

This instrument prepared by:  
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**DECLARATION**  
**OF**  
**FUSION CONDOMINIUMS**

ARTICLE I

SUBMISSION; DEFINED TERMS

Karen Johnson Davidson County  
Batch# 372001 DEEDMAST  
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20200313-0028239

1.01 Submission of Real Estate. **RSD HAMILTON AVENUE, LLC**, a Tennessee limited liability company (the “Declarant”), owner in fee simple of the real estate described in Exhibit A located in Davidson County, Tennessee, hereby submits the real estate, together with all easements, rights and appurtenances thereto and the buildings and improvements erected or to be erected thereon (collectively, the “Property”) to the provisions of T.C.A. § 66-27-201 through 507, known as the Tennessee Condominium Act of 2008 (the “Act”).

1.02 Property Subject to Master Association. The Property and the Condominium established pursuant to this Declaration is a part of a larger planned unit development horizontal property regime (the “HPR”) with private elements, as created pursuant to that certain Declaration of Covenants, Conditions and Restrictions for FUSION of record as Instrument No. 20200313-0028238, Register’s Office for Davidson County, Tennessee (the “Master Declaration”). The HPR is commonly referred to as FUSION and for purposes of this Declaration, is sometimes referred to herein as the “FUSION Development”. The Property is identified in the Master Declaration as a single “Unit”, as that term is defined in the Master Declaration, with all of the terms, covenants, conditions and restrictions that are contained in the Master Declaration being applicable to the Condominium and the Units created by this Declaration.

1.03 Condominium Establishing Workforce Housing Units. The Declarant has established the Condominium with the express intent and purpose of providing voluntary workforce housing for purchase in Nashville, Davidson County, Tennessee. In connection with the FUSION Development, Declarant has created the Condominium, consisting of nine (9) units, to be subject to certain special restrictions which shall insure that the Units are initially sold, occupied, used and subsequently conveyed in a manner so as to effectively implement the voluntary workforce housing policies of the Declarant. As such, the ownership of each Unit shall be subjected to certain restrictions with respect to sales price and its escalation, occupancy, use and place of employment of the occupant, it being expressly understood that such restrictions shall be more particularly set forth in each deed of conveyance with respect to a Unit (herein, a "Unit Deed").

1.04 Defined Terms. Each capitalized term not otherwise defined in this Declaration or in the Plats shall have the meanings specified or used in the Act.

## ARTICLE II

### NAMES; DESCRIPTION OF REAL ESTATE; PLAT AND PLANS

#### 2.01 Names.

- (a) Condominium. The name of the Condominium is FUSION Condominium.
- (b) Association. The name of the Association is FUSION Condominium Association, a Tennessee nonprofit corporation.
- (c) Association Boards. Collectively, the Board of Directors and the Master Association Board.
- (d) Board of Directors. The board of directors of the Association.
- (e) Bylaws. The Bylaws of the Association, as they may be amended from time to time.
- (f) Common Expenses. The actual or anticipated expenditures made by or financial liabilities of the Association (including, without limitation, those liabilities arising under the Master Declaration, together with any allocations to reserves.
- (g) Declarant Control Period. The period commencing on the date of this Declaration and terminating no later than the earliest of:
  - (1) One hundred twenty (120) days after conveyance of seventy five percent (75%) of the Units that may be created to Unit Owners other than a Declarant; or
  - (2) Five (5) years after conveyance of the first Units to a Unit Owners other than a Declarant.
- (h) Director. A member of the Board of Directors.
- (i) Documents. The Declaration, Plat, the Bylaws, and the Rules as they be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.
- (j) Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit.
- (k) Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Unit.
- (l) Manager. A person, firm or corporation employed or engaged to perform management services for the Condominium and the Association; provided, however, that so long as the Condominium is a part of the Master Association and subject to the Master Declaration, any Manager engaged to perform management services for the Condominium shall be the Managing Agent engaged by the Master Association Board, unless otherwise approved by the Master Association Board.
- (m) Master Association. The FUSION Homeowners Association, Inc. as established and created pursuant to the Master Declaration.

(n) Master Association Board. The board of directors of the Master Association created pursuant to the Master Declaration.

(o) Master Declaration. The Master Declaration as defined in Section 1.02 hereof. All references to the Master Declaration shall include the by-laws of the Master Association, all exhibits attached to the Master Declaration and made a part thereof, and any and all future amendments to the Master Declaration.

(p) Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

(q) Plat. The Plat which is attached hereto as Exhibit B is made a part of this Declaration for the purpose of describing the Condominium and the Units.

(r) Real Estate. The Condominium is located in Davidson County, Tennessee. The real estate of the Condominium is described in Exhibit A.

(s) Reserved Parking Spaces. The nine (9) reserved parking spaces that are reserved for the exclusive use of the Owners of Units in accordance with the terms of the Master Declaration. The Reserved Parking Spaces are identified by number as provided in the Exhibits to the Master Declaration, and each Owner of a Unit is assigned the exclusive right to use one (1) of the Reserved Parking Spaces as set forth in Section 4.07 hereof.

(t) Rules. Rules for the use of Units and Common Elements and for the conduct of persons within the Condominium, adopted by the Board of Directors from time to time, pursuant to this Declaration.

(u) Security Interest. An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

(v) Trustee. The entity which may be designated by the Board of Directors as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Board of Directors from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

### ARTICLE III

#### THE ASSOCIATION

3.01 Authority. The business affairs of the Condominium shall be managed by the Association. The Association shall be governed in accordance with its Charter and Bylaws, as amended from time to time. The initial Bylaws of the Association are attached as Exhibit D.

3.02 Membership. The members of the Association shall be the Unit Owners, with voting rights as set forth in Section 8.02(c).

3.03 Powers. The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Condominium.

3.04 Declarant Control. The Declarant shall have all the powers reserved in Section 67-3-403(c) of the Act to appoint and remove officers and members of the Board of Directors.

#### ARTICLE IV

##### UNITS

4.01 Identification of Units. The identifying number of each Unit is shown on the Plat.

4.02 Maximum Number of Units. The number of Units in the Condominium is nine (9). The Declarant reserves no rights to create additional Units.

4.03 Unit Boundaries. The boundaries of each Unit are located as shown on the Plat and are more particularly described as follows:

(a) Walls, floors and ceilings are designated as boundaries of a Unit; and

(b) Each Unit shall include the heating, hot water and air conditioning apparatus exclusively serving the Unit whether or not located within the boundaries of the Unit.

4.04 Alterations of Units. Subject to the approval of the Association Boards, a Unit may be improved or altered as provided in Section 66-27-311 of the Act if the Owner of the Unit and any affected mortgagee shall submit to the Board of Directors such application as shall be reasonably required.

4.05 Relocation of Boundaries Between Adjoining Units. Subject to the approval of the Association Boards, the boundaries between adjoining Units may be relocated by an amendment to this Declaration as provided in Section 66-27-312 of the Act if the Owners of those Units and their respective mortgagees submit to the Board of Directors such application as shall reasonably be required. If approved, the Association shall prepare, execute and record an amendment to this Declaration at the expense of the Owners of the affected Units.

4.06 Requirements for Approval. The Association Boards may condition their approval of any application submitted pursuant to Sections 4.04 and 4.05 hereof upon additional requirements related to preservation of the structural integrity, aesthetics, operating efficiency, and protection of the Condominium and other Unit Owners including, without limitation, minimum Unit size requirements, acceptable architectural and engineering plans, maintenance of liability and workman's compensation insurance during construction, performance and payment bonds, or otherwise, the expense of which shall be borne by the affected Owners of the affected Units.

4.07 Reserved Parking Spaces. Each Unit shall have the exclusive right to the use of one (1) of the Reserved Parking Spaces, with the Reserved Parking Space that is assigned to each Unit being shown on Exhibit C attached hereto. The number and location of the Reserved Parking Spaces are determined under the terms, conditions and covenants of the Master Declaration and cannot be relocated except as agreed upon by the Association and the Master Association. The assignment of Reserved Parking Spaces to each Unit as designated on Exhibit C attached hereto may be revised to the extent such revision is adopted in accordance with the terms and provisions of this Declaration with respect to approval of amendments.

