

MASTER DEED  
FOR  
HICKORY CREEK TOWNHOMES  
A TOWNHOUSE PROJECT

28th THIS MASTER DEED ("Master Deed"), is made and entered into this day of July, 1987, by DON WILLIAMS CONSTRUCTION CO., INC., a Tennessee corporation ("Developer");

WITNESSETH:

WHEREAS, Developer is the owner and/or developer of certain real property located in Hamilton County, Tennessee, and more particularly described in EXHIBIT "A" attached hereto and made a part hereof; and

WHEREAS, Developer wishes to submit such real property together with the improvements constructed and to be constructed thereon (the "Property") to a horizontal property regime pursuant to the provisions of the Tennessee Horizontal Property Act, as it has been amended, and this Master Deed; and

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

NOW, THEREFORE, Developer declares as follows:

ARTICLE I  
RESTRICTIONS

1.1 DEFINITIONS. The following words and terms, whenever used herein or in exhibits hereto and made a part hereof, unless the context indicates clearly to the contrary, shall be defined as follows:

(a) "Act" means the Horizontal Property Act, Tennessee Code Annotated, Sections 66-27-101, et seq., as the Act may be amended from time to time.

(b) "Association" has the same meaning as the term "council of co-owners" as defined in the Act and shall mean and refer to the HICKORY CREEK TOWNHOME ASSOCIATION, INC., a Tennessee not for profit corporation.

(c) "Board" or "Board of Directors" means the governing body of the Association as ascertained by the Bylaws (as defined herein below).

(d) "Buildings" means the structures containing the Units (as defined herein below).

(e) "Bylaws" means the bylaws of the Association as set forth in Exhibit "B" attached hereto and made a part hereof.

(f) "Common Elements" means those portions of the Property not contained within the cubic boundaries of a Unit and which are more particularly described on Exhibit "D" attached hereto and made a part hereof, including but not limited to, the swimming pool, tennis courts, clubhouse and recreational areas and facilities which are now or hereafter contained within the Property.

This instrument prepared by:

*File* Shumacker & Thompson  
Suite 212, One Park Place  
6148 Lee Highway  
Chattanooga, Tennessee 37421

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

(h) "Condominium," "Condominium Project," "Developer," "Master Deed," "person," and "to record," have the same meanings as provided for such words and terms in the Act.

(i) "Co-owner" has the same meaning as the term "coowner" as defined in the Act and also means the person(s) whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and of (as members of the Association) the undivided interest in the Common Elements appurtenant thereto, but shall not include those having an interest in a Unit merely as security for the performance of an obligation. Unless specifically provided otherwise herein, Developer shall be deemed a Co-owner so long as it is the legal title holder of any Unit. Any provision to the contrary notwithstanding, joint owners shall be deemed one Co-owner. If any Unit shall be owned by more than one person or by a corporation, partnership or one or more fiduciaries, such owner(s) shall designate one person to represent such Unit with respect to the Association and to cast the votes of such Unit.

(j) "Majority" has the same meaning as the term "majority of co-owners" as defined in the Act and also means, unless otherwise specified, more than fifty percent (50%) or more of the "total number of votes" present at a meeting of the Association. The total number of votes shall equal the total number of Units owned by Co-owners who are members of the Association. Each Co-owner shall hold one (1) vote for each Unit owned.

(k) "Plat" means that plat recorded or to be recorded in the Register's Office of Hamilton County, Tennessee, comprising the plat of HICKORY CREEK SUBDIVISION, a townhouse development, which plat, and revisions, amendments and supplements thereto, is incorporated herein by reference as fully as though copied herein.

(l) "Property" means and includes the real property described in Exhibit "A" attached hereto and made a part hereof, and all structures and improvements constructed and to be constructed thereon and all easements, rights and appurtenances belonging thereto.

(m) "Townhouse Regime" means the Hickory Creek Townhouse Subdivision, which is a townhouse development consisting of lots and Common Elements as designated by the Plat which lots and Common Elements are subject to the Act, this Master Deed, the Bylaws and the Rules and Regulations of the Association.

(n) "Unit" has the same meaning as the term "apartment" as defined in the Act, and also means that portion of the Property, as determined by the records in the Register's Office of Hamilton County, Tennessee, or designated on the Plat by the term "Lot", which is not part of the Common Elements and to which fee simple title has been or shall be conveyed exclusively to a Co-owner for said Co-owner's independent use.

## ARTICLE II PLAN OF DEVELOPMENT

2.1 SUBMISSION TO HORIZONTAL PROPERTY REGIME. Developer, as the legal title holder in fee simple of the Property, expressly intends the following:

(a) This horizontal property regime shall be known as HICKORY CREEK TOWNHOMES, a townhouse development, or by such name or names as shall be selected from time to time by Developer or the Association;

(b) The Property is hereby submitted to this horizontal property regime pursuant to the provisions of the Act and this Master Deed.

2.2 DESCRIPTION OF SPECIFIC UNITS. All of the Units are or shall be delineated upon the Plat, and the legal description of each Unit shall consist of

the identifying number and/or letter of such Unit as shown upon the Plat. Except as provided in this Master Deed, no Co-owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause said Co-owner's Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat.

2.3 PROPERTY DEVELOPMENT. Developer hereby expressly reserves the right to continue construction of improvements, from time to time and any time so long as Developer owns fee simple title to any portion of the Property, on that portion of the Property to which Developer holds fee simple title, in order to improve the Common Elements and to construct townhouses on those portions of the Property designated for individual Units, as determined by the Plat.

2.4 TERMINATION OF THE TOWNHOUSE REGIME. Subject to the provisions of the Act, this Townhouse Regime shall be terminated only by not less than eighty percent (80%) of the affirmative vote of all Co-owners and by written consent obtained from all those mortgagees which are subject to this Master Deed.

ARTICLE III  
PROPERTY RIGHTS AND RESTRICTIONS

3.1 CO-OWNER'S RIGHTS - EXCLUSIVE AND COMMON. A Co-owner shall have:

(a) The exclusive ownership in fee to the Co-owner's Unit, subject to the other provisions of this Master Deed; and

(b) As an appurtenance to the ownership of such Unit, an equal and undivided interest in the Common Elements.

3.2 USE AND OCCUPANCY OF UNITS AND COMMON ELEMENTS. Subject to the provision of the Act, this Master Deed and the Bylaws, the Units and Common Elements shall be occupied and used according to the rules and regulations as set forth in Exhibit "C" attached hereto and made a part hereof (the "Rules and Regulations"), as amended from time to time.

3.3 EASEMENTS AFFECTING THE PROPERTY. Without hereby limiting the Board's authority to grant easements from time to time with respect to parts of the Common Elements, as set forth herein, each Co-owner shall take title to said Co-owner's Unit subject to the rights of other Co-owner's to use the Common Elements and also subject to the following:

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

(b) All suppliers of utilities, including cable television, serving the Property may be granted non-exclusive easements at the discretion of the Association to install, lay, construct, operate, maintain, renew, repair and replace conduits, ducts, cables, pipes and wires and other equipment or structural components in, to, over, under, across and through any portion of the Common Elements for the purpose of providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property or any part thereof for said purpose. In addition, the Association, at its discretion, may grant such other easements as the Association may deem desirable.

3.4 LEASE OF A UNIT. (a) With the exception of Subsection 3.4(b) below (unless otherwise specified), this Section 3.4 shall not apply to the lease of a Unit by a Co-owner to such Co-owner's spouse, child, parent, grandparent, brother, sister, grandchild or descendant, or to any one or more of them, (hereinafter individually or collectively "Family Member"), or to any trustee of a trust, the sole beneficiary of which is said Co-owner or said Co-owner's Family Member or any one or more of them, or to any partnership of which the Co-owner or said Co-owner's

Family Member, or any one or more of them are the sole partners. It is provided, however, that notice of such lease shall be given by the Co-owner to the Board within ten (10) days following the consummation of such lease.

(b) A copy of any lease of a Unit or interest therein, as and when executed, shall be furnished to the Board. The lessee under every such lease shall be bound by and subject to all of the obligations under this Master Deed and the Bylaws and the lease shall expressly so provide. The Co-owner making such lease shall not be relieved thereby from any of said obligations. Upon the expiration or termination of such lease, or in the event of any attempted assigning or subleasing thereunder, the provisions of this Section 3.4 shall again apply to said Unit or interest therein.

(c) Whenever a Co-owner shall propose to lease above said Co-owner's Unit, or any interest therein, to any person or entity other than a person or entity described in Subsection 3.4(a) above, said Co-owner shall give the Board not less than twenty (20) days prior written notice of the lease proposed by the Co-owner and shall state the name and address, and occupation or employment, if any, of the proposed lessee. The notice shall also include a copy of the proposed lease, or other documents affecting said lease and all pertinent terms and conditions of such lease.

(d) Lease of a Unit by Developer shall not be subject to the provisions of this Section 3.4. Developer reserves the right to lease any unsold Unit owned by it under such terms and conditions as it shall deem proper.

(e) A lease of a Unit or interest therein by the holder of a first mortgage on a Unit, which holder comes into possession of the mortgaged Unit through foreclosure or other judicial sale or through any conveyance made to such first mortgage holder in lieu of foreclosure, shall not be subject to the provisions of this Section 3.4. Such first mortgage holder shall be entitled to do any of the following, all without being subject to any of the provisions of this Section 3.4:

(i) foreclose or take title to a Unit pursuant to the remedies provided in the mortgage; or

(ii) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor; or

(iii) sell or lease a Unit acquired by the mortgagee.

(f) The Board may from time to time adopt rules and regulations not inconsistent with the provisions of this Section 3.4 for the purpose of implementing and effectuating said provisions.

(g) If any lease of a Unit is made or attempted without complying with the provisions of this Section 3.4, such lease shall be subject to each and all rights and remedies and actions available to the Association hereunder the otherwise.

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

3.5 RIGHTS RESERVED. A Co-owner's rights or enjoyments of the Common Elements as herein created shall be subject to:

(a) The right of the Association to suspend the enjoyment rights of any Co-owner in utilities, ingress and egress, and all other rights in the Common Elements for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its Rules and Regulations; and

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

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

of the total vote of all of the Co-owners agree to such dedication, transfer, purpose or condition; and

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

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

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

(ii) any amendment to this Master Deed which changes the interest of the Co-owners in the Common Elements, except amendments made pursuant to Paragraphs 6.2 and 8.1 hereof;

(iii) use of hazard insurance proceeds for losses to the Common Elements for other than the repair, replacement, or reconstruction of such improvements, except in the case of substantial loss to the Units and/or Common Elements as provided herein;

(iv) any amendment to this Section 3.6(a) or to any other provision in this Master Deed which specifically grants rights to the holders of such first mortgages or deeds of trust.

(b) Upon written request, any mortgagee subject to this Master Deed shall be entitled to:

(i) inspect the books and records of the Association during normal business hours, upon reasonable notice;

(ii) receive a copy of the annual financial statement of the Association which is prepared for the Association and distributed to the Co-owners;

(iii) receive written notice of all meetings of the Association and permitted to designate a representative to attend all such meetings;

(iv) receive written notice of any default in the obligations hereunder of any Co-owner of such Unit encumbered by such first mortgage lien, not cured within thirty (30) days after notice of such default has been sent to such Co-owner by the Association; and

(v) receive written notice of any material amendment to this Master Deed, the Bylaws or the Charter of the Association.

However, the Association's failure to provide any of the following to a first mortgagee who has so requested same shall not affect the validity of any action or decision which is related to the foregoing, nor shall the Association have any liability on account of its good faith failures to so provide.

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

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

(e) When notice is to be given to any first mortgagee hereunder, the Board shall also give such notice to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guaranteeing mortgages of Units in the Townhouse Regime, if the Board has notice of such participation.

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

3.8 RIGHT OF USE BY DEVELOPER. During the period of construction and sale of any Units by Developer, Developer and Developer's respective agents, employees, successors, assigns, contractors, subcontractors, brokers, licensees, and invitees and the respective agents and employees thereof, shall be entitled to use, parking and storage of vehicles and equipment, access, ingress to and egress from the Property, and the Common Elements without charges, as may be required for purposes of construction and sale of any Unit and other activities of Developer on or about the Property. While Developer owns any Unit and until each Unit sold by it is occupied by the purchasers thereof, Developer and its agents and employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more or such unsold or unoccupied Units or a portion of the Common Elements without charge, as a sales office, administrative office, management office, or other uses and offices incidental to Developer's use of the Property, and may maintain customary signs, banners and flags in connection therewith. This section may only be amended or modified with the express written consent of Developer.

3.9. NO PARTITION. The Common Elements shall remain undivided and shall not be the object of an action for partition or division of the co-ownership thereof so long as the Common Elements are used for this Townhouse Regime, and in any event, all lenders must either be paid in full prior to bringing an action for partition or their consent must be first obtained.

