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91 PGS : AL - RESTRICTIONS	
SHARON BATCH: 11433	
12/29/2006 - 09:12:56 AM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	455.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	457.00

STATE of TENNESSEE, GRAINGER COUNTY

**DOROTHY REAGAN**  
REGISTER OF DEEDS

**CONDOMINIUM MASTER DEED**

**FOR**

**GERMAN CREEK CONDOMINIUMS - THE BLUFFS**

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**TABLE OF EXHIBITS**

Exhibit	Subject Matter
"A"	Legal Description of the Property – Residential Tract and Clubhouse Tract
"A-1"	Map Including Tract A-1
"B"	Unit Areas and Shares of Common Elements and Common Expenses
"C"	Charter of Condominium Owners' Association
"D"	Bylaws of Condominium Owners' Association
"E"	The Plat
"F"	The Plans

**CONDOMINIUM MASTER DEED**

**FOR**

**GERMAN CREEK CONDOMINIUMS-THE BLUFFS**

THIS MASTER DEED (the "Master Deed") is made as of the 28th day of November, 2006, by German Creek Resort, LLC, a Tennessee limited liability company (hereinafter called the "Declarant").

**WITNESSETH**

WHEREAS, Declarant is the fee simple owner of those two tracts of land lying and being in Grainger County, Tennessee, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter called the "Property"); and

WHEREAS, certain improvements have been, or will be, constructed on the Property as shown on the Plat and the Plans that are referenced herein; and

WHEREAS, Declarant has duly incorporated German Creek Condominiums-The Bluffs Owners' Association, Inc. as a nonprofit, mutual benefit corporation under the laws of the State of Tennessee; and

WHEREAS, the Declarant desires to submit the Property to the condominium form of ownership pursuant to the provisions of the Tennessee Horizontal Property Act, Tenn. Code Ann. Sections 66-27-101, et seq., as the same is in effect on the date hereof, and the terms and conditions hereinafter set out.

NOW, THEREFORE, upon the recording of this Master Deed and the Plat and Plans in the Public Records, the Declarant does hereby submit the Property to the condominium form of ownership pursuant to, subject to and in accordance with the provisions of the Act and the terms and conditions hereinafter set forth and subject to all matters of record as of the date hereof.

**ARTICLE 1: NAME**

The name of the condominium is German Creek Condominiums-The Bluffs (hereinafter referred to as the "Condominium").

**ARTICLE 2: DEFINITIONS**

The terms used in this Master Deed, the By-Laws, and the Charter shall have their normal, generally accepted meanings or the meanings given in the Act or the Tennessee Nonprofit Corporation Act. Unless the context otherwise requires, certain terms used in this Master Deed, the By-Laws, and the Charter shall be defined as follows:

"Act": The Tennessee Horizontal Property Act, Tenn. Code Ann. Sections 66-27-101, et seq., as amended from time to time.

"ARB": The Architectural Review Board for the Condominium, if established, as described in Article 13.

**"Association"**: German Creek Condominiums-The Bluffs Owners' Association, Inc., a Tennessee nonprofit, mutual benefit corporation, its successors and assigns.

**"Board of Directors" or "Board"**: The elected body responsible for the management and operation of the Association as further described in the By-Laws.

**"By-Laws"**: The By-Laws of German Creek Condominiums-The Bluffs Owners' Association, Inc. attached to this Master Deed as Exhibit "C" and incorporated herein by this reference.

**"Charter"**: The Charter of German Creek Condominiums-The Bluffs Owners' Association, Inc., filed with the Secretary of State of Tennessee, as amended from time to time.

**"Clubhouse Tract"**: That portion of the Property described on Exhibit "A" as the "Clubhouse Tract" on which are located a clubhouse (the "Clubhouse"), a swimming pool (the "Pool"), and related improvements, such as driveways and parking spaces. The Clubhouse Tract, the Clubhouse, the Pool, and all improvements on the Clubhouse Tract are herein referred to as the "Clubhouse Amenities."

**"Common Element(s)"**: That portion of the property subject to this Master Deed which is not included within the boundaries of a Unit, as more particularly described in this Master Deed.

**"Common Expense(s)"**: The expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including, but not limited to, (a) those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements, including the Limited Common Elements; (b) expenses determined by the Association to be Common Expenses and which are lawfully assessed against Owners; (c) expenses declared to be Common Expenses by the Act or Condominium Instruments; and (d) reasonable reserves established for the payment of any of the foregoing.

**"Community-Wide Standard"**: The standard of conduct, maintenance, or other activity generally prevailing within the "Properties" (as such term is defined in the Master Declaration) and within the Condominium. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the ARB and as in accordance with the Master Documents.

**"Condominium"**: All that property described in Exhibit "A" of this Master Deed and submitted to the provisions of the Act by this Master Deed, all buildings and other improvements now or hereafter located thereon, and any property that is hereafter submitted to the provisions of the Act by supplement or amendment to this Master Deed.

**"Condominium Instruments"**: This Master Deed and all exhibits to this Master Deed, including the By-Laws, the Charter, and the Plat and Plans (as such terms are defined herein) and rules and regulations of the Association, all as may be supplemented or amended from time to time.

**"Declarant Control Period"**: The period of time during which the Declarant or a Declarant-Related Entity owns any portion of the Condominium, has the unilateral right to subject additional property to the Condominium pursuant to this Master Deed, or has any outstanding warranty obligations related to the Condominium. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Master Deed and terminate the Declarant Control Period by recording a written instrument in the Public Records.

**"Declarant-Related Entity"**: Any Person or entity that is a parent, subsidiary, or affiliate of the Declarant, and/or in which the Declarant or any parent, subsidiary, or affiliate of the Declarant or any

officer, director, shareholder, partner, member, manager, or trustee of any of the foregoing owns, directly or indirectly, not less than fifty percent (50%) of the voting rights.

**"German Creek Resort"**: That certain master-planned community described in the Master Declaration in Grainger County, Tennessee, of which the Condominium constitutes all or part of a "Neighborhood" (as defined in the Master Declaration), and commonly referred to as German Creek Resort.

**"Limited Common Element(s)"**: A portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth in this Master Deed.

**"Majority"**: Those votes, Owners, members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

**"Master Association"**: German Creek Resort Community Association, Inc., a Tennessee nonprofit, mutual benefit corporation, its successors and assigns.

**"Master Declaration"**: The Declaration of Covenants, Conditions, and Restrictions for German Creek Resort, to be hereafter executed by Declarant and to be filed of record in the Register of Deeds Office of Grainger County, Tennessee, and as may be supplemented and amended from time to time.

**"Master Documents"**: The "Governing Documents", as more fully defined by Section 1.22 of the Master Declaration, including the Master Declaration, the by-laws, charter, design guidelines, and rules and regulations, if any, of the Master Association, as each may be supplemented and amended from time to time.

**"Mortgage"**: Any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation.

**"Mortgagee"**: The holder of any Mortgage.

**"Owner" or "Unit Owner"**: Each record titleholder of a Unit within the Condominium, but not including a Mortgagee. If a Unit is owned by more than one (1) Person, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.

**"Person"**: Any individual, corporation, firm, association, partnership, trust, or other legal entity.

**"Plat"**: The plat of survey of the Condominium attached hereto as Exhibit "E", and any replacement thereof made by amendment of this Master Deed and recorded in the Register of Deeds of Grainger County, Tennessee.

**"Plans"**: The plans for the Units and other improvements attached hereto as Exhibit "F", and any replacement thereof made by amendment of this Master Deed and recorded in the Register of Deeds of Grainger County, Tennessee.

**"Property"**: That real property defined as the "Property" in the recitals of this instrument.



**"Public Records"**: The office of the Register of Deeds of Grainger County, Tennessee, as applicable, or such other place that is designated as the official location for recording of deeds and similar documents affecting title to real property lying in said county.

**"Total Eligible Association Vote"**: The total vote in the Association, less any votes that have been suspended pursuant to this Master Deed.

**"Tract A-1"**: The tract of real property adjacent to the Condominium and described on Exhibit "A-1" hereto.

**"Unit"**: That portion of the Condominium intended for individual ownership and use as more particularly described in this Master Deed and shall include the undivided ownership in the Common Elements assigned to the Unit by this Master Deed.

### **ARTICLE 3: LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS**

The property subject to this Master Deed and the Act is located in Grainger County, Tennessee, being more particularly described in Exhibit "A" attached to this Master Deed, which exhibit is specifically incorporated herein by this reference. The Declarant shall have the right to file additional plats and plans from time to time as necessary or appropriate to further describe the Units or to comply with the Act, thereby amending the Plat and Plans.

During the Declarant Control Period, Declarant reserves the right, but shall have no obligation, to make improvements and changes to all or part of the Common Elements and to any Unit owned by Declarant (other than changes to the location of Unit boundaries except as expressly permitted herein), including, without limitation, renovation and installation of changes to utility systems and facilities, rearrangement and installation of security and refuse facilities, work relating to building exteriors, and extension of the drives and utility lines and pipes located on the Condominium.

### **ARTICLE 4: UNITS AND BOUNDARIES**

The Condominium is divided into separate Units, the Limited Common Elements and the Common Elements. Each Unit and its appurtenant percentage of undivided interest in the Common Elements shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Plat and Plans. Each Unit includes that part of the structure that lies within the following boundaries:

4.1 **Horizontal (Upper and Lower) Boundaries.** The upper horizontal boundary of each Unit shall be the plane formed by the lower surface of the concrete slab above the Unit, so that the drywall, lath and plaster, wallboard, ceiling tile, or other material comprising the ceiling shall constitute a portion of the Unit. The lower horizontal boundary of each Unit shall be the plane formed by the upper surface of the concrete subfloor of such Unit, with the flooring and subfloor constituting part of the Unit.

4.2 **Vertical Boundaries.** With respect to walls separating the Unit from the exterior of the building or the Unit from a Common Element such as a hallway, the perimetrical or vertical boundaries of each Unit shall be the vertical plane formed by the centerline of the wall separating the Unit from the exterior of the building or from said Common Element. With respect to common walls between Units,

the perimetrical or vertical boundary of the Units served thereby shall be the centerline of such walls. The vertical boundaries include the plaster, "sheetrock" or wallboard, or other material comprising the walls of the Unit as they are extended to their intersections with each other and the upper and lower horizontal boundaries of the Unit.

#### 4.3 Additional Information to Interpret Unit Boundaries.

All exterior doors, windows, and exterior glass surfaces serving the Unit, including the frames for such items, shall be included within the boundaries of the Unit. All portions of heating and air conditioning systems serving a single Unit (including the compressor and any pipes, wires, or lines serving such system located within or outside the Unit boundaries, and all duct work for heating and air conditioning systems), and all appliances and plumbing fixtures within a Unit shall be part of the Unit. Except as otherwise provided herein, all space, interior partitions, and other fixtures and improvements within the boundaries of a Unit shall be deemed a part of that Unit.

(a) All appliances and plumbing fixtures with a Unit shall be a part of the Unit; provided, however, to the extent that any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or any other apparatus lies partially inside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed a part of that Unit; all portions thereof serving more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

(b) In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variances between the boundaries shown on the plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit as appurtenances thereto whether or not separately described in the conveyance thereof, that percentage of the right, title and interest in the Common Elements attributable to such Unit, together with membership in the Association and an undivided interest in the assets held by the Association. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

### **ARTICLE 5: COMMON ELEMENTS**

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit. Ownership of the Common Elements shall be by the Unit Owners as tenants-in-common. Each Unit is allocated an undivided interest in the Common Elements as set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

Such percentages of undivided interest may be altered unilaterally by the Declarant during the Declarant Control Period or by the consent of all Owners and Mortgagees expressed in a duly recorded amendment to this Master Deed. The percentage of undivided interest of each Owner in the Common Elements is appurtenant to the Unit owned by the Owner and may not be separated from the Unit to which it appertains and such appurtenance shall be deemed to be conveyed or encumbered or to otherwise pass with the Unit whether or not expressly mentioned or described in a conveyance or other instrument describing the Unit.

The Common Elements shall remain undivided, and no Owner or any other Person shall have the right to bring any action for partition or division of the whole or any part thereof except as provided herein. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners. Each Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from the Unit over those portions of the Condominium designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Master Deed. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

Although the Clubhouse Tract and the Clubhouse Amenities shall be general Common Elements of the Condominium, there is hereby declared a right of use of the Clubhouse Tract and Clubhouse Amenities, for the benefit of the Future Residential Condominium. The Future Residential Condominium means any residential condominium regime or regimes that may be constructed hereafter upon Tract A-1. As a condition of the right of owners of the Future Residential Condominium to use the Clubhouse Amenities they shall be bound by a written agreement or other instrument, such as a condominium master deed or declaration, to reimburse the Association for a portion of the Common Expenses allocable to the Clubhouse Amenities. The reimbursement amount shall be fair and reasonable, and based upon some reasonable formula, such as a formula based on square footages of the units having rights to use the Clubhouse Amenities or a formula based on the number of units having rights to use the Clubhouse Amenities. The rights hereby declared for the benefit of the Future Residential Condominium are present rights appurtenant to Tract A-1, but the same shall terminate if the Future Residential Condominium shall not have been completed within twenty years after the date hereof.

There is hereby reserved unto Declarant and any Declarant-Related Entity the right to occupy the Declarant Office Space, or any part thereof, for a term of ten years from the date of recording this Master Deed, and an option to occupy the Declarant Office Space, or any part thereof, for a subsequent ten-year term, beginning immediately upon the expiration of the first ten-year term. The Declarant Office Space consists of two office spaces within the Clubhouse, one of 150 square feet and another of 312 square feet, as depicted on the Plans. The rent for such occupancy shall be \$100.00 per year and shall be paid to the Association. Declarant or any related party may use the Declarant Office Space for real property brokerage, real property management, or related activity, notwithstanding any restriction on use contained elsewhere in this instrument.

#### **ARTICLE 6: LIMITED COMMON ELEMENTS**

6.1 Designation. The Limited Common Elements and the Unit(s) to which they are assigned are:

(a) trash chutes, stairs, hallways, and corridors serving only one Unit, or fewer than all Units, are assigned as Limited Common Elements to the Unit or Units so served;

(b) to the extent that a lanai, deck, patio, porch or balcony, together with any enclosure therefor, serving a Unit is not within the boundaries of the Unit, the lanai, deck, patio, porch or

balcony which is appurtenant to a Unit is assigned as a Limited Common Element to the Unit having direct access to such lanai, deck, patio, porch or balcony;

(c) the doorsteps or stoops leading as access to a lanai, deck, patio, porch, or balcony are assigned as Limited Common Elements to the Unit to which the lanai, deck, patio, porch, or balcony is assigned;

(d) the portion of the Common Elements on which there is located any portion of the mechanical system, electrical system, or air conditioning or heating system exclusively serving a particular Unit or Units is assigned as Limited Common Element to the Unit or Units so served;

(e) any utility meter that serves only one (1) Unit is assigned as a Limited Common Element to the Unit so served;

(f) any mailbox or mail slot assigned to a Unit is a Limited Common Element to the Unit to which it is assigned;

(g) to the extent that any of the Common Elements is identified on the Plat or the Plans as a Limited Common Element of a Unit or Units, the same shall be a Limited Common Element of the Unit or Units so indicated;

(h) the parking space or spaces or storage space or spaces, if any, that are assigned to a Unit and that are specified by showing such assignment on the Plat, Plans, or on a supplement to the Plat, the Plans, or this Master Deed recorded in the Public Records are assigned as Limited Common Elements to Units so designated on the Plat, Plans, or any such supplement;

(i) each garage, if any, that is now or hereafter assigned to a specific Unit and that is specified by showing such assignment on the Plat, the Plans, or elsewhere in this Master Deed, or on a supplement to the Plat, the Plans, or this Master Deed recorded in the Public Records, is assigned as a Limited Common Element to the Unit so designated on the Plat, the Plans, elsewhere in this Master Deed, or any such supplement; and

(j) each private boat slip within the Dock (defined in Section 22.4), if any, that is now or hereafter assigned to a specific Unit by this Master Deed or by depiction on the Plat, Plans, or on a supplement to the Plat, the Plans, or this Master Deed recorded in the Public Records is assigned as a Limited Common Element to the Unit so designated on the Plat, Plans, this Master Deed, or any such supplement.

6.2 Assignment by Board. The Owners hereby delegate authority to the Board of Directors, without a membership vote, to assign and to reassign Limited Common Elements, as the Board shall from time to time determine, in its sole discretion; provided, however, that no Limited Common Element now or hereafter assigned to a Unit (or to multiple Units) shall be reassigned without the written approval of such Unit's Owner (or such multiple Units' Owners). Each Owner of a Unit, by acceptance of a deed therefor, is deemed to have agreed upon the assignment of Limited Common Elements set forth herein or made by the Board of Directors.

6.3 Right to Relocate Certain Equipment Serving a Unit. Notwithstanding any provision to the contrary contained herein, the Board, at the sole expense of the Association, shall have the right without need for a membership vote and without the consent of any affected Unit Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust or electrical system serving a

particular Unit, provided that after such relocation, the system serving the Unit functions at least as efficiently and at no greater cost to the Unit Owner as existed prior to the relocation.

## **ARTICLE 7: ASSOCIATION MEMBERSHIP AND ALLOCATIONS**

7.1 Membership. All Owners, by virtue of their ownership of an interest in a Unit, are members of the Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Master Deed and the Act and in accordance with the By-Laws.

7.2 Votes. Subject to the provisions of the Condominium Instruments, each Owner shall be entitled to one (1) vote for each Unit in which such Owner holds the interest required for membership, which vote shall be appurtenant to such Unit. In any situation where there is more than one (1) Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it. The membership rights of an Owner that is not a natural person may be exercised by any officer, director, member, manager, partner, or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association.

7.3 Allocation of Liability for Common Expenses. Except as otherwise provided below, by the Act or elsewhere in the Condominium Instruments, each Unit is hereby allocated liability for Common Expenses in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit as set forth in Exhibit "B".

(a) The Board of Directors shall have the power to assess specifically pursuant to this section, as in its discretion, it deems appropriate. Failure of the Board of Directors to exercise its authority under this section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the right to exercise authority under this section in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority under this section.

(i) Any Common Expenses benefiting less than all of the Units or significantly disproportionately benefiting certain Units may be specifically assessed equitably among all of the Units that are benefited according to the proportionate benefit received, as determined by the Board.

(ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units or by the occupant(s), licensees or invitees of any such Unit or Units may be specifically assessed against such Unit or Units, as determined by the Board.

For purposes of subsection (b) of this Section, non-use or abandonment of Common Elements shall not constitute a benefit to less than all Units or a significant disproportionate benefit among Units.

(b) In the event that the Condominium is served by any common utility meter, the Board shall have the authority to install submeters and assess individual Units or groups of Units utility usage charges as specific assessments as provided herein. This shall include the right of the Board to add a charge to the pertinent Units for the cost of overhead for such submetering and/or to install separate utility meters.

7.4 Master Association. Each Owner, by acceptance of a deed to a Unit, acknowledges and agrees that, pursuant to the Master Documents, all Owners shall be members of the Master Association and shall be subject to terms and conditions of the Master Documents. Additionally, pursuant to the terms of the Master Declaration, the Condominium may be designated as an entire "Neighborhood" (as such term is defined in the Master Documents) or made a part of a Neighborhood. Upon such designation, the president of the Association shall be deemed the "Voting Delegate" and the secretary of the Association shall be deemed the alternate Voting Delegate for purposes of casting all of the votes attributed to the "units" (as such terms are defined in the Master Declaration) within the Condominium on any Master Association matters requiring a membership vote. If there are conflicts between the provisions of Tennessee law, the Master Documents, the Master Deed, the By-Laws, and the Charter, then the provisions of Tennessee law, the Master Documents, the Master Deed, the Charter, and the By-Laws (in that order) shall prevail.

## ARTICLE 8: ASSOCIATION RIGHTS AND RESTRICTIONS

8.1 Right of Entry. The Association shall have the right to enter into Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or occupant of the Unit. No one exercising the rights granted herein shall be liable for trespass or damages by exercising such rights. The failure to exercise the rights herein shall not create any liability to any of the above-referenced parties as no duty by any of the above-referenced parties to enter any Unit exists.

8.2 Rules and Regulations. The Association, acting solely through the Board, shall have the right to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements, and Common Elements.

8.3 Right of Enforcement.

(a) The Board, or a committee established by the Board for such purpose, may impose sanctions for violation of the Condominium Instruments, after compliance with the notice and hearing procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(i) the imposition of monetary fines, which shall constitute a lien upon the Unit of the violator. (Any such fines shall be considered an assessment against the Unit and may be collected in the manner provided for collection of other assessments;

(ii) the suspension of any services provided by the Association to an Owner or to a Unit if the Owner is more than sixty (60) days delinquent in paying any assessment or other charge owed to the Association (provided that any suspension of utility services shall be effected in accordance with any appropriate provisions of Tennessee law) as set forth in this Master Deed;

(iii) suspending an Owner's right to vote; and

(iv) the assignment to the Association of rents that are otherwise due and payable to the Unit Owner.

(b) The Association, at its election, may also impose the following sanctions without the necessity of compliance with the notice and hearing procedures set forth in the By-Laws, provided that the Association is in compliance with the provisions of the Act and this Master Deed:

(i) the initiation of a suit at law or in equity to enjoin any violation or to recover monetary damages; and

(ii) the exercise of self-help.

(c) In pursuing any sanction permitted by the Condominium Instruments and the Act, the Association may levy a specific assessment to cover all costs incurred in bringing a Unit into compliance with the terms of the Condominium Instruments, including, without limitation, reasonable attorneys' and other legal fees.

(d) In the event that any occupant, invitee, tenant or guest of a Unit violates the Condominium Instruments, the Board, or a committee established by the Board for such purpose, may sanction such occupant, invitee, tenant or guest and/or the Owner of the Unit that the violator is occupying or visiting. If a fine is imposed, the fine may first be assessed against the occupant; provided, however, that if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.

(e) All remedies set forth in this Master Deed and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of the Condominium Instruments, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys' and other legal fees actually incurred and court costs in the same manner as an action for collection of assessments.

(f) The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board determines that enforcement action is not justified based upon the particular circumstances. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

(g) The Association, acting solely through the Board, may enforce the provisions of the Master Documents on the Condominium for the benefit of the Master Association, the Association, and their respective members. In addition, the Association, by contract or other agreement, may enforce county, state, and federal laws and ordinances, if applicable, and permit local and other governments to enforce laws and ordinances on the Condominium for the benefit of the Association and its members.

8.4 Permits, Licenses, and Easements. The Association, acting solely through the Board, shall have the right to grant permits, licenses, utility easements, and other easements over, through and under the Common Elements without a vote of the Owners.

8.5 Right of Maintenance. The Association, acting solely through the Board or the Board's designee, shall have the right to control, manage, operate, maintain, improve, and replace all portions of the Condominium for which the Association is assigned maintenance responsibility under this Master Deed.

8.6 Property Rights. The Association, acting solely through the Board, shall have the right to acquire, hold, and dispose of tangible and intangible personal property and real property.

8.7 Casualty Loss. The Association shall have the right to deal with the Condominium in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of the Act and this Master Deed.

8.8 Governmental Entities. The Association shall have the right to represent the Owners in dealing with governmental entities in matters related to their ownership of a Unit in the Condominium.

## ARTICLE 9: EASEMENTS

9.1 Common Elements. The Association, acting solely through the Board, shall have the right to temporarily close any portion of the Common Elements (excluding the Limited Common Elements and any portions of the Common Elements whose closure would deny access to Units or Limited Common Elements) for emergency, security or safety purposes or for any such other reasonable purpose as determined in the sole discretion of the Board, with no prior notice of such closing to the Owners, for a period not to exceed one (1) year. Furthermore, the Association, acting solely through the Board, shall have the right to permanently close any portion of the Common Element(s) (excluding the Limited Common Elements and any portions of the Common Elements whose closure would deny all access to Units or Limited Common Elements) upon thirty (30) days' prior written notice to all Owners. Any portion of the Common Elements that shall have been permanently closed may be reopened by the sole action of the Declarant during the Declarant Control Period, or by action of the Board.

