPONSIBILITY: Builder shall provide for adequate ventilation. Builder is not responsible for any alterations to the original louvers and vents or for their failure to ventilate properly due to Homeowner-installed landscaping or to Homeowner's failure to adequately maintain Builder-installed landscaping.

FIREPLACES:

- * POSSIBLE DEFICIENCY: Fireplace or chimney does not draw properly.

PERFORMANCE STANDARD: Properly designed and constructed fireplaces and chimneys will function properly. It is normal to expect that high winds can cause temporary negative draft situations. Similar negative draft situations can also be caused by obstructions such as large branches of trees too close to the chimney. Some homes may need to have a window opened slightly to create an effective draft when the home has been insulated and weather-proofed to meet energy conservation criteria.

BUILDER RESPONSIBILITY: Where there is a fireplace or chimney malfunction, Builder will determine the cause and correct it, if the problem is one of design or construction.

- * POSSIBLE DEFICIENCY: Chimney separation from structure to which it is attached.

PERFORMANCE STANDARD: Newly built fireplaces will often incur slight amounts of separation. Separation shall not exceed 3/8 inch from the main structure in an 8 foot vertical measurement.

BUILDER RESPONSIBILITY: Builder will determine the cause of separation and correct if standard is not met (one time only). Caulking is acceptable.

- * POSSIBLE DEFICIENCY: Fire box paint discolored by fire or heat.

PERFORMANCE STANDARD: None.

BUILDER RESPONSIBILITY: None. Heat from fires will alter finish.

* POSSIBLE DEFICIENCY: Cracked firebrick and mortar joints.

PERFORMANCE STANDARD: None.

BUILDER RESPONSIBILITY: None. Heat and flames from "roaring" fires will cause cracking.

IX. EQUIPMENT

RESIDENTIAL EQUIPMENT:

* POSSIBLE DEFICIENCY: Surface cracks, delamination and chips in high pressure laminate and cultured marble material, tile, and natural stone vanity/kitchen cabinets countertops.

PERFORMANCE STANDARD: Countertops fabricated with high-pressure laminate coverings shall not delaminate.

BUILDER RESPONSIBILITY: Builder will replace delaminated coverings to meet specific criteria. Builder will not be responsible for chips and cracks unless noted prior to closing. Builder will not be responsible for warpage or discoloration that is the result of Homeowner's failure to protect countertop surfaces from contact with excessive heat whether from hot cooking utensils, small appliances, or other sources.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain these surfaces according to manufacturer's specifications. Joints in a laminate surface should be caulked to maintain a proper moisture barrier to assure proper performance of the covering. Homeowner will avoid setting hot items directly on countertops.

* POSSIBLE DEFICIENCY: Kitchen cabinet door and/or drawer malfunctions.

PERFORMANCE STANDARD: Warpage not to exceed ¼ inch as measured from face frame to furthest point of warpage with door or drawer front in closed position.

BUILDER RESPONSIBILITY: Builder shall correct or replace doors or drawer fronts.

* POSSIBLE DEFICIENCY: Gaps between cabinets, ceilings or walls.

PERFORMANCE STANDARD: Acceptable tolerance shall not exceed ¼ inch in width.

BUILDER RESPONSIBILITY: Builder shall correct to meet Performance Standard. Caulking is acceptable. Builder is not responsible for color variation.

HOMEOWNER RESPONSIBILITY: Homeowner shall not overload cabinets.

* POSSIBLE DEFICIENCY: Grout discoloration and chips..

PERFORMANCE STANDARD: None.

BUILDER RESPONSIBILITY: None.

HOMEOWNER RESPONSIBILITY: Homeowner shall seal, keep clean and maintain grout and will avoid chipping surfaces.

X. MECHANICAL

PLUMBING-WATER SUPPLY SYSTEM:

* POSSIBLE DEFICIENCY: Plumbing pipes freeze and burst.

PERFORMANCE STANDARD: Drain, waste/vent and water pipes shall be adequately protected, as required by code, during normally anticipated cold weather, to prevent freezing.

BUILDER RESPONSIBILITY: Builder will correct to meet the code. It is the Homeowner(s) responsibility to drain or otherwise protect lines and exterior faucets exposed to freezing temperatures, but no responsibility exists if damage is the result of HVAC system not functioning correctly or hose bibbs that have had the hose disconnected. Builder is not responsible for freezing of pipes due to HVAC being turned off or malfunctioning

PLUMBING SYSTEM:

* POSSIBLE DEFICIENCY: Leak in faucet or valve.

PERFORMANCE STANDARD: Valves or faucets shall not leak due to defects.

BUILDER RESPONSIBILITY: Builder will repair or replace leaking faucets or valves when due to defects in workmanship or material. Homeowner(s) is responsible for maintenance. An unexpected but common cause of leaks is using the faucet or handles for aid in entering or exiting the bathtub. Homeowners should not use the plumbing fixtures in lieu of a grab bar.

NOTE: Faucets purchased by Buyer and installed by Builder's sub-contractors are not covered.