#### ARTICLE IV THE ASSOCIATION

4.1 ASSOCIATION OF CO-OWNERS: AND ADMINISTRATION AND OPERATION OF THE PROPERTY. (a) There has been formed (pursuant to the Charter of the Association recorded or to be recorded in the Register's Office of Hamilton County, Tennessee which Charter is made a part hereof as fully as if it were incorporated herein (the "Charter")) an Association having the name "Hickory Creek Townhome Association, Inc.", a Tennessee not for profit corporation, which Association shall be the fee title owner of the Common Elements (as designated by the Plat), upon the proper execution and recordation of this Master Deed and a Quitclaim Deed to that effect, the Association shall be the governing body for all of the Co-owners, with reference to the maintenance, repair, replacement, administration and operation of the Common Elements, as provided in the Act, this Master Deed and the Bylaws. The Association shall have and exercise all powers necessary or convenient to affect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Act, this Master Deed or the Bylaws. All of the Co-owners irrevocably constitute and appoint the Association, in their names, as attorney in fact to effectuate the above. The Board shall elect and shall serve in accordance with the provisions of this Master Deed, the Bylaws and the Act. Subject to the Act and Bylaws, the Board shall have standing to act in a representative capacity in relation to matters involving the Common Elements or more than one Unit, on behalf of the Co-owners, as their interest may appear. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Co-owners, and all funds received by the Association shall be held and applied by it for the use and benefit of the Co-owners in accordance with the provisions of the Act, this Master Deed and the Bylaws. Except as provided in Section 4.1(b) each Co-owner shall be a member of the Association. A Co-owner's membership shall automatically terminate upon the conveyance or transfer of said Co-owner's title to said Co-owner's Unit to a new Co-owner and the new Co-owner shall

simultaneously succeed to the former Co-owner's membership in the Association. A Co-owner shall be entitled to one (1) vote in the Association for each Unit owned by said Co-owner.

(b) Non-member Co-owners. Notwithstanding anything contained in this Master Deed or the Exhibits hereto to the contrary, if any existing Co-owner of record fails or refuses to consent and accept (by a recorded agreement) the provisions of this Master Deed, within thirty (30) days after it is recorded with the Register's Office of Hamilton County, Tennessee, then said Co-owner shall not be a member of the Association. In that the Association owns or shall own the Common Elements, said non-member Co-owner shall not have the right to enjoy the use and benefit of the Common Elements nor the privileges or obligations provided by this Master Deed. Thirty (30) days after the recordation of this Master Deed, such non-member Co-owner shall remain a non-member until (i) said non-member Co-owner accepts the provisions of this Master Deed by recorded instrument, (ii) the Association by a Majority vote elects to allow such Co-owner to become a member and (iii), unless waived by the Association, such non-member Co-owner has reimbursed the Association for its pro-rata share of all Common Expenses attributable to said non-member Co-owner's Unit and not paid by said non-member Co-owner.

4.2 MANAGEMENT OF PROPERTY. The Board shall have the authority to engage the services of a managing agent to maintain, repair, replace, administer and operate the Common Elements, or any part thereof, to the extent deemed advisable by the Board. The cost of such services shall be a Common Expense.

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

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

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

#### ARTICLE V MAINTENANCE

5.1 MAINTENANCE, REPAIRS AND REPLACEMENTS. (a) Maintenance of, repairs to and replacements within the Common Elements shall be the responsibility of and shall be furnished by the Association. The cost of maintenance of, repairs to and replacements within the Common Elements shall be part of the Common Expenses, subject to the Bylaws and the Rules and Regulations of the Association.

(b) In addition to the discretionary authority provided herein for maintenance of all or any portion of the Common Elements, the Association shall have the authority to maintain and repair any Unit, if such maintenance or repair is determined necessary in the reasonable discretion of the Board to protect the Common Elements, and after prior written notice the Co-owner of said Unit has failed or refused to perform said maintenance or repair directed by the Board; and the Board shall have the right to levy a special assessment against the Co-owner of such Unit for the cost and expenses incurred for such necessary maintenance or repair.

(c) If, due to the act or negligence of a Co-owner, or said Co-owner's agent, servant, tenant, Family Member, invitee, licensee or household pet, damage is caused to the Common Elements or to a Unit owned by others, or maintenance, repair or replacement are required, the cost of which would otherwise be a Common Expense, then such Co-owner shall pay for such damage or such maintenance, repair and replacement, as may be determined by the Association; however, the provisions of this Section 5.1 are subject to the provisions of Section 6.1 hereof providing for waiver of subrogation rights with respect to casualty damage insured against by reason of policies of insurance maintained by the Board.

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

5.2 ENTRY BY BOARD. The Association, its agents or employees, may enter any Unit when necessary in connection with the maintenance or reconstruction for which the Board is responsible, or which the Board has a right or duty to do. Such entry shall be made with as little inconvenience to a Co-owner as practicable, and any damage caused thereby shall be repaired by the Board as a Common Expense.

ARTICLE VI  
INSURANCE AND CASUALTY LOSS AND EMINENT DOMAIN

6.1 INSURANCE. (a) The Board shall have the authority to and shall obtain insurance for the Common Elements, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Common Elements, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed the cost of restoring the Common Elements, or any part thereof to substantially the same condition as existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association, as the trustee for each of the Co-owners, and for the holders of mortgages on each Unit, if any. Each such policy of insurance shall also contain, if possible, a waiver of subrogation rights by the insurer against individual Co-owners. The premiums for such insurance shall be a Common Expense. The Board shall notify all persons insured under such policy in the event of any cancellation thereof.

(b) The Board shall also have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and worker's compensation and other liability insurance as it deems desirable, insuring the Co-owners, individually and severally, any mortgagee of record, the Association, its officers, Directors and Board, Developer, and the managing agent, if any, and their respective employees and agents and all persons acting as their respective agents, from liability in connection with the ownership, existence, use or management of the Common Elements. Developer and Developer's representatives shall be included as additional insureds in their capacities as Co-owners and/or Board members. The Co-owners shall be included as additional insureds but only with respect to their interest in the Common Elements. Each such policy of insurance shall cover claims of one or more insured parties against other insured parties and shall also contain a waiver of subrogation rights by the insurer against such insured persons or entities. Each such policy shall also contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Co-owner because of negligent acts of the Association or any other Co-owner. The premiums for such insurance shall be a Common Expense. The Association shall notify all persons insured under any such public liability policy in the event of any cancellation thereof, and shall retain in safekeeping any such public liability policy for twenty (20) years after the expiration date of the policy.

The comprehensive public liability insurance shall cover all the Common Elements, public ways and commercial spaces owned by the Association, whether or not the same are leased to a third party. Coverage shall be for at least an amount as may be required by private institutional mortgage investors, for bodily injury, including deaths of persons and property damage arising out of a single occurrence.



Coverage under this policy shall include without limitation legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be cancelled or substantially modified, by any party, without at least ten (10) days prior written notice to the Association and to each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in the insurance policy.

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

(d) The Board shall also have the authority to and may obtain at the discretion of the Board:

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

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

(e) A Co-owner shall be liable for any claim, damage or judgment entered as a result of the use or operation of said Co-owner's Unit or caused by said Co-owner's own conduct. Each Co-owner shall be responsible for obtaining said Co-owner's own insurance on said Co-owner's own Unit and its contents, as well as said Co-owner's additions and improvements thereto, decorations, furnishings and personal property therein, and personal property stored elsewhere on the Property. In addition, in the event a Co-owner desires to insure against said Co-owner's personal liability and loss or damage by fire or other hazards above and beyond the extent that said Co-owner's liability loss or damage is covered by the liability insurance carried by the Association for all of the Co-owners, as above provided, said Co-owner may, at said Co-owner's option and expense, obtain additional insurance.

(f) All physical damage insurance policies purchased by the Association shall be for the benefit of the Association, the Co-owners, their mortgagees, and Developer, as their interests may appear, and shall provide that, with respect to any single loss, if the proceeds thereof exceed One Hundred Thousand Dollars (\$100,000.00) then all such proceeds shall be paid in trust to an insurance trustee designated for that purpose by the Board.

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

If such proceeds do not exceed One Hundred Thousand Dollars (\$100,000.00) then all such proceeds shall be paid to the Association to be applied pursuant to the terms contained herein. The Board is hereby irrevocably appointed the trustee for each Co-owner, each mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Property to adjust and settle all claims arising under insurance policies purchased by the Board and to execute and deliver releases upon the payment of claims.

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

6.2 CASUALTY AND EMINENT DOMAIN (A) In the event of a fire or any other disaster causing loss, damage, or destruction to or of the Common Elements, the proceeds of any policy insuring against the same and payable by reason thereof, if sufficient to reconstruct the Common Elements, shall be applied to such reconstruction. As used throughout this Section 6.2, reconstruction means restoration of the Common Elements to substantially the same condition as existed prior to the fire or other casualty, with the Common Elements having the same vertical and horizontal boundaries as prior thereto.

(b) In the event of a fire or any other disaster causing loss, damage or destruction to or of the Common Elements, if the Common Elements are not insured against the peril causing the same or the proceeds of any policy insuring against the same and payable by reason thereof are insufficient to reconstruct the Common Elements, and more than fifty percent (50%) of the Units remain inhabitable after such fire or other disaster, provision for reconstruction of the Common Elements may be made by the affirmative vote of not less than eighty percent (80%) of all the Co-owners voting at a meeting called for such purpose. Any such meeting shall be held not later than thirty (30) days following the final adjustment of insurance claims, or within ninety (90) days after such fire or other disaster whichever shall first occur. At any such meeting, the Board or its representatives shall present to the Co-owners present an estimate of the cost of such reconstruction and the estimated amount of necessary special assessments against each Co-owner, in order to pay therefor. If the Common Elements are reconstructed, any such insurance proceeds shall be applied thereto, and special assessments may be made against the Co-owners in order to pay the balance of the cost thereof.

(c) In the event of a fire or any other disaster causing loss, damage to, or destruction of, the Common Elements, if the Common Elements are not insured against the peril causing the same or the proceeds of any policy insuring against the same and payable by reason thereof are insufficient to reconstruct the Common Elements, and if provision for reconstruction of the Common Elements is not made pursuant to Subsection 6.2(b) above, then provision for withdrawal of any portion of the Common Elements from the provisions of the Act may be made by the affirmative vote of not less than eighty percent (80%) of all the Co-owners. Any such meeting shall be held within sixty (60) days following the final adjustment of insurance claims, if any, or within ninety (90) days after such fire or other disaster whichever shall first occur. As compensation for such withdrawals:

(i) any such insurance proceeds allocated to withdrawn portions of the Common Elements, shall be applied in payment to all Co-owners in equal proportions.

(ii) Upon withdrawal of any Unit, the Co-owner thereof shall be relieved of any further responsibility or liability for the payment of any assessments after said withdrawal.

(d) In the event any portion of the Property is taken by eminent domain proceedings, provision for withdrawal from the provisions of the Act of such portion so taken may be made by the Association. Upon any such withdrawal of any Unit or portion thereof, the responsibility or liability for payment of all or a portion of assessments shall be reduced proportionally, and any condemnation award or other proceeds resulting from such proceeding shall be allocated and paid, in the same manner as provided by Subsection 6.2(c) above, with respect to casualty to the Property and insurance proceeds resulting therefrom.

(e) The provisions of this Section 6.2 shall be subject to the rights, if any, of the holders of mortgages on the Property or any part thereof or on any or all of the Units and the Common Elements appurtenant thereto. The withdrawal and reapportionment contemplated by Subsection 6.2(c) and (d) above shall be effective upon execution and recordation of an amendment to this Master Deed and an amended Plat, in accordance with the provisions of Section 10.6 herein below. No provision contained herein shall give a Co-owner or any other party priority over the first mortgage or first deed of trust of a Unit in the event of a distribution of the proceeds covering losses from a taking of a Unit, Units or the Common Elements by condemnation or eminent domain. In the event of any loss mentioned

herein, each first mortgagee of record will be given prior and timely written notice thereof.

ARTICLE VII  
TAXES AND EXPENSE

7.1 SEPARATE REAL ESTATE TAXES. It is intended that real estate taxes, direct and indirect, are to be separately taxes to each Co-owner for said Co-owner's Unit. Each Co-owner shall pay to the Association said Co-owner's proportionate share of any taxes assessed to the Common Elements. Without limiting the authority of the Board provided for elsewhere herein, the Board acting on behalf of the Association shall have the power to seek relief or to collect from each Co-owner their proportionate share of any such taxes, special assessments or charges, assessed and levied on the Common Elements, and to charge and collect all expenses incurred in connection therewith as a Common Expense.

7.2 COMMON EXPENSE. (a) Each Co-owner, including Developer, shall pay a proportionate share of the Common Expenses. Except for its responsibilities as a Co-owner, as provided herein, Developer shall not have the responsibility for the maintenance, repair or replacement of any part of the Common Elements after the date this Master Deed is recorded at which time the Association will become the governing body of the Co-owners, pursuant to the provisions of Article IV. Common Expenses shall be divided equally among the respective Co-owners. Payments of Common Expenses, including any payment thereof required by contract for sale of a Unit, shall be in such amounts and at such times as determined in the manner provided in the Bylaws. Except as provided by this Master Deed, no Co-owners shall be exempt from payment of said Co-owner's proportionate share of the Common Expenses by waiver or non-use or non-enjoyment of the Common Elements or by abandonment of said Co-owner's Unit. If any Co-owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof together with any reasonable late charges and further, together with interest thereon at the maximum contract rate as may then be permitted under the law of the State of Tennessee from and after the date said Common Expenses are assessed shall constitute a lien on the interest of such Co-owner in the Property and said Unit as provided in the Act. Provided, however, that such lien shall be subordinate to the lien of any prior recorded mortgage or deed of trust on the Property or any portion thereof, or on any interest of such Co-owner, which mortgage or deed of trust is recorded prior to the date such lien for unpaid Common Expenses attaches and is owned or held by any lender, except for the amount of said proportionate share of such Common Expenses which become due and payable from and after the date on which such lender either takes possession of the Property or interest encumbered by such mortgage or deed of trust, or accepts a conveyance, transfer or assignment of the Unit or of any interest therein (other than as security) in lieu of any foreclosure of such mortgage or deed of trust. This provision shall not be amended, modified or rescinded without the prior written consent of all lenders who are the holders or owners of a mortgage or deed of trust recorded prior to the date of such amendment, modification or rescission.