## ARTICLE V

### LIMITED COMMON ELEMENTS

#### 5.01 Limited Common Elements.

(a) A "Limited Common Element" means a portion of the Common Elements, designated in this Declaration, or on the Plat, or by the Act, for the exclusive use of one or more but fewer than all of the Units.

(b) The following portions of the buildings, in addition to the portions described in Sections 67-27-302(2) and 67-27-302(4) of the Act, are designated as Limited Common Elements:

- (1) The utility meter serving a particular Unit.
- (2) Stoops and steps and walls above door openings at the entrances to each building, which provide access to less than all Units, the use of which is limited to the Units to which they provide access.
- (3) Attic space above each Unit with an attic, the use of which is limited to the Unit beneath it.
- (4) Chimneys, the use of which is limited to the Unit in which its fireplace is located. In the event of a multiple flue chimney, each flue will be a Limited Common Element allocated to the Unit containing its fireplace while the chimney will be a Limited Common Element allocated to the Units sharing the chimney.
- (5) Storm windows and storm doors, if any, will be Limited Common Elements of the Unit which they service.
- (6) Certain courtyards and patios and decks at the entrances to each Unit the use of which is limited to the Unit as shown on the Plat.
- (7) Exterior surfaces, trim, siding, doors and windows will be Limited Common Elements allocated to the Units sheltered thereby (subject, however, to the maintenance provisions set forth below).
- (8) Mailboxes, name plates, and exterior lighting affixed to the building will be Limited Common Elements allocated to the Units served thereby.

## ARTICLE VI

### MAINTENANCE, REPAIR AND REPLACEMENT

6.01 Limited Common Elements. The Owner of a Unit to which any doorstep, stoop, porch, balcony, deck or patio is allocated shall be responsible for removal of snow, leaves and debris therefrom.

6.02 Expense Allocation. Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed equally against the Units to which the Limited Common Element is assigned.

6.03 Maintenance of Exterior. Notwithstanding any provision herein, the with respect to the exterior of the building and improvements in which the Units are located, the terms and provisions of Section 14 of the Master Declaration shall control and govern the rights, duties and obligations of the Unit Owners, the Association and the Master Association with respect to such maintenance.

## ARTICLE VII

### DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

7.01 Development Rights. The Declarant reserves the following Development Rights:

(a) The right to amend this Declaration and the Plat for the purpose of altering the boundaries between adjoining Units, subdividing Units, and changing the allocated percentage of ownership allocated to such Units owned by the Declarant prior to the first conveyance of any such Units to a person other than the Declarant.

(b) The right to allocate specified areas that constitute a part of the Common Elements as Limited Common Elements for the exclusive use of the Owners of Units to which these specified areas shall become appurtenant as provided in Section 5.01 of this Declaration.

(c) The right to establish one or more exterior audio, television, microwave or other antennae or antennae dish or signal capture and distribution device as a Common Element for the Condominium as set forth in Section 9.01(d) of this Declaration.

7.02 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights:

(a) The right to complete or make improvements indicated on the Plat.

(b) The right to exercise any Development Right.

(c) The right to maintain a Unit as a sales model

(d) The right to maintain signs advertising the condominium on the Common Elements.

(e) The right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Act and this Declaration.

(f) The right to appoint or remove any officer of the Association or any Director during the Declarant Control Period consistent with the Act.

(g) The right to post signs and displays in the Common Elements to promote sales of Units, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Unit Owners.

(h) The right to retain all personal property and equipment used in the sales, management, construction and maintenance of the premises that has not been represented as property of the

Association. The Declarant reserves the right to remove from the Property, any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

- (i) The right to exercise any other rights reserved to the Declarant in this Declaration.

7.03 **Declarant Control of the Association.**

(a) Subject to Subsection 7.03(b), during the Declarant Control Period, the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board of Directors.

(b) Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Declarant Control Period, but in such event Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(c) Not later than one hundred twenty (120) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than a Declarant, at least one (1) Director shall be elected by Unit Owners other than the Declarant.

(d) Not later than the termination of the Declarant Control Period, the Unit Owners shall elect a Board of Directors of at least three (3) members, a majority of whom shall be Unit Owners. The Board of Directors shall elect the officers. The Directors and officers shall take office upon election.

(e) Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice as set forth herein, the Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a Director, with or without cause, other than a member appointed by the Declarant.

7.04 **Limitations on Special Declarant Rights.** Unless sooner terminated by a recorded instrument signed by the Declarant, any Special Declarant Right may be exercised by the Declarant for the lesser of the period of time specified in the Act or this Declaration, as the case may be. If neither the Act nor this Declaration specifies a time within which such right may be exercised, it may be exercised at any time.

7.05 **Interference with Special Declarant Rights.** Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

## ARTICLE VIII

### ALLOCATED INTERESTS

8.01 **Allocated Interests.** The undivided interest in the Common Elements, the Common Expense liability and votes in the Association allocated to each Unit are set forth in Exhibit C.

8.02 **Determination of Allocated Interests.** The interests allocated to each Unit have been calculated as follows:

(a) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all of the Units in the Condominium.

(b) Liability for the Common Expenses. The percentage of liability for Common Expenses allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all of the Units in the Condominium. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article VI or Article XIII of this Declaration.

(c) Votes. Each Unit in the Condominium shall have one equal Vote. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Exhibit C.

#### ARTICLE IX RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

9.01 Use and Occupancy Restrictions. Subject to the Special Declarant Rights reserved by the Declarant, the following use restrictions apply to all Units and to the Common Elements:

(a) Residential Use. No part of the Units or the Common Elements may be used for purposes other than housing and the related common purposes for which the Condominium was designed and as allowed by municipal zoning laws. Each Unit, or any two or more adjoining Units used together, shall be used as a residence or such other use permitted by this Declaration, and for no other purpose, except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not, however, be constructed in such manner as to prohibit the Owner of a Unit from: (i) maintaining a personal professional library; (ii) keeping personal business or professional records or accounts; (iii) handling personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of the foregoing restriction.

(b) General. The use and occupancy of the Units shall be subject to the restrictions set forth in the Master Declaration, including without limitation, those set forth in Article V of the By-laws of the Master Association which are a part of the Master Declaration, as such may be amended from time to time.

(c) Rules and Regulations. The use of Units, the Common Elements, and the Limited Common Elements shall be subject to such Rules and Regulations as may be adopted by either (i) the Board of Directors of the Association or (ii) the Master Association Board.

9.02 Master Declaration. Without limiting the restrictions and covenants set forth in Section 9.01, the Units, the Common Elements and the Limited Common Elements shall in all respects be subject to the terms, conditions and covenants of the Master Declaration. To the extent that any of the restrictions, rules or regulations, as set forth in this Article IX or otherwise adopted by the Association are inconsistent with the terms of the Master Declaration or any of the rules or regulations adopted by the Master Association, then the terms of the Master Declaration and the rules and regulations of the Master Association shall control.

9.03 Restrictions on Alienation. A Unit shall be subject to the following restrictions on alienation:

(a) A Unit may not be conveyed pursuant to a time-sharing arrangement.

(b) In keeping with the Declarant's intention to provide workforce housing as set forth in Section 1.03 of this Declaration, each Unit shall be transferred and conveyed subject to limitations and restrictions contained in each Unit Deed, which shall include, without limitation, the following:

- (i) Each Unit shall be subject to restrictions with respect to the sales price of the Unit and the escalation thereof;
- (ii) The Units shall be occupied as the primary residence of the Unit Owner; and
- (iii) At the time of transfer of the Unit to a Unit Owner pursuant to the Unit Deed, the transferee must be employed in Metropolitan Nashville and Davidson County, Tennessee.

