

MASTER DEED AND DECLARATION OF  
CONDOMINIUM PROPERTY REGIME  
FOR  
PROMENADE COURT TOWNHOMES,  
A CONDOMINIUM

## TABLE OF CONTENTS

Master Deed for Promenade Court Townhomes, A Condominium

<u>SECTION</u>	<u>PAGE</u>
	1
1	2
2	9
3	9
4	10
5	12
6	20
7	20
8	20
9	20
10	20
11	21
12	27
13	28
14	28
15	33
16	34
17	40
18	41
19	41
20	42

21	Insurance . . . . .	42
22	Damage and Reconstruction After Casualty . . . . .	45
23	Maintenance Fund . . . . .	46
24	Capital Replacement Fund . . . . .	46
25	Additional Common Expense Provisions . . . . .	47
26	Incurrence and Retirement of Indebtedness . . . . .	47
27	Eminent Domain . . . . .	48
28	Failure to Enforce . . . . .	50
29	Notice . . . . .	50
30	Amendments . . . . .	51
31	Severability . . . . .	52
32	Construction of Provisions . . . . .	52
33	Headings . . . . .	53
34	Gender and Number . . . . .	53
35	Rights of Mortgagees, Insurers or Mortgage Guarantors . . . . .	53
36	Acceptance of Master Deed . . . . .	54
37	Consent of Lienholder . . . . .	55

MASTER DEED AND DECLARATION OF  
CONDOMINIUM PROPERTY REGIME

FOR

PROMENADE COURT TOWNHOMES

A CONDOMINIUM

BERKLEY PARTNERS 1989-1, a Kentucky general partnership, the office address of which is 9911 Shelbyville Road, Suite 100, Louisville, Kentucky 40223 (hereafter referred to as "Developer"), on this the 30th day of July, 1990, declares this Master Deed and Declaration of Condominium Property Regime as its plan for ownership in condominium of the following described real estate in Jefferson County, Kentucky, more particularly described as follows:

BEING Phase 1 as shown on Plat attached hereto, marked Exhibit "A", and made a part hereof as though copied herein.

BEING part of the same property acquired by Developer by a Deed dated the 3rd day of August, 1989, of record in Deed Book 5885, Page 509, in the Office of the County Clerk of Jefferson County, Kentucky.

The aforesaid real estate is owned by the Developer in fee simple.

In order to create a Condominium Regime consisting of the property described above and improvements thereon to be known as "PROMENADE COURT TOWNHOMES, A CONDOMINIUM", the Developer hereby submits the aforesaid real estate and all improvements to be constructed thereon, and all the Developer's interest therein, to a Condominium Property Regime established under the Horizontal Property Law, Sections 381.805 through 381.910 of the Kentucky

Revised Statutes (sometimes referred to hereinafter as "the Act"). In furtherance thereof, the Developer makes the following declarations regarding divisions, limitations, restrictions, easements, reservations, covenants and conditions and other provisions, hereby declaring that said property shall be held, conveyed, mortgaged, encumbered, used, occupied, improved, maintained, managed and controlled subject to this Master Deed and Declaration and the other governing documents referred to herein. The provisions of this Declaration, subject to rights of amendments as contained herein, constitute covenants running with the land and are binding on and for the benefit of present and future owners, and mortgagees and lessees of any part of the Regime, the Developer and any person, firm or association having any interest in the Condominium Regime.

It is one of the intents of this Master Deed and Declaration, to be in furtherance of a plan to promote and protect the aspect of condominium ownership of the property for the purpose of enhancing the development, value, desirability and attractiveness of the property.

1. Definitions. Certain terms as used hereinafter shall be defined as follows:

1.1 "Developer" means Berkley Partners 1989-1, a Kentucky General Partnership, its successors, and assigns. Purchasers from Developer of Units (as defined hereinafter) in the normal course of business, shall not be considered as successors or assigns of Developer as referred to in the preceding sentence of this Section 1.1.

1.2 "Master Deed" means this Master Deed and Declaration of Condominium Property Regime for Promenade Court Townhomes, A Condominium.

1.3 "Regime" means the real estate condominium plan created hereby.

1.4 "Property" or "Phase 1" means and includes the land hereinbefore described as Phase 1, the building and other improvements presently and in the future thereon, and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Council of Co-Owners.

1.5 "Unit" means an enclosed space as measured from interior unfinished surfaces consisting of a number of rooms occupying all or part of a building within the Regime, having direct access to a thoroughfare or to a common space leading to a thoroughfare, as shown on the floor plans referred to in Section 4 of this Master Deed.

1.6 "Unit Owner" or "Co-Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who holds a recorded deed or other instrument conveying title to a Unit or Units. If a Unit is owned by more than one person, or by a firm, corporation, partnership, association, trust, or other legal entity composed of more than one person, same shall be considered as only one Unit Owner. Unit Owner does not mean Developer, nor does the term include Units owned and held by Developer for sale.

1.7 "Council of Co-Owners" or "Council" means of the Unit Owners acting as a group in accordance with the provisions of this Master Deed, any amendments hereto, and the Dylaws of the Council (sometimes referred to herein as "Bylaws"), and the Act. "Council of Co-Owners" or "Council" also means "Promenade Court Townhomes Owners Association, Inc." a non-profit, non-stock Kentucky corporation, and its members, said members being all the Unit Owners.

1.8 "Board" means the Board of Administration of the Council which Board governs, manages, and administers the affairs of the Council and Regime in accordance with the provisions of this Master Deed and the Bylaws of the Council.

1.9 "General Common Elements" means and includes the following:

The land hereinbefore described as Phase 1 on which Building "A" is to be located, and land included in future Phases which may be added to the Regime; any basement areas, if any, except basement areas shown as part of a Unit on the Floor Plans, corridors, halls, elevator shafts, stairways, entrances and exits, lobbies, garbage chutes, common storage areas, social and athletic rooms, roofs, floors and ceilings (except the interior decorated surfaces thereof located within the Units), perimeter walls of the Units (except the interior decorated surfaces thereof), structural parts of the building, outside walks and outside driveways, court yard fences installed by Developer, landscaping, swimming pool if and when constructed, clubhouse if and when constructed, easements and all other portions of the Regime, (except the individual Units and any Limited Common Elements attached thereto and part thereof), and to the extent not located within Units the following: pipes, ducts, electrical wiring and conduits, and public utility lines. Structural columns and load-bearing walls located within the boundary of the Unit shall be part of the General Common Elements. Common Elements shall also include tangible personal property used

for the maintenance and operation of said Regime even though owned by the Council.

Outdoor Parking Spaces. Outdoor Parking Spaces not specifically assigned and are to be used by Unit Owners and their guests on a "first come, first served" basis.

General Common Elements also means and includes all other elements of the Regime rationally of common use or necessary to its existence, upkeep and safety, except as otherwise provided herein, as well as such other General Common Elements elsewhere designated as such in this Master Deed.

Anything to the contrary herein contained notwithstanding, the Units and Limited Common Elements are not part of the General Common Elements.

The designation of specific items as Common Elements does not constitute a covenant, representation or warranty that all such items will be furnished as part of the Regime.

1.10 "Limited Common Elements" means and includes those Common Elements which are specifically reserved for the use of a particular Unit or a specifically designated number of Units to the exclusion of other Units, including but not limited to the following, which are specifically reserved for a particular Unit or a specifically designated number of Units:

- 1.10.1 Entrances and Exits to the specific Units.
- 1.10.2 Chimneys.
- 1.10.3 Utility service facilities.
- 1.10.4 Patios, if any, terraces, decks and porches.
- 1.10.5 Doors and windows.
- 1.10.6 Storm doors and windows and window screens.



1.10.7 Indoor automobile garage space (hereinafter referred to as "Indoor Garage Space"), as designated for the exclusive use of and assigned to a specific Unit. Each Indoor Garage Space will be designed to accommodate two ordinary automobiles. The floor plans of the Units, filed herewith, show the assignments of the Indoor Garage Space.

1.10.8 Balcony storage enclosures.

1.10.9 Outdoor, unenclosed, and uncovered parking spaces (hereinafter referred to as "Outdoor Parking Spaces") assigned to a specific Unit Owner by Developer.

1.10.10 Court yards of ground floor Units.

1.10.11 Air conditioning and heating units and appurtenances thereto, and hot water heaters.

1.10.12 Such other Limited Common Elements which are agreed upon by the Council, Board or Developer to be reserved for the use of a particular Unit or particular Unit Owner, as well as other Limited Common Elements elsewhere designated in this Master Deed.

The designation of specific items as Limited Common Elements does not constitute a covenant, representation or warranty that all such items will be furnished as part of the Regime.