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

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

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

ARTICLE VIII  
ARCHITECTURAL STANDARDS AND DECORATING

8.1 ALTERATIONS, ADDITIONS OR IMPROVEMENTS. No alteration of any Common Elements, or any additions or improvements thereto, shall be made by any Co-owner without the prior written approval of the Association. The Association may authorize and charge as Common Expenses, costs for alterations, additions and improvements of the Common Elements as provided in the Bylaws. Any Co-owner may make any alterations, additions or improvements within the said Co-owner's respective Unit without the prior written approval of the Board, but such Co-owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

8.2 DECORATING. Each Co-owner shall be entitled to the exclusive use of said Co-owner's Unit and such Co-owner shall maintain said Unit in good condition at said Co-owner's sole expense. Decorating of the Common Elements and any redecorating of the Units, to the extent such redecorating of the Unit is made necessary by damage to the Unit caused by maintenance, repair or replacement of the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses.

ARTICLE IX  
REMEDIES

9.1 EVENT OF DEFAULT; NOTICE. If any Co-owner (either by said Co-owner's own conduct or by the conduct of any occupant of said Co-owner's Unit) shall violate any provision of the Act, this Master Deed, the Bylaws or the Rules and Regulations, and if such default or violation shall continue for twenty (20) days after written notice to the Co-owner from the Association, or shall occur repeatedly during any ten (10) day period after such written notice, then such violation shall constitute an event of default ("Event of Default") and the Association shall have the power to issue to said defaulting Co-owner a notice in writing terminating the rights of said defaulting Co-owner to occupy, control, use and enjoy the Common Elements and to vote as a member of the Association.

9.2 REMEDIES IN THE EVENT OF DEFAULT. (a) In an Event of Default the Association, or its successors and assigns, or its agent, shall have each and all of the rights and remedies which may be provided for in the Act, this Master Deed, the Bylaws, the Rules and Regulations or the laws of the State of Tennessee, or which may be provided or permitted at law or in equity, and may prosecute an action or other proceedings against such defaulting Co-owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Co-owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and such Co-owner's interest in the Property, and to sell the same, as hereinafter in this Article provided, or for any combination of remedies, or for any other relief. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum contract rate per annum permitted by law shall be charged to and assessed against such defaulting Co-owner until paid, and shall be added to and deemed part of said Co-owner's respective share of the Common Expenses, and the Association shall have a lien for all of the same, as well as for non-payment of said Co-owner's respective share of the Common Expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Co-owner and upon all of said Co-owner's additions and improvements thereto; provided, however, that such lien shall be subordinate to the lien of any prior recorded first mortgage or deed of trust on the Property or any portion thereof, or on any interest of such Co-owner, except for the amount of the proportionate share of said Common Expenses which became due and payable from and after the date on which the said mortgage owner or holder either takes possession of the Unit or interest encumbered by such mortgage or deed of trust, accepts a conveyance of any interest therein (other than as a security) or files suit or commences other proceedings to foreclose such mortgage or deed of trust and causes a receiver to be appointed. In the Event of Default by any Co-owner, the Board and the manager or managing agent, if so authorized by the Association, shall have the authority to correct such Default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be

charged to and assessed against such defaulting Co-owner, together with interest thereon at the rate aforesaid. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association. This provision shall not be amended, modified or rescinded without the prior written consent of all lenders who are the holders or owners of a mortgage or deed of trust recorded prior to the date of such amendment, modification or rescission.

ARTICLE X  
GENERAL PROVISIONS

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

(b) Subsequent to the recording of this Master Deed, no liens of any nature shall be created or arise against any portion of the Property except against an individual Unit. No labor performed or materials furnished with the consent or at the request of a particular Co-owner shall be the basis for the filing of a mechanic's lien claim against any other Unit. If the performance of the labor or furnishing of the materials is expressly authorized by the Association, each Co-owner shall be deemed to have expressly authorized and consented to such performance of labor and furnishing of materials, and each Co-owner shall be liable for the payment of said Unit's proportionate share of any due and payable indebtedness, as set forth in the Act, this Master Deed and the Bylaws. A Co-owner shall not be liable for any claims, damages or judgments entered as a result of any action or inaction of the Association other than for mechanic's liens as set forth above. Each Co-owner's liability for any judgment entered against the Association shall be limited to said Co-owner's proportionate share of the indebtedness, as set forth in the Act, this Master Deed and the Bylaws whether collection is sought through assessment or otherwise.

10.2 ACCEPTANCE OF PROVISIONS. Each Co-owner, by the acceptance of a deed of conveyance, accepts the same subject to all easements, restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Master Deed and the exhibits thereto or otherwise of record, and the provisions of the Act, and all easements, rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations imposed hereby and by the exhibits hereto or otherwise of record shall be deemed and taken to be covenants running with the land, shall bind any person having at any time any interest or estate in said land and shall inure to the benefit of such person in like manner as though the provisions of this Master Deed and the exhibits hereto and other recorded instruments were recited and stipulated at length in each and every deed of conveyance.

10.3 INCORPORATION. Developer (prior to the election of the first Board) or the Board shall form the Association for the purpose of facilitating the administration and operation of the Property and this Townhouse Regime.

10.4 FAILURE TO ENFORCE. No terms, obligations, covenants, conditions, restrictions or provisions imposed hereby or contained herein or the exhibits hereto shall be abrogated or waived by any failure to enforce the same no matter how many violations or breaches may occur.

10.5 NOTICES. Any notices required or permitted to be given under this Master Deed unless otherwise specified shall be either personally hand delivered or sent registered or certified mail with return receipt requested, at the respective Unit address of the Co-owners, or the Association or to such other address as a Co-owner or the Association may from time to time designate in writing to the

Association. Any notice shall be deemed to have been given at the time it is hand delivered or it is placed in the mails with sufficient postage prepaid.

10.6 AMENDMENTS. This Master Deed and the Exhibits hereto may be amended, changed or modified by an instrument in writing setting forth such amendment, change or modification, signed and acknowledged by any three (3) Directors of the Association, the Co-owner's mortgagees, where applicable, if the interests of such mortgagees are to be materially adversely affected, and containing an affidavit by the Secretary of the Association certifying that a copy of the Amendment, change or modification has been mailed by certified mail to all parties having bona fide liens of record against any Unit, not less than ten (10) days prior to the date of such affidavit. Any amendment, change or modification shall conform to the provisions of the Act and shall be effective upon recordation thereof. Notwithstanding the foregoing, any revision, amendment or supplementation of the Plat by Developer shall not require an amendment to this Master Deed or the approval of the Association. Notwithstanding the foregoing, this Master Deed and the Exhibits hereto shall not be amended, changed or modified to increase Developer's obligations or liability hereunder without Developer's prior written consent.

10.7 SEVERABILITY. The invalidity of any restriction hereby imposed, or any provision hereof, or of any part of any such restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Master Deed and all of the terms hereof and the Exhibits hereto are hereby declared to be severable.

10.8 CONSTRUCTION. The provisions of this Master Deed and the Exhibits hereto shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first class townhouse project.

10.9 CONVEYANCE OF INTEREST IN COMMON ELEMENTS. The undivided interest in the Common Elements shall not be separated from the Unit to which such interest appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the deed of conveyance or other instrument.

10.10 EFFECTIVE DATE. This Master Deed and the Exhibits hereto shall be effective upon recordation.

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

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

10.13 PERPETUITIES AND RESTRAINTS ON ALIENATION. If any of the options, privileges, covenants or rights created by this Master Deed shall be unlawful, void or voidable for violation of the rule of property known as the rule against perpetuities, then such provision shall continue in force and effect only until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States, Ronald Reagan.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed by its duly authorized officers as of the day and date first above written.

DEVELOPER:

DON WILLIAMS CONSTRUCTION CO., INC.

ATTEST:

By

  
Secretary

By

  
Donald D. Williams, President

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, Kathleen E. Lee, of the state and county aforesaid, personally appeared Donald D. Williams and VICKI W. COOKE, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the President and Secretary, respectively, of DON WILLIAMS CONSTRUCTION CO., INC., the within bargainer, a corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by themselves as such officers.

WITNESS my hand and seal at office in Chattanooga, Tennessee, this 28th day of July, 1987.

My commission expires:

January 10, 1990

Kathleen E. Lee  
Notary Public

NO TRANSFER TAX DUE  
SARAH P. DeFRIESE  
County Register

08/04/87 WDD

228.00

\*\*228.00 C

Don Williams Construction Co., Inc., as owner of Lots Numbered 13, 16, 64, 112 and 113 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40, Page 126 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

ATTEST:

DON WILLIAMS CONSTRUCTION CO., INC.

*Vicki W. Cooke*  
Secretary

*Donald D. Williams Pres*  
Donald D. Williams, President

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, Cathleen Miles, of the state and county aforesaid, personally appeared Donald D. Williams and VICKI W. COOKE, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the President and Secretary, respectively, of DON WILLIAMS CONSTRUCTION CO., INC., the within bargainer, a corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by themselves as such officers.

5.8 WITNESS my hand and seal at office in Chattanooga, Tennessee, this day of July, 1987.

My commission expires:

9/89

*Cathleen Miles*  
Notary Public



Melanie Adams \_\_\_\_\_ as owner of Lot Numbered 22 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40 Page 57 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Melanie Adams

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared Melanie Adams, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

January 10, 1990

Kathryn E. Lee  
Notary Public

MARY CATHERINE S. ALLEN as owner of Lot Numbered 111 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 257 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Mary Catherine S. Allen  
MARY CATHERINE S. ALLEN

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared MARY CATHERINE S. ALLEN, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:  
January 19, 1990

Lathrop E. Lee  
Notary Public

CAROLYN ALLEY as owner of Lot Numbered 52 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40, Page 126 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Carolyn Alley  
CAROLYN ALLEY

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 28 day of July, 1987, before me personally appeared CAROLYN ALLEY, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

9/89

Gailleen Miles  
Notary Public

Signature not legible  
for filming.

ROBERT H. BARTLETT as owner of Lots Numbered 108 and 109 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 260 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Robert H. Bartlett  
ROBERT H. BARTLETT

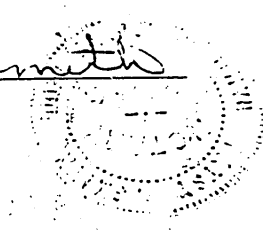
STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17 day of June, 1987, before me personally appeared ROBERT H. BARTLETT, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

My commission expires:  
My Commission Expires May 21, 1990

5-21-90

Daisy H. Smith  
Notary Public



P. BROOKE CARROLL as owner of Lot Numbered 89 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 381 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

P. Brooke Carroll  
P. BROOKE CARROLL

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17 day of June, 1987, before me personally appeared P. BROOKE CARROLL, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

Walter H. Smith  
Notary Public

My commission expires:  
My Commission Expires May 21, 1990

Signature not legible  
for filming.

ALBERT M. CARTER as owner of Lot Numbered 112 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 257 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Albert M. Carter  
ALBERT M. CARTER

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared ALBERT M. CARTER, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

My commission expires:

January 10, 1990

John E. Lee  
Notary Public

JOHN CATHCART and wife, DOLORES CATHCART as owners of Lot Numbered 68 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40, Page 126 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

John Cathcart  
JOHN CATHCART

Dolores Cathcart  
DOLORES CATHCART

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared JOHN CATHCART and wife, DOLORES CATHCART, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Walter E. Lee  
Notary Public

My commission expires:

January 10, 1990

✓  
JOAN D. CRANE as owner of Lot Numbered 54 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 387 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Joan D. Crane  
JOAN D. CRANE

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared JOAN D. CRANE, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.


My commission expires:

January 10, 1990

Kathryn E. Lee  
Notary Public



GORDON DARWIN as owner of Lot Numbered 91 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 381 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

  
GORDON DARWIN

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared GORDON DARWIN, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

My commission expires:

January 14, 1990

  
Notary Public

GRACE CORN DASINGER as owner of Lot Numbered 110 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 260 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Grace Corn Dasinger  
GRACE CORN DASINGER

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared GRACE CORN DASINGER, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

Kathleen E. Lee  
Notary Public

My commission expires:  
January 12, 1990

John DeGeorge, Jr. and his wife, Gertrude M. DeGeorge, as owner of Lot Numbered 119 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 38, Page 162 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

John DeGeorge, Jr.  
John DeGeorge, Jr.