9.2 Cooperation with the Master Association and Other Associations. The Association may contract or cooperate with the Master Association or any other property, homeowners, or condominium associations or entities within German Creek Resort as convenient or necessary to provide services and privileges and to fairly allocate costs among the parties utilizing such services and privileges which may be administered by the Association or such other organizations, for the benefit of Owners, occupants, and their guests, tenants and invitees. The costs associated with such efforts by the Association (to the extent not chargeable to other organizations) shall be a Common Expense if for the benefit of all Owners or shall be a specific assessment if for the benefit of one or more but less than all Owners.

9.3 Easement for Tract A-1. There is hereby reserved and declared an easement across the Clubhouse Tract, for the benefit of Tract A-1, for ingress and egress between Tract A-1 and the public rights-of-way, including by construction vehicles and equipment. The easement shall be for the benefit of all present and future users of Tract A-1, whether Tract A-1 shall be used for residential purposes or other purposes.

## ARTICLE 10: ASSESSMENTS

10.1 Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, welfare, common benefit, and enjoyment of the Owners and occupants of Units in the Condominium as may be more specifically authorized from time to time by the Board of Directors.



10.2 Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments; (iii) specific assessments; and (iv) Master Association assessments, all as herein provided. All such assessments, together with late charges, interest, not to exceed the lesser of the maximum rate permitted by law or eighteen (18%) percent per annum on the principal amount due, costs, and reasonable attorneys' and other legal fees actually incurred, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value; (c) the lien for all sums on any Mortgage to Declarant duly recorded in the land records of the county where the Condominium is located and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument; and (d) the lien of the Master Association for delinquent assessments and other charges due under the Master Documents. All other Persons acquiring liens or encumbrances on any Unit after this Master Deed shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances. The Association's lien may be enforced by suit, judgment, and foreclosure in the same manner as Mortgages are foreclosed under Tennessee law.

Such amounts shall also be the personal obligation of each Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and each successor-in-title to the Unit shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. No Owner may exempt itself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, non-use of the Common Elements, the Association's failure to perform its obligations required under this Master Deed, or inconvenience or discomfort arising from the Association's performance of its duties. The lien provided for herein shall have priority as provided in the Act.

10.3 Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. Accordingly, the remedies available to the Board include, without limitation, the following:

(a) If any installment of annual assessments or any part thereof is not paid in full when due or if any other charge is not paid when due, a late charge equal to the greater of ten dollars (\$10.00) or ten percent (10%) of the amount not paid, or such higher amounts as may be authorized by the Act, but in no event higher than the maximum amount chargeable by applicable law, may be imposed without further notice or warning to the delinquent Owner and interest at the highest rate as permitted by law and adopted by resolution of the Board of Directors shall accrue from the due date.

(b) If partial payment of assessments and related charges is made, the amount received shall be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order of application:

(i) respectively, to any unpaid late charges, interest charges, and specific assessments (including, but not limited to, fines) in the order of their coming due;

(ii) to costs of collection, including reasonable attorneys' and other legal fees actually incurred by the Association; and

(iii) to any unpaid installments of the annual assessment or special assessments in the order of their coming due.

(c) If assessments, fines or other charges or any part thereof due from an Owner are not paid when due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and of any special assessment. If an Owner fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board of Directors may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall lose the privilege of paying the annual assessment in installments for that fiscal year.

(d) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become due and payable, the Association may take any one or all of the following actions, in addition to other remedies permitted by this Master Deed.

(i) institute suit to collect all amounts due pursuant to the provisions of the Master Deed, the By-Laws, the Act, and Tennessee law; and

(ii) suspend an Owner's and/or occupant's right to use the Common Elements; provided, however, the Board of Directors may not limit ingress or egress to or from the Unit.

(e) In the event any assessment is delinquent for sixty (60) days or more, in addition to all other rights provided in the Act and this Master Deed, the Association shall have the right upon ten (10) days written notice, to suspend any utility services, the cost of which are a Common Expense of the Association, including, but not limited to, water, electricity, heat, air conditioning, gas and cable television, to that Unit until such time as the delinquent assessments and all costs permitted pursuant to this subsection are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorneys' fees, shall be an assessment against the Unit and shall be collected as provided herein for the collection of assessments. The notice requirement of this subsection shall be deemed complied with if the notice is mailed to any address the Owner of the Unit has provided in writing to the Association.

(f) The exercise by the Board of one of the remedies set for in this Article shall not preclude the Board from exercising other forms of remedies, as the remedies set forth above are cumulative.

#### 10.4 Computation of Operating Budget and Assessment.

(a) It shall be the duty of the Board to prepare an annual budget covering the estimated costs of operating the Condominium during the coming year. The Board may prepare separate budgets for (i) general Common Expenses and (ii) Common Expenses that significantly disproportionately benefit certain Units. Expenses shall be allocated to Units as provided elsewhere herein.

The Board shall cause the budget and notice of the assessments to be levied against each Unit for the following year to be delivered to each member prior to the beginning of the Association's fiscal year and the effective date of such budget. Such budget and assessment shall become effective upon approval by the Board and, during the Declarant Control Period, by the Declarant. There shall be no obligation to

call a meeting for the purpose of presentation of the budget except on petition of the members as provided for special meetings in the By-Laws.

(b) If the Board fails for any reason to determine the budget for any year, then until such time as a budget shall have been determined, the budget for the immediately preceding year shall continue until such time as the Board determines a new budget. In such case, the Board may propose a new budget at any time during the year. In addition, the Board may prepare a revised budget at any time or from time to time, as necessary in the sole and absolute discretion of the Board. The Board shall send a copy of the revised budget to each Owner prior to its becoming effective. The revised budget shall become effective upon approval by the Board and, during the Declarant Control Period, by the Declarant.

(c) Although the Board shall collect assessments and charges on behalf of the Master Association at the same time that the Board collects annual assessments, the assessments and charges of the Master Association shall not be included within the Association's budget that is prepared pursuant to this Section, as the Owner's obligation to pay such charges and assessments is separate from Owner's obligations pursuant to this Master Deed.

10.5 Special Assessments. The Board of Directors may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners notice of which shall be sent to all Owners. Notwithstanding the above, during the Declarant Control Period, all special assessments must be consented to by the Declarant prior to becoming effective.

10.6 Specific Assessments. The Board shall have the power to specifically assess expenses of the Association against Units (a) receiving benefits, items, or services not provided to all Units within the Condominium that are incurred for specific items or services relating to the Unit or (b) that are incurred as a consequence of the conduct of less than all Owners, their licensees, invitees, or guests. The Association may also levy or specifically assess any Unit to reimburse the Association for costs incurred in bringing the Unit into compliance with the provisions of the Master Deed, any amendment to this Master Deed, the Charter, the By-Laws, and/or rules and regulations of the Association.

10.7 Capital Reserve Budget and Contribution. The Board may, and upon the expiration of the Declarant Control Period, shall, annually prepare a capital reserve budget that shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be established by the Board and included within the budget and assessment as provided herein. A copy of the capital reserve budget, if prepared, shall be distributed to each member in the same manner as the operating budget.

10.8 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to all Units existing within the Condominium when both (a) the first Unit shall have been conveyed to a Person other than the Declarant and (b) the issuance of a certificate of occupancy by the applicable governmental authority, or, if such a certificate is not available, the issuance of a certificate of substantial completion by the architect for the Condominium, for such Unit or any other Unit that shall have been conveyed to a Person other than Declarant. The first assessment on each Unit payable by an Owner may be adjusted according to the number of days or months remaining in the assessment period.

10.9 Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon

written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association may require the payment of a reasonable fee as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

10.10 Capitalization of Association. Upon acquisition of record title to a Unit by the first Owner thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to the greater of (a) \$135,916.00 multiplied by one-half of the Unit's percentage of undivided interest in the Common Elements as set forth on Exhibit "B" or (b) one-half of the annual assessment for the Unit for that year. This amount shall be in addition to, not in lieu of, the annual assessment and any capital fund contribution levied pursuant to any other provision hereof and shall not be considered an advance payment of any assessment. The Association may use the funds to cover operating expenses, to reimburse the Declarant for deposits made on behalf of the Condominium, to repay the Declarant for loans made to the Association and to cover other expenses incurred by the Association pursuant to this Master Deed and the By-Laws.

10.11 Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall be applied against the next year's budget.

10.12 Failure to Assess. Failure of the Board to establish assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

10.13 Master Association Assessments. The Association shall collect all assessments and charges levied against the Units within the Condominium by the Master Association concurrently with collecting the Association's assessments. The Association shall disburse the full amount of the Master Association's assessments and charges to the Master Association on or before the date that such assessments are due. The Association may not claim set-off based upon the Association's inability or failure to collect such assessments from the Owner(s) of Units within such Condominium. Upon acquisition of record title to a Unit by the first Owner thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Master Association in an amount determined by the Board. This amount shall be in addition to, not in lieu of, all other assessments and any capital fund contribution levied pursuant to any other provision hereof and shall not be considered an advance payment of any assessment. The Master Association may use the funds to cover any expense incurred by the Master Association.

#### ARTICLE 11: INSURANCE

11.1. Insurance. The Association or Master Association shall obtain and maintain at all times, as a Common Expense, insurance as required by law and as required herein. All such insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees of Owners, if any. The Board shall periodically review the insurance coverage policies to determine if the policy in force is adequate to meet the needs of the Association. Such insurance shall run to the benefit of the Association, the respective Unit Owners, and their respective Mortgagees, as their

interests may appear. The Association's policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance equals at least the full replacement cost.

(a) To the extent reasonably available at reasonable cost, the Association's insurance policy may but shall not be required to cover fixtures, improvements, and alterations that are part of the building or structure and contained within a Unit, regardless of ownership. If such insurance is not reasonably available, the Association's insurance policy may exclude improvements and betterments made by the individual Unit Owners and may also exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the Unit (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet, and any floor covering), but each Owner shall have the right to obtain additional coverage for such improvements, betterments, or personal property at its own expense.

(b) The Board of Directors shall utilize every reasonable effort to secure a master policy covering physical damage in an amount equal to full replacement costs of all improvements located on the Condominium that will provide the following:

(i) that the insurer waives its rights of subrogation of any claims against the Board of Directors, officers of the Association, the individual Owners, and their respective invitees and occupants of the Unit;

(ii) that the master policy on the Condominium cannot be canceled, invalidated, or suspended on account of the conduct of any director, officer or employee of the Association or the managing agent without a prior demand in writing delivered to the Association and to all Mortgagees of Units to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured;

(iii) that any "no other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;

(iv) that until the expiration of thirty (30) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their agents, employees, occupants or invitees, nor be canceled for nonpayment of premiums;

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

(vi) a construction code endorsement;

(vii) an agreed value endorsement; and

(viii) that the deductible amount per occurrence shall not exceed such amount as determined by the Board.

(c) All policies of insurance shall be written with a company licensed to do business in the State of Tennessee and holding a rating of XI or better in the "Financial Category" as established by A. M. Best Company, Inc., if available, or, if not available, the best rating available. The company shall provide insurance certificates to each Owner and each Mortgagee upon request.

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

(e) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees. Each Unit Owner shall notify the Board of Directors of all structural improvements made by the Unit Owner to its Unit. Any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium, other than improvements and betterments made by such Owner, shall file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance. Such Owner shall also promptly notify, in writing, the Board of Directors in the event such policy is canceled.

(f) In addition to the insurance required herein above, the Board shall obtain as a Common Expense:

(i) worker's compensation insurance if and to the extent necessary to meet the requirements of law;

(ii) public liability and officers' and directors' liability insurance in such amounts as the Board may determine, but in no event less than Two Million Dollars (\$2,000,000.00) per occurrence (such insurance shall contain a cross liability endorsement);

(iii) fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in an amount which in the best business judgment of the Board of Directors reflects the estimated maximum amount of funds, including reserve funds in the custody of the Association at any time during the term of the bond, but not less than two (2) months aggregate assessments, plus reserves on hand as of the beginning of the fiscal year and shall contain waivers of any defense based upon the exclusion of persons serving without compensation; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls that take one or more of the following forms: (1) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which the funds are deposited sends copies of the bank statements directly to the Association; (2) the management company, if any, maintains separate records and bank accounts for each Association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (3) two members of the Board of Directors must sign any check written on the reserve account;

(iv) flood insurance, to the extent that it is required by law or the board determines it to be necessary; and

(v) such other insurance as the Board of Directors may determine to be necessary.

(g) Insurance carried by the Association as a Common Expense shall not be required to include any portion of a Unit not depicted on the original Plat and Plans, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit. Nothing contained

herein gives any Owner or other party a priority over the rights of first Mortgagees as to distribution of insurance proceeds.

(h) Every Unit Owner shall be obligated to obtain and maintain at all times, casualty and liability insurance covering those portions of its Unit to the extent not insured by policies maintained by the Association. Upon request by the Board, the Unit Owner shall furnish a copy of such insurance policy or policies to the Association within thirty (30) days from the date of such request. In the event that any such Unit Owner fails to obtain insurance or to provide copies of the policy or policies as required by this Section, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of assessments under this Master Deed.

(i) In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or both Unit(s) and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected owner's portion of the total cost of repair. Notwithstanding the foregoing, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to such Owner's Unit, if any. If any Owner or Owners fail to pay the deductible when required under this section, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to the assessment provisions of this Master Deed.

(j) Notwithstanding anything to the contrary contained herein, in the event of an insured loss under the Association's insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner that is delinquent in the payment of assessments owed to the Association pursuant to this Master Deed, then the Association may retain and apply such proceeds to the delinquency. Any amount remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

## **ARTICLE 12: REPAIR AND RECONSTRUCTION**

In the event of damage to or destruction of any part of the Condominium insured by the Association as a result of fire or other casualty, unless the Declarant, during the Declarant Control Period, or the Unit Owners holding eighty percent (80%) or more of the Total Eligible Association Vote elect not to proceed with the reconstruction and repair of the structure, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

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

12.2 Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board of Directors, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the additional costs shall be assessed against all

Owners in proportion to each Owner's respective undivided interest in the Common Elements. This assessment shall not be considered a special assessment. If there is a surplus of funds after repair and reconstruction is completed, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

12.3 Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Condominium was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original plans and specifications are approved by the Board of Directors. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damaged as a result of fire or other casualty.

12.4 Encroachments. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

12.5 Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors.

### ARTICLE 13: ARCHITECTURAL CONTROL

13.1 Architectural Standards. Article 9 of the Master Declaration provides for the establishment of a design review board and a modifications committee (individually and collectively, as appropriate, referred to herein as the "Master DRB") to administer the Master Association design guidelines and to review all applications for construction and modifications thereunder. In addition to the requirements set forth in the Master Documents, the Declarant, during the Declarant Control Period, and the Board, thereafter, has the right, without the obligation, to establish, and after establishment, to disband and re-establish from time to time, and architectural review board (as defined in this Master Deed, the "ARB") for the Condominium. Accordingly, except as provided herein, no Owner, occupant, or any other Person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration or construction, nor erect, place or post any object, sign, antenna, lights, artificial vegetation, exterior sculpture, fountain, flag, or thing on the exterior of the buildings, in any windows, on any Limited Common Elements, or any other Common Elements, without first obtaining the written approval of the Master DRB and the ARB, if one has been established and is active. Notwithstanding the above, this article shall not apply to the activities of the Declarant. Furthermore, this article may not be amended during the Declarant Control Period without the Declarant's written consent.

The standard for approval by the ARB of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings and the location in relation to surrounding structures and topography. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ARB may



reasonably require. The ARB or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board of Directors or the ARB may publish written architectural standards for exterior and Common Elements alterations or additions. To the extent there is a conflict between any architectural standards promulgated hereunder and any design guidelines promulgated pursuant to the Master Documents, the more restrictive architectural standards or design guidelines shall control. The architectural standards or design guidelines are not the exclusive basis for decisions of the reviewing bodies and the compliance with such standards or guidelines does not guarantee approval of any application. The ARB may allow such encroachments on the Common Elements and Limited Common Elements as it deems acceptable.

In the event that the ARB fails to approve or to disapprove in writing any stage of an application within forty-five (45) Days after submission of all information and materials reasonably requested, the application shall be deemed denied unless an extension of such time period is agreed to by the ARB and the applicant. Notwithstanding the foregoing, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided that such activities are undertaken in stricture compliance with the requirements of such resolution. However, no approval shall be inconsistent with the provisions of this Article or the Condominium Instruments.

13.2 Architectural Review Board. Except as otherwise noted herein, the Master DRB and the ARB shall have jurisdiction over all construction on any portion of the Condominium. The ARB, if established, shall consist of one (1) to three (3) members, with the exact number being set from time to time by and in the sole discretion of the party that is entitled to appoint and remove ARB members. During the Declarant Control Period, the Declarant retains the right to appoint and remove all members of the ARB, who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to their expiration as provided above, except in a written instrument in recordable form executed by Declarant; provided, however, that the Declarant may delegate certain authority of the ARB to the Association for such periods of time as the Declarant in its sole discretion may decide. Upon expiration of the Declarant Control Period or permanent surrender of such rights, the Board shall either serve as the ARB or set the number of members of the ARB and appoint the members of the ARB, who shall thereafter serve and may be removed in the Board's discretion. Notwithstanding anything to the contrary contained herein, the Master DRB shall have the authority to review and disapprove any decision of the Board or the ARB which the Master DRB determines, in its sole discretion, to be inconsistent with the Master Documents. Additionally, if the Declarant, during the Declarant Control Period, or the Board, thereafter, either does not establish an ARB or suspends operation of the ARB, then the Master DRB, in addition to the rights granted to it by the Master Documents, shall have all rights of the ARB described in this Article and elsewhere in this Master Deed, in addition to those powers described in the Master Documents.

13.3 Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration. In the discretion of the ARB, an Owner may be required to verify such condition of approval by written instrument in recordable form acknowledged by such Owner.

13.4 Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the Declarant, the Association, the Master Association, the Board of Directors of either association, nor the Master DRB or the ARB shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or

modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board of Directors, the ARB, nor members of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

13.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and the ARB will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The approval by either the Board of Directors or the ARB of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors or the ARB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatsoever which are subsequently or additionally submitted for approval or consent.

13.6 Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board of Directors or the ARB, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the ARB shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorneys' and other legal fees, may be assessed against the Unit and collected as an assessment pursuant to this Master Deed. In addition to the foregoing, the ARB shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce its decisions and the provisions of this Article. Any exterior change, alteration, or construction (including landscaping) upon the Common Elements made by an Owner in violation of this Master Deed shall be at such Owner's sole risk and expense. The Board of Directors or the ARB may require that the Owner remove the change, alteration, or construction and restore the Common Elements to its original condition, or may require that the change, alteration or construction remain on the Common Elements without reimbursement to the Owner for any expense incurred in making the change, alteration or construction.

13.7 Master Declaration. The architectural review requirements set forth herein are in addition to, and not in lieu of, those requirements set forth in the Master Documents. Whenever approval of the Board of Directors or the ARB is required hereunder, the granting of such approval shall not obviate the need to comply with the approval procedures set forth in the Master Documents as well. All proposed construction, modifications, alterations, and improvements shall be approved pursuant to this Master Deed before being submitted for approval pursuant to the Master Documents. In addition, the Master DRB shall have the authority to review and disapprove any decision of the Board or the ARB that the Master DRB determines, in its sole discretion, to be inconsistent with the Master Documents.

#### **ARTICLE 14: USE RESTRICTIONS**

Each Owner of a Unit shall be responsible for ensuring that the Owner's invitees, guests, tenants, renters, and occupants comply with all provisions of the Condominium Instruments and the rules and regulations of the Association. Furthermore, each Owner and occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's invitees, guests, tenants, or occupants, as a result of such Person's violation of the Condominium Instruments, the Association may take action under this Master Deed against the Owner as if the Owner committed the violation in conjunction with the Owner's

invitees, guests, tenants, or occupants. Use restrictions regarding the use of Units and the Common Elements are as follows and also as may be adopted by the Board of Directors in accordance with the terms hereof and as specified in the By-Laws. Furthermore, each Owner acknowledges that the use restrictions set forth herein are additional to, and not in lieu of, the use restrictions set forth in the Master Documents.

14.1 Use of Units.

(a) Residential Use. Each Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Unit or any part of the Condominium, including business uses ancillary to a residential use, except that the Owner or occupant residing in a Unit may conduct such ancillary business activities within the Unit so long as: (i) the existence or operation of the activity is not detectable by sight, sound, or smell from outside the Unit; (ii) the activity conforms to all zoning requirements and any other state and/or federal laws governing the Condominium; (iii) the activity does not involve regular visitation of the Unit by persons (including, but not limited to clients, customers, employees, advisors, suppliers, or independent contractors) coming onto the Condominium who do not reside in the Condominium, or door-to-door solicitation of residents or occupants of the Condominium; (iv) the activity does not increase traffic or include frequent deliveries within the Condominium other than deliveries by couriers, express mail carriers, parcel delivery services, and other such delivery services; (v) the activity is consistent with the primarily residential character of the Units and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security of safety of other residents of the Condominium, as may be determined in the sole discretion of the Board; (vi) the activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (vii) there are no signs, advertisements, or plaques of any nature whatsoever visible from the exterior of the Unit; and (viii) the activity does not result in a materially greater use of Common Element facilities or Association services.

(b) The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

(c) Single Family Occupancy. No Unit shall be occupied by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption, or marriage living with not more than one person who is not so related as a single household unit, or no more than three persons who are not so related living together as a single household unit, and the household employees of either such household unit.

(d) Notwithstanding the above, the leasing of a Unit shall not be considered a business or trade within the meaning of this section. The leasing of Units is permitted pursuant to Article 15 hereof. This section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Condominium or portions thereof, or its use of any Units which it owns within the Condominium.

14.2 Alteration of Units. Subject to the other provisions of this Master Deed, Units may be altered and the boundaries of Units may be relocated only as follows:

(a) Alterations of Interiors of the Units. If any Owner acquires an adjoining Unit, such Owner may (subject to the prior written approval of the Mortgagees of the Units involved, the prior written approval of the Board, and, during the Declarant Control Period, the prior written approval of the Declarant) remove all or any part of any intervening partition or create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or part, be part of the Common Elements, so long as no portion of any load bearing wall or column is materially weakened or removed and no portion of any Common Elements is damaged, destroyed or endangered, other than that partition and any chutes, flues, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Condominium. The alterations permitted by this subsection shall not be deemed an alteration or relocation of boundaries between adjoining Units. The Declarant shall have authority to make the alterations to the interior of those Units owned by the Declarant, a Declarant-Related Entity, or any affiliate of the same without the approval of the Association, and the Declarant, without the need for further Owner approval, may execute any required amendment to this Master Deed on the Association's behalf pertaining thereto.

(b) Relocation of Boundaries. Boundaries between adjoining Units may be relocated by the Declarant, during the Declarant Control Period, or by the Owners of the adjoining Units with the consent of the Board after the Declarant Control Period. The Declarant shall have the right to relocate boundaries between Units without the need for further Owner approval and may execute any required amendment to this Master Deed on the Association's behalf pertaining thereto.

(c) Subdivision of Units. An Owner may subdivide its Unit only in accordance with the provisions and requirements of this Master Deed. During the Declarant Control Period, an Owner must obtain prior written consent of the Declarant in order to subdivide its Unit. After the Declarant Control Period has terminated, an Owner must obtain the prior written consent of the Board in order to subdivide its Unit. Notwithstanding the above, the Declarant shall have the right to subdivide Units owned by Declarant or its affiliates without the approval of the Association or the Board, and the Declarant, without the need for further Owner approval, may execute any required amendment to this Master Deed on the Association's behalf pertaining thereto.