1.11 "Common Expenses" or "Common Expense" means and includes all charges, costs and expenses incurred by the Council for and in connection with the following as pertains to Phase I, and as will also pertain to subsequent Phase or Phases of the Regime, if the Regime is expanded as provided in Section 5 of this Master Deed:

1.11.1 Administration of the Regime, and Property including, without limitation thereof, operation of the Regime; maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the General Common Elements; any additions and alterations thereto; all labor, services, common utilities,

materials, supplies and equipment therefor; all liability for loss or damage arising out of or in connection with the General Common Elements and their use; all premiums for hazard, liability and other insurance with respect to the General Common Elements; all managerial, administrative, accounting, legal and managerial expenses and costs of enforcing any lien held by Council; the cost of operation, maintenance, improvement and replacement of any recreational facilities and equipment; amounts incurred in replacing, or substantially repairing major capital improvements, including, but not limited to, roof replacement, road, driveway and parking lot resurfacing; any reserve or reserves included in the Regime's budget for capital expenditures; real estate taxes on the General Common Elements.

1.11.2 Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the interior surfaces, windows and doors of the Units, (which the respective Unit Owner shall paint, clean, decorate, maintain and repair at the expense of the Unit Owner).

1.11.3 Acquisition and maintenance of furnishings and equipment for the General Common Elements as the Board shall determine is necessary and proper.

1.11.4 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 Regime, and expenses of enforcement of any restrictions or provisions contained herein, except as otherwise provided herein or in other governing documents.

1.11.5 Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Property or any part thereof which may in the opinion of the Board constitutes a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Unit Owners. Where

one or more Unit Owners are responsible for the existence of such lien, they, or any of them, shall be liable for the cost of discharging it, and any costs incurred by the Board or Council by reason of said lien or liens shall be specially assessed to said Unit Owners and shall, until paid by such owners, constitute a lien on the interest of such owners in the Property, which lien may be foreclosed in like manner as a mortgage.

1.11.6 Maintenance and all repairs of the Outdoor Parking Spaces.

1.11.7 Maintenance and repair of any Unit, Limited Common Element, or any other portion of the Property which a Unit Owner is obligated to maintain or repair under the terms hereof, but fails to do so, or because of willfulness or negligence of a Unit Owner, if such maintenance or repair is necessary in the discretion of the Board, to protect the Common Elements, or any other portion of the Property. If the owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to Unit Owner, the Board may levy a special assessment against said Unit for the cost of said maintenance or repair, and the amount of such special assessment shall constitute a lien on the Unit of such Unit Owner, which lien may be foreclosed in like manner as a mortgage. Said lien shall be inferior to any lien of a first mortgage or of taxes.

1.11.8 Such other expenses, as herein set forth as Common Expenses, or as provided in the Bylaws of the Council, or which the Board may hereafter legally assess against Unit Owners consistent with proper administration, operation, and/or maintenance of the General Common Elements, Limited Common Elements, and the Property and Regime.

1.12 "Mortgagee" means a bank, savings and loan association, insurance company, or other financial institution regularly engaged in the business of making mortgage loans.

Mortgagee does not mean or include a person or firm making a mortgage loan on any Unit if that person or firm is not regularly engaged in the business of making mortgage loans and is not a lending institution.

1.13 Other terms may be defined as hereinafter set forth.

1.14 Definitions shall also be considered covenants under this Master Deed.

2. Description of Building. There is initially to be one building within the Regime, said building to consist of eight (8) adjoining townhouse structures. Said building shall be known as "Building A," and is to be on Phase 1.

The principal materials of which the building is to be constructed are brick and frame.

The layout, location, unit numbers and dimensions of the Units are more fully described in the floor plans thereof filed simultaneously herewith, recorded in Apartment (Condominium) Ownership Book 43, Pages 6 through 11 in the Office of the Clerk of Jefferson County, Kentucky, and bearing said Clerk's File No. 598.

3. Respective Areas of Land and Building. The total area of the land within Phase 1 is 1.514 acres. The area of the land covered by "Building A" within Phase 1 is 11,688.59 square feet, and "Building A" is approximately 7,497.59 square feet of one floor area exclusive of garages. If the Regime is expanded as set forth in Section 5, the area of the land within the Regime will be increased, and the area covered by the buildings within the

Regime will be increased, which increased areas will appear on additional floor plans and plats which will be filed as part of the amendments to this Master Deed expanding the Regime.

4. Description of Units and Percentage Interest. Phase 1 of the Regime will consist of eight (8) Units, each of which will be a two story townhouse type Unit. Each Unit Owner shall have the exclusive ownership of his or her Unit, and except as otherwise limited by this Master Deed, shall have a common right to share with the other Unit Owners in the General Common Elements of the Regime, said share being equivalent to the percentage representing the floor area of the individual Unit (exclusive of basement floor area) with relation to the floor area of the whole Property (subject to amendment as provided in Section 5). This percentage shall be computed by taking as a basis the floor area of the individual Unit in relation to the floor area of the whole Property.

Each Unit in "Building A" of Phase 1 is shown or designated in the aforesaid floor plans recorded in the aforesaid Apartment (Condominium) Ownership Book 43, Pages 6 through 11 in the Office of the Clerk of Jefferson County, Kentucky, and bearing said Clerk's File No. 598. Said plans are filed simultaneously herewith and are made part hereof by reference.

The Developer reserves the exclusive right to amend this Master Deed and said floor plans, and respective area of buildings and land, and assignment of or change in location or design or elimination of Limited Common Elements, including, but

not limited to, Court Yards, for the purpose of showing completed Units "as built" without necessity of any Unit Owner, Purchaser of a Unit, Mortgagee or other interested holder joining in the amendment. The Developer further reserves the exclusive right to alter the square footage of the Units and make appropriate amendments of the floor plans, in order to reflect Units as built. Each Unit Owner by acceptance of a deed to a Unit, or each Purchaser of a Unit by executing the Purchase Contract, does irrevocably make, constitute and appoint the Developer, as the true and lawful attorney-in-fact of each Unit Owner, and in the name, place, and stead of each Unit Owner to amend this instrument as provided in this paragraph and elsewhere herein.

The area and location of each Unit is shown on the aforesaid floor plans.

The aforesaid undivided percentage of common interest for each Unit Owner is as shown on Exhibit "B" attached hereto and made part hereof. Exhibit "B" will be amended, from time to time, to show the reallocation of percentage of common interest if and when future Phases are added to the Regime. Floor area of lofts or basement shall not be considered in computation of percentage of common interest.

Anything to the contrary herein contained notwithstanding, and recognizing that the planned floor area of the unbuilt Units as the completion of Units progresses may change, Developer hereby reserves the exclusive right, without the consent or approval of any other party, to amend this Master Deed to show any alteration in floor area (excluding lofts or

basement area) of a particular Unit, and any alteration of floor plans showing completed Units "as built," and as a result thereof, and in compliance with the Act adjust the percentage of common interest of all Units so that each Unit Owner's percentage is based on floor area of the individual Unit as built in relation to the floor area of the whole Property as built. If any Unit has a loft, the loft will not be included as square footage of the Unit.

Any conveyance of an individual Unit shall, except as otherwise provided in this Master Deed, be deemed also to convey the undivided interest of the Unit Owner in the General Common Elements and Limited Common Elements of that Unit, and easements pertaining to that Unit, without specifically or particularly referring to same. Such interest of the Unit Owner shall remain undivided, and shall not be the object of an action for partition or division.

5. Expansion of Regime.

5.1 Developer may add additional Phases to the Regime in addition to Phase 1, but Developer does not assure, represent or guaranty that any Phases other than Phase 1 will be developed or added.

5.2 The land which may become part of this condominium in addition to Phase 1 (initially declared as the Regime) and upon which future phases of the condominium are proposed to be built is shown as "Proposed for Future Phases" on Exhibit "C", attached hereto. Exhibit "C" also sets forth the metes and bounds descriptions of the land proposed for future phases for

reference only in the event the Regime is expanded. Exhibit "C", however, does not presently constitute any declaration for condominium purposes beyond Phase 1, and although possible future Phases may be declared on the land shown on Exhibit "C," those possible future Phases, except for Phase 1, are not part of the Regime, until and unless added to the Regime as provided herein. Future Phases may cover all or any part or parts of the land proposed for future Phases.

It is proposed, but not warranted or represented, that, if all land proposed for future Phases is added to the Regime, there will be a maximum of twenty-eight (28) Units in the Regime. All Buildings are to be of similar style, construction, and quality as Building "A" on Phase 1. There may, however, be more or less than 8 units per Phase in the future Phase(s) or more than one building per Phase. Recreational areas may also be included in one or more future Phase(s), however, no assurance or representation is given in this regard.