Gertrude M. DeGeorge  
Gertrude M. DeGeorge

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 30 day of July, 1987, before me personally appeared John DeGeorge, Jr. and his wife, Gertrude M. DeGeorge, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Cathleen Mills  
Notary Public

My commission expires:

9/89

DR. KEITH B. DRESSLER as owner of Lot Numbered 88 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 381 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

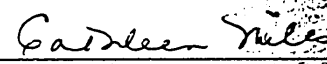
  
KEITH B. DRESSLER

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 27 day of July, 1987, before me personally appeared KEITH B. DRESSLER, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

My commission expires:

9/89

  
Notary Public

CHARLES FRANKLIN EGGERS, III and wife, REBECCA B. EGGERS as owners of Lot Numbered 29 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40, Page 126 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

Charles Franklin Eggers  
CHARLES FRANKLIN EGGERS, III

Rebecca B Eggers  
REBECCA B. EGGERS

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17 day of June, 1987, before me personally appeared CHARLES FRANKLIN EGGERS, III and wife, REBECCA B. EGGERS, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

My commission expires:

January 10, 1990

Kathryn E. Lee  
Notary Public

FRANCES T. EVERHART as owner of Lot Numbered 24 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 42, Page 50 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Frances T. Everhart  
FRANCES T. EVERHART

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 23 day of July, 1987, before me personally appeared FRANCES T. EVERHART, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:  
9/89

Cathleen Miles  
Notary Public

Signature not legible  
for filming.

MARY G. GARDENHIRE and KENNETH B. GARNER, SR. as owner(s) of Lot Numbered 90 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 381 (as amended) in the Register's Office of Hamilton County, Tennessee join(s) in this Agreement for the purpose of consenting to the provisions contained herein.

Mary G. Gardenhire  
MARY G. GARDENHIRE

Kenneth B. Garner, Sr.  
KENNETH B. GARNER, SR.

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 23<sup>rd</sup> day of June, 1987, before me personally appeared MARY G. GARDENHIRE, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as she free act and deed.

My commission expires:  
4-19-89

Mary Darnell  
Notary Public

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 23<sup>rd</sup> day of June, 1987, before me personally appeared KENNETH B. GARNER, SR., to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

My commission expires:  
4-19-89

Mary Darnell  
Notary Public

Signature not legible  
for filming.

JANET M. GINSBERG as owner of Lot Numbered 115 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 42, Page 51 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Janet M. Ginsberg  
JANET M. GINSBERG

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 54 day of July, 1987, before me personally appeared JANET M. GINSBERG, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:  
7-9-91

David S. Reason  
Notary Public

Signature not legible  
for filming.



MARY RUTH GREEN as owner of Lot Numbered 23 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 42, Page 50 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

MARY RUTH GREEN  
P. R. G.

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared MARY RUTH GREEN, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

January 10, 1991

Notary Public

Signature not legible  
for filming.

MAX J. GORDON and wife, BELLA S. GORDON as owners of Lot Numbered 63 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 242 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

Max J. Gordon  
MAX J. GORDON

Bella S. Gordon  
BELLA S. GORDON

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared MAX J. GORDON and wife, BELLA S. GORDON, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

My commission expires:

January 10, 1990

Luther E. Lee  
Notary Public

Signature not legible  
for filming.

ROBERT H. HALPERN and wife, CORA C. HALPERN as owners of Lot Numbered 69 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 141 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein

Robert H. Halpern  
ROBERT H. HALPERN

Cora C. Halpern  
CORA C. HALPERN

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17 day of June, 1987, before me personally appeared ROBERT H. HALPERN and wife, CORA C. HALPERN, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Daisy B. Smith  
Notary Public

My commission expires:  
My Commission Expires May 21, 1990



HUGH D. HUNTER and wife, SHIRLEY A. HUNTER as owners of Lot Numbered 61 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 300 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Hugh D. Hunter  
HUGH D. HUNTER

Shirley A. Hunter  
SHIRLEY A. HUNTER

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared HUGH D. HUNTER and wife, SHIRLEY A. HUNTER, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

My commission expires:

January 19, 1990

Lathum E. Lee  
Notary Public

BARBARA S. LAGASSE as owner of Lot Numbered 53 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 387 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Barbara S. Lagasse  
BARBARA S. LAGASSE

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 28 day of July, 1987, before me personally appeared BARBARA S. LAGASSE, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

9/89

Candice Niles  
Notary Public

H. DALE HYDE as owner of Lot Numbered 65 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 242 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

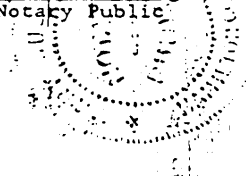
H. Dale Hyde  
H. DALE HYDE

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 20 day of July, 1987, before me personally appeared H. DALE HYDE, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

My commission expires:  
February 26, 1991

M. S. White  
Notary Public



RUBY T. LYNSKEY as owner of Lot Numbered 86 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 86, Page 160 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Ruby T. Lynskey  
RUBY T. LYNSKEY

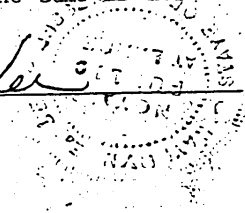
STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared RUBY T. LYNSKEY, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

January 10, 1990

Kathryn E. Lee  
Notary Public



NORA ANN MCCARTHY as owner of Lot Numbered 17 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 251 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Nora Ann McCarthy  
NORA ANN MCCARTHY

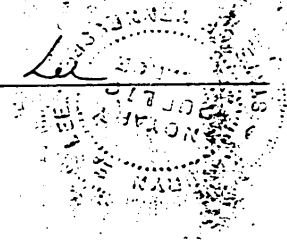
STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared NORA ANN MCCARTHY, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

January 10, 1990

Kathryn E. Lee  
Notary Public



JAMES W. MCRAE and wife, LUELLEN MCRAE as owners of Lot Numbered 62 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 300 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

[Signature]  
JAMES W. MCRAE

[Signature]  
LUELLEN MCRAE

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared JAMES W. MCRAE and wife, LUELLEN MCRAE, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

[Signature]  
Notary Public

My commission expires:

January 10, 1990

Signature not legible  
for filming.



Edward J. Moses and his wife, Mary C. Moses, also known as  
 EDWARD MOSES and wife, MARY MOSES as owners of Lot Numbered 31 of the  
 Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 38, Page  
120 (as amended) in the Register's Office of Hamilton County, Tennessee join in  
 this Master Deed for the purpose of consenting to the provisions contained herein.

Edward J. Moses  
 EDWARD MOSES

Mary C. Moses  
 MARY MOSES

STATE OF TENNESSEE  
 COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally  
 appeared EDWARD MOSES and wife, MARY MOSES, to me known to be the persons described  
 in and who executed the foregoing instrument, and acknowledged that they executed  
 the same as their free act and deed.

Lathen E. Lee  
 Notary Public

My commission expires:

January 19, 1990

CHARLES M. NEWELL and wife, FRANCES T. NEWELL as owners of Lot Numbered 22 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 42, Page 50 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

Charles M. Newell  
CHARLES M. NEWELL

Frances T. Newell  
FRANCES T. NEWELL

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared CHARLES M. NEWELL and wife, FRANCES T. NEWELL, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

My commission expires:

January 10, 1990

Kathryn E. Lee  
Notary Public

MIRVINE G. OKRATINSKI as owner of Lot Numbered 59 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40 Page 126 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Mirvine G. Okratinski

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 24 day of July, 1987, before me personally appeared MIRVINE G. OKRATINSKI, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

4/89

Catherine Miles  
Notary Public

ROBERT W. PAYTON and wife, MARY R. PAYTON as owners of Lot Numbered 60 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 300 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

Robert W. Payton  
ROBERT W. PAYTON

Mary R. Payton  
MARY R. PAYTON

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 4 day of August, 1987, before me personally appeared ROBERT W. PAYTON and wife, MARY R. PAYTON, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

My commission expires:

9/89

Cathleen Mills  
Notary Public

✓  
DEBORAH L. PELHAM as owner of Lot Numbered 67 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 242 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Deborah L. Pelham  
DEBORAH L. PELHAM

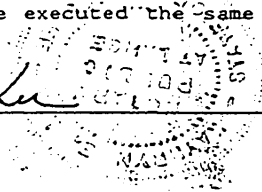
STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared DEBORAH L. PELHAM, to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

January 10, 1990

Latoya E. Lee  
Notary Public



Florence L. Rankin as owner of Lot Numbered 30 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 33 Page 120 (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Florence L. Rankin


STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared Florence L. Rankin to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

January 10, 1991

Thomas E. Lee  
Notary Public



ANN D. REPICI as owner of Lot Numbered 104 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 42, Page 5B (as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Ann D. Repici  
ANN D. REPICI

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17 day of June, 1987, before me personally appeared ANN D. REPICI, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

Kathryn E Lee  
Notary Public

My commission expires:

January 10, 1990

PATSY G. SMITH as owner of Lot Numbered 72 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 141(as amended) in the Register's Office of Hamilton County, Tennessee joins in this Master Deed for the purpose of consenting to the provisions contained herein.

Patsy G. Smith  
PATSY G. SMITH

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally appeared PATSY G. SMITH, to me known ~~to~~ be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

My commission expires:

January 19, 1990

Kathryn E. Lee  
Notary Public



William and his wife Catherine C. Sommer, as owners of Lot Numbered 25 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40 Page 126 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

William Sommer  
William Sommer

Catherine C. Sommer  
Catherine C. Sommer

STATE OF TENNESSEE  
County of Hamilton

On this 28 day of July, 1987, before me personally appeared William and his wife Catherine C. Sommer, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Candace Muli  
Notary Public

My commission expires:

9/89

Signature not legible  
for filing.

WILLIAM SUCHORSKY and wife, MARY SUCHORSKY as owners of Lot Numbered 92 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 40, Page 57 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

William Suchorsky  
WILLIAM SUCHORSKY

Mary Suchorsky  
MARY SUCHORSKY

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17th day of June, 1987, before me personally appeared WILLIAM SUCHORSKY and wife, MARY SUCHORSKY, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

My commission expires:

January 10, 1990

Kathryn E. Lee  
Notary Public

Keith P. Thomas and wife,  
 Linda E. Thomas as owner of Lot Numbered 26 of the Hickory Creek Townhome  
 Subdivision, as shown by plat recorded in Plat Book 38 Page 161 (as amended) in the  
 Register's Office of Hamilton County, Tennessee joins in this Master Deed for the  
 purpose of consenting to the provisions contained herein.

Keith P. Thomas

Linda E. Thomas

STATE OF TENNESSEE  
 COUNTY OF HAMILTON

On this 21st day of July, 1987, before me personally  
 appeared Keith P. and Linda E. Thomas, to me known to be the person described in and who executed the  
 foregoing instrument, and acknowledged that they executed the same as their free act  
 and deed.

Salmon E. Lee  
 Notary Public

My commission expires:

January 10, 1990

JOHN S. VASS, JR. and wife, CHRISTINE S. VASS as owners of Lot Numbered 71 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 141 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

John S. Vass, Jr.  
JOHN S. VASS, JR.  
Christine S. Vass  
CHRISTINE S. VASS

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17 day of June, 1987, before me personally appeared JOHN S. VASS, JR. and wife, CHRISTINE S. VASS, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Gatsy G. Smith  
Notary Public

My commission expires:  
My Commission Expires May 21, 1990



GARY EDWARD WELLER and wife, LORI ANNE WELLER as owners of Lot Numbered 70 of the Hickory Creek Townhome Subdivision, as shown by plat recorded in Plat Book 41, Page 141 (as amended) in the Register's Office of Hamilton County, Tennessee join in this Master Deed for the purpose of consenting to the provisions contained herein.

Gary Edward Weller  
GARY EDWARD WELLER

Lori Anne Weller  
LORI ANNE WELLER

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 17 day of June, 1987, before me personally appeared GARY EDWARD WELLER and wife, LORI ANNE WELLER, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Cathy H. Smith  
Notary Public

My commission expires:  
My Commission Expires May 21, 1990

EXHIBIT "A"

## LEGAL DESCRIPTION OF PROPERTY

TRACT I:

The Second Civil District of Hamilton County, Tennessee:

Tract No. Seven (7), Subdivision of the John Baldwin Property, as shown by plat recorded in Plat Book 15, page 12, of the Register's Office of Hamilton County, Tennessee, and described as: BEGINNING at a point in the Western line of the Hickory Valley Road, at the Southeastern corner of Tract No. Eight (8); thence Southwardly along the Western line of the Hickory Valley Road, seven hundred twenty-one (721) feet to the Northeastern corner of Tract No. Six (6); thence along the Northern line of Tract No. Six (6), north sixty-six (66) degrees thirty (30) minutes West eight hundred seventy-one (871) feet; thence Southwardly along the Western line of Tract No. Six (6), three hundred (300) feet to the Southern line of the John Baldwin property; thence along Baldwin's southern line, North sixty-six (66) degrees thirty (30) minutes West eight hundred ninety-one (891) feet to the southwestern corner of Tract No. Seven (7); thence along the Western line of Tract No. 7, North Twenty-Three (23) degrees fifteen (15) minutes East seven hundred twelve and 1/2 (712-1/2) feet; South sixty-seven (67) degrees twenty-five (25) minutes East sixteen and 1/2 (16-1/2) feet; North twenty-three (23) degrees thirty (30) minutes East two hundred seventeen (217) feet; more or less, to the southwestern corner of Tract No. Eight (8); thence along the southern line of Tract No. Eight (8) South sixty-eight (68) degrees thirty (30) minutes East, seventeen hundred eighty (1780) feet to the beginning, containing thirty-four (34) acres, more or less.

Reference is made for prior title to Tract I to Deed Book 3156, Page 832 in the Register's Office of Hamilton County, Tennessee.