## ARTICLE X

### ADDITIONS, ALTERATIONS AND IMPROVEMENTS

#### 10.01 Additions, Alterations and Improvements by Unit Owners.

(a) No Unit Owner will make any structural addition, structural alteration, or structural improvement in or to the Condominium without the prior written consent thereto of the Association Boards in accordance with Subsection 10.01(c) and in accordance with the requirements of the Master Declaration.

(b) Subject to Subsection 10.01(a), a Unit Owner:

- (1) May make any other improvements or alterations to the interior of its Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium;
- (2) May not change the appearance of the Common Elements, or the exterior appearance of a Unit, or any other portion of the Condominium, without permission of the Association and the Master Association;
- (3) After acquiring an adjoining Unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium. Removal of partitions or creation of apertures under this subsection is not an alteration of boundaries. If a part of an adjoining Unit is acquired, boundaries will be relocated in accordance with Article IV.

(c) A Unit Owner may submit a written request to the Board of Directors for approval to do anything that a Unit Owner is forbidden to do under Subsection 10.01(a) or 10.01(b)(ii). The Board of Directors (together with the Master Association Board) shall answer any written request for such approval, within sixty (60) days after the request thereof. Failure to do so within such time shall not constitute a consent by the Association Boards to the proposed action. The Association Boards shall review requests in accordance with the provisions of their respective rules.

(d) Any applications to any department or to any governmental authority for a permit to make any addition, alteration or improvement in or to any Unit shall be executed by the Association only. Such execution will not, however, create any liability on the part of the Association or any of its members to any contractor, sub-contractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

(e) All additions, alterations and improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Board of Directors, cause any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Units other than those affected by such change.

(f) The provisions of this Section shall not apply to the Declarant in the exercise of any Special Declarant Right.

10.02 Additions, Alterations and Improvements by Board of Directors. Subject to the limitations of Sections 13.01 and 13.02 of this Declaration, the Board of Directors may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary.

10.03 Exterior Improvements and Landscaping Within Limited Common Elements. No improvements, alterations or changes to any Limited Common Elements shall be made by a Unit Owner without the prior consent of the Board of Directors.

## ARTICLE XI

### EASEMENTS AND LICENSES

11.01 Recording Data. All easements and licenses to which the Condominium is presently subject are shown on the Plat. In addition, the Condominium may be subject to other easements or licenses granted by the Declarant pursuant to Section 7.02 in this Declaration

11.02 Easements Pursuant to Master Declaration. Each of the Units is further subject to any and all easements and encroachments created or otherwise permitted under the Master Declaration, including, without limitation, those provided for in Section 15(a) of the Master Declaration.

## ARTICLE XII

### MORTGAGEE PROTECTION

12.01 Generally. The standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests as provided in Section 26 of the Master Declaration (the "Mortgagee Protection Provisions") are incorporated herein and shall govern the Units for the benefit of the Eligible Mortgagees and Eligible Insurers, as defined herein.

12.02 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of any action or circumstance giving rise to notice requirements under the Mortgagee Protection Provisions.

12.03 Consent Requirement. With respect to any consent or approval requirements in favor of Eligible Mortgagees or Eligible Insurers as provided in the Mortgagee Protection Provisions, the Eligible Mortgagees and Eligible Insurers shall exercise any consent or approval rights collectively, it being

acknowledged that as a collective group, the Eligible Mortgagees and Eligible Insurers shall have only one (1) vote with respect to the rights afforded by the Master Declaration.

12.04 Actions. Notwithstanding any lower requirement permitted by the Master Declaration, this Declaration or the Act, the Association may not take any of the following actions other than rights reserved to the Declarant as Special Declarant Rights, without the approval of at least fifty-one percent (51%) of the Eligible Mortgagees:

- (1) Convey or encumber the Common Elements or any portion thereof, as to which an eighty percent (80%) Eligible Mortgagee approval is required. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium will not be deemed a transfer within the meaning of this clause);
- (2) The termination of the Condominium for reasons other than substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required; or
- (3) The merger of this Condominium with any other common interest community. .

The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Association for approval of an addition or amendment to the Documents shall constitute an implied approval of the addition or amendment.

12.05 Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend and address any meeting which a Unit Owner may attend.

12.06 Appointment of Trustee. In the event of damage or destruction or condemnation of all or a portion of the Condominium, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 2.01(o) of this Declaration. Such Trustee may be required to be a corporate trustee licensed by the State of Tennessee. Proceeds will thereafter be distributed pursuant to the Act. Unless otherwise required, the members of the Board of Directors acting by majority vote through the president may act as Trustee.

## ARTICLE XIII

### BUDGET AND ASSESSMENTS

13.01 Budget Adoption and Ratification. The Association shall adopt a budget annually. Within thirty (30) days after adoption of a proposed budget for the Condominium by the Board of Directors, the Board of Directors shall provide a summary of the budget to each Unit Owner, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than ten (10) nor more than sixty (60) days after mailing of the summary. Unless at that meeting seventy-five percent (75%) of all Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a budget proposed by the Board of Directors. The adoption of the budget may, but need not, occur at the annual meeting of the Association.

13.02 Ratification of Non-budgeted Common Expense Assessments. If the Board of Directors votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 13.01 of this Declaration, in an amount greater than fifteen percent (15%) of the

current annual operating budget, the Board of Directors shall submit such Common Expense to the Unit Owners for ratification in the same manner as the budget under Section 13.01.

13.03 Certificate of Payment of Common Expense Assessments. The Association upon written request shall furnish to a Unit Owner a statement in recordable form setting out the amount of unpaid assessments against the Unit. The statement must be furnished within twenty (20) days after receipt of the request and is binding on the Association, the Board of Directors and each Unit Owner.

13.04 Commencement of Common Expense Assessments. Common Expense assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs. The Declarant shall not have any responsibility for payment of sums for maintenance, improvements or common area assessments except the responsibility for Shortfall payments as provided in the Master Declaration.

13.05 Monthly Payment of Common Expenses. All Common Expenses shall be due and payable in monthly installments.

13.06 Acceleration of Common Expense Assessments. In the event of default for a period of ten (10) days by any Unit Owner in the payment of any Common Expense assessment levied against its Unit, the Board of Directors shall have the right to declare all unpaid assessments for such Unit for the pertinent fiscal year to be immediately due and payable.

13.07 Interest. Any assessments not paid when due shall bear interest at the highest rate permitted by applicable law, but in no event more than eighteen percent (18%) per annum.

13.08 No Waiver of Liability for Common Expenses. No Unit Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

13.09 Lien. The Association shall have a lien for payment of assessments due from Unit Owners as provided in the Act. At the election of the Board, such lien may be foreclosed in like manner as a mortgage with power of sale, or as may be otherwise provided in the Act.

13.10 Surplus. Any surplus remaining at the end of any fiscal year shall be applied to payment of expenses, used to fund reserves or repaid to the Unit Owners, as the Board of Directors may determine.

#### ARTICLE XIV

##### RIGHT TO ASSIGN FUTURE INCOME

The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Unit Owners of Units to which at least fifty-one (51%) percent of the votes in the Association are allocated, at a meeting called for that purpose.

#### ARTICLE XV

##### PERSONS AND UNITS SUBJECT TO DOCUMENTS

15.01 Compliance with Documents. All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement

that the provisions of the Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, and all such provisions recorded with the Register's Office for Davidson County, Tennessee are covenants running with the land and shall bind any Persons leaving at any time any interest or estate in such Unit.

## ARTICLE XVI

### INSURANCE

The Association shall carry insurance as required under the Act and as may be determined by the Board of Directors.

## ARTICLE XVII

### BOARD OF DIRECTORS

17.01 Minutes of Board of Directors Meetings. The Board of Directors shall permit any Unit Owner to inspect the minutes of Board of Directors meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after any such meeting.