14.3 Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on, or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. This prohibition shall not apply to the Declarant.

With the prior written approval of the Board, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Elements for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Elements as provided herein shall assume, on behalf of itself and its invitees, guests, and occupants, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

14.4 Use of Limited Common Elements. Use of the Limited Common Elements is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and such Owner's guests, invitees, and occupants. The Limited Common Elements are reserved for exclusive use, but are a part of the Common Elements, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements.

(a) No objects other than potted plants and patio furniture shall be placed on a balcony or deck assigned as a Limited Common Element to a Unit. Plastic furniture and pots are prohibited. Only furniture or items for which the color, style, and types of materials have been approved by the ARB shall be placed on the balconies and decks. Only clear light bulbs shall be used in balcony and deck light fixtures. This prohibition applies to objects such as, but not limited to, grills, umbrellas, bicycles, laundry garments and towels. Penetration of a balcony or deck is prohibited. Enclosure of a balcony or deck is also prohibited. No Owner may install tile on the floor of his/her/their balcony or deck without the prior written approval of the ARB.

14.5 Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Declarant during the Declarant Control Period and, thereafter, the Board, nothing shall be done or kept on the Condominium, or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body.

Noxious, destructive or offensive activity shall not be carried on upon the Condominium. No Owner or occupant of a Unit may use or allow the use of the Unit or any portion of the Condominium at any time, in any way or for any purpose which may unreasonably endanger the health or unreasonably annoy or disturb or cause embarrassment, discomfort, or nuisance to other Owners or occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with its property or personal rights.

No Owner shall do any work which, in the reasonable opinion of the Board or its designee, would jeopardize the soundness or safety of the Condominium or any structure created thereon, would reduce the value thereof, or would impair any easement or other interest in real property thereto. No damage to or waste of the Common Elements, or any part thereof, or of the exterior of any building shall be permitted by any Owner or any invitee or guest of any Owner..

14.6 Animals and Pets. No animals or pets of any kind shall be kept or maintained on the Condominium. Notwithstanding the above, service animals in active use for disabled persons shall be permitted on all portions of the Condominium. Additionally, this Section and this Master Deed shall not be construed to interfere with or contravene any provision under the Americans with Disabilities Act, as amended, or any similar applicable federal, state or local law, ordinance, or regulation. Notwithstanding the foregoing, this provision shall not apply to the Declarant during the Declarant Control Period.

14.7 Parking. Vehicles may be parked in designated parking areas subject to the terms of the Master Documents. There shall be no parking on grassy areas or sidewalks. The Board may adopt rules concerning any parking within the Condominium. If any vehicle is parking in violation of this Section or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity which will tow the vehicle from the Condominium and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle, the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

Notwithstanding the foregoing, if a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or occupant's Unit, is obstructing the flow of traffic or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this Section, neither the Association nor any officer or agent of the

Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

14.8 Abandoned Personal Property. Personal property shall not be kept or allowed to remain upon any portion of the Common Elements, other than on Limited Common Elements, without the prior written permission of the Board.

(a) If the Board or its designee, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Elements in violation of this Section, then the Board may remove and either discard or store the personal property in a location which the Board may determine. Prior to taking any such action, the Board shall place a notice on the personal property and/or on the front door of the Unit of the owner of such property, if known, specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

(b) If two (2) days after such notice is placed on the personal property and/or the front door of the Unit, the violation continues or thereafter occurs again within six (6) months of such notice, the personal property may be removed in accordance with the original notice, without further notice to the owner or user of the personal property.

(c) Notwithstanding anything to the contrary, the Board, in its discretion, may determine that an emergency situation exists, and the personal property abandoned or stored in violation of this Section may, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board in a location which the Board may determine; provided, however, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

(d) If personal property is removed in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

14.9 Signs. No signs, advertising posters, billboards, canopy or awnings, or any variation of the foregoing of any kind shall be erected, placed, or permitted to remain on the Condominium or within or on the doors and windows of the Units without the prior written consent of the Board or its designee. Notwithstanding the foregoing, the Declarant may approve and erect signs for the purpose of carrying on business related to the development, improvements, and sale of Units in the Condominium, and such signs shall not be subject to approval or regulation by the Association, the ARB, or by the Board.

Any and all costs and expenses for obtaining any and all required governmental approvals for any approved sign shall be the sole obligation of the relevant Unit Owner and such Owner shall be solely responsible for any and all costs and expenses necessary to maintain, repair, replace, or improve such permitted sign and window displays.

14.10 Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except as

provided herein. Rubbish, trash, and garbage shall be placed in proper receptacles in a manner designated by the Board for collection or shall be removed from the Condominium.

14.11 Impairment of Units and Easements. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another Unit or impair any easement or other interest in real property, nor do any act nor allow any condition to exist which will adversely affect the other Units or their Owners or occupants.

14.12 Unsightly or Unkempt Conditions. Activities that might tend to cause disorderly, unsightly, or unkempt conditions shall not be pursued or undertaken on any part of the Condominium. Area rugs, cleaning supplies, appliances, furniture, and other items shall not be placed or stored outside the Unit.

14.13 Heating of Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five degrees (55°) Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two degrees (32°) Fahrenheit or below. Owners and occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. The Board of Directors may fine any Owner or occupant of a Unit and/or may cause the water service to the violator's Unit to be discontinued for violation of this Section, in addition to any other remedies of the Association. Any fine imposed pursuant to this Section shall be deemed an assessment against the Unit and may be collected in the same manner as herein provided for collection of assessments.

14.14 Window Treatments. The color and type of any window treatments that are visible from outside any Unit must be approved by the ARB prior to their installation.

14.15 Replacing the Flooring. Other than the Declarant or a Declarant-Related Entity, no Owner, occupant, or any other Person may replace or restore the flooring material on the interior of a Unit that is located above another Unit without first obtaining written approval of the ARB, as set forth in this Master Deed. Approval of the ARB shall be required, notwithstanding the fact that the proposed change or alteration may be entirely within a Unit. Among other factors, the ARB may consider whether the change will cause noise to any Unit below that will exceed an acceptable level of noise, and whether the weight of such proposed flooring is appropriate or will cause problems to the structure or sub-flooring. The Owner applying for such approval shall provide the ARB with information regarding these factors, as well as any other information requested by the Declarant or the ARB regarding the proposed flooring and its effect.

14.16 Lighting. Exterior lighting shall not be permitted except for approved lighting as originally installed on a Unit or any additional lighting as may be approved by the appropriate reviewing body. Additionally, seasonal decorative lights may be installed by the Unit Owners, with the prior approval of the ARB, during the usual and common season. Notwithstanding the foregoing, the Declarant, any Declarant-Related Entity, or any affiliate of same shall be permitted to install and maintain exterior lighting in addition to that which was originally installed on the Unit without the necessity of obtaining approval from the Association, the ARB, or the Board.

14.17 Elevators. The Board shall have the right to promulgate rules and regulations regarding use of elevators.

## ARTICLE 15: LEASING

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Master Deed and By-Laws, in order to enforce the provisions of this Article.

15.1 Definition. "Leasing," for purposes of this Master Deed, shall include the regular, exclusive occupancy of a Unit by any Person or Persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

15.2 Leasing Provisions. Leasing shall be governed by the following provisions:

(a) General. Units may be leased in their entirety. No Person other than Declarant, any Declarant-Related Entity, any affiliate of Declarant, or Declarant's designee shall sublease any Unit or assign any lease unless prior written approval is obtained from the Board of Directors. The Unit Owner must make available to the lessee copies of the Governing Documents.

(b) Compliance With Master Deed, By-Laws, and Rules and Regulations, Use of Common Elements, and Liability for Assessments. Any lease of a Unit shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner and each lessee, by occupancy of a Unit, covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Unit:

(i) Compliance With Master Deed, By-Laws, and Rules and Regulations. The lessee shall comply with all provisions of the Master Deed, By-Laws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure compliance with the foregoing. The Owner shall cause all occupants of its Unit to comply with the Master Deed, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Master Deed, By-Laws, and rules and regulations adopted pursuant thereto. In the event that the lessee violates the Master Deed, By-Laws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine shall be assessed against the lessee in accordance with the By-Laws. If the fine is not paid by the lessee within the time period set by the Board, the Board may assess the fine against the Owner and the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit.

Any violation of the Master Deed, By-Laws, or rules and regulations adopted pursuant thereto by the lessee or any occupant is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Tennessee law. The Owner of a Unit hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Master Deed, By-Laws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorneys' and other legal fees and court costs, associated with the eviction shall be an assessment and lien against the Unit.



(ii) Use of Common Elements. Except where the Owner also occupies the Unit, the Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements of the Condominium.

(iii) Liability for Assessments. When a Unit Owner who is leasing its Unit fails to pay any annual, special, or specific assessments or any other charge for a period of more than thirty (30) days after is the same are due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual, special, and specific assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for rental payments unpaid at the time of the Board request. If the rental from the Unit is being collected by any agent or management company, then the Association may assert its rights under this assignment against such agent or management company and the agent or management company shall pay any funds, which would otherwise be payable to the Unit Owner, to the Association in payment of delinquent assessments and costs of collection. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under this Master Deed as if lessee were an Owner. In the event the Association is unsuccessful in collecting such rent or in the event no rent is owed by the occupant of the Unit, or in the event the Unit is occupied by the Owner, then and in that event, the Association is authorized, after notice to the Owner and any occupant, to discontinue any and all services to the Unit, including but not limited to telephone service, water service, electric service, maintenance and repair, and cleaning of Limited Common Elements. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which such Owner would otherwise be responsible.

(c) Garages & Boat Slips. Rights of use of the garages and boat slips in the Dock shall not be leased to members of the general public. The Unit Owner to whom any right of use of any garage is now or hereafter assigned as a Limited Common Element may lease that right of use only to tenants of his Unit or to persons who are Owners of other Units in the Condominium or tenants of other Units in the Condominium, and only for use in connection with such ownership or tenancy. The Unit Owner to whom any right of use of any boat slip in the Dock is now or hereafter assigned as a Limited Common Element may lease that right of use only to tenants of his Unit or to persons who are Owners of other Units in the Condominium or tenants of other Units in the Condominium, and only for use in connection with such ownership or tenancy.

15.3 Applicability. This Article shall not apply to any lease of a Unit entered into by the Declarant, the Association, or the holder of any first Mortgage who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

## **ARTICLE 16: SALE OF UNITS**

A Unit Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of such intention within seven (7) days after execution of the transfer or sales documents. The Unit Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Article shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven (7) days after receiving title to a Unit, the purchaser of the Unit shall give written notice to the Board of its ownership of the Unit. Upon failure of an Owner to give the required notice within the seven-day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining its identity.

#### ARTICLE 17: MAINTENANCE RESPONSIBILITY

17.1 By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of its Unit, except any portion of the Unit which is expressly made the maintenance obligation of the Association as set forth in this Master Deed. This maintenance responsibility shall include, but not be limited to, the following: all glass surfaces; windows, window frames, casings, and locks (including caulking of windows, but excluding the periodic painting or staining of the exterior surfaces of window surfaces, frames, and casings); all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting or staining of the exterior surface of entry doors and door frames of the Unit); all portions of the heating and air conditioning system, including the air conditioning compressor serving the Unit and the fan coil; and all pipes, lines, ducts, conduits, or other apparatus that serve only the Unit, whether located within or outside of a Unit's boundaries (including all gas, electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

(a) Some Units may contain interior support beams which are load bearing beams. No Owner or occupant shall do any act which jeopardizes or impairs the integrity of such beams.

(b) In addition, each Unit Owner shall have the responsibility:

(i) to perform its responsibility in such manner so as not to unreasonably disturb other persons in other Units;

(ii) to promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible; and

(iii) to pay for the cost of repairing, replacing or cleaning up of any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up of any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Unit Owner, its invitees, tenants, or guests, with the cost thereof to be assessed against the Unit Owner as a specific assessment.

#### 17.2 By the Association.

(a) The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility," which includes the following:

(i) all Common Elements, including any Limited Common Elements (except as otherwise expressly provided for herein);

(ii) periodic cleaning and/or painting and/or staining of exterior surfaces of the Condominium building, including exterior windows, doors, and doorframes of each Unit, but excluding

those exterior items described above that are the responsibility of the Owner, as determined appropriate by the Board; and

(iii) such additional portions of any property included within the Area of Common Responsibility as may be dictated by this Master Deed, any cost sharing agreement or any contract or agreement for maintenance thereof entered into or assumed by the Association.

(b) Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or occupants which is the responsibility of the Association hereunder (including, but not limited to, landscaping of Common Elements) shall be performed at the sole expense of such Owner or occupant, and the Owner or occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Unit or such Owner's occupant, guest, or invitee, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's occupant, guest, or invitee for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this article where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Master Deed, or for inconvenience or discomfort arising from the action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

(c) The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. As finished levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such as tile and trim, will be reinstated only to the extent that matching or similar materials are readily available at reasonable costs, as determined in the sole discretion of the Board. Accessibility around personal belongings for workers to perform such repairs is the responsibility of the Unit Owner or occupant. Removal, storage or other protective measures of personal items are also the responsibility of the Unit Owner or occupant. If the removal, storage or other protective measures are not taken by the Unit Owner or occupant and damage occurs due to the repair process, neither the Association nor the Board will be liable for such damage. Upon completion of such repairs the Association will perform cursory cleaning, but shall not be responsible for a detailed cleaning. The Board has sole discretion in defining the reasonable level, quality and extent of the repair and subsequent cleaning. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such Persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

(d) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner or the Master Association, or (ii) such property is dedicated to any local, state or federal governmental or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

17.3 Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly such Owner's obligation with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder, then the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth the maintenance, repair, or replacement deemed necessary by the Board. Unless the Board determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board of Directors determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided, the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be assessed against the Unit as a specific assessment, shall become a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

If the Board determines that the need for maintenance, repair, or replacement is in the Area of Common Responsibility and is caused through the willful or negligent act of an Owner or occupant, or their guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner or occupant, which shall become a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

17.4 Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Master Deed may vary as members of the Board change. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Section. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board. All maintenance of a Unit shall be in conformance with the Community-Wide Standard of the Association. No Owner shall perform any maintenance that may result in a change or alteration to the exterior of the Unit without the prior written approval of the ARB as provided in Article 12 hereof.

17.5 Measures Related to Insurance Coverage. The Board, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to insulate pipes sufficiently or take other preventive measures to prevent freezing of water pipes; requiring Owners to maintain smoke detectors; requiring Owners to make improvements to the Owner's Unit; and such other measures as the Board may reasonably require so long as the cost of such work does not exceed Five Hundred Dollars (\$500.00) per Unit in any twelve (12) month period. Any requirement imposed upon the Owners that would exceed Five Hundred Dollars (\$500) per Unit in any twelve (12) month period shall require the approval by members holding a Majority of the Total Eligible Association Vote prior to becoming effective.

In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any reasonable requirement made by the Board pursuant to this Section, the Association, upon ten (10) days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost. Such cost shall be an assessment and a lien against the Unit as provided herein. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this Section, including, but not limited to, a right of entry during reasonable hours and after

reasonable notice to the Owner or occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

#### **ARTICLE 18: PARTY WALLS**

18.1 General Rules of Law to Apply. Each wall built as a part of the original construction of the Units which shall serve and separate any two (2) adjoining Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

18.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall in equal proportions.

18.3 Damage and Destruction. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner or Owners who have benefited by the wall may restore it, and the Association shall reimburse said Owner(s) for the cost incurred, without prejudice, however, to the Association's right to seek reimbursement from or withhold payment to the Owners or others under any rule of law or provision in this Master Deed regarding liability for negligent or willful acts or omissions.

18.4 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

#### **ARTICLE 19: EMINENT DOMAIN**

In the event of a taking by eminent domain of any portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking at least seventy-five percent (75%) of the Total Eligible Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available therefor. The provisions of Article 12 herein, applicable to Common Elements improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

#### **ARTICLE 20: DECLARANT RIGHTS**

20.1 Right to Appoint and Remove Directors. The Declarant shall have the right to appoint and remove any member or members of the Board of Directors of the Association subject to such limitations as set forth below. The Declarant's authority to appoint and remove members of the Board of Directors of the Association shall expire on the first to occur of the following:

(a) The expiration or earlier termination of the Declarant Control Period; or

(b) the date on which the Declarant voluntarily relinquishes such right by executing and recording an amendment to this Master Deed, which shall become effective as specified in such amendment.

20.2 Number and Terms of Directors Appointed by Declarant. The Board of Directors of the Association shall be comprised initially of no more than three (3) directors, who shall be appointed, removed, and/or replaced by the Declarant, and whose terms shall expire at the time of expiration of the right of the Declarant to appoint and remove directors as set forth in this Master Deed.

20.3 Sale and Leasing of Units. Notwithstanding anything to the contrary contained herein, the Declarant shall have the right to sell or lease Units and to erect and maintain signs to facilitate such sales or leases as it, in its sole discretion, deems appropriate and shall not be required to comply with the provisions of this Master Deed regarding signs and sales and leases.

20.4 Construction and Sale Period. Notwithstanding any provisions in this Master Deed, the By-Laws, Charter, use restrictions, rules and regulations, design guidelines, any amendments thereto, and related documents, during the Declarant Control Period, it shall be expressly permissible for Declarant and any builder or developer approved by Declarant to maintain and carry on, and a nonexclusive easement within the Condominium shall exist in favor of the foregoing, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such builder's or developer's development, construction and sales activities related to property described on Exhibit "A" to this Master Deed, including, but without limitation, the right of access, ingress or egress for vehicular and pedestrian traffic over, under, on, or in the Condominium; the right to tie into any portion of the Condominium with streets, driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), install, lay, replace, relocate, maintain, and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines, and facilities constructed or installed in, on, under, and/or over the Condominium; the right to carry on sales and promotional activities in the Condominium; and the right to construct and operate business offices, signs, construction trailers, model Units, and sales offices. Declarant and any such builder or developer may use Units or offices owned or leased by Declarant or such builder or developer as model Units and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

20.5 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Condominium Instruments may be transferred or assigned in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Master Deed or the Act. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

20.6 Right of the Declarant to Disapprove Actions. Until ten (10) years following the termination of the Declarant Control Period, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee of the Association which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant under the Condominium Instruments, or interfere with Declarant's commercial activities or with the development of, construction on, or marketing of any portion of the Condominium or in German Creek Resort, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any committee as may be granted to the Declarant in the Condominium Instruments.

(a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Declarant has registered with the secretary of the Association, which notice complies with the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Declarant may waive its right to receive notice in the same manner as provided in the By-Laws.

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Declarant, acting through any authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Declarant exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

20.7 Amendments. Notwithstanding any contrary provision of this Declaration, this Article may not be amended without the written consent of the Declarant.

## ARTICLE 21: EASEMENTS

21.1 Use and Enjoyment. Each Unit Owner and occupant shall have a right and non-exclusive easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from its Unit over those portions of the Condominium designated for such purposes), and such easement shall be appurtenant to and shall pass with the title to each Unit, subject to the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Master Deed including, but not limited to, the right of the Association to suspend

voting and use privileges as provided herein. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

21.2 Utilities and Drainage. To the extent that the any sprinkler system, or any utility or drainage line, pipe, wire, or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units, or the Common Elements shall be burdened with an easement for the use, maintenance, repair, and replacement of such sprinkler system, utility line, pipe, wire, or conduit, such easement to be in favor of the Unit, Units or Common Elements served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct, or wire owned by such Owner, even if such pipe, line, conduit, duct, or wire is located in the Unit of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Unit or the Common Elements resulting from performance of any such work. All Unit Owners hereby covenant and agree that as finished levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such as tile or trim, will be reinstated only to the extent that matching or similar materials are readily available at reasonable costs, as determined in the sole discretion of the Board.

21.3 Pest Control. The Association may, but shall not be obligated to, as a Common Expense, dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units and Common Elements. Each Unit Owner shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Unit for this purpose. The Association shall not be liable for any illness, damage or injury caused by the dispensing of these chemicals for this purpose.

21.4 Declarant Easements. During the Declarant Control Period, the Declarant and its duly authorized contractors, representatives, agents, and employees shall have: (a) an easement for the placement and maintenance of signs, a sales office, a business office, promotional facilities, and model Units on the Condominium, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, or sale of the Unit; and (2) a transferable non-exclusive easement on, over, through, under, and across the Common Elements and Limited Common Elements for the purpose of making improvements on the Condominium or any portion thereof, for the purpose of making such improvements and changes as permitted in Article 3, for the purpose of installing, replacing, repairing and maintaining all utilities serving the Condominium, and for the purpose of doing all things reasonably necessary and proper in connection therewith. In exercising its easement rights provided herein, the Declarant shall have the right to temporarily close any portion of the Common Elements (including Limited Common Elements).

21.5 Easement in Favor of the Master Association. The Declarant reserves, creates, establishes, promulgates and declares a non-exclusive, perpetual, appurtenant easement over the Condominium for the Master Association, its duly authorized successors and assigns, including without limitation, successors-in-title, agents, representatives, employees, successors, assigns, licensees for the purpose of performing or satisfying the duties and obligations of the Master Association as set forth in the Master Documents.



## ARTICLE 22: ANNEXATION AND WITHDRAWAL OF PROPERTY

22.1 Annexation by Declarant. Until twenty (20) years after the recording of this Master Deed in the Public Records, Declarant may from time to time unilaterally subject additional property to the Act and to the provisions of this Master Deed. The Declarant may transfer or assign this right to annex property, provided that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Master Deed in the Public Records describing the property being annexed. Such Supplemental Master Deed shall not require the consent of the Owners, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Master Deed unless otherwise provided therein.

22.2 Withdrawal of Property. The Declarant reserves the right to amend this Master Deed, for the purpose of removing any portion of the Condominium from the coverage of this Master Deed. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant.

22.3 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Condominium to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association. Such additional covenants and easements shall be set forth in a Supplemental Master Deed filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Master Deed may supplement, create exceptions to, or otherwise modify the terms of this Master Deed as it applies to the subject property in order to reflect the different character and intended use of such property.

22.4 The Dock. Until January 1, 2027, the Declarant may add a boat dock and supporting improvements (the "Dock") to the condominium regime, by one or more supplements to this Master Deed, without the consent of any party. The approximate location of the Dock shall be as depicted on the Plat, but Declarant may alter such location by amendment of the Plat without the consent of any party. The Dock shall be a general Common Element, except that individual boat slips within the Dock shall be Limited Common Elements to the extent assigned by Declarant by amendment to this Master Deed or, if not so assigned by Declarant, to the extent assigned by the Board pursuant to Section 6.2 hereof. Construction and continued operation of the Dock shall be subject to approval of the U.S. Tennessee Valley Authority and all other necessary governmental approvals, if any. Declarant does not give assurance that such approvals will be given or continued.

22.5 Amendment. This Article shall not be amended without the prior written consent of Declarant.

## ARTICLE 23: GENERAL PROVISIONS

23.1 Security. The Association may, but shall not be required to, from time to time, provide measures or take actions that directly or indirectly improve safety on the Condominium; however, each Owner, on behalf of such Owner and the occupants, guests, licensees, and invitees, of the Unit acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in and to the Condominium. It shall be the responsibility of each Owner to protect such

Owner's persons and property and all responsibility to provide security shall lie solely with each Unit Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken.

Neither the Association nor the Declarant shall in any way be considered insurers or guarantors of security within the Condominium, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measures cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Master Association, the Association, and their respective Boards of Directors, officers, and committees, the Declarant, and any successor Declarant, are not insurers and that each Person using the Condominium assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

23.2 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Master Deed, the By-Laws, the Charter, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

23.3 Amendment.

(a) By Declarant. Until termination of the Declarant Control Period, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

(b) By the Board. The Board shall be authorized to amend this Declaration without the consent of the Members (i) to correct scrivener's errors and other mistakes of fact, provided that amendments under this provision have no material adverse effect on the rights of the Owners; and (ii) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination. During the Declarant Control Period, any such amendments shall require the written consent of the Declarant.