Whether or not any Phase or Phases are developed beyond Phase 1, and the manner of such development, shall be entirely at the discretion of Developer.

Phase 1 is the initial phase of this condominium, and is submitted to condominium ownership by virtue of this Master Deed. Any subsequent Phases to this condominium may be created by Developer first substantially completing improvements intended to be part of said subsequent phase or phases; and then submitting them to condominium declaration as part of this condominium, by the Developer filing amendments to this Master Deed, and to the



condominium plat, said amendments to be filed in the office of the County Clerk of Jefferson County, Kentucky. The amendments to this Master Deed adding additional phases shall be effected by the Developer on its own behalf and on behalf of all Unit Owners. Said Amendments to this Master Deed may include, but shall not be limited to, additional easements over, on, or under the added Phases, and any and all other lawful provisions the Developer deems necessary or convenient to effectuate the future Phases. In furtherance of the foregoing, each and all Unit Owners, by acceptance of a deed or contract for sale of a Unit and each Mortgagee or holder of a lien against a Unit, does irrevocably make, constitute and appoint the Developer, as the true and lawful attorney-in-fact for each Unit Owner, and in the name, place and stead of each Unit Owner, granting unto the Developer as said attorney, the following rights and powers, just as if the Unit Owner himself or herself performed the following:

5.2.1 To do any and all things necessary and to execute any and all documents or any and all amendments to this Master Deed necessary or convenient to effect the legal and final submission of additional phases to the Condominium Regime created hereby, and to effect the construction and development of additional Phases and the Units thereon.

5.2.2 To shift and reallocate the percentage of ownership in the General Common Elements appurtenant to each Unit to the percentages set forth in the amendments to the Master Deed, and to amend this Master Deed from time to time in any and all respects to provide for the expansion of the Regime as herein set forth. The reallocation of the percentage of ownership in the General Common Elements shall be computed in accordance with the formula set forth in the first paragraph of Section 4.

5.2.3 To execute any documents and perform any acts necessary to amend this Master Deed or otherwise accomplish any and all things necessary or convenient to effect the intents and purposes of this entire Section 5.

5.2.4 To execute such documents or amendments to this Master Deed. The acts of the Developer as attorney-in-fact for the Unit Owners shall be, for the purposes stated, as binding upon said Unit Owners, and each of them, as if the Unit Owners, or each of them, signed said documents or amendments or performed said acts by themselves in their own name.

5.3 The amendments shall be effective at the time of their recordation in the office of the County Court Clerk of Jefferson County, Kentucky.

5.4 The addition of a phase or phases to this condominium shall cause the Common Elements of the added phase or phases to merge with the Common Elements of the prior existing phase or phases and each phase that is added shall become part of PROMENADE COURT TOWNHOMES, A CONDOMINIUM. Upon each phase being added to this Regime, the percentage of ownership of the Common Elements, and the percentage of the common expenses of each respective Unit shall be reduced or reallocated as set forth in future amendments to this Master Deed.

5.5 Each Unit added to the Regime by submission to condominium ownership of additional phases shall have one vote in the affairs of the condominium (subject to all other provisions hereof and of the Bylaws) which will result in a dilution of the voting rights of the prior existing Units in the Regime.

5.6 Developer presently contemplates (but is not so required) expanding the Regime to include the proposed additional future Phases of this condominium within ten (10) years from date

of recording of this Master Deed. In the event any of the phases are not so developed and added to this Condominium Regime by said time, or in the event the Developer at any time prior to said ten years determines not to develop any future Phase or Phases as part of this Condominium Regime, the land shown on Exhibit C not previously added to the Regime, will not become part of the Regime and will not be part of the Common Elements, and shall not be part of the Regime whatsoever, and such land designated for said future Phases shall belong to Developer exclusively, its successors and assigns, free of any claim of Unit Owners, and Developer shall have the right to develop said land in any manner it deems appropriate or to sell, lease or otherwise use said land as its own and for its own account, without regard to this Regime or Master Deed. Notwithstanding Exhibit C, or any other provisions hereof, except for Phase 1, no land shall be added to the Regime unless done so by Developer specifically amending this Master Deed, and Unit Owners shall not have any rights or claims to any future Phases unless Developer adds such future Phases to the Regime by Amendment to this Master Deed.

5.7 Developer hereby reserves the right to modify and alter the size, configuration, number and location of Units in future Phases of this Regime as well as the boundary lines of such future Phases prior to Developer's recordation of an amendment to this Declaration submitting said Phases to condominium ownership as part of this Regime, notwithstanding Exhibit "C," which in such event may be amended by Developer.

5.8 Each acceptance of a Deed of Conveyance, Mortgage, or other instrument with respect to a Unit and the acceptance thereof, shall be deemed, a grant by the Unit Owners and other parties thereto to the Developer on its own behalf and as Attorney in Fact for Unit Owners of the power to shift and reallocate the percentages of ownership in the General Common Elements as set forth in such recorded amendments to the Master Deed, and to amend this Master Deed to provide for the expansion of the Regime from time to time as herein set forth. The deed to a Unit may, at Developer's option, set forth the power of attorney herein granted to Developer, but the failure of a deed to so set forth the power of attorney shall not detract from such power of attorney as herein granted to Developer.

5.9 Each Unit Owner, by acceptance of a deed to his Unit, and the mortgagee or other lien holder holding a lien against Units in the present Regime, further acknowledge, consent, and agree to such further amendments to this Master Deed, as follows, but without limitation as to other provisions contained in this Master Deed:

5.9.1 The percentage of ownership in the General Common Elements appurtenant to each Unit shall automatically be shifted and reallocated to the extent set forth in such amendments to this Master Deed and upon the recording of such amendments to this Master Deed, the amount by which such percentage appurtenant to a Unit is reduced, as set forth in such amended Master Deed, shall thereby be and be deemed to be released and divested from each Unit Owner and reconveyed and reallocated among all Unit Owners as set forth in each such recorded amended Master Deed.

5.9.2 Each deed, mortgage or other instrument affecting a Unit shall be deemed given subject to

the conditional limitation that the percentage of ownership in the General Common Elements appurtenant to each Unit shall, upon the recording of amendments to this Master Deed, be divested pro-tanto to the reduced percentage set forth in an amended Master Deed vested among the other Unit Owners, mortgagees and others owning an interest in the other Units in accordance with the terms and percentages of such recorded amended Master Deed.

5.9.3 A right is hereby reserved by the Developer or grantor in each such deed or other instrument of a Unit to so amend and reallocate the percentages of ownership in the General Common Elements appurtenant to each Unit, as set forth in this Section 5.

5.9.4 The percentage of ownership in the General Common Elements appurtenant to each Unit shall include and be deemed to include any additional General Common Elements annexed by a recorded amended Master Deed, and each deed, mortgage or other instrument affecting a Unit shall be deemed to include such additional General Common Elements, and the ownership of any such Unit and lien of any such mortgage shall automatically include and attach to such additional General Common Elements upon an amended Master Deed being recorded.

5.9.5 Each Unit Owner shall have a perpetual easement for the use of any additional General Common Elements annexed in future Phases for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Unit Owners of specific Units as may be provided in an amended Master Deed.

5.9.6 The recording of an amended Master Deed shall not alter the amount of the lien for expenses assessed to a Unit prior to such recording, and shall not alter any liability of a Unit Owner existing prior to said amendment. Except as may be otherwise specifically provided in an amended Master Deed, the provisions of the herein Master Deed shall remain in full force and effect.

5.9.7 Each Unit Owner by acceptance of the deed conveying his Unit, agrees for himself and all those claiming under him, including mortgagees, or other lien holders, that this Master Deed and

any amended Master Deed, is and shall be deemed to be in accordance with the Act, and for purposes of this Master Deed and the Act, any changes in the respective percentages of ownership in the General Common Elements as set forth in such amended Master Deed shall be deemed to be made by agreement of all Unit Owners.

5.9.8 The provisions of this Master Deed and deeds and mortgages of the Units will be construed to include the rights to accomplish a shifting of the General Common Elements and other amendments of this Master Deed as herein provided. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the General Common Elements can be accomplished.

5.10 The amendments of the Master Deed as set forth in this Section shall not impair or affect the other rights of amendment to this Master Deed as elsewhere contained in this Master Deed, Bylaws or Act.

5.11 When Developer files amendments to this Master Deed expanding the Regime, said Amendment shall have attached thereto, floor plans showing size, area, location, and Unit number of each Unit being created thereby, and any additional common area being annexed, and such amendment shall further designate the undivided interests in the General Common Elements appurtenant to each Unit in the entire Regime. All Lenders and Mortgagees holding mortgages on Units and all purchasers of Units take subject to and consent to this designation and revision of interest in the General Common Elements all as provided for hereinbefore, as well as all other amendments and matters provided for in this Master Deed.