17.02 Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, except as provided in the Master Declaration, this Declaration, the Bylaws or the Act. The Board of Directors shall have, subject to the limitations contained in the Master Declaration, this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Condominium which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws and Rules;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Impose and collect assessments for Common Expenses from Unit Owners, including without limitation the enforcement of the Association's lien therefor;
- (d) Subject to the limitations set forth in 2.01(m), hire and discharge a Manager and other agents and other employees, agent and independent contractors;
- (e) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Act or the Documents in the Association's name on behalf of the Association or two or more Unit Owners on matters affecting the Condominium;
- (f) Make contract and incur liabilities;
- (g) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (h) Cause additional improvements to made as a part of the Common Elements;
- (i) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only with the approval of at least seventy-five percent (75%) of the Unit Owners;

(j) Grant easements for any period of time including permanent easements, and leases, licenses and concessions for no more than one year, through or over the Common Elements;

(k) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements, and for services provided to Unit Owners;

(l) Impose a reasonable charge for late payment of assessments and, after notice and opportunity to cure, levy reasonable fines for violations of the Documents;

(m) Impose reasonable charges for the preparation and recordation of amendment to this Declaration, providing any information required under the Act, or statements of unpaid assessments;

(n) Provide for the indemnification of the Association's officers and Board of Directors and maintain Directors' and officers' liability insurance;

(o) Assign the Association's right to future income, including the right to receive Common Expense assessments;

(p) Exercise any other powers conferred by this Declaration or the Bylaws;

(q) Exercise any other power that may be exercised in this state by legal entities of the same type as the Association;

(r) Exercise any other power necessary and proper for the governance and operation of the Association; and

(s) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committee action shall be either approved, modified or rejected by the Board of Directors.

17.03 Board of Directors Limitations. The Board of Directors may not act on behalf of the Association to amend this Declaration, to terminate the Condominium or to elect Directors or determine the qualifications, powers and duties, or terms of office of Directors, but the Board of Directors may fill vacancies in its membership for the unexpired portion of any term.

## ARTICLE XVIII

### MISCELLANEOUS

18.01 Disclaimer of Warranties. Declarant hereby disclaims any warranty, express or implied, with respect to the Common Elements; provided, Declarant shall use commercially reasonable efforts to endeavor to assist the Association in the enforcement of the terms of any warranty against defects in materials and workmanship issued by the general contractor responsible for constructing the same, during the first year after substantial completion of the Common Elements; provided, in no event shall Declarant be required to institute any litigation in connection with such obligations. At the expiration of the warranty period, repairs and maintenance become the responsibility of the Association.

18.02 Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents nor the intent of any provision thereof.

18.03 Gender. The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so require.

18.04 Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

18.05 Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.

18.06 Conflict. The Documents are intended to comply with the requirements of the Act. In the event of any conflict between the Documents and the Act, the Act shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control. In the event of any conflict between this Declaration and the Master Declaration, the Master Declaration shall control.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 12 day of March, 2020.

**RSD Hamilton Avenue, LLC,**  
a Tennessee limited liability company

BY: Red Seal Development Corp., an Illinois corporation, its Manager

By: [Signature]  
Name: B. Hoffman  
Title: President

STATE OF Tennessee )  
COUNTY OF Williamson )  
Rutherford

Before me, Greg Henry, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Brian Hoffman, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the President of Red Seal Development Corp., an Illinois limited liability company, the Manager of RSD Hamilton Avenue, LLC, a Tennessee limited liability company, the within named bargainor, and that he as such President of its Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company as the Manager of RSD Hamilton Avenue, LLC by himself as President of the Manager of the limited liability company.

WITNESS my hand and seal at office in Brentwood, Tennessee, on this the \_\_\_ day of \_\_\_\_\_, 2020.

[Signature]  
Notary Public

My Commission Expires:  
12-19-2023



## **SUBORDINATION OF DEED OF TRUST**

**FRANKLIN SYNERGY BANK** ("Lender") hereby subordinates the lien of that certain Commercial Construction Deed of Trust dated as of December 2, 2019, and recorded as Instrument Number 20191203-0124557, Register's Office for Davidson County, Tennessee (the "Deed of Trust"), to the foregoing Declaration, and all future amendment, modifications or supplemental declarations to the Declaration, including without limitation any Supplemental Declaration pursuant to which additional real property within the Development may be submitted to the Declaration (collectively, the "Declaration").

The Deed of Trust shall be considered a first deed of trust lien on the Real Estate, as defined in the Declaration, but subordinate to the Declaration, as fully as if the Declaration (and any Supplemental Declarations) had been recorded prior to the Deed of Trust. The lien of the Deed of Trust is junior and inferior to that of the Declaration, and notwithstanding any foreclosure of the Deed of Trust the Declaration shall continue to encumber the property described in the Deed of Trust.

The priorities specified herein are applicable irrespective of the time or order of the attachment or perfection of any liens described herein or the time or order of recording the deeds of trust or declarations described herein, or the granting of or failure to give notice hereof.

Lender hereby warrants and represents to Declarant that Lender has not assigned, sold or transferred the Deed of Trust, or any interest therein, to any person or entity.

*[SIGNATURE PAGE TO FOLLOW]*

The subordination granted herein shall be continuing, irrevocable and binding on Lender and its successors and assigns.

**FRANKLIN SYNERGY BANK**

By: [Signature]  
Print Name: Chris Marchetti  
Title: Sr. V.P.

STATE OF Tennessee )  
COUNTY OF Rutherford )

Before me, Greg Henry, a Notary Public of said County and State, personally appeared Chris Marchetti, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Senior Vice President of Franklin Synergy Bank, the within named bargainer, and that he as such Senior Vice President executed the foregoing instrument for the purposes therein contained, by personally signing the name of the banking corporation by himself as Senior Vice President.

Witness my hand and seal, at Office in Brentwood, Tennessee, this 12<sup>th</sup> day of March, 2020.

[Signature]  
NOTARY PUBLIC  
My Commission Expires:



EXHIBIT A  
**DESCRIPTION OF LAND**

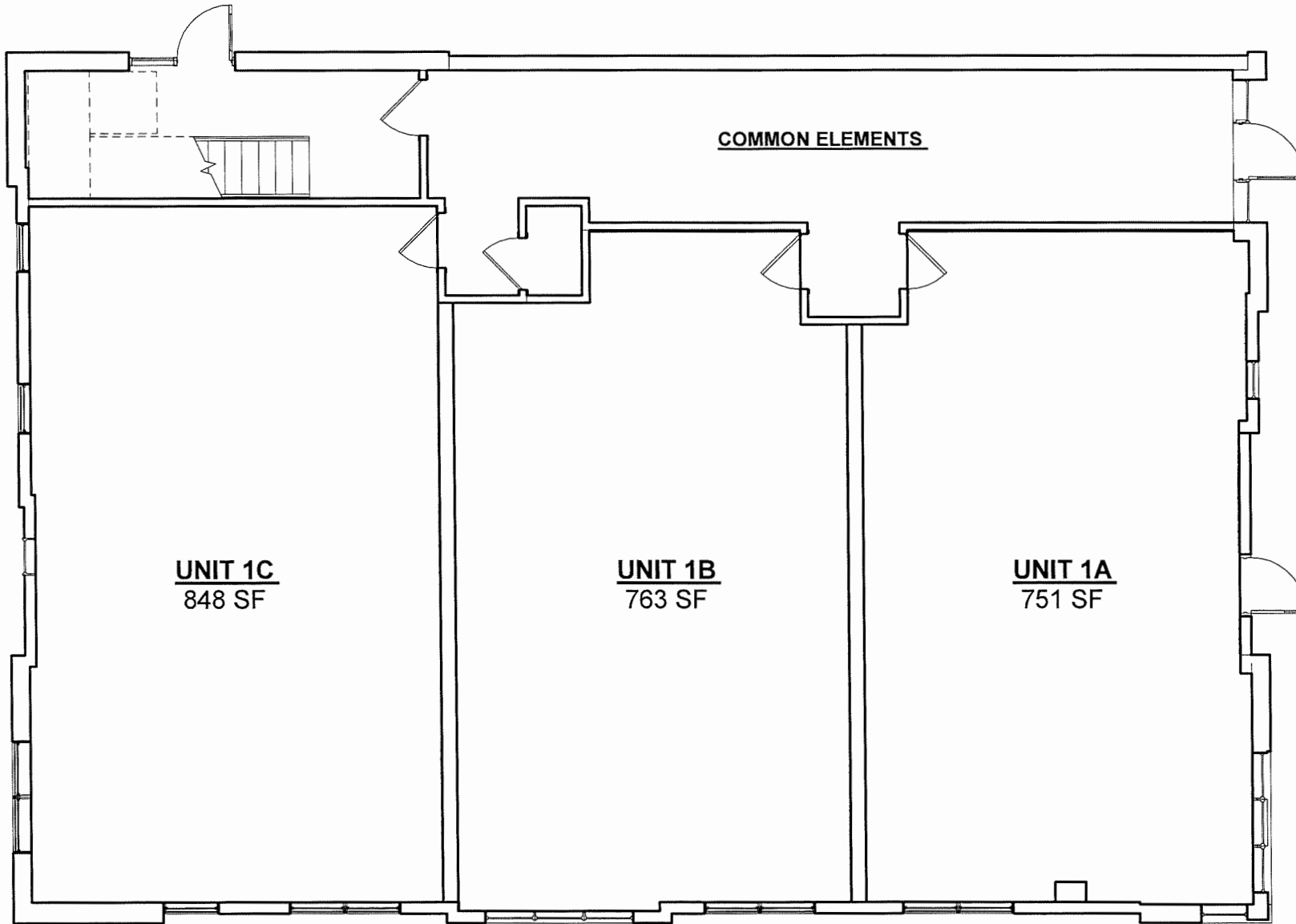
Being Unit No. 1 of that certain Horizontal Property Regime established pursuant to Declaration of Covenants, Conditions and Restrictions for FUSION, a Horizontal Property Regime with Private Elements, of record as Instrument No. 20200313-0029238, Register's Office for Davidson County, Tennessee, and being identified and shown on the Plat that is attached to and made a part of the aforesaid Declaration.