(c) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the Total Eligible Association Vote and, during the Declarant Control Period, the written consent of the Declarant. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

23.4 Fair Housing Amendments Act. The provisions of the Condominium Instruments shall be subordinate to the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq., (hereinafter

referred to as "FHAA"), and shall be applied so as to comply with the FHAA. In the event that there is a conflict between or among the Condominium Instruments and the FHAA, the FHAA shall prevail. Notwithstanding anything to the contrary contained herein, in the event that any provision of this Declaration conflicts with the FHAA, the Board of Directors, without the consent of the Members or of the Declarant, shall have the unilateral right to amend this Declaration for the purpose of bringing this Declaration into compliance with the FHAA.

23.5 Compliance. Every Owner and occupant of any Unit shall comply with this Master Deed, the By-Laws, and the rules of the Association. Failure to comply shall be grounds for an action by the Declarant, the Master Association, the Association or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association elsewhere in this Master Deed.

23.6 Ongoing Construction. Each Owner acknowledges, understands, and covenants to inform its lessees and all occupants of its Unit that the Condominium and the areas adjacent to the Condominium are subject to further development and expansion, and therefore, there may be certain inconveniences during any period of construction, and Owner waives all claims with respect thereto. Owner agrees that if Owner or Owner's employees, lessees, invitees, guests, contractors, or agents enter onto any area of construction, they do so at their own risk, and neither the Master Association, the Declarant, the Association, nor their respective contractors, agents or employees shall be liable for any damage, loss or injury to such persons.

23.7 Severability. Whenever possible, each provision of this Master Deed shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Master Deed to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and, to this end, the provisions of this Master Deed are declared to be severable.

23.8 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular article or section to which they refer.

23.9 Notices. Notices provided for in this Master Deed or the Charter or By-Laws shall be in writing, and shall be addressed to any Owner at the address of the Unit and to the Declarant or the Association at the address of their respective registered agent in the State of Tennessee. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Notices addressed as above shall be deemed delivered three business days after mailing by United States Registered or Certified Mail, postpaid, or upon delivery when delivered in person, including delivery by Federal Express or other reputable courier service.

23.10 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Master Deed shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

23.11 Indemnification. To the fullest extent allowed by the Tennessee Nonprofit Corporation Act, and in accordance therewith, the Association shall indemnify every current and former officer,

director, ARB member, and committee member against any and all expenses, including, but not limited to, attorneys' and other legal fees, imposed upon or reasonably incurred by any officer, director, ARB member or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director, ARB member or committee member may be a party by reason of being or having been an officer, director, ARB member or committee member. The officers, directors, ARB members and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors, ARB members and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director, ARB member and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, ARB member or committee member, or former officer, director, ARB member, or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

23.12 Disclosures.

Each Owner and Occupant acknowledges the following:

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

(b) The views from a Unit may change over time due to, among other things, additional development and the removal or addition of landscaping.

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

(d) No representations are made regarding the schools that currently, or that may in the future, serve the Condominium.

(e) Because, in every neighborhood, there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Condominium property that an Owner or occupant may find objectionable and that it shall be the sole responsibility of the Owners and occupants to become acquainted with neighborhood conditions that could affect the Unit.

(f) No representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one (1) Unit to another.


(g) The Unit floor plans and the dimensions and square footages shown thereon are only approximations. If purchasers or prospective purchasers are concerned about any representation regarding the Unit floor plans, they should do their own investigation as to the dimensions, measurements and square footages of the Units.

23.13 Bylaws. This Master Deed, together with its exhibits, shall constitute the bylaws for the administration of the Condominium required by sections 66-27-107, -111, and -112 of the Act.

IN WITNESS WHEREOF, the Declarant has executed this Master Deed as of the date first written above.

DECLARANT:

GERMAN CREEK RESORT, LLC  
a Tennessee limited liability company

By: 

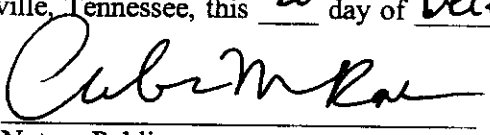
Ward S. Whelchel,  
Chief Manager

STATE OF TENNESSEE  
COUNTY OF KNOX

Before me, Amber M. Rashake, of the state and county aforementioned, personally appeared Ward S. Whelchel, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chief Manager of GERMAN CREEK RESORT, LLC, the within named bargainor, a Tennessee limited liability company, and that he as such Chief Manager, executed the foregoing instrument for the purpose therein contained, by signing the name of the company by himself as Chief Manager.

WITNESS my hand and seal at office in Knoxville, Tennessee, this 28<sup>th</sup> day of December, 2006.

My Commission Exp. July 13, 2008

  
Notary Public

My commission expires: \_\_\_\_\_

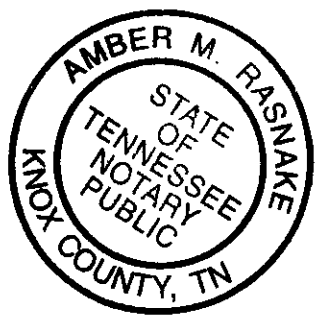


EXHIBIT "A"

Legal Description of the Property

**RESIDENTIAL TRACT**

Property Description for Phase 1 – The Bluff Condominiums at German Creek Resort  
(A portion of Parcel 23, Map No. 42, District 2, Grainger Co. TN)

All of the following real property located in Grainger County, Tennessee:

To find the POINT OF BEGINNING begin at TVA disk JAW-21, located on the Southeast bridge abutment of the Lakeshore Drive bridge over German Creek thence North 54 deg. 58 min. 19 sec. West, 37.31 feet to an iron rod being on the northern R.O.W. line of Lakeshore Drive, (HWY 375) and the 1080 contour line of Cherokee Lake, said iron rod being THE POINT OF BEGINNING.

THENCE: from said POINT OF BEGINNING, and with the northern R.O.W. line of Lakeshore Drive, South 32 deg. 33 min. 12 sec. West, 66.63 feet to a point.

THENCE: continuing along said R.O.W. line with a curve to the right having a radius of 691.25 feet an arc distance of 367.22 feet (chord distance of 362.92 feet and chord bearing of South 51 deg. 23 min. 22 sec. West) to a point.

THENCE: continuing along said R.O.W., South 66 deg. 36 min. 31 sec. West, 463.62 feet to a point.

THENCE: continuing along said northern R.O.W. with a curve to the left having a radius of 551.48 feet an arc distance of 80.48 feet (chord distance of 80.41 feet and a chord bearing of South 62 deg. 25 min. 40 sec. West) to an iron rod.

THENCE: leaving said northern R.O.W. line of Lakeshore Drive, North 22 deg. 33 min. 17 sec. West, 126.32 feet to an iron rod.

THENCE: from said iron rod and continuing North 22 deg. 33 min. 17 sec. West, 13.03 feet to a point on the 1080 contour along Cherokee Lake.

THENCE: with the 1080 contour along Cherokee Lake, 1008 feet more or less to the POINT OF BEGINNING, and containing 3.14 acres more or less, according to plat of survey by Eddie D. Miller, Tennessee Registered Surveyor Number 2033, of Land Development Solutions, 310 Simmons Rd, Suite K, Knoxville, Tennessee 37922.

BEING PART OF the real property conveyed to German Creek Resort, LLC, by Warranty Deed dated August 19, 2005, from Kaye M. Stewart, Kimberly McDavid Eidson and Stewart McDavid in Book 267, Page 1242, and by Quit Claim Deed dated August 19, 2005, from Leon Epling and wife, Rhonda Epling, in Book 267, Page 1246, both of record in the office of the Register of Deeds for Grainger County, Tennessee.

**CLUBHOUSE TRACT**

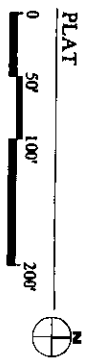
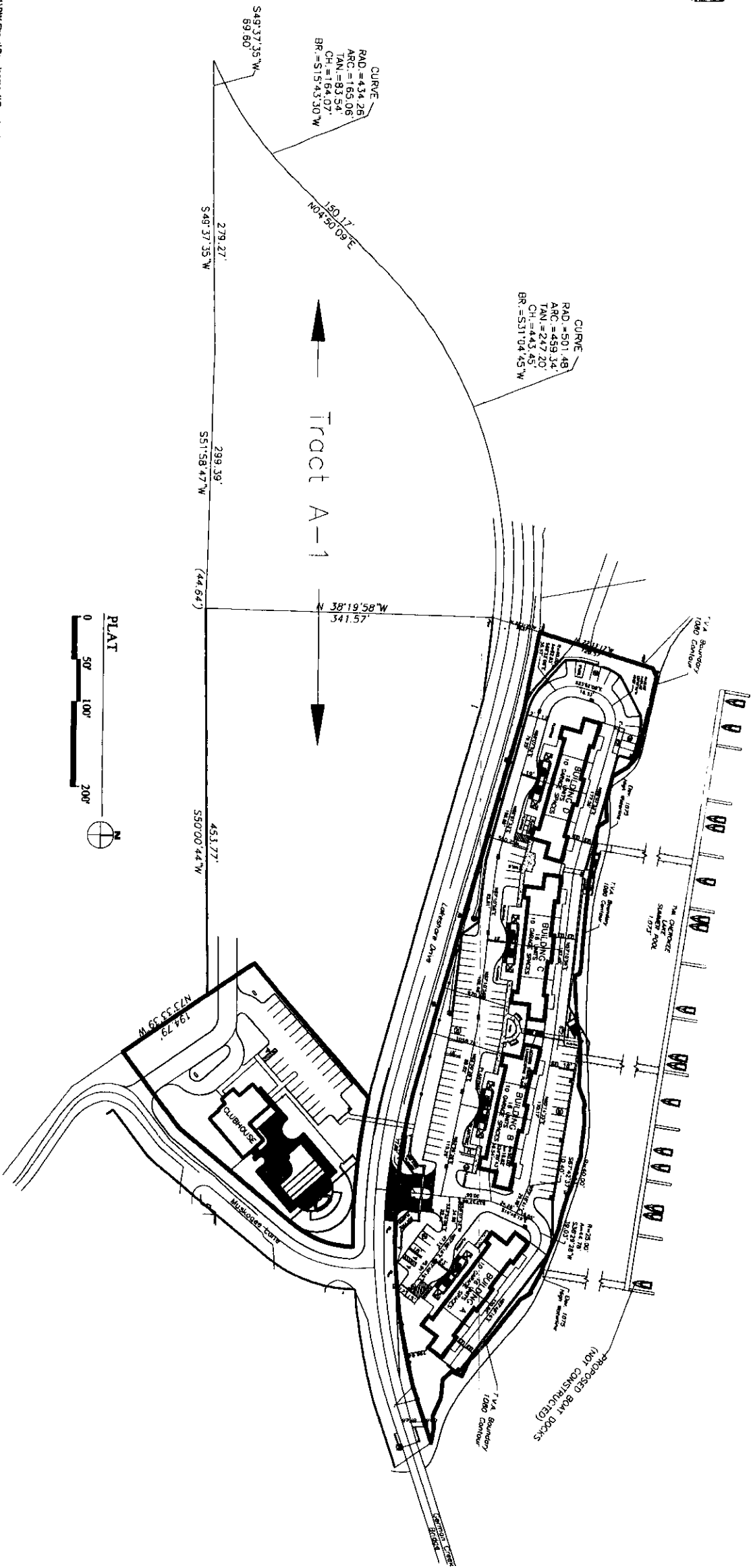
That real property in Grainger County, Tennessee, adjacent to the residential tract described above in this Exhibit "A", bordered on the Plat (as defined in this Master Deed) by bold lines indicating the boundaries thereof, depicted on the Plat as contiguous to the southeastern boundary of Lakeshore Drive and contiguous to the western boundary of Muskogee Lane, and depicted on the Plat as containing a clubhouse, parking spaces, driveways, and other improvements, being contiguous with the ~~western~~ <sup>eastern</sup> boundary of Tract A-1 (as defined in this Master Deed).

*Handwritten initials*

GRAINGER COUNTY, TENNESSEE

A-1

EXHIBIT



\\hws-00000001\DW Shared\Development\Drawings\CHRONICLE\12-20-06 legal packages\PLAT 2.dwg, 12/20/2006 2:47:28 PM, Barry Shields



**EXHIBIT "B"**  
Master Deed

Unit Type	Unit Numbers	Square Footage	No of Units	% Share	% Total Type
"01"	A101, A201, A301, A401 B101, B201, B301, B401 C101, C201, C301, C401 D101, D201, D301, D401	1758	16	1.65%	26.40%
"02"	A102, A202, A302 B102, B202, B302 C102, C202, C302 D102, D202, D302	1388	12	1.31%	15.72%
"03"	A103, A203, A303 B103, B203, B303 C103, C203, C303 D103, D203, D303	1388	12	1.31%	15.72%
"04"	A104, A204, A304, A404 B104, B204, B304, B404 C104, C204, C304, C404 D104, D204, D304, D404	1758	16	1.65%	26.40%
"402"	A402, B402, C402, D402	2090	4	1.97%	7.88%
"403"	A403, B403, C403, D403	2090	4	1.97%	7.88%
<b>TOTAL</b>		106,288	64		100%

CHARTEROFGERMAN CREEK CONDOMINIUMS- THE BLUFFS OWNERS' ASSOCIATION, INC.RECEIVED  
STATE OF TENNESSEE

2009 NOV 27 AM 10:11

FILED  
RILEY W. WELLS  
SECRETARY OF STATE

Pursuant to Section 48-52-102 of the Tennessee Nonprofit Corporation Act, the undersigned incorporator adopts the following, being qualified so to act:

1. The name of the Corporation is German Creek Condominiums-The Bluffs Owners' Association, Inc.
2. The Corporation is a mutual benefit corporation.
3. The Corporation is not a religious corporation.
4. The address of the Corporation's initial registered office, located in Knox County, Tennessee shall be c/o Dionas Whelchel Commercial Group, 9724 Kingston Pike, Suite 206, Knoxville, TN 37922, and the Corporation's initial registered agent at that office is Ward S. Whelchel.
5. The name of the incorporator is David Wilson Long, and his address is c/o Long, Ragsdale & Waters, P.C., 1111 Northshore Drive, S-700, Knoxville, Knox County, Tennessee 37919.
6. The address of the initial principal office of the Corporation in the State of Tennessee shall be in Knox County, Tennessee c/o Dionas Whelchel Commercial Group, 9724 Kingston Pike, Suite 206, Knoxville, TN 37922.
7. The Corporation is not for profit.
8. The Corporation shall have members. Members shall be owners of units in the Condominium and shall be admitted to membership in accordance with the criteria and procedures established in the bylaws of the Corporation, and no other persons or legal entities shall be entitled to membership.
9. Upon the dissolution of the Corporation;
  - a. all liabilities and obligations of the Corporation shall be paid and discharged, or adequate provision shall be made therefor;
  - b. assets held by the Corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of dissolution, shall be returned, transferred, or conveyed in accordance with such requirements; and
  - c. all remaining assets of the Corporation shall be distributed to the members in accordance with their respective interests in the common elements of the Condominium (subject to the limitations of Section 13 of this Charter, and if any distribution would violate Section 13, then such distribution instead shall be made exclusively for the purposes of the Corporation to (1) such organization or organizations as shall at the time qualify as exempt from income taxes under the U.S. Internal Revenue Code

dwl/corp/ 9781-006 charter of german creek-the bluffs  
9781-006

0907-1600

of 1986, as amended, as the Board of Directors shall choose or (2) to the State of Tennessee or to any county or municipality of such State.).

10. The purpose for which the Corporation is organized is to operate and manage the Condominium for the use and benefit of the owners of units in the Condominium, as the agent of such owners. A Master Deed has been or will be recorded in the office of the Register of Deeds for Grainger County, Tennessee pursuant to the Horizontal Property Act, codified at Tennessee Code Annotated Section 66-27-101, et seq. (the "Master Deed"). As used herein, the term "Condominium" refers to the horizontal property regime to be established by the Master Deed, which shall be known as German Creek Condominiums-The Bluffs.

11. The Corporation shall continue to exist as long as the Condominium shall be in existence unless sooner dissolved or terminated.

12. The Corporation shall be empowered to operate and manage the Condominium and other facilities for the use and benefit of the owners of the units in the Condominium, as the agent of such owners.

13. The Corporation shall be operated in accordance with the requirements and limitations of 26 United States Code Section 528 and all regulations and rules promulgated in connection therewith, as applicable to condominium management associations. Without limiting the generality of the foregoing, no part of the net earnings of the Corporation shall inure to the benefit of, or be distributed to, its directors, officers, or members, or any other private individual, except by the Corporation's acquisition, construction, management, maintenance, or care of the Corporation's property and rebates of excess membership dues, fees, or assessments, and except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set out hereinabove.

14. The Corporation shall be authorized to exercise and enjoy all of the powers, rights, and privileges granted to or conferred upon corporations of a similar character by the provisions of Section 48-51-101, et seq., Tennessee Code Annotated, entitled "Tennessee Nonprofit Corporation Act" now or hereafter in force, and to do any and all things necessary to carry out its operations as a natural person might or could do.

15. All funds and the titles of all interests in properties acquired by this Corporation, whether fee simple or leasehold in nature, and the proceeds thereof shall be held in trust for the owners of the units in the Condominium in accordance with the provisions of the Master Deed and its supporting documents.

16. All of the powers of the Corporation shall be subject to and shall be exercised in accordance with the provisions of the Master Deed together with its supporting documents, which govern the use of the Condominium to be operated and administered by the Corporation.

17. The incorporator, members, and directors of the Corporation shall have the right to take any action required or permitted by vote without a meeting by written consent pursuant to the provisions of Tennessee Code Annotated Sections 48-57-104 and 48-58-202.

18. The interest of any member in any part of the real property of the Corporation or in the funds and assets of the Corporation cannot be conveyed, assigned, mortgaged, hypothecated, or transferred in any manner, except as an appurtenance to a unit in the Condominium.

5091.2002

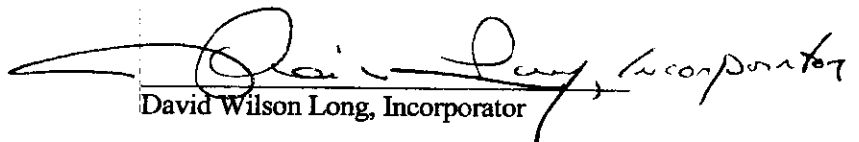
19. Voting by the members of the Corporation in the affairs of the Corporation shall be as specified in the Master Deed and the bylaws of the Corporation; provided, however, that until the Declarant, as defined in the Master Deed and its supporting documents, has sold a specified percentage of the units in the Condominium or until the passing of a date certain set forth in the Master Deed, the Declarant shall retain and reserve certain special voting rights as provided in the Master Deed and the bylaws of the Corporation.

20. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in a manner he reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful; provided, however, that no such indemnity shall be made in connection with a proceeding by or in the right of the Corporation in which such person is adjudged liable to the Corporation, or in connection with any other proceeding charging improper personal benefit to such person, whether or not involving action in such person's official capacity, in which such person is adjudged liable on the basis that personal benefit was improperly received by such person. The indemnity provided herein is in addition to, and not in substitution for, all other indemnification available under statute or other law. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Corporation, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

21. To the maximum extent allowable pursuant to Section 48-52-102 of the Act or any successor provision thereof, the directors of the Corporation shall not be liable to the Corporation or its members for monetary damages for a breach of fiduciary duty as a director except for (i) any breach of the director's duty of loyalty to the Corporation or its members, (ii) for acts or omissions not in good faith which involve intentional misconduct or knowing violation of law or (iii) for distributions in violation of Section 48-58-304 of the Act.

22. The provisions of this Charter may be amended, altered, or repealed from time to time in accordance with the provisions of the Master Deed and the bylaws of the Corporation and in the manner prescribed by the Tennessee Nonprofit Corporation Act, Tennessee Code Annotated Sections 48-51-101, et seq., and any additional provisions so authorized may be added hereto; provided that the provisions of this Charter shall not be changed, modified, repealed, or expanded in such a manner as to be inconsistent with the purposes for which the Corporation is formed.

In Witness Whereof, this Charter is executed this 23<sup>rd</sup> day of November, 2006.

  
David Wilson Long, Incorporator

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9781-006

EXHIBIT "D"

BY-LAWS

OF

GERMAN CREEK CONDOMINIUMS-THE BLUFFS OWNERS' ASSOCIATION, INC.

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**BY-LAWS**  
**OF**  
**GERMAN CREEK CONDOMINIUMS-THE BLUFFS OWNERS' ASSOCIATION, INC.**

**ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS**

1.1. Name. The name of the corporation is German Creek Condominiums-The Bluffs Owners' Association, Inc. (the "Association"), a Tennessee nonprofit corporation.

1.2. Principal Office. The principal office of the Association shall be located in the State of Tennessee. The Association may have such other offices, either within or outside the State of Tennessee, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Condominium Master Deed for German Creek Condominiums-The Bluffs filed in the Public Records, as it may be amended (the "Master Deed"), unless the context indicates otherwise.

**ARTICLE 2: ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES**

2.1. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Master Deed, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Condominium or as convenient as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association.

2.4. Special Meetings. The president may call special meetings. In addition, it shall be the duty of the president to call a special meeting within thirty (30) days if so directed by resolution of the Board or upon a petition signed by at least twenty-five percent (25 %) of the total Class "A" votes in the Association or upon written request of the Declarant.

2.5. Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be



transacted at a special meeting except as stated in the notice.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a Majority of the Members present may adjourn the meeting to a time not less than five (5) nor more than twenty (20) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to the Members in the manner prescribed for regular meetings.

2.8. Voting. The voting rights of the Members shall be as set forth in the Master Deed and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access. Notwithstanding the foregoing, unless a higher percentage is set forth elsewhere, all decisions put to a vote of the Class "A" Members shall require at least a Majority vote of the Members entitled to vote for adoption of said decision.

2.9. List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members entitled to notice of such meeting. The list shall show the addresses of the Members and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Tennessee law.

2.10. Proxies. Subject to the limitations of Tennessee law relating to use of general proxies and subject to any special provision to the contrary in the Master Deed or these By-Laws, every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

2.11. Quorum. The presence of a majority of the Class "A" votes entitled to be cast shall constitute a quorum at all meetings of the Association.

2.12. Conduct of Meetings. The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Tennessee. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

### **ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS**

#### **A. Composition and Selection**

3.1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative of the Declarant, the directors shall be eligible Members or residents; provided however, no Owner and resident representing the same Unit may serve on the Board at the same time. No Owner or resident shall be eligible to serve as a director if any assessment for such Owner's or resident's Unit is delinquent. A "resident" shall be any natural person eighteen (18) years of age or older whose principal place of residence is a Unit within the Condominium. In the case of a Member which is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided that no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as a representative of the Class "B" Member or the Declarant.

3.2. Number of Directors. The initial Board shall consist of three (3) directors appointed by the Class "B" Member as provided in Section 3.3. The number of directors may be increased or decreased upon the unanimous consent of the directors, the consent of the Declarant during the Class "B" Control Period, and the vote of two-thirds (2/3) of the Members.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member during the Class "B" Control Period. Directors appointed by or serving as a representative of the Class "B" Member or the Declarant shall not be subject to the qualifications for directors set forth in Section 3.1.