- * POSSIBLE DEFICIENCY: Defective plumbing fixtures, appliances or trim fittings.

PERFORMANCE STANDARD: Fixtures, appliances or fittings shall comply with each manufacturer's standards.

BUILDER RESPONSIBILITY: Builder will replace any defective fixture or fitting which does not meet acceptable standards, as defined by the manufacture, except for those provided by customer.

- * POSSIBLE DEFICIENCY: Noisy water pipes.

PERFORMANCE STANDARD: There will be some noise omitting from water pipe system due to the flow of water.

BUILDER RESPONSIBILITY: Builder cannot remove all water flow noises and pipe expansion. Builder will eliminate "water hammer" or excessive noise due to improper installation.

- * POSSIBLE DEFICIENCY: Cracking or chipping of porcelain or fiberglass.

PERFORMANCE STANDARD: Cracking or chipping on surface of bathtubs/sinks can occur when hit by sharp or heavy objects.

BUILDER RESPONSIBILITY: Builder will not be responsible for repairs unless damage has been reported to Builder prior to closing and/or listed on the original "punch list".

XI. HEATING AND COOLING

HEATING:

- * POSSIBLE DEFICIENCY: Inadequate heating.

PERFORMANCE STANDARD: Heating system shall be capable of producing an inside temperature of 70 degrees F, as measured in the center of each room at a height of 5 feet above the floor when all interior doors are open. Federal, state or local energy codes shall supersede this standard where such codes have been locally adopted.

BUILDER RESPONSIBILITY: Builder shall correct heating system to provide the required temperatures.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain the heating system and assure that air filters are cleaned/ changed per the manufacturer's recommendations. Balance the dampers and registers to assure proper air distribution. NOTE: Do not place furniture in front of return air.

COOLING:

- * POSSIBLE DEFICIENCY: Inadequate cooling.

PERFORMANCE STANDARD: Where air-conditioning is provided, the cooling system shall be capable of maintaining summer design conditions: In the case of outside temperatures exceeding 95 degrees F, a differential of 15 degrees F is acceptable. Federal, State, or local energy codes shall supersede this standard where such codes have been locally adopted.

BUILDER RESPONSIBILITY: Builder shall correct cooling system to meet temperature conditions in accordance with specifications.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will maintain the cooling system and assure that air filters are cleaned/ changed per manufacture's recommendations. Balance the dampers and registers to assure proper air distribution. NOTE: Do not block return air.

CONDENSATION LINES:

- * POSSIBLE DEFICIENCY: Clogging of condensation lines.

PERFORMANCE STANDARD: None. Condensation lines will clog eventually under normal use

BUILDER RESPONSIBILITY: Builder shall provide unobstructed condensation lines at time of closing.

HOMEOWNER RESPONSIBILITY: Maintenance is required.

EVAPORATING COOLING:

- * POSSIBLE DEFICIENCY: Improper mechanical operation.

PERFORMANCE STANDARD: Equipment shall function properly at standard temperature setting.

BUILDER RESPONSIBILITY: Builder shall correct and adjust so that blower and water system operates as it is designed to operate.

XII: VENTILATION

AIR DISTRIBUTION:

- * POSSIBLE DEFICIENCY: Noisy ductwork.

PERFORMANCE STANDARD: When metal is heated it expands and when it cools it contracts. The result is a cracking sound which is generally to be expected.

BUILDER RESPONSIBILITY: None.

- * POSSIBLE DEFICIENCY: "Oil canning".

PERFORMANCE STANDARD: The stiffing of the ductwork and the gauge of the metal used shall be such that ducts do not "oil can". A booming noise caused by "oil canning" is not acceptable.

BUILDER RESPONSIBILITY: Builder will correct to eliminate this noise.

XIII: ELECTRICAL

ELECTRICAL CONDUCTORS, FUSES AND CIRCUIT BREAKERS:

- * POSSIBLE DEFICIENCY: Fuses blow or circuit breakers "kick out" (excluding ground fault interrupters).

PERFORMANCE STANDARD: Fuses and circuit breakers shall not activate under normal usage.

BUILDER RESPONSIBILITY: Builder shall check wiring circuits for conformity with local, state, or approved national electrical code requirements. Builder shall correct wiring not conforming to code specifications.

HOMEOWNER RESPONSIBILITY: Homeowner shall not overload the circuits. Circuits tripping due to the installation of large appliances not called for in the original specifications of the home may overload a circuit and cause frequent tripping. Builder is not responsible for remedying such a problem.

SERVICE AND DISTRIBUTION:

- * POSSIBLE DEFICIENCY: Ground fault interrupter trips frequently.

PERFORMANCE STANDARD: None.

BUILDER RESPONSIBILITY: None.

OUTLETS, SWITCHES AND FIXTURES:

- * POSSIBLE DEFICIENCY: Drafts from electrical outlets.

PERFORMANCE STANDARD: Electrical junction boxes on the exterior walls may produce airflow whereby the cold air can be drawn through the outlet into a room. The problem is normal in new home construction.

BUILDER RESPONSIBILITY: None.