Being a part of the property previously conveyed to the Declarant by Deed of record at Instrument No. 20200312-0027871, said Register's Office.

**EXHIBIT B – PLAT**

THESE DOCUMENTS HAVE BEEN PREPARED SPECIFICALLY FOR THE PROJECT NAMED HEREIN. THEY ARE NOT SUITABLE FOR USE ON OTHER PROJECTS WITHOUT THE APPROVAL AND PARTICIPATION OF THE DESIGN PROFESSIONAL. COPYRIGHT 2018, CENTRIC ARCHITECTURE

**CENTRIC**  
ARCHITECTURE



**FUSION CONDOMINIUMS**

HAMILTON AVENUE | NASHVILLE | TN | 37203

PROJECT #17037

No.	Description	Date
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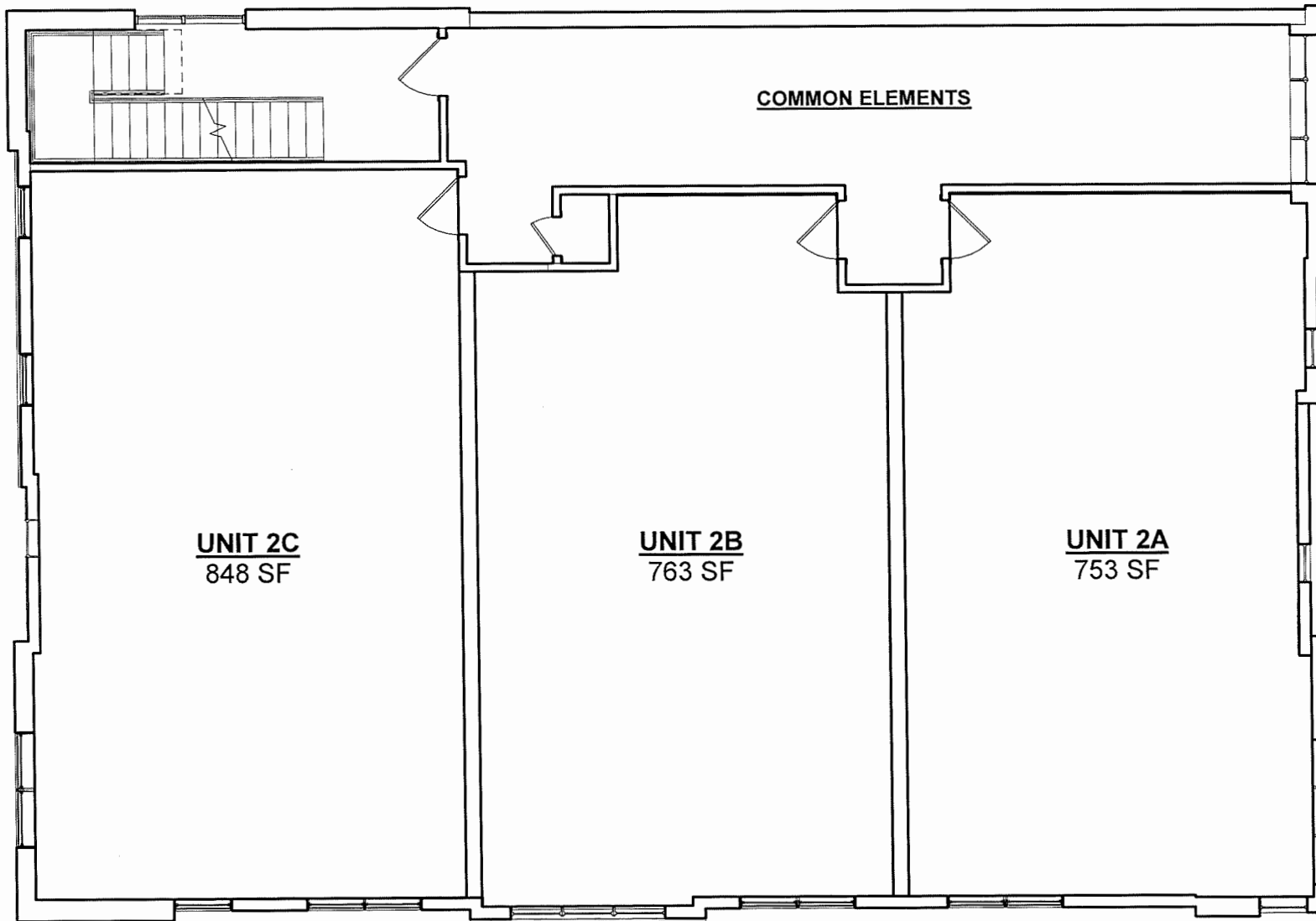
WF HOUSING -  
FLOOR PLANS

**A1**

① WORKFORCE HOUSING - LEVEL 1 PLAN  
1/8" = 1'-0"

THESE DOCUMENTS HAVE BEEN PREPARED SPECIFICALLY FOR THE PROJECT NAMED HEREIN. THEY ARE NOT SUITABLE FOR USE ON OTHER PROJECTS WITHOUT THE APPROVAL AND PARTICIPATION OF THE DESIGN PROFESSIONAL. COPYRIGHT 2018, CENTRIC ARCHITECTURE