#### **3.4. Nomination and Election Procedures**

(a) Nomination of Directors. The Board may establish a nominating committee consisting of a chairperson, who shall be a member of the Board, and three (3) or more Members or representatives of Members. If established, the nominating committee shall be appointed by the Board not less than thirty (30) days prior to each election to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such election. A nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled as provided in Section 3.5 below. The nominating committee shall nominate separate slates for the directors, if any, to be elected at large by all Members. In making its nominations, a nominating committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Nominations shall also be permitted from the floor at a meeting of the Members. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Directors appointed by or serving as a representative of the Class "B" Member or the Declarant shall not be subject to these nomination requirements.

(b) Election Procedures. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5. Election and Term of Office. Notwithstanding any other provision of these By-Laws:

(a) At the next annual meeting of the Members after fifty percent (50%) of the Units permitted on the property described on Exhibit "A" of the Master Deed have been completed and conveyed to persons other than the Declarant, or whenever the Class "B" Member earlier determines, the Members shall be entitled to elect one (1) of the three (3) directors, who shall serve a term of two (2) years or until the occurrence of the event described in subsection (b), whichever is shorter. If such director's term expires prior to the occurrence of the event described in subsection (b), a successor shall be elected for a like term. The remaining two (2) directors shall be appointees of the Class "B" Member.

(b) At the next annual meeting of the Members after ninety percent (90%) of the Units permitted on the property described on Exhibit "A" of the Master Deed has been completed and conveyed to persons other than the Declarant, or whenever the Class "B" Member earlier determines, the Members shall be entitled to elect two (2) of the three (3) directors, who shall serve a term of two (2) years. The remaining director shall be an appointee of the Class "B" Member.

(c) Upon termination of the Class "B" membership, the director appointed by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which time the Members shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two (2) years.

Upon the expiration of the term of office of each director elected by the Members, the Members shall elect a successor to serve a term of two (2) years. The directors elected by the Members shall hold office until their respective successors have been elected.

3.6. Removal of Directors and Vacancies. Any director elected by the Members may be removed, with or without cause, by a Majority of the Members. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent (or is the resident of a Unit that is delinquent or is an officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of an elected director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term. Any director that the Board appoints shall be selected from among Members.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

B. Meetings.

3.7. Organizational Meetings. Within ten (10) days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

3.8. Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine, but at least one (1) such meeting shall be held during each quarter.

3.9. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or vice president or by any two (2) directors.

3.10. Notice. Notice of the time and place of a regular meeting shall be communicated to directors not less than four (4) days prior to the meeting. Notice of the time and place of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, or telegraph shall be deemed communicated when delivered, telephoned, telecopied or given to the telegraph company.

3.11. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12. Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.13. Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors

shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Master Deed. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the directors present at such meeting may adjourn the meeting to a time not less than four (4) nor more than twenty (20) days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.14. Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by a Majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a Majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Majority of the Board of Directors, excluding the interested director.

3.15. Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.16. Open Meetings. Subject to the provisions of Sections 3.12 and 3.17, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on an attendee's behalf by a director. In such case, the president may limit the time any individual may speak. Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.17. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.18. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Condominium Documents and as provided by law. The Board may do or cause to be done all acts and things which the Condominium Documents or Tennessee law do not direct to be done and exercised exclusively by the membership generally.

3.19. Duties. The duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Master Deed, an annual budget establishing each Owner's share of the Common Expenses:

(b) levying and collecting such assessments from the Owners;

- (c) providing for the operation, care, upkeep, and maintenance of the Common Elements;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;
- (f) making and amending rules in accordance with the Master Deed;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) contracting for repairs additions, and improvements to or alterations of the Common Elements in accordance with the Condominium Documents;
- (i) enforcing by legal means the provisions of the Condominium Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Master Deed, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) paying the cost of all services rendered to the Association;
- (l) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (m) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Condominium Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (n) permitting utility suppliers to use portions of the Common Elements reasonably necessary to the ongoing development or operation of the Condominium; and
- (o) indemnifying a director, officer or ARB or committee member, or former director, officer or ARB or committee member of the Association to the extent such indemnity is required or permitted under Tennessee law, the Articles of Incorporation or the Master Deed.

3.20. Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or builders under the Condominium Documents, or interfere with development of or construction on any portion of the Condominium, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery

at the address the Class "B" Member has registered with the secretary of the Association, which notice complies with Section 3.10 and which notice shall, except in the case of regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Class "B" Member may waive its right to receive notice in the same manner as provided in Section 3.11; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.21. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.22. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

(f) an annual financial report shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines; provided however, upon written request of any holder, guarantor or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement; and

3.23. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, the Board shall obtain the approval of at least sixty-seven percent (67%) of the total votes allocated to Units prior to borrowing such money.

3.24. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners' or residents' associations, within and outside the Condominium; provided, any common management agreement shall require the consent of a Majority of the total number of directors of the Association.

3.25. Enforcement.

(a) Notice. Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Master Deed, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board or the covenants committee, if one has been appointed pursuant to Article 5, within fifteen (15) days of the notice; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within fifteen (15) days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board or covenants committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the fifteen (15) day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator.

(b) Hearing. If a hearing is requested within the allotted fifteen (15) day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee's decision to the Board. To exercise this right, a written notice of appeal



must be received by the manager, president, or secretary of the Association within fifteen (15) days after the hearing date.

#### ARTICLE 4: OFFICERS

4.1. Officers. The officers of the Association shall be a president, secretary, and treasurer. The president and the secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more assistant secretaries and one (1) or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of president and secretary.

4.2. Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

4.3. Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Master Deed and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The secretary shall be responsible for preparing minutes of meetings of the Members and the Board and for authenticating records of the Association.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.14.

#### ARTICLE 5: COMMITTEES

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. No committee appointed by the Board shall be empowered to take any affirmative action without the consent of the Board.

5.2. Covenants Committee. In addition to any other committees which the Board may

establish pursuant to the Master Deed, these By-Laws and, specifically, Section 5.1, the Board may appoint a covenants committee consisting of at least three (3) and no more than seven (7) Members. Acting in accordance with the provisions of the Master Deed, these By-Laws, and resolutions the Board may adopt, the covenants committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.25 of these By-Laws.

#### ARTICLE 6: MISCELLANEOUS

6.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order Newly Revised (current edition) shall govern the conduct of Association proceedings when not in conflict with Tennessee law, the Articles of Incorporation, the Master Deed, or these By-Laws.

6.3. Conflicts. If there are conflicts between the provisions of Tennessee law, the Charter, the Master Deed, and these By-Laws, the provisions of Tennessee law, the Master Deed, the Charter, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Master Deed, By-Laws, and Articles of Incorporation, any amendments and supplements to the foregoing, the rules of the Association, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Condominium as the Board shall designate during normal business hours.

(b) Rules for Inspection. The Board shall set and announce rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Except as otherwise provided in the Master Deed or these By-Laws, all notices, demands, bills, statements, and other communications under the Master Deed or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request additional methods of receiving notice, including but not limited to, facsimile or Internet e-mail.

6.6. Amendment.

(a) By Declarant. Until termination of the Class "B" membership, the Declarant may amend these By-Laws for any purpose. Thereafter, the Declarant may amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit or modify the system of administration of the Association. The Members hereby unanimously consent to any amendments made to these By-Laws by the Declarant, and agree to execute any documentation reasonably requested by Declarant to acknowledge said consent.

(b) By Members. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of the total Class "A" votes in the Association, and, until termination of the Class "B" membership, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. Any amendment to these By-Laws shall become effective upon adoption, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its adoption or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provision of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If a Member consents to any amendment to the Master Deed or these By-Laws, it will be conclusively presumed that such Member has the authority to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of German Creek Condominiums-The Bluffs Owners' Association, Inc., a Tennessee nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 28<sup>th</sup> day of November, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary of said Association as of the 28<sup>th</sup> day of November, 2006.



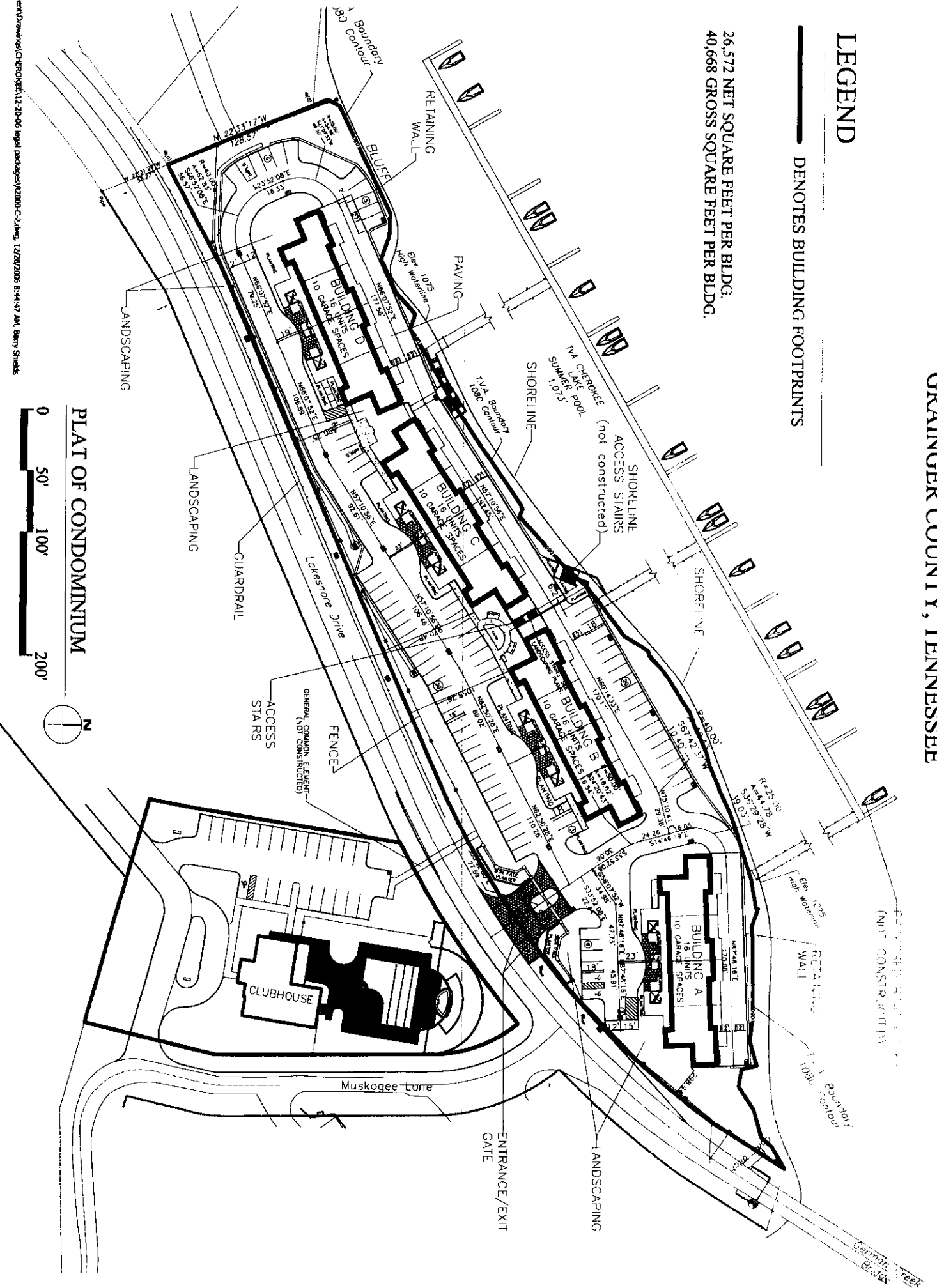
Mike E. Dionas,  
Secretary

# GRAINGER COUNTY, TENNESSEE

## LEGEND

— DENOTES BUILDING FOOTPRINTS

26,572 NET SQUARE FEET PER BLDG.  
40,668 GROSS SQUARE FEET PER BLDG.



## PLAT OF CONDOMINIUM

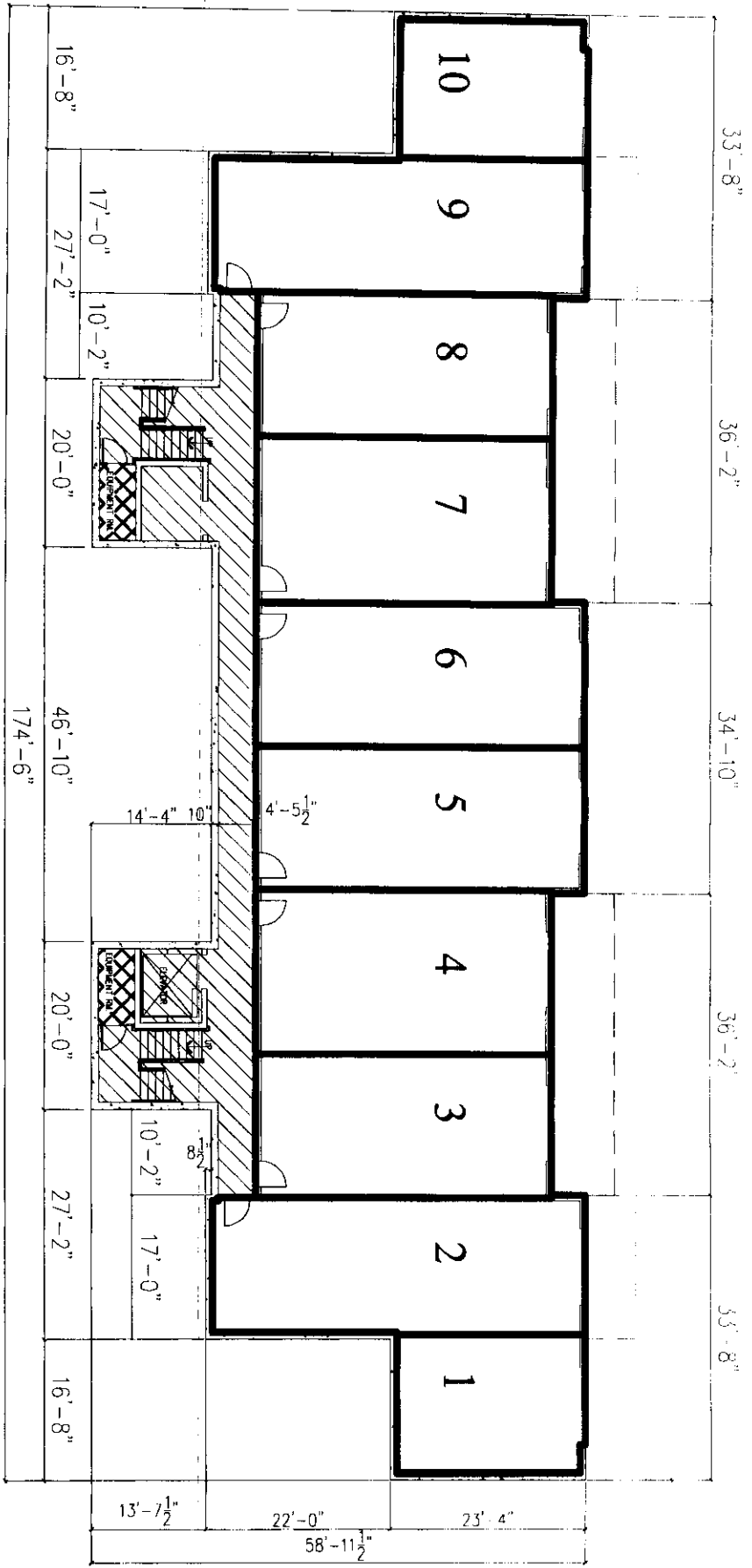


EXHIBIT


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GRAINGER COUNTY, TENNESSEE

EXHIBIT F, page 1



LEGEND

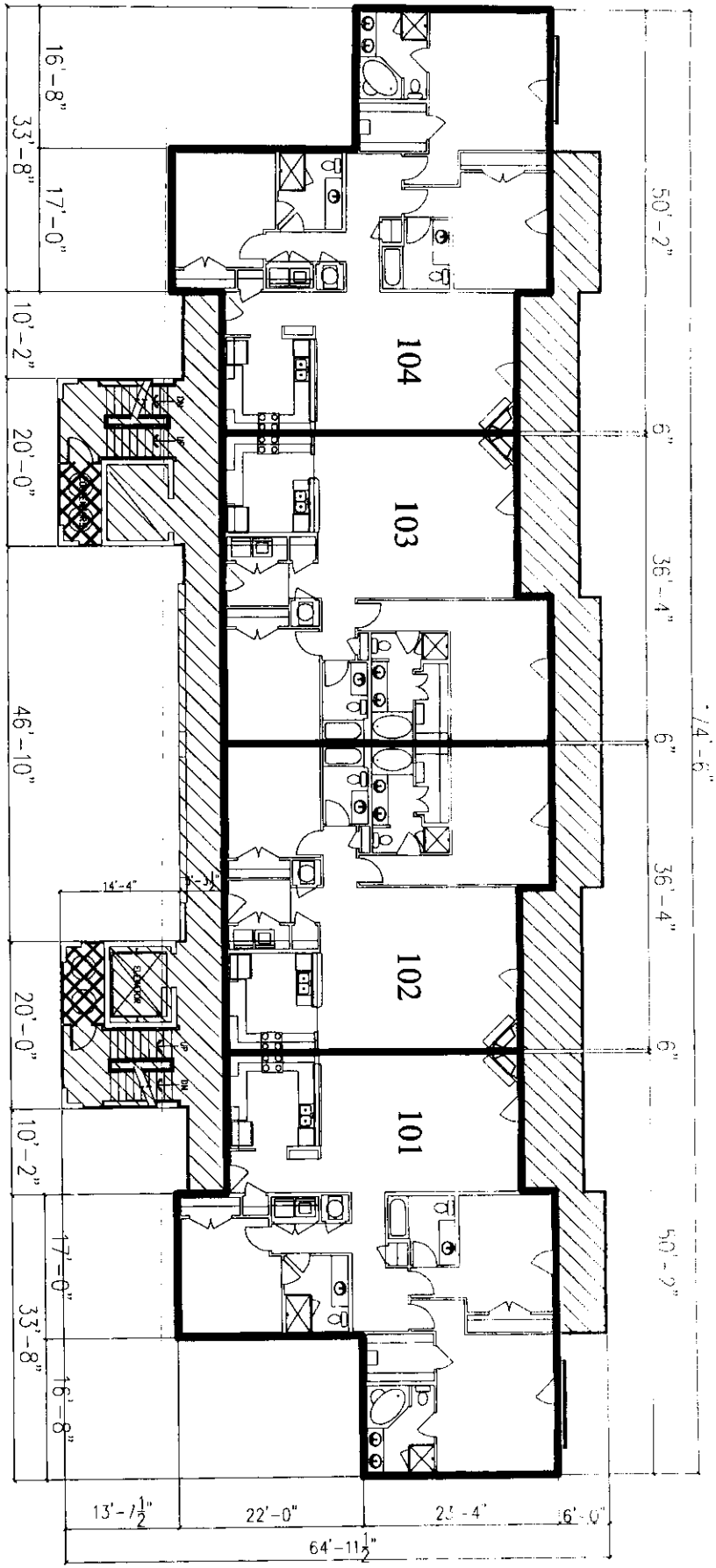
 DENOTES GENERAL COMMON ELEMENTS FOR RESIDENTIAL UNITS

TYPICAL GARAGE FLOOR PLAN (BLDGS. A/B/C/D)



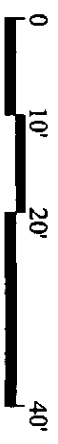
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EXHIBIT F, page 2



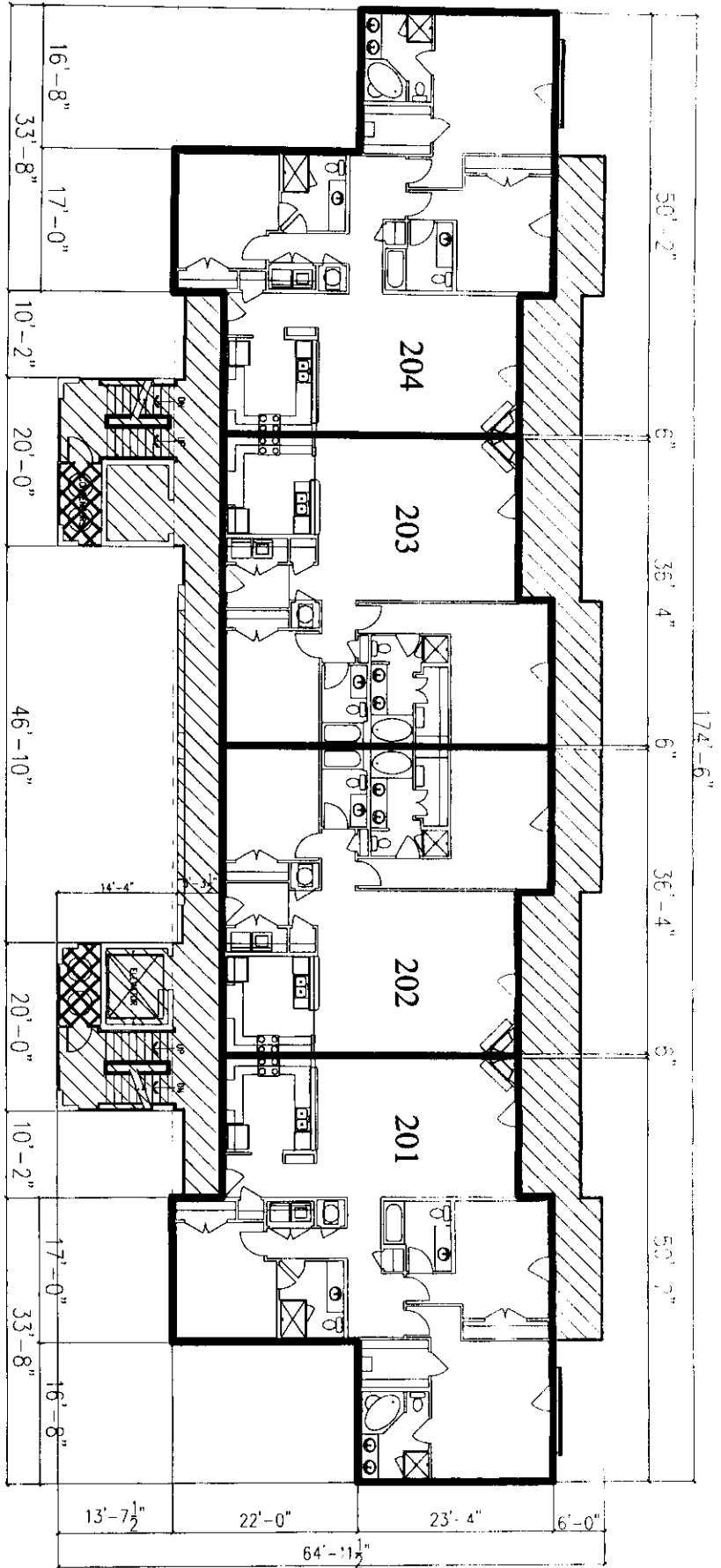
**LEGEND**  
 ——— DENOTES UNIT BOUNDRIES

TYPICAL 1st FLOOR PLAN  
 (BLDGS. A/B/C/D)



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EXHIBIT F, page 3



TYPICAL 2nd FLOOR PLAN (BLDG. A/B/C/D)