All terms and provisions of this Master Deed, as amended, shall apply to all Units and Common Elements added to the Regime by Amendments hereto.

Any liens arising in connection with the Developer's ownership of or development of any future phase shall not affect the rights of Unit Owners of existing Units in previously built phases or Mortgagees of Units in previously built phases.

6. Description of General Common Elements. The General Common Elements are described as set forth in the definition of General Common Elements in Section 1.9 of this Master Deed.

7. Description of Limited Common Elements. The Limited Common Elements are described as set forth in the definition of Limited Common Areas in Section 1.10 of this Master Deed.

8. Undivided Nature of General Common Elements and Limited Common Elements. The General Common Elements and Limited Common Elements shall remain undivided and shall not be the object of an action for partition or division of the Unit Owners. Any covenant to the contrary shall be void.

9. Prohibition Against Division of Units. No Unit shall, by deed, plat, court decree, or otherwise, be subdivided, or in any other manner, separated into tracts or parcels smaller than the whole Unit as shown on the Floor Plans.

10. Combination of Two Units. If two adjoining Units are purchased simultaneously by one Unit Owner, the wall separating the Units may be wholly or partially removed, if done so according to specifications approved in writing in advance by the Board (or Developer), and provided said wall is not a

load-bearing wall and does not interfere with ducts or utility lines servicing other units, notwithstanding that said wall was previously a General Common Element, which it shall cease to be upon its removal. The voting rights, percentage interest, and the maintenance charges attributable to each Unit shall not be altered by reason of said wall removal, the combined Units for such purposes being considered as two Units. However, if said wall is replaced, it shall not thereafter be removed without the approval of the Board, and upon replacement it shall be restored to a General Common Element status (except the interior undecorated surface thereof). Replacement must be in accordance with specifications approved by the Board or Developer.

11. Easements, Encroachments, Covenants and Stipulations.

Easements are hereby declared and granted by Developer and by each Unit Owner in favor of the Regime, Developer, each other Unit Owner and in favor of the grantees and reserved by Declarant, as follows:

11.1 Easements are hereby declared reserved and granted for utility purposes, including but not limited to the right to install, lay, maintain, repair, and replace water mains and pipes, sewer lines, gas mains, telephone and television wires and equipment, and electrical conduits and wires and equipment over, under, through and on any part of the General Common Elements or Limited Common Elements, together with the right of ingress and egress across the General Common Elements, or Limited Common Elements if necessary, for such purposes.



11.2 In the event that by reason of the construction, reconstruction, settlement, or shifting of a building, or the design or construction, any part of any Unit or any part of the General or Limited Common Elements encroaches or shall hereafter encroach upon any part of any other Unit, or any part of any Unit encroaches on any part of the General or Limited Common Elements, valid easements for the maintenance of such encroachments are hereby established and shall exist for the benefit of such Unit and the General or Limited Common Elements as the case may be, so long as all or any part of the building containing such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the owner of any Unit or in favor of the owners of the General or Limited Common Elements if such encroachment occurs due to the willful conduct of said owner or owners. In addition to the foregoing, it is expressly understood that an easement for support is granted by this Master Deed.

11.3 An easement for ingress and egress for the maintenance, repair and replacement of any wall or any General or Limited Common Element located within or adjacent to a Unit, or for any items within a wall of any Unit, and for the repair of any General or Limited Common Element which, pursuant to this Master Deed, is the Board's responsibility to repair.

11.4 An easement for ingress and egress, installation and maintenance in favor of any public utility providing utility service to the Regime and the Units therein for the purpose of maintenance, repair and replacement of the facilities and

equipment necessary to provide said services. The utility shall exercise this right in a reasonable manner.

11.5 An easement in favor of the Council, exercisable by the Board and its agents, and in favor of Developer to enter any Unit and any Limited Common Element from time to time during reasonable hours, as may be necessary for the operation of the Regime, or in the event of emergency for necessary action to prevent damage to any part of the Regime.

11.6 Easement in favor of a Unit Owner to enter in, upon, and across the Limited Common Element Court Yard of another Unit to maintain, repair, or replace the air conditioning compressor and appurtenances which is a Limited Common Element of the Unit first mentioned in this subsection 11.6.

11.7 Easements are further declared and granted and reserved for ingress and egress for pedestrian traffic over, through and across the lobby, hallways, passages, stairways, elevators, sidewalks, paths, walks and lanes as are now and from time to time may exist upon the common elements; and for vehicular traffic over, through and across such driveways, parking areas and other portions of the common elements as are now and from time to time may be paved or intended for such purposes.

11.8 Easement for pedestrian and vehicular traffic, motorized and otherwise, for ingress and egress to and from any future Phases or Phases that may be added to this Regime, or to and from any other land of the Developer, its successors or assigns, whether or not added to this Condominium Regime.

11.9 An easement shall exist over the Property for fire lane purposes as established or to be established in accordance with requirements of appropriate laws and regulations.

11.10 Existing easements of record affecting the Property and any easements shown on plats attached hereto.

11.11 In addition, Developer reserves the right during development to grant, transfer, cancel, relocate, and otherwise deal with all utility and other easements now or hereafter located on the Property without necessity of authority from any Unit Owner.

11.12 Easements across Indoor Garage Spaces, before and after assigned, and Outdoor Parking Spaces for maintenance and other purposes necessary to the operation of the Regime or Property. Such easements, however, shall not unreasonably interfere with parking by the Unit Owners to whom Indoor Garage Spaces are specifically assigned.

11.13 Easements over Limited Common Elements for maintenance and other purposes necessary to the operation of the Regime or Property.

11.14 The Board shall have a right of access to each Unit upon reasonable prior notice and at reasonable hours: [i] to inspect the same for compliance with the provisions of the Master Deed and Bylaws; [ii] for the maintenance, repair, replacement or improvement of any portion of the Common Elements (or any portion of the Unit which is the responsibility of the Board) including any pipes, wires, ducts, cables, conduits and public utility lines located in or adjacent to any Unit; [iii] to prevent damage to the

Common Elements or any other Unit; [iv] to abate any violation of law, order, rules or regulations of any governmental authority having jurisdiction thereof; [v] to abate any violation of any provision of the Master Deed and Bylaws. The Board shall have such other right of access to each Unit as may be provided under any provisions of the Master Deed and Bylaws. The Board shall be obligated to repair any damage to a Unit incurred by reason of exercise of this right of access.

11.15 Developer reserves the right with respect to its marketing of Units to use the Common Elements for the ingress and egress of itself and for prospective purchasers and lessees of Units, including the right of such prospective purchasers and lessees to park in parking spaces which are not Limited Common Elements. Any damage to the Common Elements resulting from this easement shall be repaired by Developer promptly after the same occurs.

11.16 Developer reserves the right for the purpose of completing the development of the Regime to have access to the Common Elements and (but only to the extent reasonably necessary and only upon reasonable prior notice to the applicable Unit Owner and at reasonable hours) to any Units presently existing, for the ingress and egress of itself and its subcontractors, materialmen, and suppliers for the purpose of constructing, installing, maintaining and repairing equipment and fixtures pursuant to such development, and for other activities reasonably necessary in connection with such development, including the right to use the roadways and to park in those parking spaces which are not Limited

Common Elements at the Regime. Developer agrees to repair any damage which may be caused to the Building or to any Unit resulting from the actions of Developer permitted by this Section promptly after Developer is notified that such damage has occurred.

11.17 All easements and rights described herein are easements appurtenant to and running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, or Unit Owner, purchaser, mortgagee, and other persons, their successors and assigns, having an interest in the Property or any portion thereof. Further, all easements and rights granted herein shall also be for the benefit of any other land or construction of the Developer, its successors and assigns, whether or not said land or construction is added to or part of this Condominium Regime.

11.15 The respective deeds of conveyance, or any mortgage or trust deed, or other evidence of obligation shall be subject to the easements, covenants, stipulations and rights described in this Master Deed, and reference to this Master Deed shall be sufficient to create and reserve such easements, covenants, stipulations and rights to the respective grantees, mortgagees, and trustees of such Units or parcels as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

11.16 Upon a majority vote of the Board, the Board may direct its President or designated Agent to grant easements on behalf of the Council, for utility purposes for the benefit of the

Regime, including the right to install, lay, maintain, repair, and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment and electrical conduits and wires over, under, along, and on any portion of the General or Limited Common Elements, and each Unit Owner hereby grants the Board (acting by and through its President, the Developer or designated Agent) an irrevocable power of attorney to execute, acknowledge, and record, for and on behalf of each Unit Owner, such instruments or documents as may be necessary to effectuate the foregoing. The power of attorney shall survive any disability or death of the Unit Owner and shall be binding on each successive Unit Owner, his or her personal representative, heirs, and estate in the event of death.