**CENTRIC**  
ARCHITECTURE



**FUSION CONDOMINIUMS**

HAMILTON AVENUE | NASHVILLE | TN | 37203

PROJECT #17037

No.	Description	Date

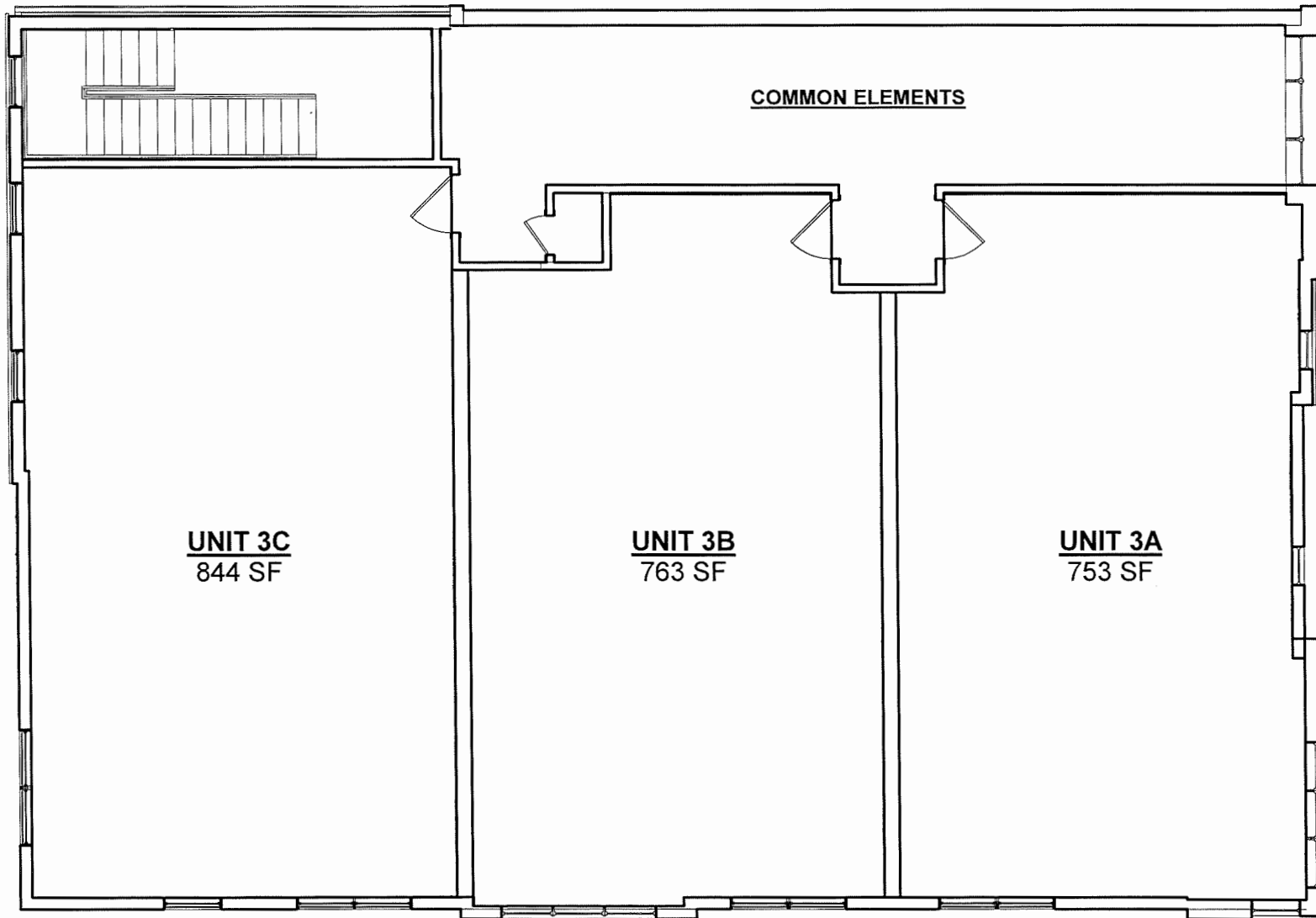
WF HOUSING -  
FLOOR PLANS

**A2**

① WORKFORCE HOUSING - LEVEL 2 PLAN  
1/8" = 1'-0"

THESE DOCUMENTS HAVE BEEN PREPARED SPECIFICALLY FOR THE PROJECT NAMED HEREIN. THEY ARE NOT SUITABLE FOR USE ON OTHER PROJECTS WITHOUT THE APPROVAL AND PARTICIPATION OF THE DESIGN PROFESSIONAL. COPYRIGHT 2018, CENTRIC ARCHITECTURE

**CENTRIC**  
ARCHITECTURE



**FUSION CONDOMINIUMS**

HAMILTON AVENUE | NASHVILLE | TN | 37203

PROJECT #17037

No.	Description	Date
-----	-------------	------

**WF HOUSING -  
FLOOR PLANS**

**A3**

① **WORKFORCE HOUSING - LEVEL 3 PLAN**  
1/8" = 1'-0"

EXHIBIT C

TABLE OF INTERESTS

Unit No.	Percentage Share (or fraction) of Common Elements	Percentage Share (or fraction) of Common Expenses	Vote in the Affairs of the Association	Assigned Reserved Parking Space*
1A	1/9	1/9	1	1
2A	1/9	1/9	1	3
3A	1/9	1/9	1	5
1B	1/9	1/9	1	2
2B	1/9	1/9	1	4
3B	1/9	1/9	1	6
1C	1/9	1/9	1	7
2C	1/9	1/9	1	9
3C	1/9	1/9	1	11
	100%	100%	9	

\*The numerical reference to the assigned Reserved Parking Space is based upon the numerical reference assigned thereto in the Master Declaration and the exhibits attached thereto.

## EXHIBIT D

### BYLAWS OF FUSION CONDOMINIUM ASSOCIATION

#### ARTICLE I

##### DEFINED TERMS

Section 1. The terms used in these Bylaws, to the extent they are defined therein, shall have the same meaning as set forth in the Declaration for FUSION Condominiums to which these Bylaws are attached which is of record with the Register's Office for Davidson County, Tennessee (the "Declaration").

Section 2. The term "member," as used in these Bylaws, means "Unit Owner" as defined in the Declaration.

#### ARTICLE II

##### MEMBERSHIP, MEETINGS, QUORUM AND VOTING

Section 1. Eligibility. The Association shall have a membership as more fully set forth in Sections 3.02 and 8.02 (c) of the Declaration, the terms of which pertaining to membership and voting are specifically incorporated herein by reference.

Section 2. Regular Meetings. The first regular meeting of the Unit Owners (the "First Meeting") may be held at a time designated by the first Board of Directors, provided said meeting shall be held no later than twelve (12) months after the recording of the Declaration. Subsequent to the First Meeting, there shall be a regular annual meeting of Unit Owners held at a date, time and place to be set by the Board of Directors and no more than twelve (12) months after the preceding annual meeting. All such meetings of Unit Owners shall be held at such place in Davidson County, Tennessee, and at such time as specified in the written notice of such meeting. It is anticipated that the regular meetings of the Unit Owners shall be held contemporaneously with the annual meeting of the Unit Owners of the Master Association.

Section 3. Special Meetings. Special meetings of Unit Owners may be called by the President or by a majority of the Directors of the Association or by twenty percent (20%) of the Unit Owners.

Section 4. Delivery of Notice of Meetings. The Secretary or any other officer of the Association shall deliver notices of any meeting at least ten (10) days but not more than sixty (60) days prior to the date of such meeting, either by hand-delivery or by prepaid United States mail to Unit Owners at the addresses given to the Board of Directors or the Manager by Unit Owners for such purpose, or to a Unit Owner's Unit if no separate address for such purpose has been given to the Board. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes and any proposal to remove a Director.

Section 5. Voting. Each Unit shall have only one (1) vote. If any Unit Owner consists of more than one (1) Person, the voting rights of such Unit Owner shall not be divided, but shall be exercised as if the Unit Owner consisted of only one (1) Person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. In the event of disagreement among such persons and an

attempt by two or more of them to cast a vote, such persons shall not be recognized, and such vote shall not be counted.

Section 6. Suspension for Non-payment. Without limiting the remedies otherwise available to the Association, a Unit Owner who has not paid its assessments to the Association within fifteen (15) days after the due date thereof shall not be entitled to exercise the right to vote allocable to such Unit until the Unit Owner has cured such default. A Unit Owner may protest the amount of an assessment by making written application to the Board of Directors, but the assessment still must be paid during the pendency of such protest.

Section 7. Quorum. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding twenty-five percent (25%) of the votes entitled to be cast at such meeting.

Section 8. Order of Business. The order of business at the annual meeting and, as far as practical, at other meetings shall be:

- (1) Collection of any ballots not yet cast.
- (2) Call to order by President.
- (3) Certifying of proxies and establishment of quorum.
- (4) Reading and disposal of any unapproved minutes.
- (5) Reports of Officers.
- (6) Election of Directors.
- (7) Unfinished business.
- (8) New business.
- (9) Adjournment.