TRACT II:

In the City of Chattanooga of Hamilton County, Tennessee:

Lots Sixty-eight (68), Sixty-nine (69) and Seventy (70), Hickory Creek Subdivision, as shown by plat of record in Plat Book 40, page 57, in the Register's Office of Hamilton County, Tennessee.

Reference is made for prior title to Tract II to Deed Book 3162, Page 201 in said Register's Office.

Both of which Tracts I and II are subject to the following:

Any governmental zoning and subdivision ordinances or regulations in effect thereon.

An easement for Tyner interception sewer for the City of Chattanooga of record in Book 2301, page 480, said Register's Office.

An easement for electric transmission lines for the Electric Power Board of Chattanooga for record in Book 2644, page 258, said Register's Office.

Any roadways or rights of ways extending into, through or over said property, including any TVA right of way.

Subject to the flowage of any creeks, waterways, or streams running across or adjacent to the property.

All applicable building codes and regulations, and zoning statutes and ordinances.

Declarations of Covenants, Conditions, Restrictions and Rights as set out in instrument, recorded in Book 3162, page 198, said Register's Office.

Utility Easement as shown by dotted lines, or as specified on said plat.

Conditions, Restrictions, Reservations, Limitations, Easements, etc., as set out on recorded plat.

All matters of record or discernible from a visual inspection of the Property.

TRACT III:

Being a part of the Southwest quarter of Section Three (3), Township Six (6), Range Three (3), West of the Basis Line; Ocoee District and being more particularly described as follows: BEGINNING at a point on the West right-of-way line of Hickory Valley Road; said point being North twenty-three (23) degrees, twenty-one (21) minutes East, nine hundred and nine and 25/100 (909.25) feet from the intersection of the North right-of-way line of Shallowford Road and West right-of-way line of Hickory Valley Road; thence North sixty-six (66) degrees, forty-four (44) minutes West, nine hundred ninety-nine and 32/100 (999.32) feet to a point where the Northeast corner of Lot 10 and the Northwest corner of Lot 11 of the Brookhaven Heights Subdivision meet; thence North thirty-one (31) degrees, fifty (50) minutes West two hundred ninety-eight and 80/100 (298.80) feet to a point where the North corner of Lot 10 and the Northeast corner of Lot 9 of the Brookhaven Heights Subdivision meet; thence North thirty-six (36) degrees, thirty-seven (37) minutes West, fifty-six and 45/100 (56.45) feet to a point in the Northwest corner of Lot 9 of the Brookhaven Heights Subdivision; thence South sixty-six (66) degrees, fifty-seven (57) minutes East, twelve hundred ninety-three and 92/100 (1293.92) feet to a point on the West right-of-way line of Hickory Valley Road; thence South twenty-three (23) degrees, twenty-one (21) minutes West, two hundred and five and 62/100 (205.62) feet to the point of beginning.

TRACT IV:

Being a part of the Southwest quarter of Section Three (3), Township six (6), Range Three (3), West of the Basis Line; Ocoee District and being more particularly described as follows: BEGINNING at a point on the West right-of-way line of Hickory Valley Road; said point being North twenty-three (23) degrees, twenty-one (21) minutes East, one thousand one hundred fourteen and 87/100 (1,114.87) feet from the intersection of the North right-of-way line of Shallowford Road and the West right-of-way line of Hickory Valley Road; thence North sixty-six (66) degrees, fifty-seven (57) minutes West, twelve hundred ninety-three and 92/100 (1293.92) feet to a point at the Northwest corner of Lot 9 of the Brookhaven Heights Subdivision; thence North twenty-three (23) degrees, thirty-five (35) minutes East, one hundred eighty-one (181) feet to a point meeting with an old fence; thence South sixty-six (66) degrees, fifty-seven (57) minutes East, twelve hundred ninety-three and 18/100 (1293.18) feet to a point on the West right-of-way line of Hickory Valley Road; thence South twenty-three (23) degrees, twenty-one (21) minutes West, one hundred eighty-one (181) feet to the point of beginning.

Reference is made for prior title to said Tracts III and IV to Deed Book 3294, Page 344, said Register's Office.

Both of which Tracts III and IV are subject to the following:

Any governmental zoning and subdivision ordinances or regulations in effect thereon.

Utility Easement as shown by dotted lines, or as specified on said plat.

Drainage Easement as shown by dotted lines, or as specified on said plat.

Easement as set out in instrument recorded in Book 1106, Page 602 and Book 2408, Page 34, said Register's Office.

Taxes for the year of 1987.

S&T/KEL/bbg C-EX-A

BOOK 3383 PAGE 916

All matters of record or discernible from a visual inspection of the property.



Adopted \_\_\_\_\_, 1987

BYLAWS

OF

HICKORY CREEK TOWNHOME ASSOCIATION, INC.

(A Tennessee Not for Profit Corporation)

C O N T E N T S

ARTICLE 1 - NAME

ARTICLE 2 - OFFICES

ARTICLE 3 - PURPOSES

ARTICLE 4 - ASSOCIATION OF MEMBERS

- 4.1 Membership
- 4.2 Dues
- 4.3 Rights of Members
- 4.4 Termination
- 4.5 Voting Rights

ARTICLE 5 - ASSOCIATION MEETINGS

- 5.1 First Annual Meeting
- 5.2 Annual Meetings
- 5.3 Special Meetings
- 5.4 Place of Meetings
- 5.5 Notice Requirements
- 5.6 Waiver of Notice
- 5.7 Quorum
- 5.8 Proxies
- 5.9 Order of Business
- 5.10 Adjournment

ARTICLE 6 - BOARD OF DIRECTORS

- 6.1 Number and Qualification
- 6.2 Election and Term of Officer
- 6.3 Vacancies
- 6.4 Removal

ARTICLE 7 - DIRECTORS MEETING

- 7.1 Organization Meeting
- 7.2 Regular Meetings
- 7.3 Special Meetings
- 7.4 Waiver of Notice
- 7.5 Director's Quorum

ARTICLE 8 - BOARD'S POWERS  
AND DUTIES

- 8.1 Disputes
- 8.2 Powers of Board
- 8.3 Duties of Board
- 8.4 Liability of Board
- 8.5 Compensation
- 8.6 Bonds

ARTICLE 9 - OFFICERS OF BOARD

- 9.1 Designation
- 9.2 Election and Term of Office
- 9.3 Removal
- 9.4 Powers and Duties of President
- 9.5 Powers and Duties of Treasurer
- 9.6 Powers and Duties of Secretary
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BY-LAWS OF  
HICKORY CREEK TOWNHOME ASSOCIATION, INC.  
A TOWNHOUSE ASSOCIATION

ARTICLE I

NAME

The following provisions shall constitute the Bylaws of HICKORY CREEK TOWNHOME ASSOCIATION, INC. (the "Bylaws"), a not-for-profit corporation (the "Association") which shall, along with the provisions of the Master Deed and the rules and regulations adopted by the Board of Directors of the Association (the "Board") govern the administration of HICKORY CREEK TOWNHOMES, a townhouse (the "Property"), which is being developed by Don Williams Construction Co., Inc. ("Developer"). The terms in these Bylaws shall have the same meaning as the terms defined in the Master Deed for this Property.

ARTICLE 2

OFFICES

The principal office of the Association in the State of Tennessee shall be located at 2411 Hickory Valley Road, Chattanooga, in Hamilton County, Tennessee, 37421, or at such other place either within or without the State of Tennessee, as shall be lawfully designated by the Association, or as the affairs of the Association may require from time to time.

ARTICLE 3

PURPOSES

The purposes of this Association shall be to provide for the establishment of a co-owner association for the government of the Property in the manner provided by these Bylaws and in its Charter (the "Charter"). The aims of this Association are to be carried out through any and all lawful activities, including others not specifically stated in the Charter or these Bylaws but incidental to the stated aims and purposes; provided, that any such activity or contribution shall conform to any applicable restrictions or limitations set forth in the Charter or which are imposed on real estate associations by those provisions described in Section 528(c) of the Internal Revenue Code and the regulations thereunder, as presently enacted, or as they may hereafter be amended or supplemented, or, if they are replaced by new sections of similar import, and to the final laws, rules and regulations thereunder. All present or future Co-owners or tenants, or their employees, or any other person who might use the facilities on the Property in any manner, shall be subject to the covenants, provisions or regulations contained in the Master Deed for Hickory Creek Townhome Association, Inc. (the "Master Deed") and these By-Laws, and shall be subject to any restriction, condition or regulation hereafter adopted by the Association. The mere acquisition or rental of any of the Units located within the Property described in the Master Deed, or the mere act of occupying of any of the Units will constitute acceptance and ratification of the Master Deed and of these By-Laws.

ARTICLE 4

ASSOCIATION OF MEMBERS

4.1 MEMBERSHIP. The membership shall be limited to and shall consist of all those persons, natural or fictional, who own a Unit on the Property as determined by the records of Hamilton County, Tennessee, (the "Members"). Upon acquisition of title to a Unit, a person shall automatically become a Member. Notwithstanding anything contained in these Bylaws, non-member Co-owners as defined in the Master Deed for Hickory Creek Townhomes shall not hold membership in the Association.

4.2 DUES. The Board may prescribe annual dues for Members as the Board sees fit for those reasons described in Paragraphs 2.2 and 2.3, which Members shall be required to pay, unless waived by the unanimous consent of the Association.

4.3 RIGHTS OF MEMBERS. All Members shall be entitled to vote as hereinafter described, shall be eligible to serve on the Board, and shall be entitled to all rights of membership.

4.4 TERMINATION. All memberships shall continue until automatically terminated by transferring title of such Member's Unit to another person.

4.5 VOTING RIGHTS.

(a) In General. Each Member shall be entitled to one (1) vote for each Unit owned by such Member. Any provision to the contrary notwithstanding, joint Co-owners shall be deemed one Member. If any Unit shall be owned by more than one person or by a corporation, partnership or one or more fiduciaries, such Co-owner(s) shall designate one person to represent such Unit with respect to the Association and to cast the vote of such Unit. The Association shall be entitled to rely in good faith upon the actions of, and votes cast by, such designee of the Co-owner.

(b) Developer's Rights. Developer or its successors or assigns shall at all times retain the votes representing any previously unsold Units.

ARTICLE 5

ASSOCIATION MEETINGS

5.1 FIRST ANNUAL MEETING. The first annual meeting of the Association shall be called within one (1) year after the closing of the sale of those Units representing seventy percent (70%) or more of the voting power of the Association. However, said first annual meeting shall be held not later than one (1) year after the date the Master Deed is recorded, whichever is earlier.

5.2 ANNUAL MEETINGS. An annual meeting of the Association shall be held on the first Tuesday of February of each year, if not a legal holiday and if a legal holiday then on the next succeeding business day, for the purpose of electing the Directors of the Board and such other business as comes before the meeting.

5.3 SPECIAL MEETINGS. Special meetings of the Association may be called for any reasonable purpose by the President or by those Members representing not less than twenty-five percent (25%) of the total vote of the Association. Upon written request delivered either in person or by certified mail to the Secretary of the Association by any persons entitled to call a meeting of Members, the Secretary shall forthwith cause notice of the meeting to be given to the Members entitled thereto. Said meeting shall be held on a date not less than seven (7) nor more than sixty (60) days after the receipt of such request, as the Secretary may determine. If such notice is not given within thirty (30) days after the delivery or mailing of such request, the person(s) calling the meeting may fix the time of the meeting and give notice thereof. Each special meeting shall be called to convene at such time as may be designated, and shall be held on the Property or at such other place within the Chattanooga Metropolitan Area as shall be specified in the notice of the meeting.

5.4 PLACE OF MEETINGS. Meetings of the Association shall take place on the Property at some place designated by the person or persons calling the meeting, or at such other reasonable place and time designated by the Board.

5.5 NOTICE OF MEETINGS. A written notice of every meeting of the Association stating whether it is an annual meeting or special meeting, the authority for the call of the meeting, the place, day, and hour thereof, and the purpose therefor shall be given by the Secretary, or the person or persons calling the meeting, not more than forty-five (45) nor less than five (5) days before the date set for such meeting. Such notice shall be given to each Member in any of the following ways: (a) by leaving the same with a Member personally, or (b) by leaving the same at the residence or usual place of business of such Member or (c) by mailing it, postage prepaid, addressed to such Member's address as it appears on the records of the Association, or (d) if such Member cannot be located by reasonable efforts, by publishing such notice in any newspaper of general circulation in the City of Chattanooga, such notice to be published not less than two (2) times on successive days, the first publication thereof to be not less than ten (10) days nor more than fifteen (15) days prior to the date assigned for the meeting. If notice is given pursuant to the provisions of this section, the failure of any Member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceeding thereat. Upon written request for notices mailed by registered mail,

addressed to the Secretary at the address of the Association, the holder of any duly recorded mortgage against any Unit may promptly obtain a copy of any and all notices permitted or required to be given to the holder of any mortgage requesting such notice until said request is withdrawn and said mortgage is discharged of record.

5.6 WAIVER OF NOTICE. The presence of a majority of Members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any Member shall, at the opening of such meeting, object to the holding of the same for non-compliance with the provisions of Paragraph 5.5. Any meeting so held without objection shall, notwithstanding the fact that no notice of the meeting was given, or that the notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken.