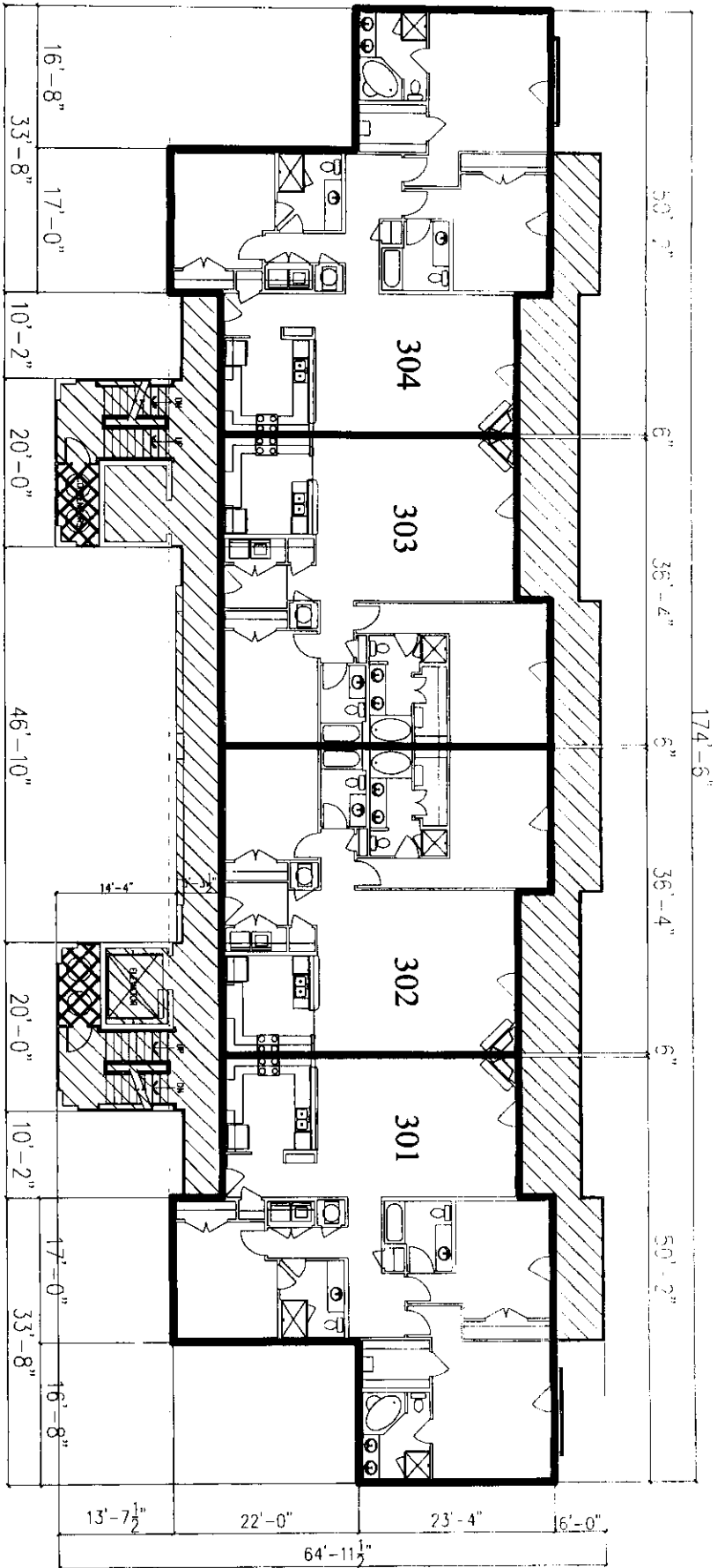
**LEGEND**  
 ——— DENOTES UNIT BOUNDRIES

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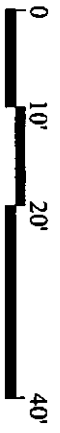
GRAINGER COUNTY, TENNESSEE

EXHIBIT F, page 4



TYPICAL 3rd FLOOR PLAN

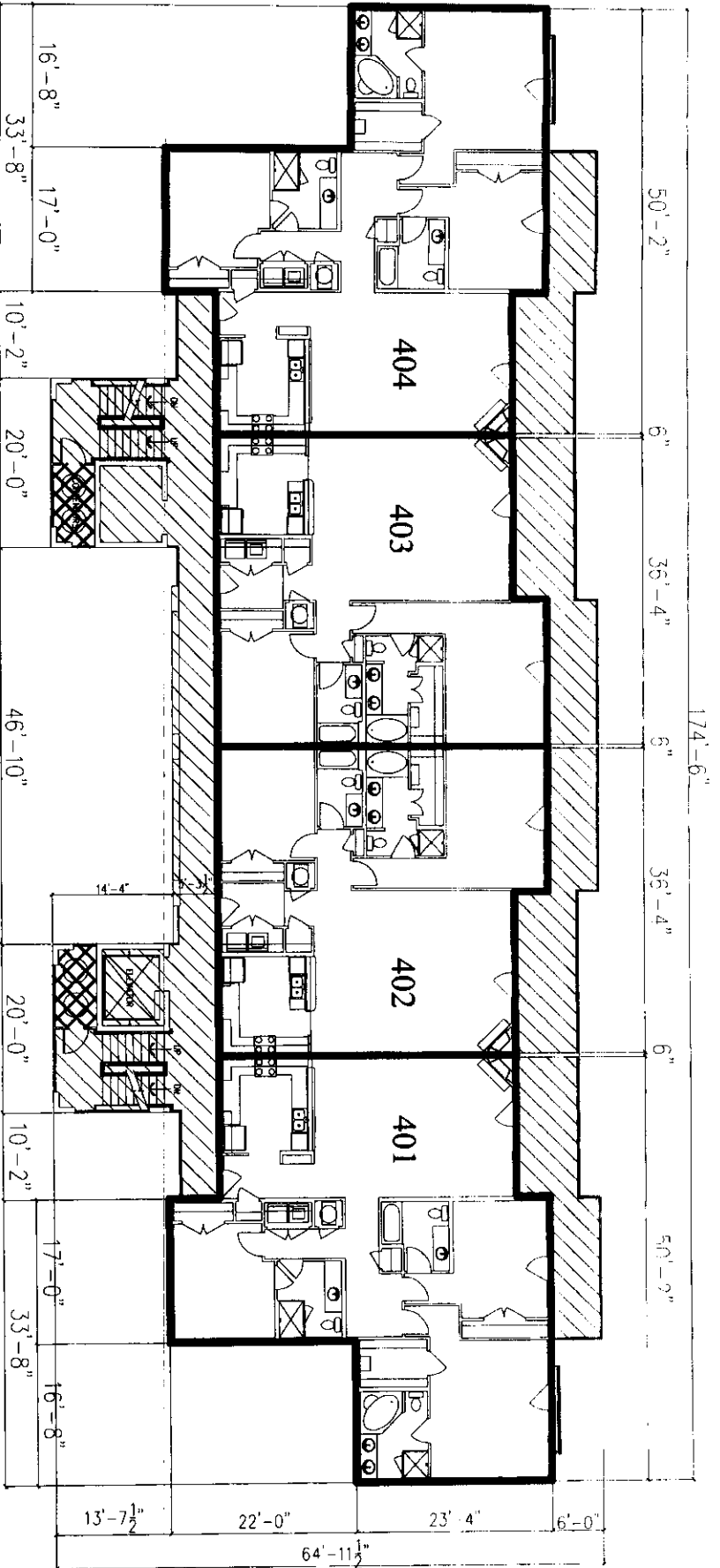
(BLDG. A/B/C/D)



LEGEND

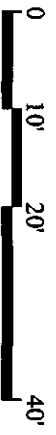
————— DENOTES UNIT BOUNDRIES

EXHIBIT F, page 5



TYPICAL 4th FLOOR PLAN

(BLDG. A/B/C/D)

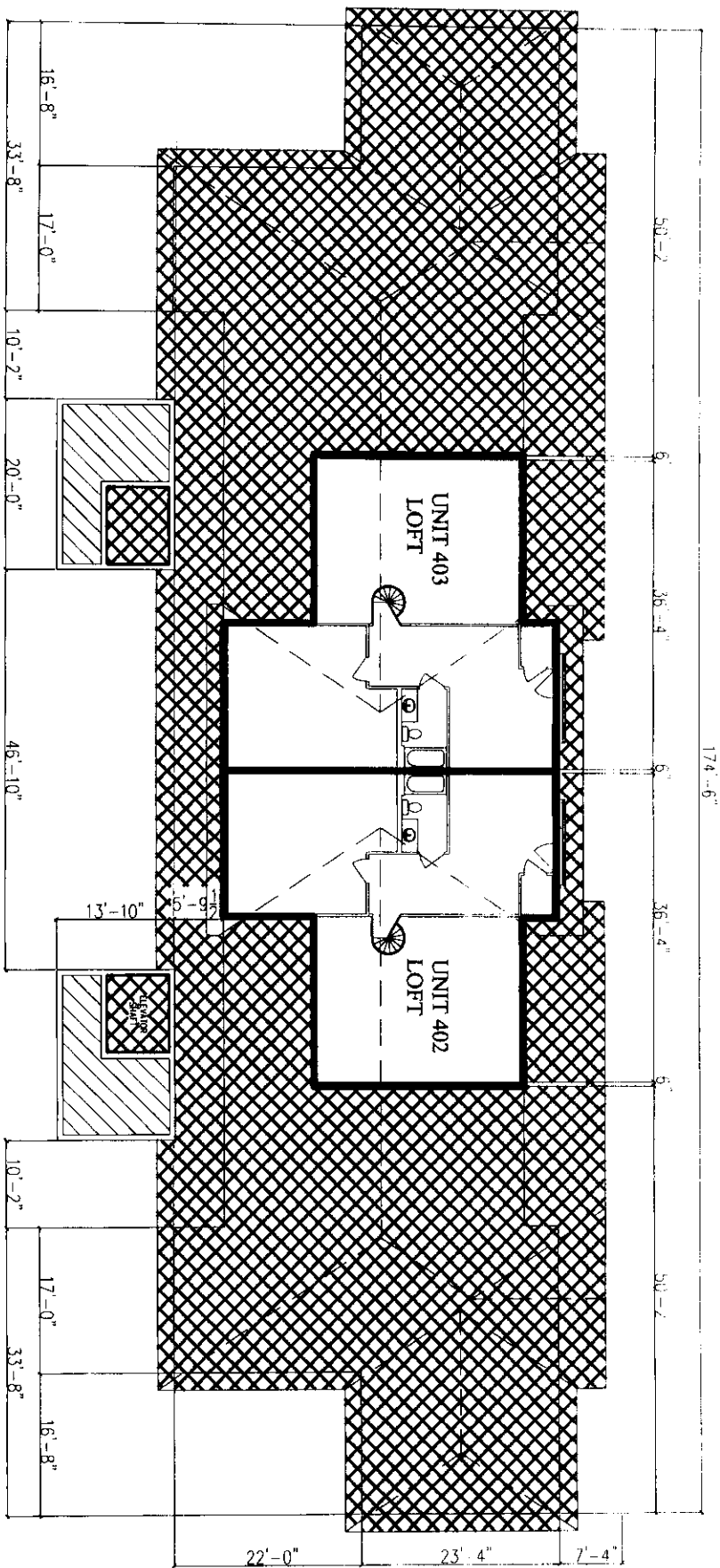


LEGEND

— DENOTES UNIT BOUNDRIES

GRAINGER COUNTY, TENNESSEE

EXHIBIT F, page 6



TYPICAL LOFT FLOOR PLAN

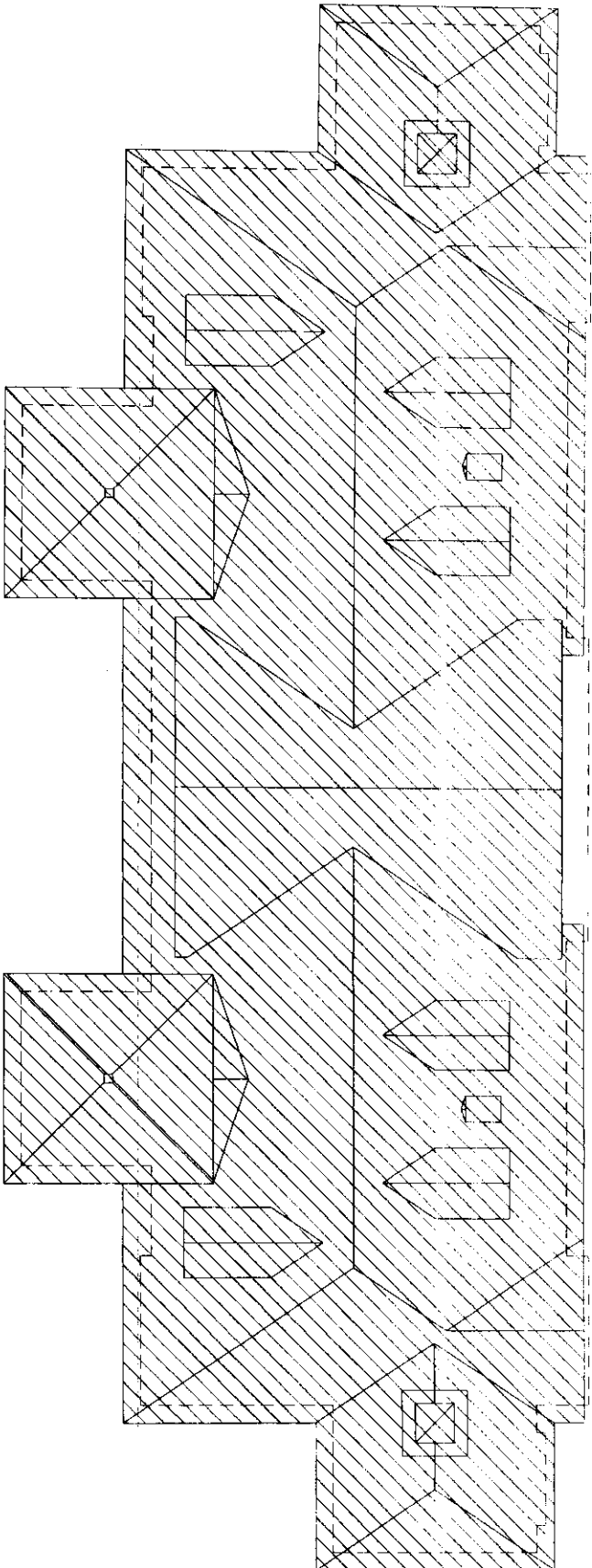
(BLDGS. A/B/C/D)



LEGEND

———— DENOTES UNIT BOUNDRIES

EXHIBIT F, page 7



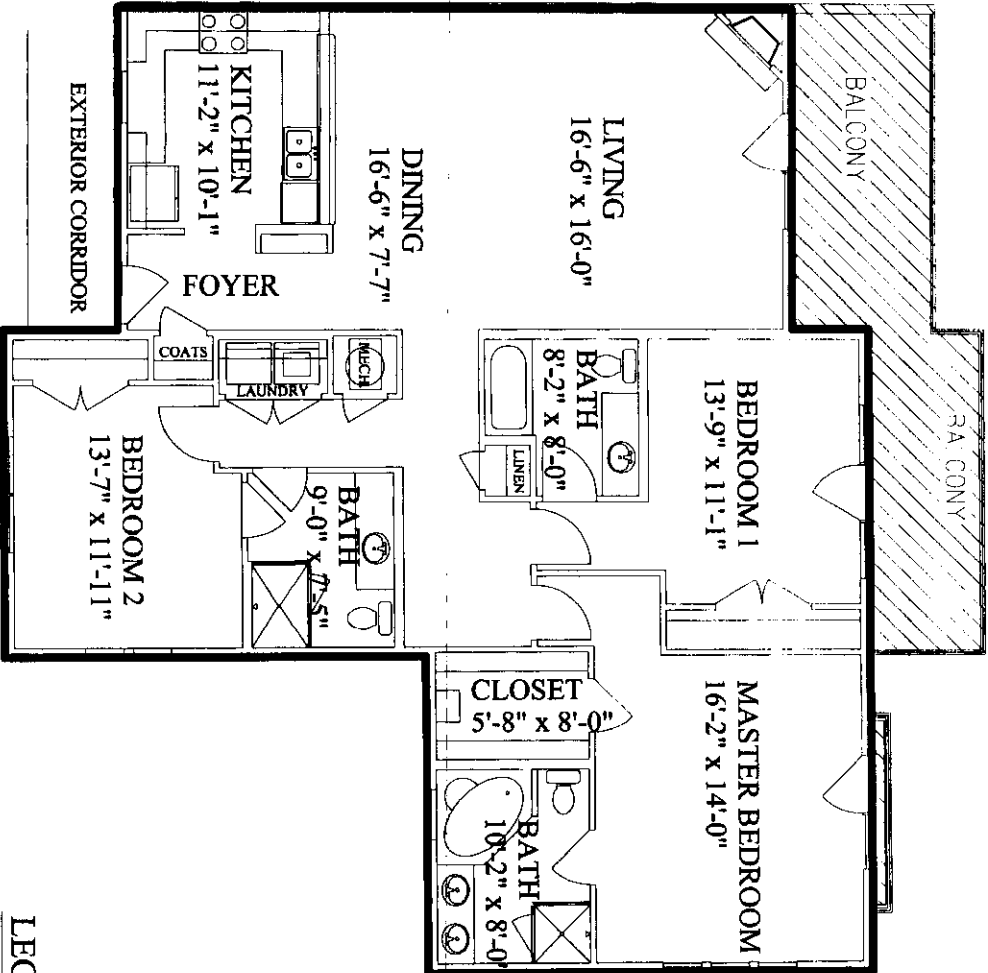
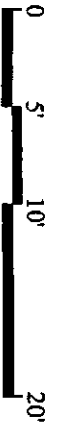
TYPICAL ROOF PLAN

(BLDGS. A/B/C/D)



EXHIBIT F, page 8

UNIT TYPE 01 FLOOR PLAN (BLDGS. A/B/C/D)



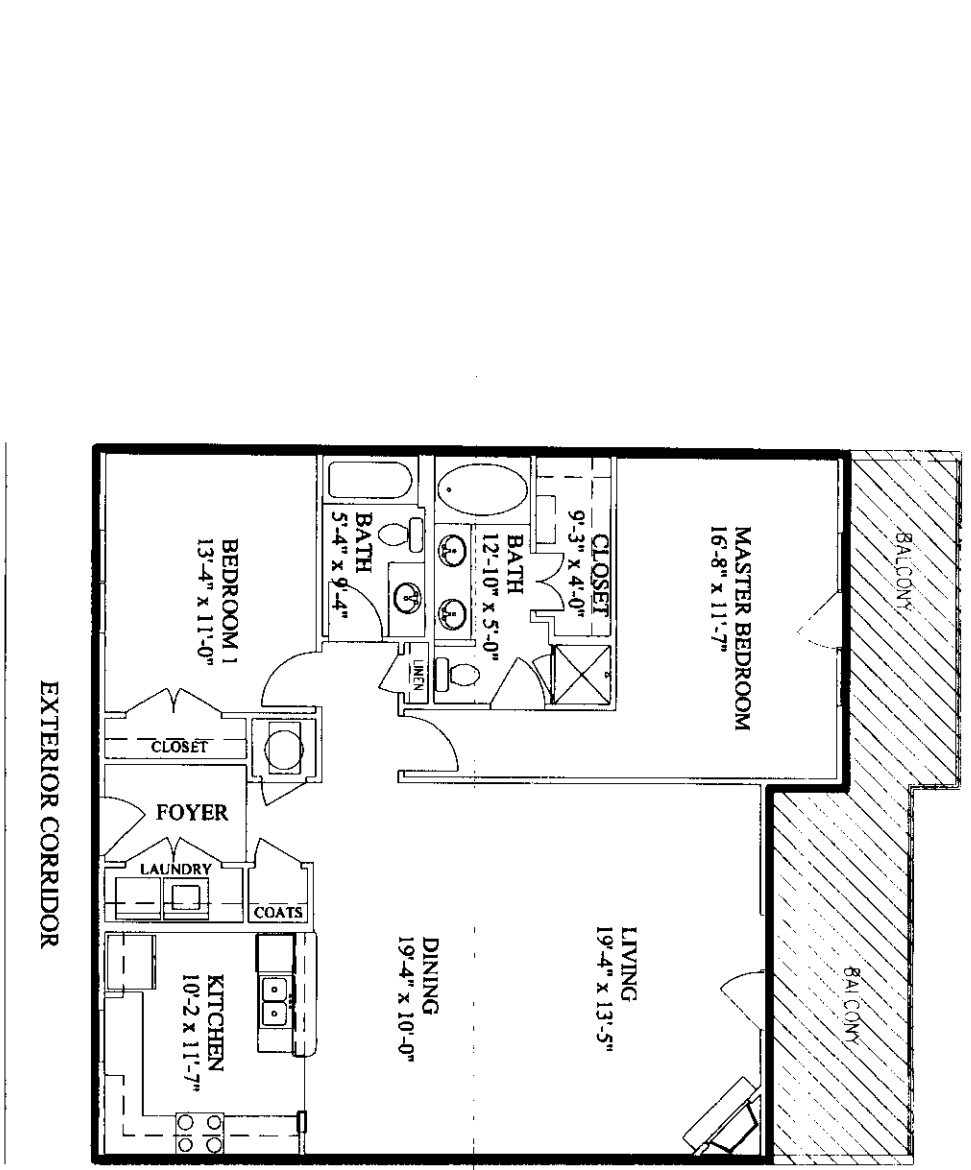
NET HEATED & COOLED	1,758 S.F.
BALCONY	240 S.F.
TOTAL	1,998 S.F.
TOTAL / BLDG.	4

- UNIT NUMBERS
- A 101
  - A 201
  - A 301
  - A 401
  - B 101
  - B 201
  - B 301
  - B 401
  - C 101
  - C 201
  - C 301
  - C 401
  - D 101
  - D 201
  - D 301
  - D 401

LEGEND

- DENOTES UNIT BOUNDRIES
- DENOTES LIMITED COMMON ELEMENTS FOR RESIDENTIAL UNITS

EXHIBIT F, page 9





UNIT TYPE 02 FLOOR PLAN (BLDGS. A/B/C/D)



NET HEATED & COOLED	1,388 S.F.
BALCONY	252 S.F.
TOTAL	1,640 S.F.
TOTAL / BLDG.	3

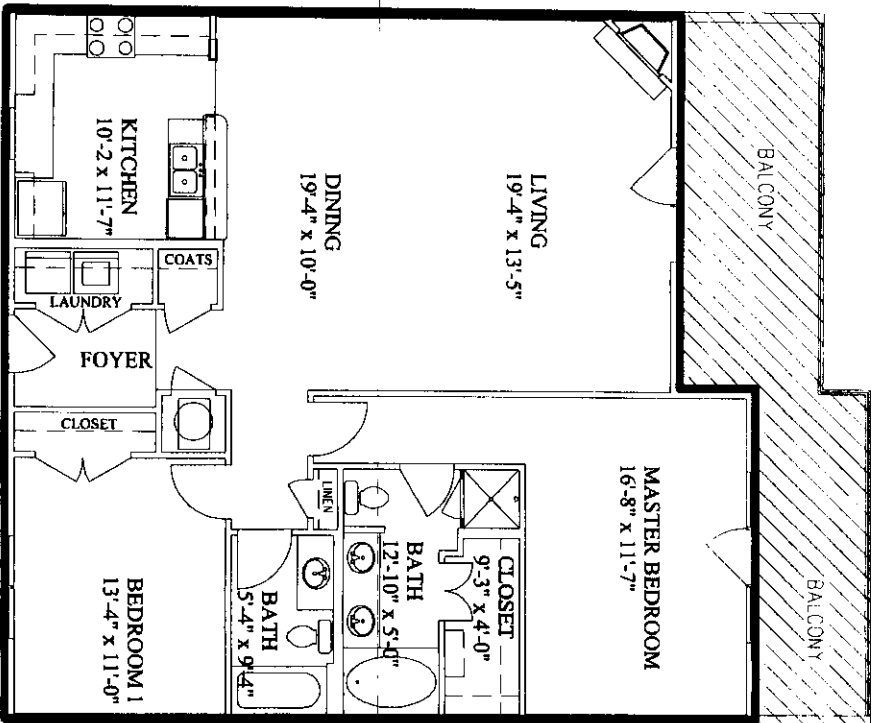
UNIT NUMBERS	A 102
	A 202
	A 302
	B 102
	B 202
	B 302
	C 102
	C 202
	C 302
	D 102
	D 202
	D 302