### **ARTICLE III BOARD OF DIRECTORS**

Section 1. Number, Election and Term of Office. The Board of Directors of the Association (sometimes referred to herein as the "Board") shall consist of three (3) members (hereinafter referred to as "Directors"). The term of the Directors shall be for three (3) years, except that until such time as the first meeting of the members is held, the Directors (hereinafter called "members of the First Board") shall be appointed by the Declarant. Those candidates for election as Director receiving the greatest number of votes cast either in person or by proxy at the meeting shall be elected. Every Director, except for members of the First Board, shall hold office for the term of three (3) years and until such Director's successor shall be elected and qualified.

Section 2. Initial Board of Directors. Subject to the terms of Section 3. of this Article III, all of the Directors shall be appointed by the Declarant acting in its sole discretion prior to the termination of the Declarant Control Period.

Section 3. Subsequent Board of Directors.

(a) Prior to the termination of the Declarant Control Period, the Board of Directors shall be elected as set forth in Section 7.03 of the Declaration.

(b) After the termination of the Declarant Control Period, the Declarant shall relinquish control of the Association, and the Unit Owners shall accept control of the Association. Simultaneously, or not more than ninety (90) days thereafter, the Declarant shall deliver to the Association, at Declarant's expense, all property of the Unit Owners and of the Association held or controlled by the Declarant.

Section 4. Qualification. Except for members of the Board appointed by Declarant, Directors shall be Unit Owners (or, if a Unit Owner is a trustee of a trust, a Director may be the beneficiary of such trust; and if a Unit Owner or such beneficiary is a corporation or partnership, a Director may be an officer, partner or employee of such corporation or partnership or beneficiary). In the case of a Unit Owner that is a corporation, a limited liability company or partnership, the person designated in writing to the Secretary of the Association as the representative of such corporation, a limited liability company or partnership shall be eligible to serve as a Director.

Section 5. Vacancies. Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director whom he succeeds.

Section 6. Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) members appointed by the Board to serve from the close of one (1) annual meeting to the close of the succeeding annual meeting. Such appointment shall be announced at the annual meeting. The nominating committee may nominate any number of qualified individuals, but no less than the number of Directors to be elected. The nominations shall be made at least thirty (30) days prior to the annual meeting and a brief statement about the qualifications of each individual so nominated shall be included with the notice of the annual meeting. Nominations shall also be allowed from the members at the annual meeting.

Section 7. Meetings. A regular annual meeting of the Board shall be held within thirty (30) days following the annual meeting of the Unit Owners. It is anticipated that the regular meetings of the Board shall be held contemporaneously with the annual meeting of the Master Association Board. Special meetings of the Board shall be held upon call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice to each Director, delivered personally, by mail, by telephone, or by electronic mail. Any Director may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute the Director's waiver of notice of said meeting.

The presiding officer of the meetings of the Board shall be the President of the Association; if the President of the Association is not present, the Secretary or Treasurer shall preside. The order of business at all meetings of the Board of Directors shall be:

- (1) Roll call.
- (2) Reading of minutes of the last meeting.
- (3) Consideration of communications.
- (4) Resignations and elections.
- (5) Reports of officers and employees.

- (6) Reports of committees.
- (7) Unfinished business.
- (8) Original resolutions and new business.
- (9) Adjournment.

The minutes of all meetings shall be kept in a book available for inspection by Unit Owners or their authorized representatives and Directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

Section 8. Removal. Any Director may be removed from office with cause by the vote of at least sixty seven percent (67%) of all Unit Owners, except Directors elected or appointed by the Declarant. Any Director appointed by the Declarant may only be removed by the Declarant and only the Declarant may vote, in person or by proxy, to fill a vacancy on the Board previously occupied by a Director elected or appointed by the Declarant.

Section 9. Compensation. Directors shall receive no compensation for their services as Directors unless expressly provided in resolutions adopted by a majority of the Unit Owners.

Section 10. Quorum. A majority of Directors shall constitute a quorum.

Section 11. Powers and Duties. The Board shall have the powers and duties set forth in the Declaration and the Act.

Section 12. Power to Take Any Action. Whenever in these Bylaws the Association is given the power to take any action, it is the intention of these Bylaws that the Board shall act for the Association in all cases, except and to the extent that it is expressly provided that the action be taken upon vote of the Unit Owners.

Section 13. Non-Delegation. Nothing in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to Unit Owners.

Section 14. Declarant Rights. Notwithstanding the above, if the Declarant holds Units for sale in the ordinary course of business, the Association may not take any action that would be detrimental to the sales of Units by the Declarant, unless the Declarant approves such action, in writing; provided that, an increase in assessments for common expenses without discrimination against the Declarant shall not be deemed to be detrimental to the sales of Units.

#### **ARTICLE IV OFFICERS**

Section 1. Designation. At each regular annual meeting of the Board, the Directors present at such meeting shall elect the following officers of the Association by a majority vote:

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

(b) a Secretary, who shall not be required to be a Director and shall keep the minutes of all meetings of the Board and of Unit Owners, and who shall, in general, perform all the duties incident to the office of the Secretary;

(c) a Treasurer, who shall not be required to be a Director and shall keep financial records, and who shall, in general, perform all the duties incident to the office of the Treasurer;

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

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

Section 3. Term of Office. Each officer shall hold office for the term of one (1) year and until a successor shall have been appointed or elected and qualified.

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

Section 5. Compensation. The officers shall receive no compensation for their services as officers unless expressly provided for in a resolution adopted by a majority of the Unit Owners.

Section 6. Removal. All officers and committees appointed or elected by the Board shall be subject to removal, with or without cause at any time by action of the Board of Directors.

## **ARTICLE V ASSESSMENTS**

Section 1. Annual Budget. The Board shall establish an annual budget to provide for the needs of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including, but not limited to, salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power and all other common expenses, as well as the estimated net available cash income for the year, if any, from the lease, operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for unanticipated repairs and replacements for the year, in reasonable amounts as determined by the Board. The annual budget shall be submitted to the Unit Owner for approval, as provided in the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of its respective monthly assessment as last determined. Unit Owner shall pay its monthly assessment on or before the first day of each month to the Manager or otherwise as directed by the Board. At the election of the Board, the annual budget may include any assessment, expenses or other costs, attributable to the Condominium as a member of the Master Association.

Section 2. Additional Charges. In addition to the Assessments described herein, the Board, in its reasonable discretion, shall have the right to assess Unit Owners or types of Unit Owners additional charges as set forth in the Declaration.

Section 3. Partial Year or Month. Commencing with the date of taking title to a Unit from Declarant, each Unit Owner shall pay its assessment for the following month or fraction of a month, which assessment shall be in proportion to the respective Percentage Share of Common Expenses for such Unit, as set forth in Exhibit C to the Declaration and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

Section 4. Assessments Against Declarant Owned Units. If the Declarant holds one or more unfinished Units for sale in the ordinary course of business, the Declarant shall not be assessed for common expenses for such Units except for the Declarant's Shortfall obligations as set forth in the Master Declaration.

Section 5. Annual Report. Within ninety (90) days of the close of each annual budget period, or as soon thereafter as practicable, the Board shall cause to be furnished to each Unit Owner a statement for such year, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 6. Supplemental Budget. In the event that, during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, then the Board shall prepare and approve a supplement budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and approved as provided in Section 13.01 of the Declaration, and thereupon a supplement assessment shall be made to each Unit Owner for its proportionate share of such supplemental budget.