11.17 Easements reserved and granted herein shall also be reserved and granted as to all land, Units and Common Elements added to the Regime pursuant to Section 5 hereof.

11.18 All easements granted or reserved herein shall also be for the benefit of any future Phases that may be added to this Regime, and for the benefit of any and all land shown on Exhibit C, whether or not added to the Regime.

12. Maintenance of Limited Common Elements.

12.1 Except as may otherwise be specifically provided herein, the maintenance and repair of Limited Common Elements shall be the responsibility and expense of the Owner of the Unit for which the respective Limited Common Elements are specifically reserved.

13. Provisions Pertaining to Indoor Garage Space.

13.1 The assignment of Indoor Garage Space (as shown on floor plans of the Units filed herewith) shall pass to all future Owners of the Unit to which the assignment is made, even though not expressly mentioned in the document passing title to the Unit. The Board may by its Bylaws prescribe such rules and regulations with respect to such Indoor Garage Spaces, including the requirement that such exclusive use encompass the obligation of cleaning and interior maintenance of the Indoor Garage Spaces, together with maintenance and repair of garage door and garage service door, if any, as an expense of the respective Unit Owner rather than as a Common Expense.

13.2 A Unit Owner shall not permit any other person, association, or firm to use or become an assignee by sale, lease, permission, or otherwise to use any Indoor Garage Space assigned to such Unit Owner, except in connection with the sale of a Unit or lease of an entire Unit by a Unit Owner, in which event the rights to the Indoor Garage Spaces exclusively assigned to that Unit pass with the sale or lease as herein provided. The lease of an Indoor Garage Space shall not be effective for longer than the lease of the Unit to which the Indoor Garage Space pertains.

14. Restrictions and Use and Occupancy of Units, Common Areas and Facilities. The Units and the General Common Elements and Limited Common Elements shall be subject to the following restrictions, which restrictions shall be permanent:

14.1 The Units shall be used only for residential purposes, shall not be subdivided, and shall be subject to such

limitations and conditions as may be contained herein, or in the Bylaws of the Council adopted from time to time by the Board as to the use and appearance of the Units and the Limited Common Elements and General Common Elements. Notwithstanding this residential restriction, the Developer shall be permitted to use unsold Units as models or sales offices.

14.2 No industry, business, trade, occupation or profession of any kind, nor commercial, religious, educational, or other use, designed for profit, altruism, or otherwise shall be conducted, maintained, or permitted on any part of the property. No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any part of the property. The right, however, is reserved by Developer or its agent or agents to place "For Sale", "For Rent", or directional or general information signs on any unsold or unoccupied Units and on any part of the General or Limited Common Elements, and the right is hereby given to any mortgagee, who may become the owner of any Unit, to place such signs on any Unit owned by such mortgagee.

14.3 There shall be no obstruction of the General or Limited Common Elements, nor shall anything be stored in the General or Limited Common Elements without the prior consent of the Board, except as herein expressly provided. Each Unit Owner shall be obligated to maintain and keep his Unit, his windows and doors, and the patio or balcony, which are Limited Common Elements reserved for the use of his Unit, in good, clean order and repair. Patios and Balconies serving more than one Unit jointly (except two Units combined) shall be repaired as a Common expense.



14.4 Nothing shall be done or kept in any Unit or Indoor Garage Spaces or Outdoor Parking Spaces or in the Common Elements, or Limited Common Elements, which will increase the rate of insurance on the property or contents thereof applicable for residential use, without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit, Indoor Garage Spaces or Outdoor Parking Space, or in the Common Elements or Limited Common Elements which will result in the cancellation of insurance on the building or contents thereof, or which would be in violation of any law. No waste shall be committed in the General Common Elements or Limited Common Elements, or on the Property.

14.5 Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the building, and no sign, awning, canopy, shutter, or radio or television antenna shall be affixed to or placed upon the exterior walls or roof of any part thereof, without the prior written consent of Developer or the Board.

14.6 No animals, rabbits, livestock, fowl, or poultry of any kind shall be raised, bred, or kept in any Unit or in any part of the property, except that not more than one household pet may be kept in Units, subject, however, to bylaws adopted by the Board, provided that the pet is not kept, bred, or maintained for any commercial purpose, and any pet permitted under this section when outside the confines of a Unit must be kept on a leash and accompanied by a responsible person; and provided further that such pet creating or causing a nuisance or unreasonable

disturbance shall be permanently removed from the property upon three (3) days' written notice from Developer or the Board. All dogs, cats, or other pets so allowed shall be carried by owner while in corridors, lobbies, or any other inside common areas. At no time shall there be more than one (1) animal per Unit kept therein, either temporarily or permanently.

14.7 No noxious or offensive activity shall be carried on in any Unit or on the Property, nor shall anything be done therein or thereon, either willfully or negligently which may be or become an annoyance or nuisance to the other Unit owners or occupants, or constitute a waste at common law, or be in violation of any law.

14.8 Nothing shall be done in any Unit or in, on, or to the Common Elements which will impair the structural integrity of the building or which would structurally change the building, except as otherwise provided herein.

14.9 No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed on any part of the Common Elements. The General Common Elements and the Limited Common Elements shall be kept free and clear of rubbish, debris, and other unsightly materials.

14.10 There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches, chairs, or other personal property on any part of the General Common Elements or Limited Common Elements without the prior consent of and subject to any regulations of Developer or the Board.

14.11 Nothing shall be altered on, constructed in, or removed from the General Common Elements or Limited Common Elements, except upon the written consent of Developer or the Board.

14.12 Drapery backing (which is visible from the outside) shall be an "off-white" color and shall be subject to prior approval by Developer or the Board.

14.13 Locks on all entrance doors to each Unit shall not be changed (nor locks added to) without first obtaining permission from Developer or the Board.

14.14 All garbage, be it wet, solid, or otherwise, must be placed in plastic bags securely fastened before disposing of same in the common garbage containers.

14.15 There shall be no parking of any automobile, bicycle, or any other vehicle in any driveway, or other area not designated for parking, except for the loading and unloading of passengers or for deliveries.

14.16 There shall be no mechanical work performed upon any automobile on any area of the General Common Elements or Outdoor Parking Spaces.

14.17 Garage doors, except during ingress and egress, shall be kept fully closed at all times.

14.18 Court Yards will be maintained in a neat, clean, and attractive manner by the Unit Owner of a Unit of which the Court Yard is a Limited Common Element, and nothing will be placed or maintained in any Court Yard causing a nuisance or "eyesore" to any other Unit Owner.

15. Violations. The violation of any restriction, or Bylaw adopted by the Council or Board, or the breach of any covenant or provision contained in this Master Deed or contained in the Act, shall give the Board the right, in addition to any other rights provided for in this Master Deed, Bylaws of the Council, or by the Act, (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 Unit Owner, any structure, thing, or condition that may exist thereon contrary to the intent and meaning of the provisions hereof; and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. Furthermore, if any Unit Owner (either by his own conduct or by the conduct of any other occupant of his Unit) shall violate any of the covenants of this Master Deed or the Bylaws adopted by the Board and such violation shall continue for thirty (30) days after notice in writing or shall re-occur more than once thereafter, then the Board shall have the right and power to file an action in equity against the defaulting Unit Owner for a decree of mandatory or other injunction, including the interim rights to a temporary restraining order or temporary injunction, or, in the alternative, a decree declaring the termination of the defaulting Unit Owner's right to occupy, use, or control the Unit owned by him on account of the breach of covenant and ordering that all the right, title, and interest of the Unit Owner in the property shall be sold at a

judicial sale upon such notice and terms as the Court shall establish, except that the Court may enjoin and restrain the defaulting Unit Owner from re-acquiring his interest at such judicial sale or by virtue of the exercise of any right of redemption which may be established. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, and all other expenses of the proceedings and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. The balance of proceeds after satisfaction of such charges shall be first applied to any valid prior mortgages and liens, secondly to attorneys' fees and other costs in accordance with law, and thirdly to the Unit Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the Unit, by the Commissioner of the Court, and immediate possession of the Unit sold and may apply to the Court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any sale, and the decree shall so provide, that the purchaser shall take deed to the property sold subject to this Master Deed as set forth herein.

16. Administration Of Regime, Developer's Rights, Transfer of Control to Board; Maintenance of General Common Elements.

16.1 The administration of the Regime shall be governed by Bylaws approved and adopted by the Council, as said Bylaws may be amended, from time to time by the Council, and any provisions of this Master Deed pertaining to Administration of the Regime shall be deemed to be Bylaws.