5.7 QUORUM. At any meeting of the Association, a fifty percent (50%) or more voting majority of all Members present, by person or by proxy, shall constitute a quorum, and action approved by a majority vote of such quorum shall be valid and binding upon the Association except as otherwise provided by law or these By-laws. In the event a Member's vote is pledged by mortgage, deed of trust, or agreement of sale, such Member's vote will be recognized in computing a quorum with regard to any business conducted concerning such matters upon which said Member's vote is so pledged or mortgaged unless the mortgage, deed of trust, or agreement of sale provides otherwise, in which case such instruments shall control.

5.8 PROXIES. A Member may vote either in person or by proxy at a regular or special meeting of the Association. The authority given by a Member to another person to represent such Member at meetings of the Association shall be in writing, signed by such Member or, if a Unit is jointly owned by all joint owners, or if such Member is a corporation, by the proper officers thereof, and shall be filed with the Secretary, and unless limited by its terms, such authority shall be deemed good until revoked in writing. An executor, administrator, guardian, or trustee may vote in person or by proxy at any meeting of the Association with respect to any Unit owned or held by such person only after documenting to the Secretary's satisfaction that the Unit is owned or held in such capacity.

5.9 ORDER OF BUSINESS. The order of business at all meetings of Members shall, unless otherwise agreed upon by those Members present, by person or proxy, be as follows:

- (1) Calling of meeting to order.
- (2) Proof of notice of meeting or waiver of notice.
- (3) Reading of minutes of preceding meeting.
- (4) Reports of officers.
- (5) Reports of committees.
- (6) Unfinished and/or old business.
- (7) New business.
- (8) Adjournment.

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

## ARTICLE 6

### BOARD OF DIRECTORS

6.1 NUMBER AND QUALIFICATION. The direction and administration of the affairs of the Association shall be governed by a Board and shall constitute the "board of administration" as required by Section 66-27-112 of the Horizontal Property Act of the State of Tennessee, as amended (the "Act"), and all rights, titles, powers, privileges and obligations vested in or imposed upon the "board of administration" in the Act, in the Master Deed or in these Bylaws may be held or performed by the Board, or by the duly elected Members of the Association. Except as hereafter provided, the Board shall be initially composed of five persons (the "Directors"), who shall be elected in the manner hereinafter provided and increased or decreased at any annual meeting by a Majority vote, and all such Directors shall be Members, provided, however, that in the event a Member is a corporation, partnership, trust or other legal entity other than a natural person, then any majority shareholder, officer or director of such corporation, partner of such partnership, beneficiary or individual trustee of such trust, or manager of such

other legal entity shall be eligible to serve as a Director. During that period prior to the election of the first Board, Developer shall have the powers and duties of the Board, and shall act for and on behalf of the Association.

**6.2 ELECTION AND TERM OF OFFICE.** The Directors shall be elected by a Majority. At the first annual meeting of the Association, the term of office of two Directors shall be fixed at three (3) years, the term of office of two Directors shall be fixed at two (2) years, and the term of office of one Director shall be fixed at one (1) year. At the expiration of the initial term of office of each representative Director, said Directors' successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting.

**6.3 VACANCIES.** Vacancies in the Board caused by any reason other than the removal of a Director by a vote of the Association shall be filled by the majority vote of the remaining Directors, even though they may constitute less than a quorum; and each Member so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

**6.4 REMOVAL.** At any regular meeting of the Association or a special meeting called for such purpose, any one or more of the Directors may be removed, with or without cause, by the majority vote of the Members, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

#### ARTICLE 7

##### DIRECTORS MEETINGS

**7.1 ORGANIZATION MEETING.** The first meeting of a newly elected Board shall be held within one (1) week of their election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, providing a majority of the whole Board shall be present. Until thirty (30) days after the first meeting of the first Board of Directors, Developer shall act as and for the Board.

**7.2 REGULAR MEETINGS.** Regular annual meetings of the Board shall be held within fourteen (14) days after the annual meeting of the Association, and at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, addressed to said Director's residence, or by telephone, at least five (5) days prior to the day named for such meeting.

**7.3 SPECIAL MEETINGS.** Special meetings of the Board may be called by the President on three (3) days notice to each Director, given personally or by mail, addressed to the Director's residence or place of business, or by telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board may be called in like manner and on like notice, by the written request of at least one (1) Director.

**7.4 WAIVER OF NOTICE.** Before or at any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be deemed a waiver of notice of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**7.5 DIRECTOR'S QUORUM.** At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

ARTICLE 8

BOARD'S POWERS AND DUTIES

8.1 DISPUTES. In the event of any dispute or disagreement between any Members relating to the Property, or any question of interpretation or application of the provisions of the Master Deed and the Exhibits thereto, the determination thereof by the Board shall be final and binding on the Members.

8.2 POWERS OF BOARD. The Board shall exercise the powers necessary for the administration of the affairs of the Association and may do all such acts as are not by the Act or other laws, the Master Deed or by these Bylaws directed to be exercised and done by the Members, which shall include the following:

(a) engage the services of a manager or managing agent for the purposes of management and daily care of the Property who may be any person, firm or corporation, upon such terms and compensation as the Board deems reasonable, and to remove such manager or managing agent at any time;

(b) engage the services of any persons deemed necessary by the Board, for the administration, operation, repair, surveillance and maintenance of the Property, upon such terms and compensation deemed reasonable by the Board, and to remove at any time any such personnel;

(c) establish or maintain one or more bank accounts for the deposit of any funds paid to the Association, or received by the Board on behalf of the Association;

(d) make such charges and assessments as the Board sees fit for the operation, repair, surveillance and maintenance of the Common Elements, including the discharge of the duties of the Board, described in Paragraph 8.3 hereof, on such terms as the Board sees fit. Any funds received by the Board for any such use shall become a part of a maintenance fund.

(e) appoint committees of the Association and to delegate to such committees the Board's authority to carry out certain duties of the Association, and to allow Members to attend the meetings of such committees;

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

(g) make such mortgage arrangements, levy special assessments proportionately among the respective Members and make other financing arrangements, with the approval of not less than seventy-five percent (75%) of the total vote of the Association, in order to close and consummate the purchase of a Unit, or interest therein, by the Association, provided, however, that no such financing arrangement shall be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein, to be purchased or leased;

(h) unless otherwise provided herein or in the Master Deed, comply with the instructions of a Majority (as defined in the Master Deed) as expressed in a resolution duly adopted at any annual or special meeting of the Association;

(i) act in a representative capacity in relation to matters involving the Common Elements or more than one Unit, on behalf of the Association and its Members as their interests may appear; and

(j) exercise all other powers and duties of the Board or the Members as a group referred to in the Act and all powers and duties of a Board referred to in the Master Deed or these By-laws.

8.3 DUTIES OF BOARD. The Board must perform those duties necessary for the proper administration of the affairs of the Association, including those duties imposed by the Act, the Master Deed or by these Bylaws or by resolution of the Association, and shall be responsible for the following:

(a) CARE OF COMMON ELEMENTS: Care, upkeep, and surveillance of the Property, including the Common Elements and facilities, by performing, acting, acquiring, making arrangements for, and paying out of the maintenance fund the following:

- (i) manager, managing agent or other personnel necessary for the maintenance, security and operation of the Property, its Common Elements and facilities, as specified and described in Paragraph 8.2 of this Article;
- (ii) water, waste removal, electricity, telephone and other necessary utility services for the Common Elements;
- (iii) such insurance as the Association is required to obtain and such other insurance as the Board deems advisable in the operation and management of the Property (any losses under such policies of insurance shall be payable and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of the Act, the Master Deed, and the Exhibits thereto);
- (iv) the services of a bank or trust company, authorized to do business in the State of Tennessee, to act as trustee or agent on behalf of the Association for the purpose of receiving and disbursing the insurance proceeds resulting from any loss and the proceeds from any condemnation, upon such terms as the Board shall determine consistent with the provisions of these Bylaws, the Master Deed and the Exhibits thereto;
- (v) a comprehensive general liability insurance policy or policies insuring the Board and the Association against any liability, incident to the ownership and the use of the Common Elements, including such insurance for injury to one person and for injury to more than one person in any one accident or occurrence and for property damage (such limits to be reviewed at least annually by the Board and adjusted in its discretion) with severability of interest endorsements;
- (vi) worker's compensation insurance to the extent necessary to comply with any applicable laws;
- (vii) landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Elements and such furnishings and equipment for the Common Elements as the Board shall determine are necessary or desirable, and the Board shall have the exclusive right and duty to acquire the same for the Common Elements;
- (viii) any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, or assessments which the Board deems necessary or proper for the maintenance and operation of the Property as a first class townhouse development, for the enforcement of any restrictions or provisions contained in these Bylaws, the Master Deed and exhibits thereto;
- (ix) any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Property or any part thereof which in the opinion of the Board constitutes a lien against the Property as a whole or against the Common Elements, rather than merely against the interest herein of particular Members (where one or more Members are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any cost incurred by the Board by reason of said lien shall be specially assessed to said Members, and shall, until paid by such Members, constitute a lien on the interest of such Members in the Property as provided in the Act with respect to liens for failure to pay a share of the Common Expense);

- (x) maintenance and repair under the terms of these Bylaws and Master Deed, or the Exhibits thereto, if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any portion of the Property; and
  - (xi) a fidelity bond covering each employee handling funds of the Association.
- (b) BUDGET AND COLLECTION OF ASSESSMENTS.
- (i) Each year on or before September 1, the Board shall estimate the annual budget of the Common Expenses (the "Annual Budget") including the total amount required for the cost of wages, materials, insurance, services, and supplies which will be required during the ensuing calendar year for the rendering of all services together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall notify each Member in writing as to the amount of such estimate with reasonable itemization thereof. Said Annual Budget shall be assessed to each Member on a pro-rata basis. On or before the first day of October of each year, each Member shall be obligated to pay to the Board, or to such persons as it may direct, of the assessment made pursuant to this Paragraph.
  - (ii) On or before the fifteenth day of January of each calendar year, the Board shall supply to all Members an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid together with the tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited, in equal proportions to each Member, to the next monthly installment due from each Member under the current year's estimate, until exhausted, and any shortage shall be added, in equal proportions to each Member, to the next installment due or in such other manner prescribed by the Board.
  - (iii) The Annual Budget shall include, and the Board shall build up and maintain a reasonable reserve for, contingencies and replacements. Extraordinary expenditures not originally included in the Annual Budget which may become necessary during the year shall be charged first against such reserve, but if said Annual Budget provision is inadequate for any reason, including nonpayment of any Member's assessment, the Board may at any time and from time to time levy a further assessment, which shall be assessed to the Members in equal proportions. The Board shall serve notice of such further assessment to all Members by a statement, in writing, giving the amount and reasons therefor, and such assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice or further assessment, and all Members shall be obligated to pay the adjusted monthly amount.
  - (iv) Interim Budget. When the first Board elected hereunder takes office, it shall determine the first Annual Budget for the period commencing thirty (30) days after said election and ending on the last day of the calendar year in which said election occurs. Assessments shall be levied against each Member during said period as provided in this Paragraph.
  - (v) Notwithstanding the foregoing, the Members shall not be responsible for payment of their respective assessment until they receive from Developer, or an owner of a Unit, title to a Unit.



(c) INSURANCE. The Board, on behalf of the Association and at its Common Expense, shall at all times keep the Common Elements insured under casualty insurance with an insurance company authorized to do business in the State of Tennessee in an amount as near as practicable to the full replacement value thereof without deduction for depreciation, in the name of the Association, as trustee for all Members and mortgagees, according to the loss or damage to their respective appurtenant common interests and payable in case of loss to such bank or trust company authorized to do business in the State of Tennessee as the Board shall designate for the custody and disposition as herein provided of all proceeds of such insurance, and from time to time upon receipt thereof cause to be deposited promptly with the Members and mortgagees of the Units or interests therein, true copies of such insurance policies or current certificates thereof, without prejudice to the right of each Member to insure the Unit for said Member's own benefit. In every case of such loss or damage, all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing, or otherwise reinstating the same building in a good and substantial manner according to the original plan and elevation thereof, or such modified plans conforming to laws and ordinances then in effect as shall be first approved by the Association and all mortgagees of the Units or interests therein, and the Association at its common expense shall make up any deficiency in such insurance proceeds. Every such policy of insurance shall -

- (i) provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Member;
- (ii) contain no provision relieving the insurer from liability for loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Association, or because of any breach of warranty or condition or any other act or neglect by the Board or any Member or any other person under either of them;
- (iii) provide that such policy may not be cancelled (whether or not requested by the Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Association, Members, and every other person in interest who shall have requested such notice of the insurer;
- (iv) contain a waiver by the insurer of any right of subrogation to any right of the Association or Members against any of them or any other person under them;
- (v) contain a standard mortgagee clause which shall:
  - (A) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any Unit, in their respective order and preference, whether or not named therein;
  - (B) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Association or Members or any persons under any of them;
  - (C) waive any provision invalidating such mortgagee clauses by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, and require that the mortgagee pay any premium thereon, and any contribution clause; and
  - (D) provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Association.

8.4 LIABILITY OF BOARD. The Directors shall not be liable to the Association for any mistakes of judgment, or of any acts or omissions made in good faith as such Directors. The Association shall indemnify and hold harmless each Director against all liabilities to others arising out of contracts made or acts or omissions by such

Directors on behalf of the Association, unless any such contract, act or omission shall constitute willful misconduct or gross negligence. The liability of any Member arising out of any contract, act or omission by such Director or out of the aforesaid indemnity shall be limited to a proportionate share of the total liability thereunder which share shall be equal to that share borne by every other Member. Each agreement made by such Directors shall be executed by such Directors as agents for the Association.