Section 7. Special Assessments. The Board shall have the right to levy a special assessment ("Special Assessment") upon the occurrence of a casualty (including, but not limited to, drought, flood, casualty losses, natural disasters, vandalism, etc.) as necessary and in the amount necessary to repair or replace any portions of the Property installed or maintained by the Association to the extent that the other funds are not available for such repairs or replacement, unless a decision is made not to restore the such damage as provided in the Act. In addition, the Unit Owners, by sixty-seven percent (67%) affirmative vote of the total Unit Owners entitled to vote, may levy a Special Assessment from time to time or at any time. Any Special Assessment levied hereunder shall be payable on or before thirty (30) days from the date of the Assessment, or such later date as may be specified by the resolution or consent of the Unit Owners approving such Special Assessment, subject to the terms set forth in Section 8 of this Article.

Section 8. Working Capital Fund. The Declarant, on behalf of the Association, shall establish a working capital fund to meet unforeseen expenditures or to purchase any additional equipment or services. A non refundable contribution to the working capital fund of the Association shall be collected from the initial Unit purchaser from the Declarant in the amount of two months of the general assessment charged to such Unit. The Declarant shall not use the working capital funds to defray any of its expenses, or construction costs or to make up any budget deficits while it is in control of the Association. Notwithstanding the foregoing, no initial capital contribution shall be required if the Declarant conveys its Units to a successor Declarant or affiliate of the Declarant who intends to sell such units in the ordinary course.

Section 9. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records of its expenditures and receipts affecting the Common Elements, specifying and itemizing the common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

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

Section 11. Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners in proportionate amounts.

## **ARTICLE VI CONTRACTUAL POWERS**

Section 1. Transactions with Affiliates. No contract or other transaction between the Association and one (1) or more of its Directors, or between the Association and any corporation, firm or association in which one (1) or more of the Directors of the Association are directors or are financially interested is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes and approves the contract or the transaction or because their votes are counted, if the circumstances specified in either of the following subparagraphs exist:

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

(b) the contract or transaction is just and reasonable as to the Association at the time it is authorized or approved.

Section 2. Quorum for Approval. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

## **ARTICLE VII AMENDMENTS**

Section 1. Declaration. The President or Secretary of the Association may, on behalf of the Association, prepare, execute certify and record any amendments to the Declaration that are approved as required under the Declaration or the Act.

Section 2. Bylaws. During the Declarant Control Period, these By-Laws may be amended or modified by the Declarant. These Bylaws may be amended in the first year following the first sale of a Unit by Declarant to an unrelated third party for any reason by a vote of two-thirds (2/3) of the Board of Directors. After the first anniversary date of the following the first sale of a Unit by Declarant to an unrelated third party, the provisions of these Bylaws may be amended by an instrument in writing, setting forth such amendment, signed by fifty-one percent (51%) of the Unit Owners. Such amendments shall be recorded with the Register's Office for Davidson County, Tennessee. The President or Secretary of the Association may, on behalf of the Association, prepare, execute certify and record any amendments to the Bylaws that are approved as required herein.

## ARTICLE VIII INDEMNIFICATION

Section 1. Mandatory Indemnification of Directors and Officers. To the maximum extent permitted by the provisions of the Tennessee Nonprofit Corporation Act, as amended from time to time (the "Nonprofit Corporation Act") (provided, however, that if an amendment to the "Nonprofit Corporation Act" in any way limits or restricts the indemnification rights permitted by law as of the date hereof, such amendment shall apply only to the extent mandated by law and only to activities of persons subject to indemnification under this Section which occur subsequent to the effective date of such amendment), the Association shall indemnify and advance expenses to any person who is or was a director or officer of the Association, or to such person's heirs, executors, administrators and legal representatives, for the defense of any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal (any such action, suit or proceeding being hereinafter referred to as the "Proceeding"), to which such person was, is or is threatened to be made, a named defendant or respondent, which indemnification and advancement of expenses shall include counsel fees actually incurred as a result of the Proceeding or any appeal thereof, reasonable expenses actually incurred with respect to the Proceeding, all fines, judgments, penalties and amounts paid in settlement thereof, subject to the following conditions:

(a) The Proceeding was instituted by reason of the fact that such person is or was a Director or officer of the Association; and

(b) The Director or officer conducted himself or herself in good faith, and such person reasonably believed (i) in the case of conduct in such person's official capacity with the Association, that such person's conduct was in the best interests of the Association; (ii) in all other cases, that such person's conduct was at least not opposed to the best interests of the Association; and (iii) in the case of any criminal proceeding, that such person had no reasonable cause to believe such person's conduct was unlawful. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director or officer did not meet the standard of conduct herein described.

Section 2. Permissive Indemnification of Employees and Agents. The Association may, to the maximum extent permitted by the provisions of the Nonprofit Corporation Act, as amended from time to time (provided, however, that if an amendment to the Nonprofit Corporation Act in any way limits or restricts the indemnification rights permitted by law as of the date hereof, such amendment shall apply only to the extent mandated by law and only to activities of persons subject to indemnification under this Section which occur subsequent to the effective date of such amendment), indemnify and advance expenses in a Proceeding to any person who is or was an employee or agent of the Association, or to such person's heirs, executors, administrators and legal representatives, to the same extent as set forth in Section 1 of this Article VIII above, provided that the Proceeding was instituted by reason of the fact that such person is or was an employee or agent of the Association and met the standards of conduct set forth in Subsection 1(b) of this Article VIII above. The Association also may indemnify and advance expenses in a Proceeding to any person who is or was an employee or agent of the Association to the extent, consistent with public policy, as may be provided by the Charter, these Bylaws, by contract, or by general or specific action of the Board of Directors.

Section 3. Non-Exclusive Application. The rights to indemnification and advancement of expenses set forth in Sections 1 and 2 of this Article VIII are contractual between the Association and the person being indemnified, and such person's heirs, executors, administrators and legal representatives, and are not exclusive of other similar rights of indemnification or advancement of expenses to which such person may be entitled, whether by contract, by law, by the Charter, by a resolution of the Board of

Directors, by these Bylaws, by the purchase and maintenance by the Association of insurance on behalf of a Director, officer, employee, or agent of the Association, or by an agreement with the Association providing for such indemnification, all of which means of indemnification and advancement of expenses are hereby specifically authorized.

Section 4. Non-Limiting Application. The provisions of this Article VIII shall not limit the power of the Association to pay or reimburse expenses incurred by a Director, officer, employee, or agent of the Association in connection with such person's appearing as a witness in a Proceeding at a time when such person has not been made a named defendant or respondent to the Proceeding.

Section 5. Prohibited Indemnification. Notwithstanding any other provision of this Article VIII, the Association shall not indemnify or advance expenses to or on behalf of any director, officer, employee, or agent of the Association, or any such person's heirs, executors, administrators or legal representatives:

(a) If a judgment or other final adjudication adverse to such person establishes liability for any breach of the duty of loyalty to the Association, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or if prohibited under the Nonprofit Corporation Act; or

(b) In connection with a Proceeding by or in the right of the Association in which such person was adjudged liable to the Association; or

(c) In connection with any other Proceeding charging improper personal benefit to such person, whether or not involving action in such person's official capacity, in which such person was adjudged liable on the basis that personal benefit was improperly received by such person.

Section 6. Repeal or Modification Not Retroactive. No repeal or modification of the provisions of this Article VIII, either directly or by the adoption of a provision inconsistent with the provisions of this Article, shall adversely affect any right or protection, as set forth herein, existing in favor of a particular individual at the time of such repeal or modification.

## **ARTICLE IX MORTGAGES**

Section 1. Notice to the Board. A Unit Owner who mortgages its unit shall notify the Board of the name and address of its mortgagee and shall file a conformed copy of the note and deed of trust or mortgage with the Board; and the Board shall maintain such information in a book entitled "Mortgages of Units."

Section 2. Notice of Default. The Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any unpaid common charges due from, or any other default by, the Owner of the mortgaged Unit, and the Board, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has been furnished to the Board.

## **ARTICLE X CONFLICTS**

These Bylaws are set forth to comply with the requirements of the Act, as it may be amended from time to time, and to allow the Bylaws to control in specific situations where such law allows. In the

event that any of the Bylaws conflict with the provisions of the Act or of the Declaration, the provisions of the Act or of the Declaration, as the case may be, shall control.