- * POSSIBLE DEFICIENCY: Malfunction of electrical outlets, switches or fixtures.

PERFORMANCE STANDARD: All switches, fixtures and outlets should operate as intended.

BUILDER RESPONSIBILITY: Builder shall repair or replace defective switches, fixtures and outlets.

XIV: MECHANICAL

PLUMBING-WATER SUPPLY SYSTEM:

- * POSSIBLE DEFICIENCY: Water supply system fails to deliver water.

PERFORMANCE STANDARD: All connections to municipal water main and private water supply (except equipment, pumps, motors, valves, switches and related items) shall be Builders' responsibility. Private systems shall meet applicable codes at time of construction. NOTE: Water pressure is outside Builder control for any amount above utility company standards (usually 32 PSI).

BUILDER RESPONSIBILITY: Private systems shall be designed and installed in accordance with approved building, plumbing and health codes. Builder will repair if failure is the result of defective workmanship or materials. Builder has no responsibility for elimination of the sources of supply when the problem is beyond Builders' control. Builder is not responsible for water quality.

PLUMBING-SEPTIC TANK SYSTEM:

- * POSSIBLE DEFICIENCY: Septic system fails to operate properly.

PERFORMANCE STANDARD: Septic system shall be designed and installed to comply with applicable, approved code requirements. Septic system shall function adequately and handle properly designed flow of household effluent specified by the governing health and building department regulations in effect at

the time of construction and during all seasons, under normal local climactic conditions. Approval of the governing regulatory authority at the time of construction shall evidence Builders' compliance with this standard.

BUILDER RESPONSIBILITY: Builder shall repair, or correct, malfunctioning or non-operating systems, if failure is caused by inadequate design, faulty installation, or other cause relating to actions of Builder or Builders' contractors, or sub-contractors. Builder will not be responsible for system malfunction or damage, which is caused by Homeowner(s) negligence, lack of system maintenance, or other causes attributable to actions of the Homeowner(s) or Homeowner's contractors, not under the control of Builder. These include, but are not necessarily limited to, the addition of fixtures, items of equipment, appliances, pumps, motors, valves or switches, or other sources of waste or water to the plumbing system served by the septic system and damage, or change, to the septic system installation or surrounding soil conditions that may be critical to the system's functioning.

HOMEOWNER RESPONSIBILITY: The Homeowner(s) will properly maintain the system by maintaining proper grades, landscaping and protecting the area from heavy vehicular traffic which could cause soil compaction. Septic tanks may need to be pumped during periods of excessive use or extended rainfall. Seek a reliable septic tank contractor for this service.

PLUMBING- PIPING:

- * **POSSIBLE DEFICIENCY:** Leakage from piping.

PERFORMANCE STANDARD: No leaks of any kind shall exist in any waste, vent or water pipe. Condensation does not constitute leakage.

BUILDER RESPONSIBILITY: Builder shall make repairs to eliminate leakage.

- * **POSSIBLE DEFICIENCY:** Stopped up sewers, fixtures and drains.

PERFORMANCE STANDARD: Sewers, fixtures and drains will operate properly.

BUILDER RESPONSIBILITY: Where defective construction is shown to be the cause, Builder will assume the cost of the repair. Builder shall not be responsible for sewers, sewer systems, fixtures and drains which are clogged through Homeowner(s) negligence.

HOMEOWNER RESPONSIBILITY: If a problem occurs, the Homeowner(s) should consult Builder for proper course of action. Where Homeowner(s) negligence is shown to be the cause, the Homeowner shall assume all repair costs.

- * **POSSIBLE DEFICIENCY:** Cooling lines leak.

PERFORMANCE STANDARD: Cooling lines shall not develop leaks during normal operation.

BUILDER RESPONSIBILITY: Builder shall repair lines leaking refrigerant and re-charge unit if leakage is caused by defective materials or workmanship by Builder or subcontractors working through Builder or if lines have been damaged during construction. Damage to the lines after closing is the responsibility of the Homeowner.

XV: VENTILATION SYSTEM

AIR DISTRIBUTION:

- * POSSIBLE DEFICIENCY: Ductwork separates or becomes unattached.

PERFORMANCE STANDARD: Ductwork should remain intact and securely fastened.

BUILDER RESPONSIBILITY: Builder will re-attach and re-secure all separated or unattached ductwork provided the detachment is not the result of Homeowner(s) actions.

HOMEOWNER RESPONSIBILITY: Homeowner should make sure that stored materials in attic and crawlspaces do not impede or damage exposed ductwork.

XVI: ELECTRICAL SYSTEM WIRING:

- * POSSIBLE DEFICIENCY: Failure of wiring to carry its designed load to the electrical box.

PERFORMANCE STANDARD: Wiring should be capable of carrying the designed load to the electrical box under normal residential use.

BUILDER RESPONSIBILITY: Builder shall check wiring for conformity with local, state, or approved national electrical code requirements. Builder shall repair wiring that does not conform to code specifications. NOTE: Builder does not warrant and accepts no responsibility for telephones, alarm systems, smoke alarms, cable television, intercoms, outlets, etc.