8.5 COMPENSATION. No compensation shall be paid to Directors for their services as Directors. No remuneration shall be paid to a Director for services performed for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Association before the services are undertaken. A Director may not be an employee of the Association.

#### ARTICLE 9

##### OFFICERS OF BOARD

9.1 DESIGNATION. The Directors shall be the officers of the Association. The principal officers of the Association shall be a President, a Secretary, a Treasurer and two Vice Presidents, all of whom shall be elected by and from the Board. The Directors may appoint an Assistant Treasurer, and an Assistant Secretary, and such other officers as they in their reasonable judgment may deem necessary. Any two or more offices may be held by the same person, except for the offices of President and Secretary.

9.2 ELECTION AND TERM OF OFFICE. The appointed officers of the Board shall serve for a term of one (1) year and thereafter until their successors are elected. At the first meeting of the Association, the Members present at such meeting, elect the officers.

9.3 REMOVAL. Any officer may be removed from office by the affirmative Majority vote of the Association at a special meeting called for such purpose.

9.4 POWERS AND DUTIES OF PRESIDENT. The President shall be the chief executive officer of the Association presiding over all meetings of the Association and of the Board, and having all of the general powers and duties which are usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the Members from time to time which are appropriate to assist in the conduct of the affairs of the Association. The President shall have the power to sign, together with any one (1) other officer designated by the Association, any authorized contracts, checks, drafts, or other instruments designated or approved by the Board, and shall have such other authority and shall perform such other duties as may be determined by the Association or otherwise provided for in the Master Deed or these Bylaws. If the President is unable to act, the Board shall appoint one of the Vice Presidents to do so on an interim basis.

9.5 POWERS AND DUTIES OF TREASURER. The Treasurer shall have the responsibility for Association funds and securities which includes keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association, and depositing all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board.

9.6 POWERS AND DUTIES OF SECRETARY. The Secretary shall attend and keep the minutes of all meetings of the Board and of the Association; shall give all notices as provided by the Act, the Master Deed or these Bylaws, and shall have other powers and duties as may be incidental to the office of secretary, or as determined by these Bylaws or assigned from time to time by the Association. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

9.7 POWERS AND DUTIES OF VICE PRESIDENTS. The Vice Presidents shall preside over all meetings of the Association at which the President is unable to preside and shall have all the powers of the President at such meetings. The two Vice Presidents shall alternate turns in such capacity. The Vice Presidents shall perform such other duties as may be determined by the Association or as otherwise provided for in the Master Deed or the Bylaws. If either of the Vice Presidents is unable to act in the place of the President, the Board shall appoint some other Director to do so on an interim basis.

9.8 DELEGATION OF AUTHORITY AND DUTIES. The Board is authorized to delegate the authority and duties of any officer to any other officer and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

9.9 AUDITOR. The Association may at any meeting appoint some person, firm, or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested by the Association.

9.10 LIABILITY OF OFFICERS.

(a) Exculpation. No officer of the Association shall be liable for acts or defaults of any other officer, or Director, or for any loss sustained by the Association or any Member thereof, unless the same has resulted from the willful misconduct or gross negligence of said officer.

(b) Indemnification. Every officer shall be indemnified by the Association against all reasonable costs, expenses, and liabilities (including attorney's fees) actually and necessarily incurred by or imposed in connection with any claim, action, suit, proceeding, investigation, or inquiry of whatever nature in which said officer may be involved as a party or otherwise by reason of having been an officer of the Association whether or not said officer continues to be such officer of the Association at the time of the incurring or imposition of such costs, expenses or liabilities, except in relation to matters as to which said officer shall be finally adjudged in such action, suit, proceeding, investigation or inquiry to be liable for willful misconduct or gross negligence toward the Association in the performance of said officer's duties, or in the absence of such final adjudication, any determination of such liability by the opinion of legal counsel selected by the Association. The foregoing right of indemnification shall be in addition to and not in limitation of all rights to which such persons may be entitled as a matter of law and shall inure to the benefit of the legal representatives of such person.

9.11 COMPENSATION. The officers shall not be compensated for their services as officers, unless expressly provided for in a resolution duly adopted by a Majority of the Association.

ARTICLE 10

OBLIGATIONS OF MEMBERS

10.1 EXPENSES, ASSESSMENTS. Every Member shall contribute an equal proportion toward the expense of administration of the Property, including but not limited to all types of insurance, the cost of operation, maintenance, repair, and replacement of the Common Elements thereof. The Board shall fix a charge for each Unit in an amount sufficient to provide for its pro-rata share of all such current expenses, reasonable reserves for future expenses of administration, and such other expenses as the Board may deem proper, subject to adjustment from time to time as the Association may deem necessary. Such charge shall be due and payable in advance on the first day of October of every year, shall bear interest at the maximum rate permitted by law from due date until paid, and with such interest shall be a lien on the Unit, assessed prior in right to all other charges whatsoever except assessments, liens, and charges in favor of the State of Tennessee for taxes past due and unpaid on such Unit and amounts and liabilities secured by mortgage instruments duly recorded.

10.2 BUDGET DELAY. The failure or delay of the Board to prepare or serve the annual or adjusted budget on the Members shall not constitute a waiver or release in any manner of the Members' obligation to pay the maintenance and other costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, the Members shall continue to pay the annual assessment charges at the then existing annual rate established for the previous year until a new annual or adjusted budget shall have been mailed or delivered.

10.3 DEFAULT. If a Member is in default in the annual payment of the aforesaid charges or assessments for twenty (20) days, the Board, shall notify in writing said Member's first mortgagee and, in addition to any remedies or liens provided by law or equity, the Board may bring suit for and on behalf of itself as representative of the Association to enforce collection thereof or to foreclose a

provided by law; and there shall be added to the amount due the costs of said suit, and reasonable attorney's fees to be fixed by the court. Notwithstanding the foregoing, any first mortgagee of a Member who is in default shall be given ten (10) days from receipt of said written notice to satisfy any delinquency.

#### 10.4 MAINTENANCE AND REPAIR.

(a) Every Member must perform promptly all maintenance and repair work within said Member's Unit, which if omitted would affect the Property in its entirety or in a part belonging to other Members, and is expressly responsible for the damages and liabilities that a failure to do so may engender.

(b) All the repairs of internal installations of the Unit such as water, lights, power, sewage, telephones, sanitary installations, doors, windows, lamps, and all other accessories belonging to the Unit shall be maintained at the Member's expense.

(c) A Member shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Elements and facilities damaged through said Member's fault.

(d) There shall be no structural alterations, capital additions to, or capital improvements on the Common Elements (other than for purposes of replacing or reordering portions of the Common Elements) requiring an expenditure in excess of \$1,000 without the prior written approval of seventy-five percent (75%) of the Association.

10.5 USE OF UNITS. All Units shall be utilized in accordance with the provisions of these Bylaws, the Master Deed, the Act and the Rules and Regulations.

10.6 TITLE. Every Member shall promptly cause to be duly recorded with the Register of Deeds in Hamilton County, Tennessee, the deed, or other conveyance evidencing title thereto and shall file such evidence of title with the Board through the Secretary who shall maintain such information in the records of ownership of the Association.

### ARTICLE 11

#### GENERAL PROVISIONS

11.1 INSTRUMENTS GENERALLY. All checks, drafts, notes, bonds, acceptances, contracts, and all other instruments, except conveyances shall be signed by such person or persons as shall be provided by general resolution of the Board applicable thereto. Such instruments shall be signed by the President or any two (2) other Directors.

11.2 FORECLOSURE OF LIEN. In any suit to foreclose the lien against any Member as specified and described in Paragraph 10.3., the Association may represent itself through its Board in like manner as any mortgagee of real property. The Board acting on behalf of the Association shall have the power to bid and acquire such Unit at a foreclosure sale. The delinquent Member shall be required to pay to the Association a reasonable rent for subject Unit until sale of foreclosure, together with all costs and reasonable attorney's fees. Suit to recover a money judgment for unpaid assessments, along with all costs and reasonable attorney's fees, shall be maintainable without foreclosing or waiving the lien securing the same.

11.3 RIGHT OF ENTRY. The Board, or any person authorized by the Board, shall have the right to enter each Unit in case of any emergency originating in or threatening such Unit whether or not the Member is present at the time. Every Member, when so required, shall permit the Board, or an authorized representative thereof, to enter such Member's Unit at reasonable times for the purpose of performing authorized installations, alterations, or repairs to the Unit for central services, provided such requests for entry are made in advance.

11.4 WAIVERS. Whenever any notice is required to be given under the provisions of the Master Deed or the Exhibits thereto, including these Bylaws, a waiver thereof in writing by the person or persons entitled to such notice, whether before or at the time stated therein, shall be deemed equivalent to the giving of such notice.

11.5 RECORDS AND ACCOUNTS. The Association shall keep true and correct books of account and the same shall be open for inspection by any Member or any representative of a Member duly authorized in writing, at such reasonable time or times during normal business hours as shall be determined by the Board. All funds collected hereunder shall be held and expensed solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Members and for such special adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all of the Members in the percentages provided.

11.6 FISCAL YEAR. The fiscal year of the Association shall be such as may from time to time be established by the Association.

11.7 MORTGAGES. Any mortgagee of a Unit may file a copy of its mortgage with the Board through the Secretary who shall maintain such information in the record of ownership of the Association. After the filing of the mortgage, the Board, through its Secretary shall be required to notify the mortgagee of any Member who is in default in the expenses for the administration of the Property and the mortgagee at its option may pay the delinquent expenses. Any first mortgage or first deed of trust made, owned or held by a bank, savings and loan association, or insurance company or other institutional lender and recorded prior to the recording or mailing of a notice by the Board of the amount owing by a Member, who has refused or failed to pay said Member's pro-rata share of the monthly assessment when due, shall be superior to the lien of such unpaid expenses set forth in said notice and to all assessments which shall become due and are unpaid subsequent to the date of the recording of such first mortgage or first deed of trust. The purchaser from such lender shall be responsible for all assessments levied after the date of such purchase.

11.8 AUTHORITY OF DEVELOPER. Until such time as the first Board provided for herein is elected, Developer may assess each Member a maintenance fee. All the rights, duties and functions of the Board set forth in the Master Deed and the Exhibits thereto shall be exercised by Developer for a period beginning on the date of execution of the Master Deed and ending thirty (30) days after the first meeting of the Board pursuant to the terms set forth in these Bylaws.

11.9 RULES AND REGULATIONS. The Association by a Majority vote may, from time to time, adopt or amend such Rules and Regulations governing the operation, maintenance, beautification and use of the Common Elements and the Units, not inconsistent with the terms of the Master Deed and the Exhibits thereto, at any meeting duly called for such purpose, and every Member shall conform to, and abide by, such Rules and Regulations. Upon adoption, amendment, modification or revocation of such Rules and Regulations, written notice shall be given to all Members. A violation of such Rules and Regulations shall be deemed a violation of the Master Deed and the Exhibits thereto.

11.10 BUSINESSES. Nothing contained in these Bylaws shall be construed to give the Board the authority to conduct any business for profit on behalf of the Association or any Member.

11.11 AMENDMENT. These Bylaws may be amended, modified, or revoked in any respect from time to time by not less than seventy-five percent (75%) of the affirmative vote of the Association at a meeting duly called for that purpose, PROVIDED, HOWEVER, that the contents of these Bylaws shall always contain those particulars which are required to be contained herein by the Act and other laws of the State of Tennessee; and PROVIDED, FURTHER, that no modification of or amendment to these Bylaws shall be valid unless set forth in an Amendment to the Master Deed, and recorded with the Register's Office, Hamilton County, Tennessee.

11.12 TERMS. All terms used herein which are defined in the Master Deed or the Act shall have the same meaning as set forth therein.

11.13 CONFLICT. In the event of any conflict between these Bylaws and the provisions of the Act, the latter shall govern and apply.

11.14 NONWAIVER OF COVENANTS. No covenants, restrictions, conditions, obligations or provision contained in the Master Deed or these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

11.15 AGREEMENTS BINDING. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Master Deed and

these Bylaws shall be deemed to be binding on all Co-owners, their heirs, successors and assigns.

11.16 SEVERABILITY. The invalidity of any covenant, restriction, condition, limitation or any other provision of these Bylaws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these Bylaws.

11.17 PERPETUITIES AND RESTRAINTS ON ALIENATION. If any of the options, privileges, covenants or rights created by these Bylaws shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States, Ronald Reagan.

ADOPTION OF BYLAWS

The undersigned as the Developer of the Property and the Incorporator of the Association hereby adopts the foregoing Bylaws of its Association of Co-owners, this 28<sup>th</sup> day of JULY, 1987.

HICKORY CREEK TOWNHOME ASSOCIATION

By Don Williams Construction  
Co., Inc.

By Donald D. Williams, Pres  
Donald D. Williams, President

Signature not legible  
for filming.

RULES AND REGULATIONS  
FOR  
HICKORY CREEK TOWNHOME ASSOCIATION, INC.

I. GENERAL INFORMATION

To preserve the quality of life enjoyed by the many residents of Hickory Creek Townhomes (the "Townhouse Development"), the Board of Directors, under the authority granted to it by the Master Deed for Hickory Creek Townhomes (the "Master Deed") has developed certain rules and regulations. It is the prerogative of the Board of Directors to interpret, regulate, and enforce the rules and general conduct about the Townhouse Development.