The Owner of any Unit, upon acquiring title, shall automatically become a member of the Council and shall remain a member until such time as his ownership of such Unit ceases for any reason, at which time his membership in the Council shall automatically cease.

16.2 The above paragraph and anything to the contrary in this Master Deed or Bylaws notwithstanding, the administration, and control of the Regime and Property, including, but not limited to, the adoption and amendment of Bylaws, assessment of Common Expenses, and all other rights relating to the governing, managing and administration of the Regime and Property, and all rights and powers which would otherwise be vested in the Council or Board, shall be all vested in the Developer alone (notwithstanding specific references in this Master Deed or Bylaws to "Council," "Board," "Unit Owner," or "Unit Owners") until transfer of control to Board. Such transfer of control shall take place at the following time (hereinafter sometimes referred to as "Developer's transfer of control" or "transfer of control"), whichever is earlier:

16.2.1 Four months after the date by which seventy-five percent (75%) of the units, including Units to be built in future Phases, have been conveyed to Unit purchasers, or

16.2.2 Five (5) years following the first conveyance to a Unit purchaser, or

16.2.3 Upon Developer's written notification to Unit Owners that Developer is effecting transfer of control to Board.

16.3 Until Developer's transfer of control, the Developer shall, by virtue of this Master Deed, possess the

irrevocable proxy and irrevocable power of attorney of each Unit Owner in connection with all matters relating to the government, management, and administration of the Regime and Property, which proxy and power of attorney each Unit Owner automatically gives the Developer upon acceptance of a deed or contract to a Unit, all Unit Owners agreeing to such administration by the Developer in accepting Unit conveyances or a contract for a Unit.

16.4 After Developer's transfer of control, the Administration of the Regime shall be vested in the Board, exclusive of the Developer, except as otherwise provided herein, and upon Developer's transfer of control the Developer shall relinquish all special rights, expressed or implied, through which the Developer may directly or indirectly control, direct, modify, or veto any action of the Board or a majority of Unit Owners.

16.5 Until Developer's transfer of control, the Unit Owners, acting by or through any means or group whatsoever, shall not interfere with Developer's management, control, or administration of the Property or Regime, or do anything to adversely impair the Developer's sale of Units.

16.6 Administration of the Regime as to all matters and in all respects shall be in accordance with the provisions of the Act, (except as otherwise provided herein) this Master Deed, and the Bylaws approved by the Council. Specifically, but without limitation, the Board shall, on behalf of the Council:

16.6.1 Maintain and repair all improvements in and parts of the General Common Elements which may be required by law, or necessary for proper operation and maintenance, of any part of the Regime or Property.

16.6.2 Keep all General Common Elements in a clean and sanitary condition and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority, where applicable to the Regime.

16.6.3 Well and substantially repair, maintain and keep all Common Elements of the Regime in good order and condition; maintain and keep said land and all adjacent land between any street boundary of the Regime and the established street line in a neat and attractive condition, including keeping all trees, shrubs and grass in good cultivation; replant the same as may be necessary and repair and make good all defects in the Common Elements of the Regime required in this instrument to be repaired and maintained by the Board.

16.6.4 Except as may be otherwise provided herein or in the Bylaws, keep all Limited Common Elements in a clean and sanitary condition and well and substantially repair, maintain and keep them in good order and condition.

16.6.5 Observe any setback lines affecting the Regime as shown on the plans herein mentioned.

16.6.6 Not make or suffer any waste or unlawful, improper or offensive use of the Regime or Property.

16.6.7 Levy and collect Common Area Charges.

16.7 Administration of the Regime, after Developer's transfer of control, shall be conducted by the Board (the Developer having all the rights and powers of the Council and Board prior to Developer's transfer of control), which Board shall be elected by the Council in accordance with the Bylaws of the Council. Said Board shall be authorized to delegate the administration of its duties and powers by written contract to a professional managing agent or administrator employed for that purpose by the Board so long as such contract does not exceed three years in duration and may be cancellable by the Board at any



time by prior written notice, and the managing agent or administrator being subject to control by the Board.

It shall be the duty of the Board to determine annually, after the Developer's transfer of control, and subject to the approval by a majority of the Council, the estimated Common Expenses of the Regime for the succeeding twelve months, and, having so determined, to make and collect the assessment monthly or quarterly from each Unit owner based on his percentage of common interest. Where no such determination is formally made for any year, the calculations utilized for the last prior period shall remain in effect, subject to the right of the Board to make additional assessments for Common Expenses which are necessary but which were unanticipated.

16.8 Developer has heretofore caused the formation of a Kentucky non-stock, non-profit corporation, which corporation is named "Promenade Court Townhomes Owners Association, Inc.", to act for and on behalf of the Council in the administration and operation of the property and the Regime. Each Unit Owner shall be a member of such corporation, which membership shall terminate upon the sale or other disposition by such member of his Unit, at which time the new Unit Owner shall automatically become a member of such corporation. The membership and voting rights in such corporation are the same as membership and voting rights established for the Council by this Master Deed or by the Act. The Board of Directors of Promenade Court Townhomes Owners Association, Inc., shall be the same Board as the Board as defined herein, and the members of Promenade Court Townhomes Owners

Association, Inc., shall be the same as the members of the Council.

16.9 Any administrative or governing powers, and duties, granted in this Master Deed to the Council, Board, or Developer, shall also be considered Bylaws of the Council. However, this does not limit the rights of the Council to adopt separate and additional Bylaws and adopt amendments thereto, or the Developer's right to do so until Developer's transfer of control.

16.10 The date of Developer's transfer of control as established herein, shall be the effective date, regardless of whether or not the Council or Board acquiesces in said date, or acts inconsistently with said date.

16.11 Any rights of Developer which have accrued prior to Developer's transfer of control shall survive Developer's transfer of control and be enforceable thereafter.

16.12 Prior to and at time of Developer's transfer of control, Developer shall be reimbursed by Council for the fair market value of any personal property for the Regime paid for by Developer and turned over to Council, and the cost of any materials or supplies on hand paid for by Developer and turned over to Council, and for any expenses for the Regime pre-paid by Developer, but allocable to a time after Developer's transfer of control.

16.13 Notwithstanding the duty of the Board to manage, operate, maintain and repair the Regime and Property, subject to and in accordance with the provisions of the Master Deed and Bylaws, the Board shall not be deemed negligent in the event of

injury or damage, caused by any latent condition of the Property required to be maintained and repaired by the Board, or caused by the weather or other elements, or by other Unit Owners or persons, including, but not limited to, defects which are the result of characteristics common to the materials used, damage due to ordinary wear and tear and normal use, and damage due to wind, rain, snow, hail and condensation on or expansion or contraction of materials due to weather. This does not imply negligence of the Board otherwise.

17. Assessment For Common Expenses: Management Fee: Developer's Exclusion.

17.1 Each Unit Owner, excluding Developer shall pay to the Board, or to the Developer until Developer's Transfer of Control, in advance, on the first day of each month, the assessments against his or her respective Unit for Common Expenses and other appropriate charges in accordance with this Master Deed and Bylaws of the Council.

17.2 The Developer shall be entitled to a reasonable management fee for services rendered prior to the time of Developer's transfer of control.

17.3 If at or pursuant to the closing of a sale and conveyance of a Unit from Developer to a Purchaser of a Unit, the Developer is reimbursed by Purchaser for any costs or expenses paid or incurred by the Developer with direct or indirect reference to the Unit sold, such reimbursement shall belong to the Developer alone, and a Unit Owner, the Council or Board shall not have any claim against the Developer therefor.

17.4 Until Developer's Transfer of Control, the Units owned by Developer shall not be assessed for Common Expenses or for any Common Area Maintenance or any other Expenses whatever, except Real Estate taxes, and except for real estate taxes, the Units of Developer shall not be subject to any lien for Common Expenses or Common Maintenance or any other expenses. In lieu thereof, Developer shall pay operational and maintenance expenses of the Regime, or perform the common maintenance in kind, in excess of the maintenance fee collected on sold units. Developer shall have the right to increase Common Expenses to offset increased costs.

18. Waiver of Use of Common Elements. A Unit Owner may not except himself from liability for his contribution towards the Common Expenses or any other assessment by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit or non-use of his Unit.

19. Unpaid Common Expenses Constitute Lien. Unpaid Common Expenses shall constitute a lien on the Unit of the delinquent Unit Owner, prior to all other liens except (1) liens for taxes and assessments lawfully imposed by governmental authorities against such Units and (2) the lien of a first mortgage. Lien for unpaid Common Expense may be enforced by suit by the Board, its Administrator or agent, in like manner as a mortgage of real property, provided that at least thirty days' advance written notice of intention to sue to enforce the lien shall be mailed, postage prepaid to the Unit Owner and mortgagees of record of such Unit. The Council shall have the power to bid

on such Unit at judicial sale or pay for and accept a deed in lieu of foreclosure; and to acquire, hold, lease, mortgage and convey such Unit. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without judicial lien enforcement and without waiving the lien securing same or right to enforce the lien. During the pendency of any action to enforce such lien, the plaintiff shall be entitled to appointment of a receiver over the unit involved.