LEGEND

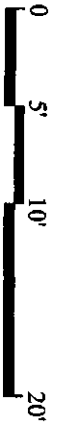
-  DENOTES UNIT BOUNDRIES
-  DENOTES LIMITED COMMON ELEMENTS FOR RESIDENTIAL UNITS

\\sm-appserv1\DW StateDevelopment\Drawings\CHEKONEN\12-20-06 legal packages\TY02\BLDG.A\A.dwg, 12/27/2006 1:22:05 PM, Barry Shields

F, Page 10



UNIT TYPE 03 FLOOR PLAN (BLDG. A/B/C/D)



NET HEATED & COOLED	1,388 S.F.
BALCONY	252 S.F.
TOTAL	1,640 S.F.
TOTAL / BLDG.	3

UNIT NUMBERS	A 103
	A 203
	A 303
	B 103
	B 203
	B 303
	C 103
	C 203
	C 303
	D 103
	D 203
	D 303

LEGEND



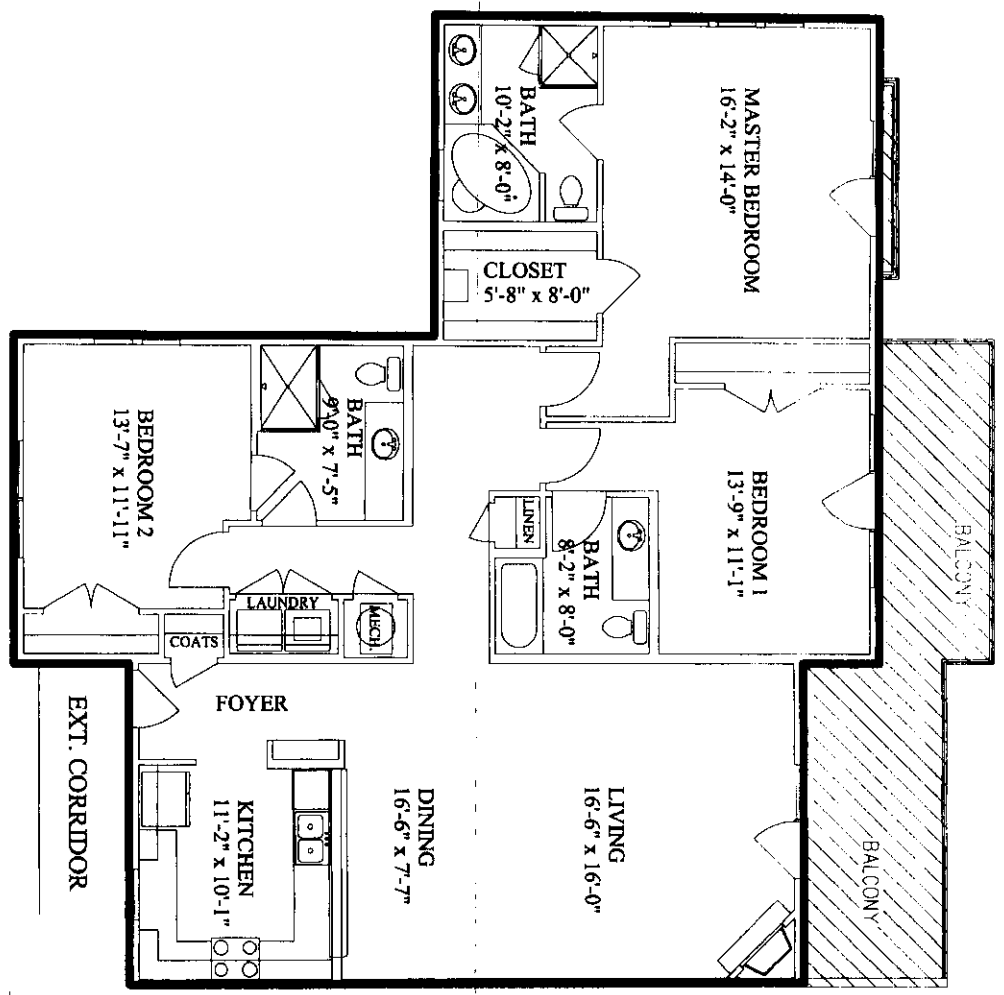
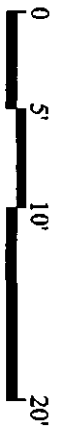
-  DENOTES UNIT BOUNDRIES
-  DENOTES LIMITED COMMON ELEMENTS FOR RESIDENTIAL UNITS

EXHIBIT F, page 11





UNIT TYPE 04 FLOOR PLAN (BLDGS. A/B/C/D)



NET HEATED & COOLED	1,758 S.F.
BALCONY	240 S.F.
TOTAL	1,998 S.F.
TOTAL / BLDG.	4

UNIT NUMBERS	A 104
	A 204
	A 304
	A 404
	B 104
	B 204
	B 304
	B 404
	C 104
	C 204
	C 304
	C 404
	D 104
	D 204
	D 304
	D 404

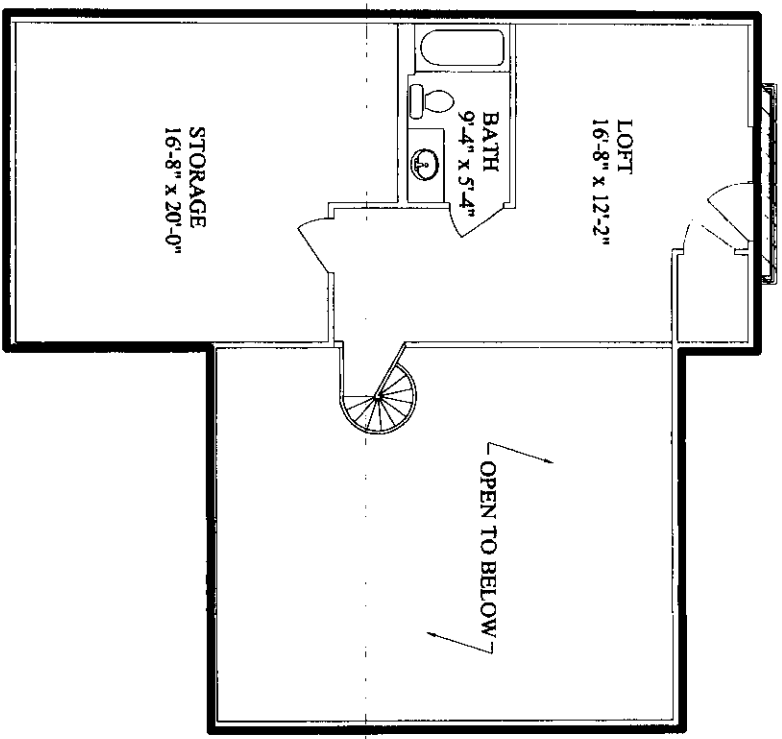
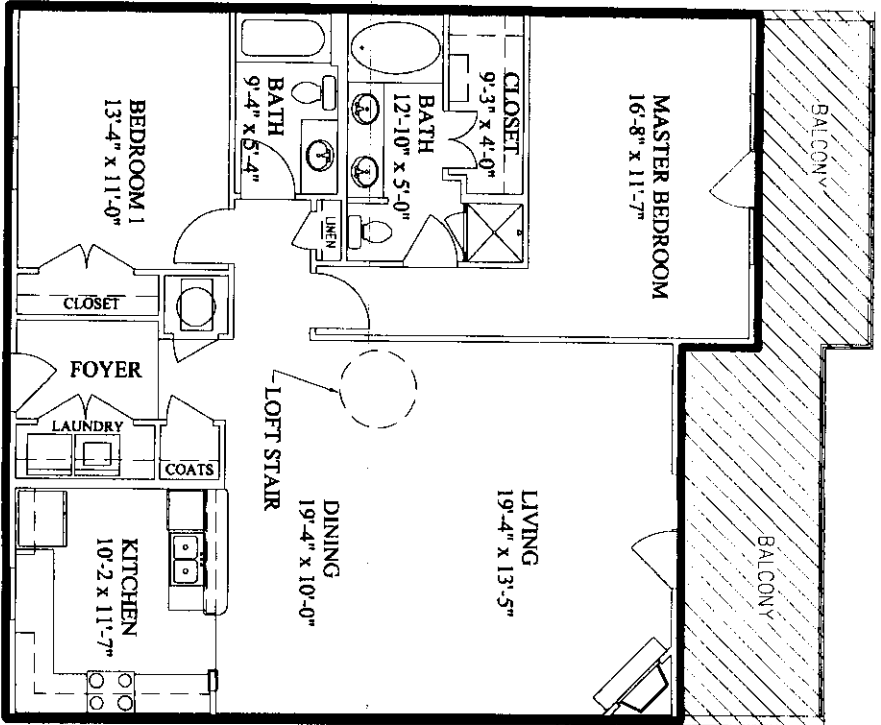
LEGEND

-  DENOTES UNIT BOUNDRIES
-  DENOTES LIMITED COMMON ELEMENTS FOR RESIDENTIAL UNITS

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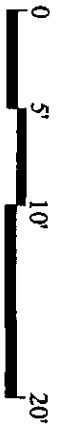


EXHIBIT F, page 12



NET HEATED & COOLED	2,080 S.F.
BALCONY	263 S.F.
TOTAL	2,343 S.F.
TOTAL / BLDG.	1
UNIT NUMBERS	A 402
	B 402
	C 402
	D 402

UNIT TYPE 402 FLOOR PLAN W/ LOFT (BLDG. A/B/C/D)



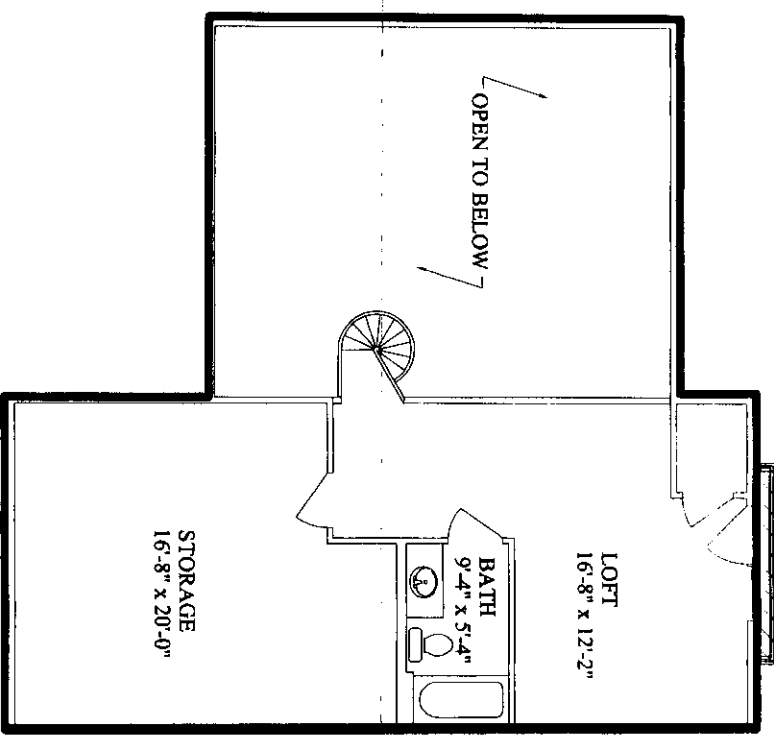
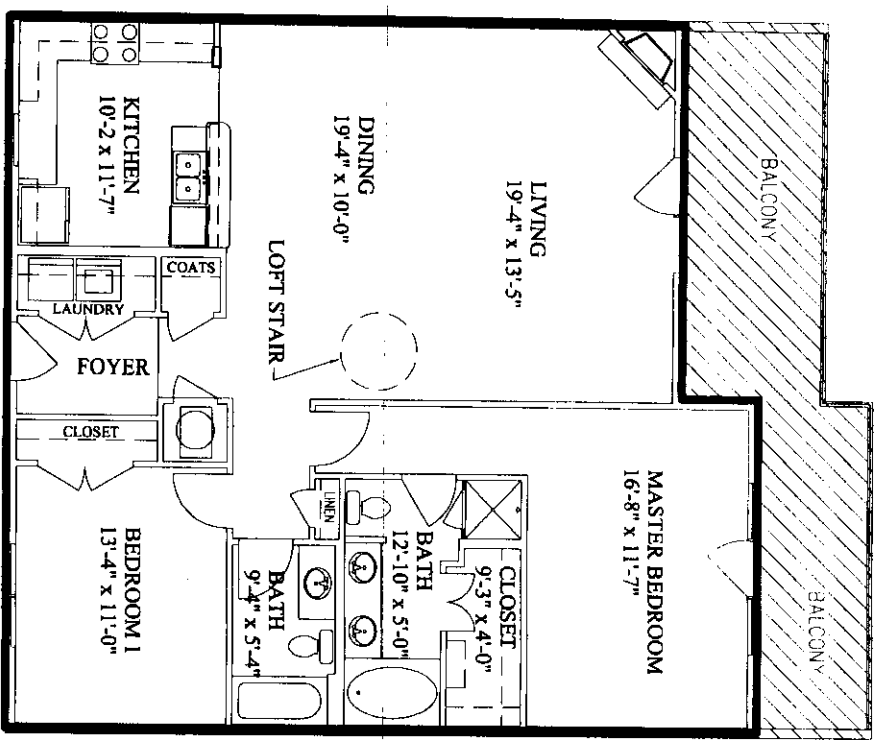
**LEGEND**

— DENOTES UNIT BOUNDRIES

▨ DENOTES LIMITED COMMON ELEMENTS FOR RESIDENTIAL UNITS

\\dm-91pernt1\DW Share\Development\Drawings\CR\CR006\12-20-06 legal packages\TYM402.dwg, 12/27/2006 1:26:22 PM Barry Shedd

EXHIBIT F, page 13



NET HEATED & COOLED	2,080 S.F.
BALCONY	263 S.F.
TOTAL	2,343 S.F.
TOTAL / BLDG.	1
UNIT NUMBERS	
A 403	
B 403	
C 403	
D 403	

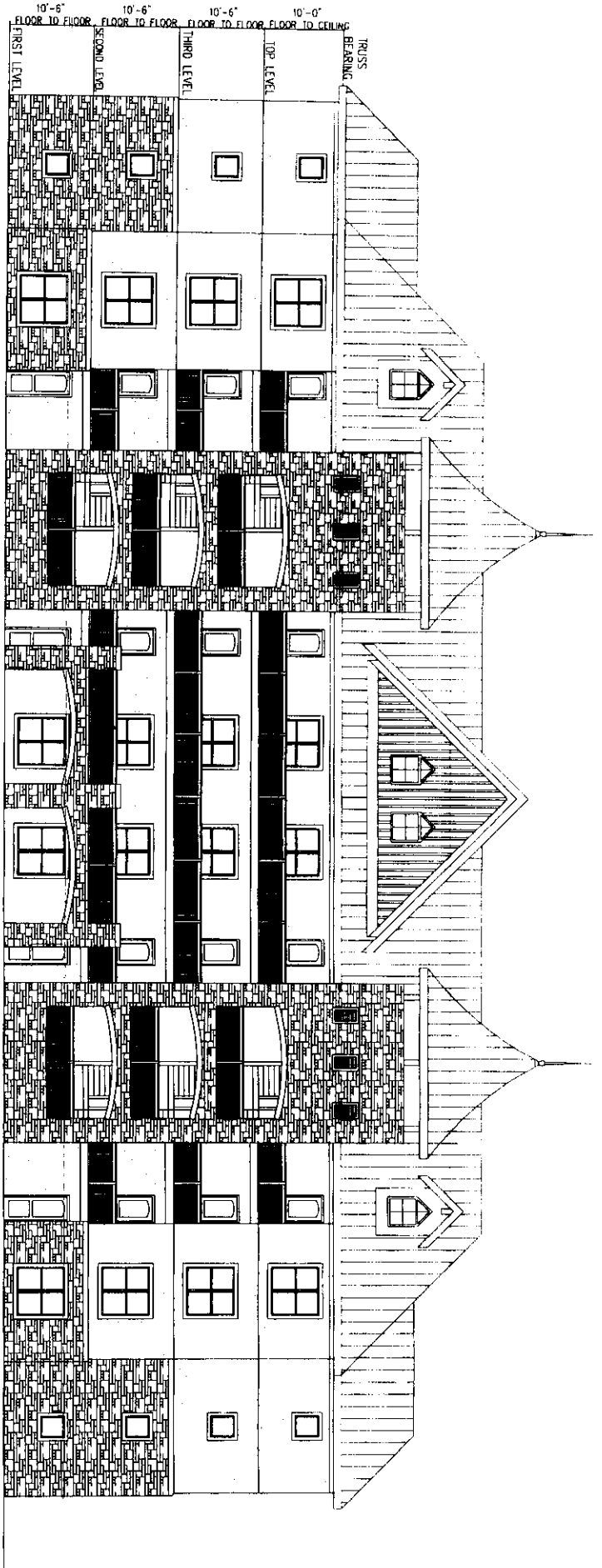
UNIT TYPE 403 FLOOR PLAN W/ LOFT (BLDG. A/B/C/D) N



LEGEND

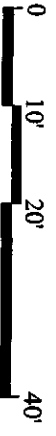
- DENOTES UNIT BOUNDRIES
- DENOTES LIMITED COMMON ELEMENTS FOR RESIDENTIAL UNITS

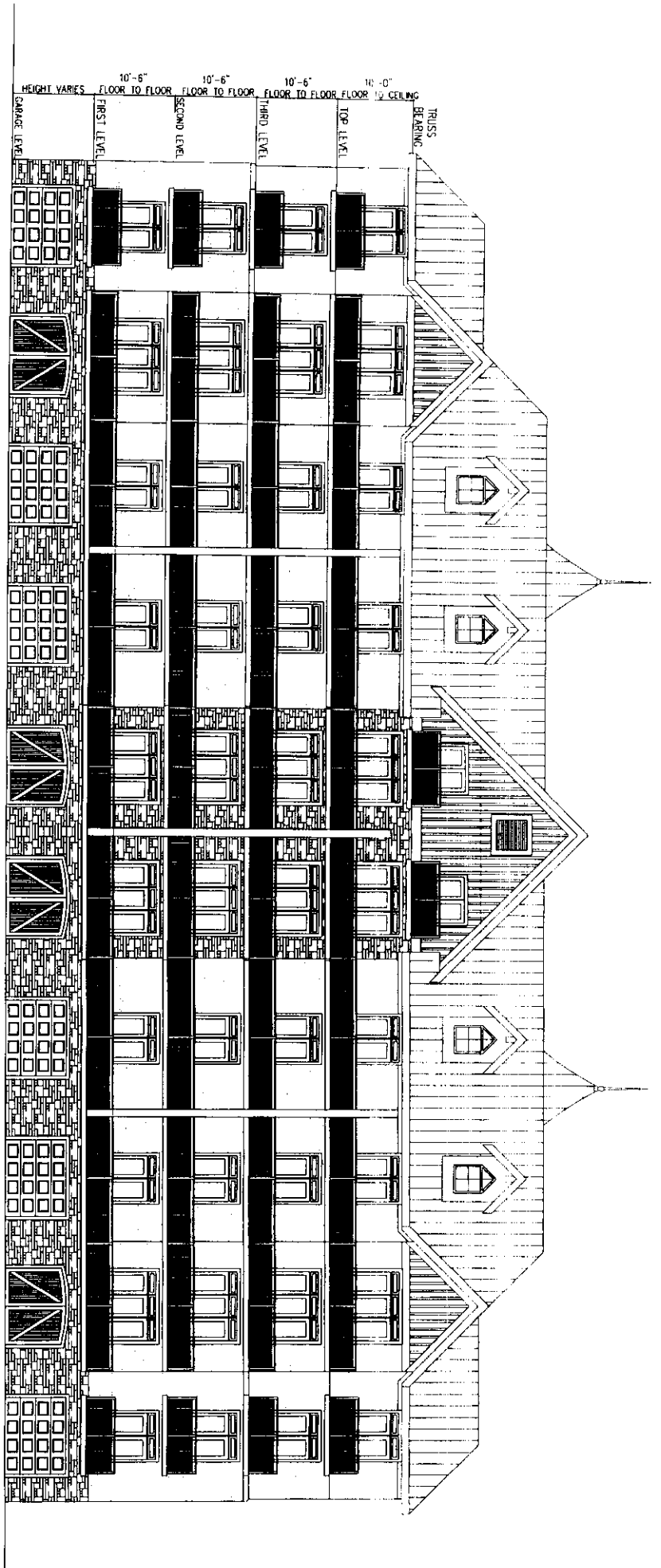
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SOUTH SIDE

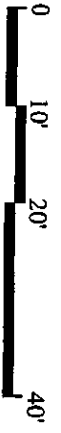
TYPICAL BUILDING FRONT ELEVATION (BLDGS. A/B/C/D)





NORTH SIDE

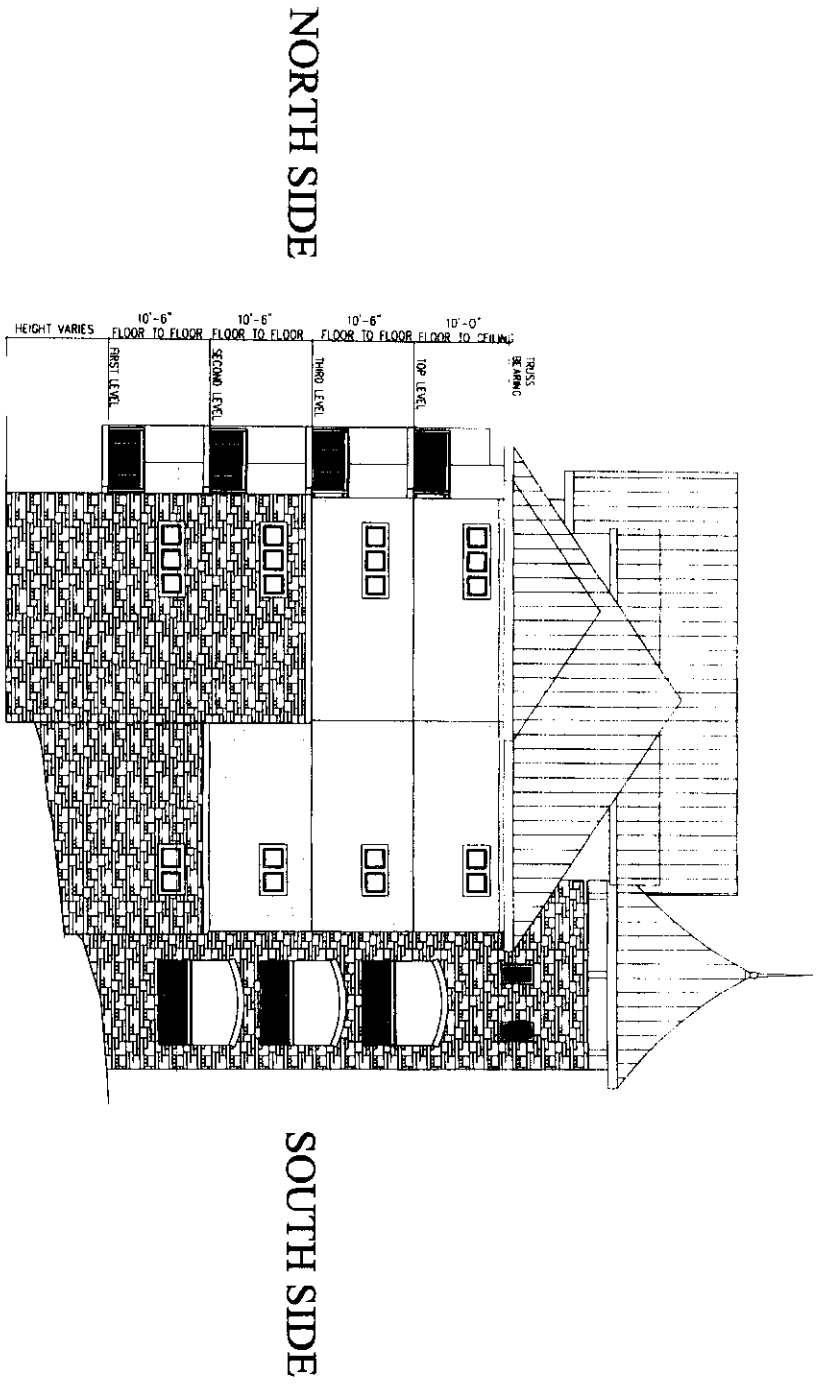
TYPICAL BUILDING REAR ELEVATION (BLDGS. A/B/C/D)