Townhouse living is a new experience for many residents. It is necessary to understand the nature of problems that can arise in a Townhouse Development that result from the very nature of sharing the Common Elements as well as to be aware of those special conditions that are created by increased population density. Regard for the comfort, tranquility and security of one's neighbors is the responsibility of each and every resident. Respect for real property and the enhancement of its value is a common responsibility. The burden of these obligations cannot be delegated to management but rest, rather, with each and every individual owning and/or occupying a Unit.

Guests should be informed of these Rules and Regulations to avoid embarrassment to all concerned. All guests are subject to the same Rules and Regulations as the residents, both owners and lessees.

II. USE RESTRICTIONS

Without limiting the generality of the provisions of the Master Deed, use of the Townhouse Development by the Co-owners shall be subject to the following restrictions:

1. No part of the Townhouse Development shall be used for other than residential purposes and the related common purposes for which the Townhouse Development was designated, and each Unit shall be used as a single family dwelling or for such other uses permitted by the Master Deed and for no other purposes.
2. No industry, business, trade, occupation or profession of any kind shall be conducted, maintained, or permitted on any part of the Townhouse Development, except that Developer shall be entitled to access, ingress and egress to the Property as Developer shall deem necessary in connection with the construction and sale of any Unit. Developer shall have the right to use any unsold Unit as a model or for sale or display purposes, and to maintain on the Townhouse Development, until the sale of the last Unit, all models, sales offices and advertising signs or banners, if any, and lighting in connection therewith.
3. There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Association, except as expressly provided herein and in the Master Deed.
4. Nothing shall be done or kept in any Unit or in the Common Elements nor shall any Co-Owner permit anything to be done or kept in said Co-Owner's Unit, or any part of the Common Elements which will result in the cancellation of insurance on any part of the Common Elements or which will be in the violation of any law.
5. Co-owners must comply with all provisions specified in the Declaration of Covenants, Conditions, Restrictions and Rights for Hickory Creek Subdivision, as recorded in the Register's Office of Hamilton County, Tennessee in Book 3162, Page 198, including the provision that no building shall be erected, placed or altered with respect to any lot (Unit) until the construction plans and specifications, and a plan showing the location of the structure have been approved in writing by the Developer and the Association as to the quality of workmanship and material, harmony of external design with existing structures, and as to location with respect to topography and finished grade elevation.
6. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Unit except that dogs, cats or other household pets may be kept provided that such pets are not kept, bred or maintained for any commercial purpose. Dogs and other animals shall not be kept in the Common Elements. No animal shall be

allowed in the Common Elements, if such animal becomes an annoyance or nuisance to other Co-owners or occupants or otherwise violates any Rules or Regulations adopted by the Association. At any time an animal is in or upon the Common Elements, it must be accompanied by and be under the control of its owner. The Co-Owner shall indemnify Developer and the Association, and their respective agents or representatives, and all other Co-Owners and hold them harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having any animal on the Property. If a pet disturbs other Co-Owners by barking or biting or in any other way becomes obnoxious, notice will be given to have the annoyance discontinued and if not corrected, the pet must be removed from the Townhouse Development.

7. No noxious or offensive activities shall be carried on in any Unit nor in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Co-owners or occupants.

8. A maximum speed limit of 15 M.P.H. shall be in effect on all roadways on the Property.

9. No waste shall be committed in or on the Common Elements.

10. Motorcycles, motorbikes, motor scooters or other similar vehicles shall not be operated within the Townhouse Development except for the purpose of transportation directly from a parking space to a point outside the Townhouse Development, or from a point outside the Townhouse Development directly to a parking space.

### III. ARCHITECTURAL CONFORMITY

1. Without the written consent of the Association, nothing shall be altered or constructed in or removed from the Common Elements, except a Co-owner may remove said Co-owner's own personal property from the Common Elements.

2. Without the prior written approval of the Association, no boat trailer, motorcycle, truck, motorhome, camper or any vehicle which is in an inoperable condition shall be parked, stored, or left standing upon any of the Common Elements. Storage of such a vehicle entirely within the garage of an individual Unit shall not be prohibited. The Association may also cause, at the expense of the Co-owner, the removal from the Common Elements of any vehicle which, in the reasonable opinion of the Board, is in a state of disrepair or in an unsightly condition.

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

4. Except upon an individual Unit, no planting, transplanting or gardening shall be permitted and no fences, hedges or walls shall be erected or maintained upon the Property except as approved by the Association.

5. Each Co-owner shall keep said Co-owner's Unit in a good state of preservation and cleanliness.

### IV. SALE, LEASE, OR MORTGAGE OF A UNIT

1. The sale, lease, or mortgage of a Unit by a Co-Owner is subject to the provisions of the Master Deed.

2. No lease shall be for less than twelve (12) months or cover less than an entire Unit.

3. Units may be used, leased, or sold for residential purposes only.

4. A copy of any prospective lease shall be given to the Board.

5. An advance deposit to cover damages to the Common Elements is required of all leases.

6. It is the responsibility of the Co-owner to inform the lessee of the lessee's required compliance with the policies of the Association. Accordingly,



copies of the Master Deed and of these Rules and Regulations are to be furnished to the lessee by Co-owner, and the following SPECIAL STIPULATION must be contained in ALL leases:

This lease shall in all respects be subject to the terms and conditions of the Master Deed, the ByLaws, the articles of incorporation, and the Rules and Regulations pursuant thereto. Failure of the tenant to abide by the provisions of these instruments shall be grounds for eviction. In the event grounds for eviction are found to exist, the Co-owner shall be required to evict said Co-owner's tenant, and upon the Co-owner's failure to commence eviction proceedings within fifteen (15) days of the Association's written request to do so, the Association shall have the right to evict said tenant on behalf of the Co-owner. All costs incurred by the Association for such proceedings shall be for the benefit of and on behalf of the Co-owner and collectible in the same fashion as other assessments levied against the Co-owner.

#### V. PARTIES IN INDIVIDUAL UNITS

1. The noise level when using the Common Elements should be kept to a minimum to avoid disturbing other Co-owners or occupants.
2. Parties are not to extend into the Common Elements, walkways, driveway, or parking lot, without the prior written approval of the Board.
3. Co-owners are responsible for all damages inflicted on the Common Elements by their guests.

#### VI. CONSTRUCTION

1. Co-owners must notify the Association of construction plans and may only construct, alter, modify or change their individual Unit and not in any way the Common Elements.
2. Permits for all new construction must be secured from local authorities as applicable.
3. All work must be performed between the hours of 9 A.M. and 9 P.M., except work of an emergency nature.
4. Dumpsters are not to be used for disposal of construction materials.
5. The use of the Common Elements for storage of materials, tools, or performance of work is strictly prohibited.
6. The use of jack hammers or other substantial noise makers is prohibited.
7. The contractor is wholly responsible for the protection of the Common Elements which are used. If such areas are soiled, damaged, or defaced, the Co-owner will be assessed for repair or cleaning of the affected area.
8. Building and utility inspections are the responsibility of the contractors. Any person not authorized to call for such inspections shall be required to pay for such services if such person personally calls for an inspection and if it is found that no violation exists.

#### VII. MAINTENANCE

1. Co-owners or occupants are requested not to ask maintenance and custodial personnel to perform personal services for them.
2. If, due to the act or neglect of a Co-owner or member of said Co-owner's family, a household pet, guest or other authorized occupant or visitor of such Unit, damage shall be caused to the Common Elements or to a Unit owned by others and maintenance, repairs, or replacement shall be required which would otherwise be a Common Expense, then such Co-owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Board, to the extent not paid by insurance.
3. No service work, except work of an emergency nature, is to be permitted before 9 A.M. or after 9 P.M.

4. No Unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. All garbage and trash containers are to be covered, or shall be of plastic or similar material, securely closed.

#### VIII. MISCELLANEOUS RULES

1. Co-owners shall be responsible for the actions of their children, their guests, and licensees.

2. Any consent or approval given under these Rules and Regulations by the Board shall be revocable at any time by written notice.

3. Complaints regarding the service of the Common Elements or regarding actions of other Co-owners shall be made in writing to a Director of the Association.

4. These Rules and Regulations may be added to, amended, or repealed at any time by the Association.

#### IX. SANCTIONS FOR VIOLATION

1. The violation of any restriction or condition or regulation adopted by the Association, or the breach of any covenant or provision provided in the ByLaws or the Master Deed, unless such violation or breach is remedied within twenty (20) days after written notice thereof to such Co-owner, shall give the Association the right, in addition to any other rights provided in the Master Deed:

(a) To enter the Unit, or any portion of the Property upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Co-owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of the Master Deed, the ByLaws or the Rules and Regulations, and the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

2. Each Co-owner hereby waives and releases any and all claims which said Co-owners may have against any other Co-owner, the Board, Developer and its respective employees and agents for damage to Common Elements, the Units, or any personal property located in the Units or Common Elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

3. Enforcement. Enforcements shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, to restrain such violation, and to recover such damages as may accrue, with court costs and reasonable attorneys fees to be considered liquidated damages. Any Co-owner shall have a right to maintain such action; providing, if any Co-owner shall bring such action and shall fail in their suit, they shall be liable to the party or parties sued for damages resulting therefrom including court costs and reasonable attorneys fees incurred.

4. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

#### 5. Common Recreation and Exercise Areas.

(a) The tennis court, swimming pool and swimming pool areas are for the exclusive use of Hickory Creek Townhome Co-owners and their guests.

(b) The swimming pool should be used during the designated season only between 10:00 A.M. and 9:00 P.M.

(c) Guests using the swimming pool should be accompanied by a resident. The number of guests should be limited to avoid over-crowding.

(d) Co-owners are responsible for all damages, if any, to the Common Elements caused by themselves or their guests.

(e) Minor children under 12 years of age in and around the swimming pool or on the tennis courts must be accompanied by a resident adult or their parent(s).

(f) Co-owners must abide by the rules for recreational facilities as posted in the recreational areas, or hereafter published by Developer or the Association.

EXHIBIT "D"

LEGAL DESCRIPTION OF COMMON ELEMENTS

BEING LOCATED IN THE SECOND CIVIL DISTRICT, CHATTANOOGA, HAMILTON COUNTY, TENNESSEE.

BEING THE RECREATION AREA AS SHOWN ON PLAT OF RECORD, HICKORY CREEK SUBDIVISION, RECORDED IN PLAT BOOK 40, PAGE 57, IN THE REGISTER'S OFFICE OF HAMILTON COUNTY, TENNESSEE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, BEING AT A POINT LOCATED AT THE SOUTHWESTERN RIGHT-OF-WAY INTERSECTION OF HICKORY VALLEY ROAD AND HICKORY CREEK ROAD THENCE ALONG THE SOUTHERN RIGHT-OF-WAY OF HICKORY CREEK ROAD WITH A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 25 FEET, AN ARC LENGTH OF 38.91 FEET TO A POINT, THENCE N65 DEGREES 17' 06"W A DISTANCE OF 97.86 FEET TO A POINT, THENCE N63 DEGREES 11' 26"W A DISTANCE OF 375.93 FEET TO THE TRUE POINT OF BEGINNING, THENCE LEAVING SAID SOUTHERN RIGHT-OF-WAY OF HICKORY CREEK ROAD AND ALONG WITH THE WESTERN LOT LINE OF LOT 68, HICKORY CREEK SUBDIVISION S23 DEGREES 34' 56"W A DISTANCE OF 176.43 FEET TO A POINT LOCATED AT THE SOUTHWESTERN CORNER OF LOT 68, HICKORY CREEK SUBDIVISION AND THE NORTHERN LINE OF LOT 1, SIMSON SUBDIVISION (RECORDED IN PLAT BOOK 31, PAGE 173 IN SAID REGISTER'S OFFICE), THENCE ALONG THE NORTHERN LINE OF LOT 1, SIMSON SUBDIVISION N66 DEGREES 30' 00"W A DISTANCE OF 198.0 FEET TO A POINT LOCATED AT THE SOUTHEASTERN CORNER OF LOT 67, HICKORY CREEK SUBDIVISION, THENCE ALONG WITH THE EASTERN LINE OF LOT 67, HICKORY CREEK SUBDIVISION N23 DEGREES 34' 56"E A DISTANCE OF 172.82 FEET TO A POINT AT THE NORTHEASTERN CORNER OF LOT 67 AND IN THE SOUTHERN RIGHT-OF-WAY OF HICKORY CREEK ROAD, THENCE ALONG SAID RIGHT-OF-WAY OF HICKORY CREEK ROAD, THENCE ALONG SAID RIGHT-OF-WAY IN A EASTERLY DIRECTION S69 DEGREES 34' 30"E A DISTANCE OF 80.98' TO A POINT MARKING THE BEGINNING OF A CURVE TO THE RIGHT, THENCE ALONG SAID CURVE (HAVING A RADIUS OF 1000.0 FEET) AN ARC LENGTH OF 110.93 FEET TO THE TRUE POINT OF BEGINNING.

REFERENCE FOR PRIOR TITLE IS MADE TO BOOK 3080, PAGE 231 IN SAID REGISTER'S OFFICE.

J: 7: 3 7: 7:

IDENTIFICATION  
REFERENCE

AUG 4 3 25 PM '87

SARAH P. DE FRIESE  
REGISTER  
HAMILTON COUNTY  
STATE OF TENNESSEE