20. Real Estate Taxes Against Units. Real estate taxes against individual Units are not a common expense, but an assessment against the individual Units, and it is the duty of each Unit Owner, and Developer as to unsold Units held by it, to pay the real estate taxes on their respective units.

21. Insurance. The Board shall obtain and at all times maintain a master policy of fire and extended coverage, vandalism, malicious mischief and liability insurance, and if required by law, workmen's compensation insurance (hereinafter referred to as "master policy"), with respect to the Regime and the Council's or Board's administration thereof in accordance with the following provisions:

21.1 The master policy shall be purchased by the Board for the benefit of the Council, the Unit Owners, Developer and their mortgagees as their interests may appear, subject to the provisions of this Master Deed and the Bylaws with provisions for the issuance of appropriate mortgagee endorsements to the mortgagees of the Unit owners or Developer. Such policy or policies shall insure the Property against loss or damage for

fire and such other hazards as shall be determined by the Board and by this Master Deed. The Unit Owners shall obtain separate insurance coverage at their own expense upon their personal property and improvements constructed by Unit Owners in addition to improvements which are standard Units furnished by Developer. Further, the Unit Owner shall obtain comprehensive personal liability insurance covering liability for damage to person or property of others located within such Unit Owner's Unit, or in another Unit in the Regime or upon the Common Elements resulting from the negligence of the insured Unit Owner, in such amounts as shall from time to time be determined by the Board but in no case less than One Hundred Thousand Dollars (\$100,000.00) for each occurrence. The Board and the Unit Owners shall use their best efforts to see that all property and liability insurance carried by a Unit Owner or by the Council shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claim against the Unit Owners or the Council or Board and the respective employees, agents and guests of the Unit Owners, as the case may be.

21.2 All buildings, Units, improvements, personal property and other General and Limited Common Elements of the Regime shall be insured against fire and other perils covered by a standard extended coverage endorsement, or other protective clauses, in an amount equal to the maximum insurable replacement value thereof as determined from time to time by the Board. The Board may elect to carry insurance to cover such other perils as from time to time shall be customarily covered with respect to

buildings and improvements similar in construction, location and use.

21.3 The Board shall use its best efforts to see that the liability insurance carried by it shall contain cross-liability endorsements or appropriate provisions to cover liability of the Unit Owners, individually and as a group to another Unit Owner, arising out of their ownership interests in the Common Elements.

21.4 All premiums upon liability insurance purchased by the Board and the premiums for the master policy shall be Common Expenses.

21.5 Proceeds of all insurance policies owned by the Council shall be received by the Board for the benefit of the Unit owners and their mortgagees as their interests may appear, provided, however, the proceeds of any insurance received by the Board because of property damage shall be applied to repair and reconstruction of the damaged property, except as may otherwise be provided by this Master Deed or the Bylaws.

21.6 Each Unit Owner shall be deemed to appoint the Board as his true and lawful attorney in fact to act in connection with all matters concerning the maintenance and administration of the master policy. Without limitation of the generality of the foregoing, the Board as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Unit Owners and their respective mortgagees as their interests may appear, to repair or

replace damaged property, to execute releases of liability and to execute all documents and to do all things on behalf of such Unit owners as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Board in regard to such matters. The Board shall not be responsible for procurement or maintenance of any insurance covering the contents of any Unit or the liability of any Unit Owner for injuries therein, not caused by or connected with Board's operation, maintenance or use of the Regime.

22. Damage and Reconstruction After Casualty.

22.1 If a building in the Regime becomes damaged or destroyed by casualty, reconstruction shall be compulsory.

22.2 It shall be the responsibility of each Unit Owner, (and not the Council or Board) to pay for and obtain individually his own insurance coverage for loss or damage to improvements or betterments to a Unit made or contracted for by the Unit Owner (as differentiated from standard Units sold by Developer). Any proceeds from such insurance shall belong to the individual Unit Owner, and shall not be Common Assets of the Regime. Proceeds of insurance on the Common Elements shall be Common Assets of and payable to the Board on behalf of the Council.

22.3 If the proceeds of insurance are not sufficient to defray the costs of reconstruction, and repair, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair are insufficient, assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments on account



of damage to General Common Elements shall be in proportion to the owner's share in the General Common Elements.

22.4 When the building is reconstructed, it shall be reconstructed substantially in accordance with the same design as the building was prior to the damage or destruction. Any unpaid first mortgage held by any mortgagee shall continue to remain effective against a reconstructed Unit just as it applied to a Unit before it was damaged or destroyed.

23. Maintenance Fund. The Board shall establish and pay into a Maintenance Fund all collections from the Unit Owners, assessed for and attributable to Common Expenses and other charges and shall pay from such Fund all current Common Expenses, and other appropriate expenses.

24. Capital Replacement Fund. The Board, after Developer's Transfer of Control, shall establish a Capital Replacement Fund and pay into same, from month to month, a portion of Common Expense collections from the Unit Owners, which portion was budgeted for capital replacement reserves (not including recreation facilities reserves). For example, if ten percent of the Common Expense budget for that particular year is assigned to capital replacement reserves, ten percent of Common Expense collections shall be paid over to the Capital Replacement Fund. Disbursements from this Fund, other than for investment as hereinafter authorized, shall be made only for replacing, or substantially repairing, major capital improvements of the Regime, or for repayment of indebtedness incurred under Section 26.2 of this Master Deed, provided, however, that if the

Maintenance fund is not adequate at times to pay Common Expenses, the Capital Replacement Fund may be used without waiving the Board's right to make assessments to replenish the Capital Replacement Fund. Capital Replacement Fund balances available for investment may be invested by the Board in interest-bearing securities and/or savings accounts, so long as such investment is insured by the United States or insured under a program secured by an instrumentality of the United States or is a direct obligation of the United States.

25. Additional Common Expense Provisions. In addition to the other provisions of this Master Deed relating to the Common Expenses, the following requirements and limitations are applicable:

25.1 The percentage interest of each Unit Owner in the Maintenance Fund and Capital Replacement Fund cannot be withdrawn or separately assigned, but is deemed to be transferred with such Unit even though not mentioned or described in the conveyance thereof.

25.2 In the event the Regime herein created shall be terminated or waived, any part of said Funds remaining after full payment of Common Expenses and costs of termination shall be distributed to the then existing Unit Owners according to their respective percentage interests in the General Common Elements.

26. Incurrence and Retirement of Indebtedness. The Board, by majority vote, may borrow money from time to time for the following purposes, without waiving Board's rights to levy assessments against Unit Owners for the following:

26.1 To cover any budgetary deficit for operational expenses, so long as such loan can be repaid within one year from anticipated Common Expense income not needed for ongoing operations.

26.2 To pay costs of reconstruction, major repair, replacement or alteration of the Common Elements (to the extent not covered by insurance proceeds) provided that the repayment of such loan can be amortized over a period not exceeding the reasonable life of the reconstruction and repairs, and will not require a monthly payment in excess of one/one hundredth of one percent (.01%) of the total fair market value of all the Units, said fair market value to be determined by use of the values (based upon 100% assessment value) placed on the Units by the Jefferson County Property Valuation Administrator or such other governmental officer as may succeed to his duties as they now exist, on January 1st of the initial loan year, and shall not take into consideration any loss of value arising out of destruction to property being restored from the proceeds of the loan. When it is necessary to effect such a loan, the Board may pledge, as security thereon, its rights to receive that part of the monthly Common Expenses income that is necessary to amortize the payoff of the loan.

27. Eminent Domain. The following provisions shall control upon any taking by eminent domain.

27.1 In the event of any taking of an entire Unit by eminent domain, the owner of such Unit and his mortgagee, as their interests may appear, shall be entitled to receive the

award for such Unit taking and, after acceptance thereof, the Unit Owner shall be divested of all interest in the Regime and Property. In the event that any condemnation award shall become payable to any owner whose Unit is not wholly taken by eminent domain, then such award shall be paid by the condemning authority to the Board on behalf of such owner. In that event, the Board shall rebuild the Unit as is necessary to make it habitable and remit the balance, if any, of the condemnation proceeds pertinent to such Unit to the Unit Owners, and his mortgagee(s), as their interests may appear. If Indoor Parking Spaces are taken in connection with the taking of a Unit, the Council and Unit Owner shall participate in the award as their interests appear.