TYPICAL BUILDING SIDE ELEVATION

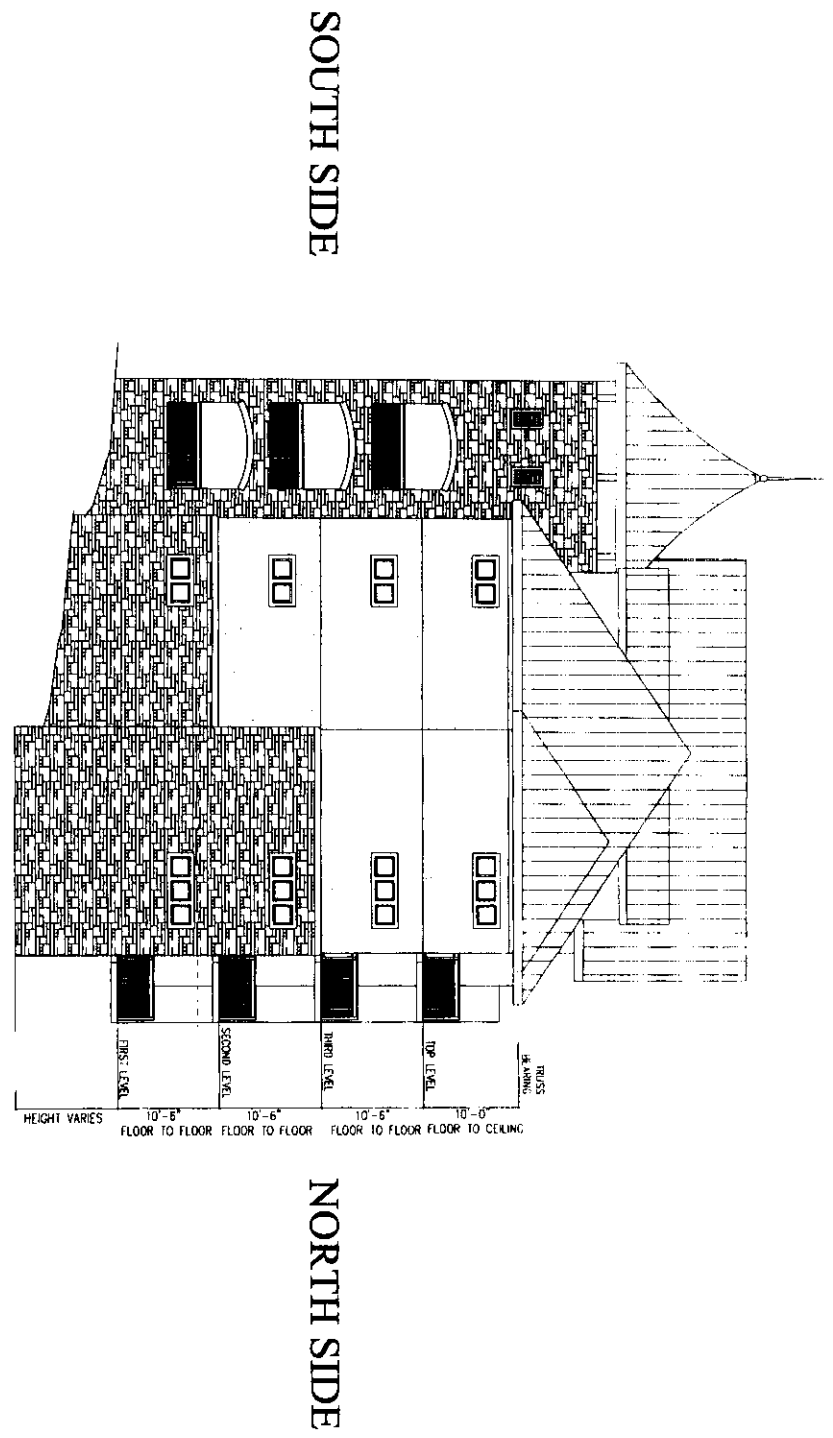
(BLDGS. A/B/C/D)



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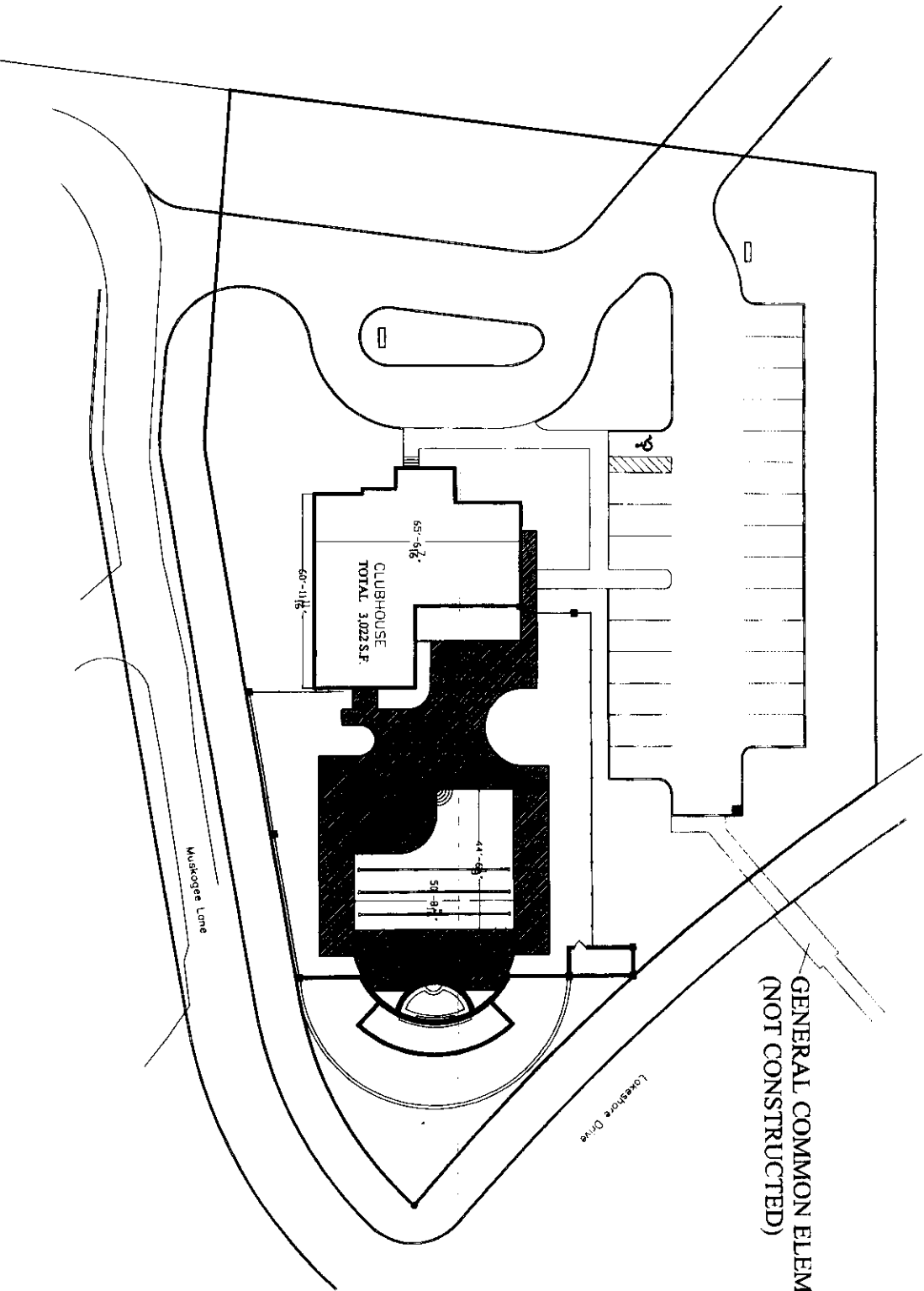
TYPICAL BUILDING SIDE ELEVATION (BLDGS. A/B/C/D)



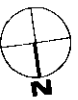
GRAINGER COUNTY, TENNESSEE

CLUBHOUSE AND POOL

GENERAL COMMON ELEMENT  
(NOT CONSTRUCTED)

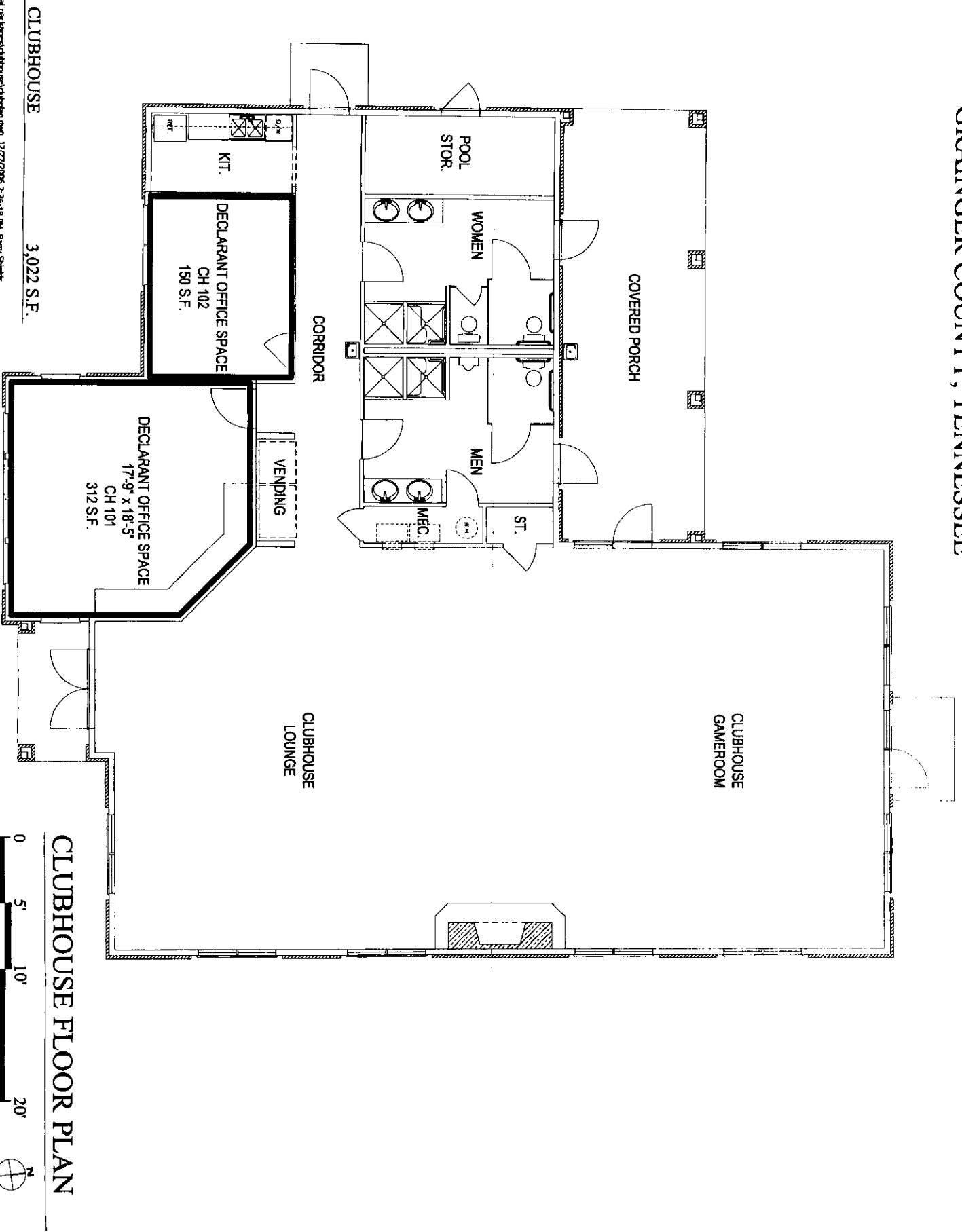


0 30' 60' 120'



\\dms01p01\1\DWI Share\Development\Drawings\plan\plan\20-06 Regal Package\station\pos\plan\clubhouse\22272008 225-42 PM, Barry Shields

EXHIBIT F, page 19



CLUBHOUSE

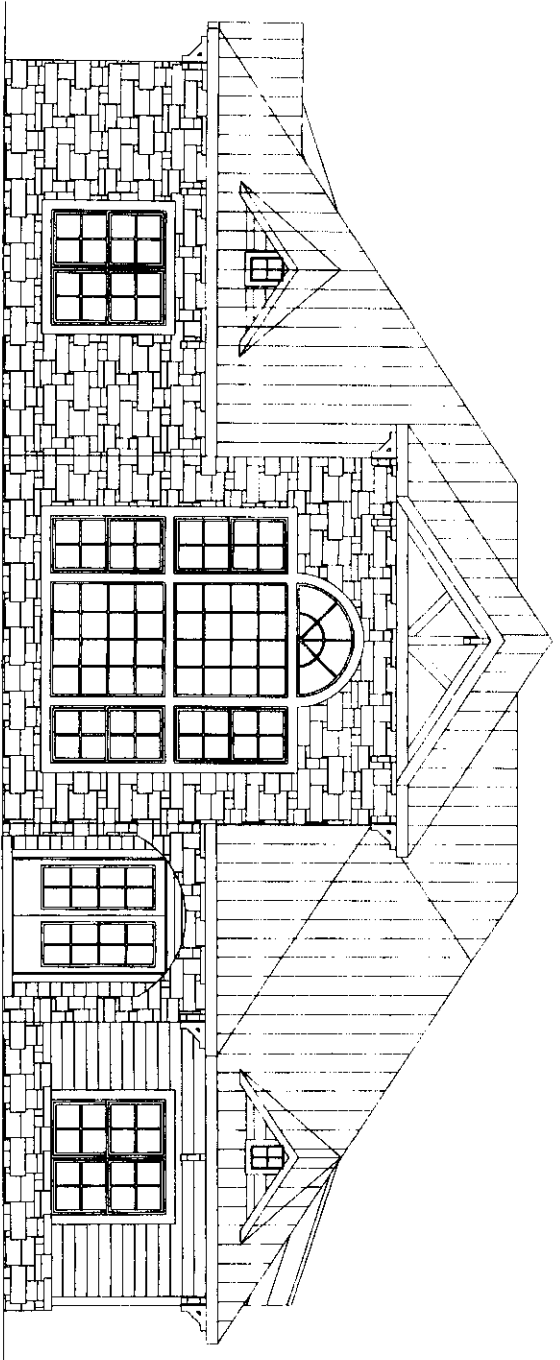
3,022 S.F.

CLUBHOUSE FLOOR PLAN

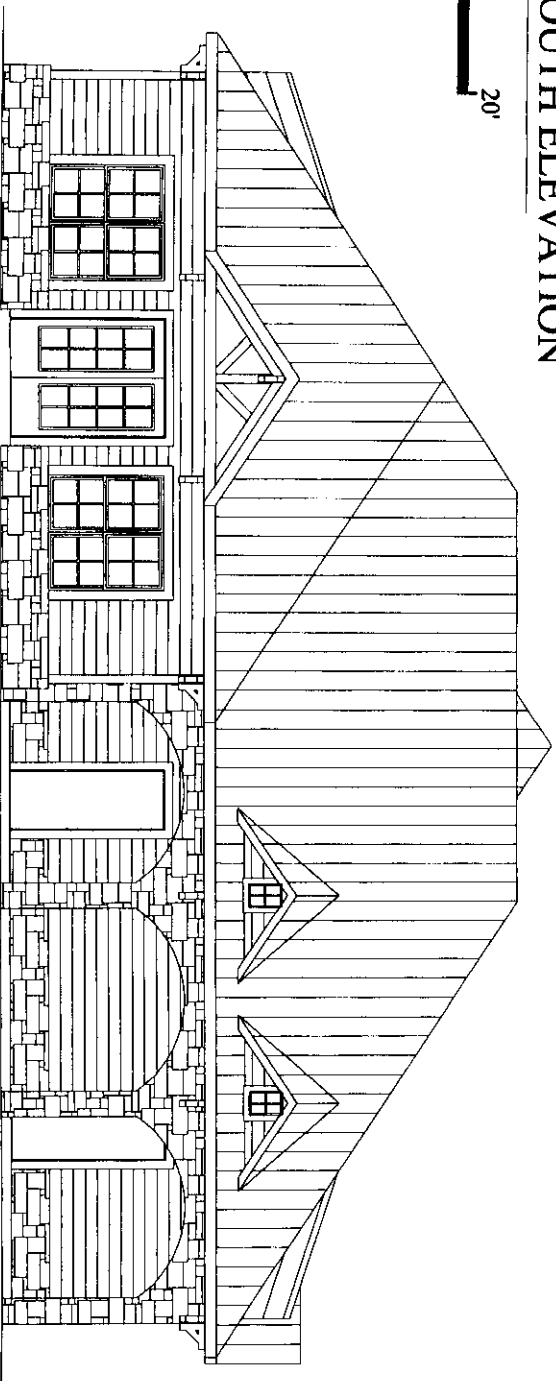
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EXHIBIT F, page 20



CLUBHOUSE SOUTH ELEVATION



CLUBHOUSE NORTH ELEVATION

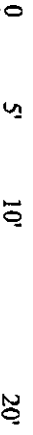
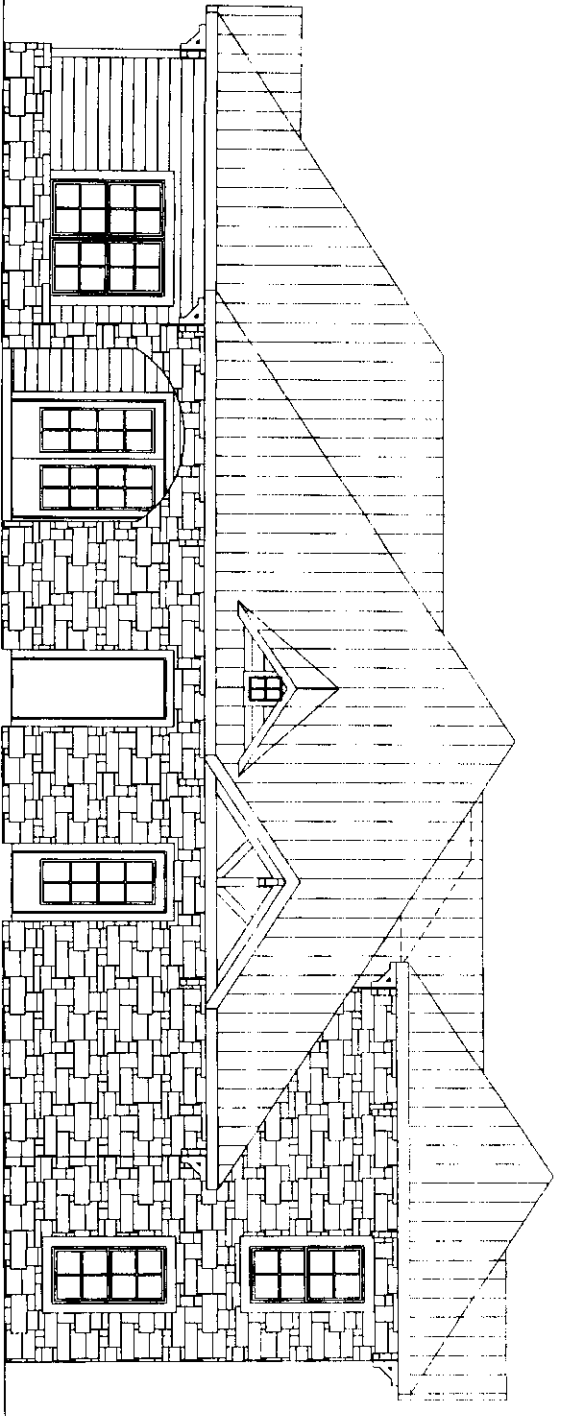
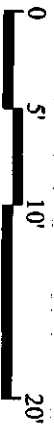
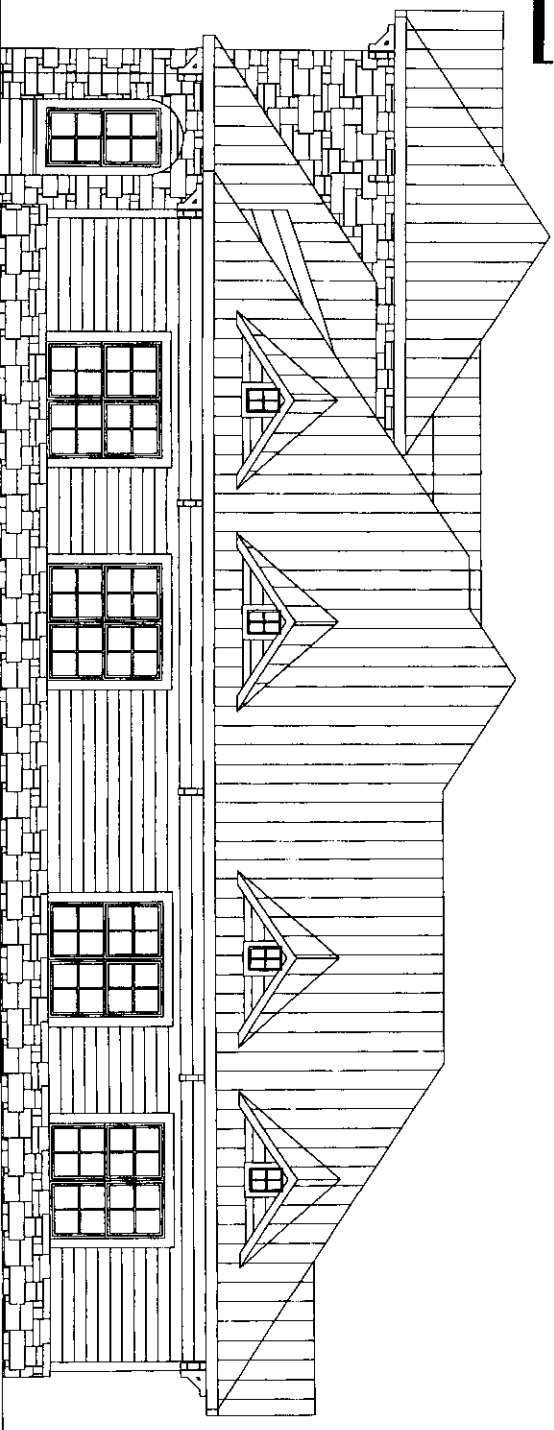
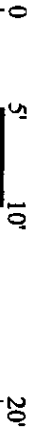


EXHIBIT F, page 21

CLUBHOUSE WEST ELEVATION



CLUBHOUSE EAST ELEVATION



The Plans

The following garages are hereby assigned as Limited Common Elements to the Units appearing beside them. All other garages remain to be assigned as Limited Common Elements pursuant to this Master Deed and are reserved solely for the use of the Units to which they hereafter are so assigned.

<u>Unit</u>	<u>Garage</u>
A-101	A4
A-201	A6
A-301	A7
A-302	A8
A-303	A9
A-404	A5
B102	B2
B104	B9
B302	B7
B303	B8
B401	B4
B402	B5
C104	C7
C304	C9
C402	C4
D103	D9
D201	D3
D401	D4
D404	D7