27.2 If there is any taking of any portion of the Property other than any Unit, the condemnation proceeds relative to such taking shall be paid to the Board on behalf of the Council and/or Developer and/or mortgagee holding a mortgage against the portion taken, as their interests appear. The affirmative vote of more than 75% of the Co-owners shall determine whether to rebuild, repair or replace the portion so taken or to take such other action as they deem appropriate. If no such affirmative vote is obtained, such condemnation proceeds shall be remitted to the Developer and the Unit Owner in accordance with their respective percentages of common interest.

27.3 In the event the Regime continues after taking by eminent domain, then the remaining portion of the Regime shall be re-surveyed and the Master Deed amended accordingly by the Board on behalf of the Council, and, if any Unit shall have been taken,

then the amended Master Deed shall reflect such taking and shall proportionately readjust the percentage of common interest of the remaining Unit Owners based upon the percentage of the floor area of each individual Unit of the remaining floor area of the whole Property.

27.4 Anything to the contrary herein contained notwithstanding, and with reference to the taking of a Unit or Common Elements pursuant to eminent domain, each Unit Owner shall have individually all statutory rights of appraisal, negotiation, and all rights with reference to any condemnation suit being filed. Unless each Unit Owner specifically designates in writing the Board or any other person to act for him in the condemnation, such Unit Owner must be dealt with individually, and the Board shall not have the rights of the individual Unit Owners. With reference to any Common Elements being taken by eminent domain, however, the Board shall have the right to allocate the proceeds to individual Unit Owners or for Common Element purposes (purchase, repairs or restoration, etc.) as the Board deems fair and reasonable.

28. Failure to Enforce. No terms, obligations, covenants, conditions, restrictions, or provisions imposed hereby or contained herein shall be abrogated or waived by any failure to enforce the same, no matter how many violations or breaches may occur.

29. Notice. Notices required or permitted to be given to the Council, the Board, the Developer, or any Unit Owner shall be deemed validly delivered only if said notice is signed and

dated by the party giving said notice, and (i) if given to the Board by being personally delivered to any officer of the Board, and (ii) if given to any Unit Owner by being personally delivered to the Unit Owner, and (iii) if given to the Developer by being personally delivered to an officer of the Developer, and (iv) if given to Mortgagees by being personally delivered to an officer of the Mortgagees. In lieu of such personal delivery, the notice may be sent by Registered or Certified Mail, return receipt requested, addressed to a proper address of the party to whom said notice is given.

30. Amendments.

30.1 If, before Developer's transfer of control, it is found (i) that an error exists on the part of the draftsman of this instrument, builder, developer, architect, or on the part of the engineer, or (ii) that a final mathematical adjustment to the percentage interests is required, or (iii) in order to have this instrument comply with any requirements of any Federal or State agencies insuring or accepting mortgages on Units, or (iv) if Developer deems in its sole discretion that such amendment would be beneficial to the Regime as a whole, or to the success of the project, an amendment setting forth the error and correction or other amendmenet(s) may be filed by Developer without the consent of any Unit Owner, and shall become part of this Master Deed. The Unit Owner, by acceptance of his conveyance, irrevocably appoints the Developer as his attorney in fact to execute such documents as are necessary to effect such amendment. Further

changes may be made to this Master Deed by amendment procedures provided for herein.

30.2 After Developer's transfer of control, the provisions of this Master Deed may be amended, changed, or modified by an instrument in writing setting forth such amendment, change, or modification signed and acknowledged by at least seventy-five (75%) percent of the Unit Owners and by at least seventy-five (75%) percent of all first mortgagees having bona fide liens of record against any Unit. The Bylaws separately adopted as contained in the separate Bylaws document may be amended as set forth in said separate Bylaws.

30.3 Any amendment, change, or modification of this Master Deed shall not be contrary to any provisions of the Act, and shall be effective upon recordation thereof, and any such amendment, change or modification shall not adversely affect any rights of Developer.

31. Severability. If any provision hereof, or of the Bylaws of the Council, is declared to be in violation of any law, by any court of competent jurisdiction, this shall not impair or affect in any manner the validity and enforceability of any of the other provision of this Master Deed, Bylaws of the Council, and all of the sections and provisions hereof are hereby declared to be severable.

32. Construction of Provisions. The provisions of this Master Deed shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first-class condominium Regime, to comply with the

Act, and to be consistent with the Developer's rights and objectives to develop the Property and Regime, and administer same, consistent with the objective of completing and selling all Units.

33. Headings. The headings of the sections of this Master Deed are for convenience only and do not alter or limit any of the provisions of this Master Deed.

34. Gender and Number. The use of pronouns in masculine gender in this Master Deed shall be read in the feminine gender wherever appropriate. The use of singular or plural pronouns or nouns in this Master Deed shall be read interchangeably where appropriate.

35. Rights of Mortgagees, Insurers or Mortgage Guarantors.

35.1 Mortgagees, insurers or guarantors of the mortgage on any Unit, subject to the provisions of Section 35.2, has the right to timely written notice of:

35.1.1 any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage;

35.1.2 any 60-day delinquency in the payment of assessments or charges owed by the owner of any Unit on which it holds the mortgage;

35.1.3 a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Board; and



35.1.4 any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

35.2 To be entitled to receive this information, the mortgagee, insurer, or guarantor must first send a written request to the Board, stating both its name and address and the unit number or address of the unit on which it has (or insures or guarantees) the mortgage.

36. Acceptance of Master Deed. Each Unit Owner, by acceptance of his deed accepts it subject to all easements, restrictions, conditions, covenants, reservations, liens and charges and accepts the rights, liabilities, powers and jurisdiction created or reserved by this Master Deed, the Act, Bylaws and any future amendments thereof. All easements, rights, benefits, covenants, liabilities and privileges herein granted, created, reserved or declared and all impositions and obligations herein imposed shall be covenants running with the Unit and shall bind and inure to the benefit of each person, firm, or association having any estate or interest in a Unit in like manner as though the provisions of this Master Deed were recited and stipulated in each deed to a Unit.

Each Unit Owner by execution of a contract to purchase a Unit, or by acceptance of a Deed for a Unit, irrevocably appoints Developer, until Developer's Transfer of Control, as the lawful attorney in fact for and in the name and stead of the Unit Owner, and as the irrevocable Proxy of the Unit Owner, in order for Developer to perform any and all acts and execute any and all documents in order to accomplish all acts and powers granted in

this Master Deed to Developer, Board or Council. All such acts performed and documents executed by Developer, as such attorney for Unit Owner, shall be binding and have such force and effect as if executed directly by Unit Owner. All such irrevocable proxies are coupled with an interest.

37. Consent of Lienholder. Citizens Union Bank, holder of the mortgage on the real estate which is subject to this Master Deed, joins herein only for the purpose of consenting, and does hereby consent to the submission of the Property to a Kentucky Condominium Property Regime and to the provisions of this Master Deed. Said mortgage is dated Feb. 8, 1990, recorded Feb 9, 1990, in Mortgage Book 2854, Page 499-501 in the Office of the County Clerk of Jefferson County, Kentucky. The Developer and said Bank agree that the lien rights of Citizens Union Bank under said mortgage are transferred to the individual Units of the Regime upon the recording of this Master Deed. If a mortgage covers land shown on Exhibit C at the time such land is added to the Regime, the lien rights of said mortgage will be transferred to the individual Units upon the expansion of the Regime becoming effective. Said mortgage also remains effective as to any mortgaged real estate not part of the Regime.

IN TESTIMONY WHEREOF, the said Developer and Citizens Union Bank have caused this Master Deed to be signed by the

duly-authorized officer of each on their behalf, all done at  
Louisville, Kentucky, as of the date and year first above written.

CITIZENS UNION BANK

BERKLEY PARTNERS 1989-1, A Kentucky  
General Partnership

By: Shelly Kiner  
Title: Vice President

By: J.T. Sims  
J.T. Sims, Managing General  
Partner

COMMONWEALTH OF KENTUCKY  
COUNTY OF JEFFERSON

I hereby certify that the foregoing instrument was  
acknowledged before me this 3<sup>rd</sup> day of August, 1990, by  
J.T. Sims, Managing General Partner of BERKLEY PARTNERS 1989-1, a  
Kentucky General Partnership, as the true act and deed of said  
Partnership.

My commission expires July 1, 1993.

Jennifer J. Tolstean  
Notary Public, State-at-Large, KY

COMMONWEALTH OF KENTUCKY  
COUNTY OF SHELBY

I hereby certify that the foregoing instrument was  
acknowledged before me this 3 day of August, 1990, by  
Shelly Kiner, as Vice-President of Citizens Union  
Bank on behalf of said Corporation, as the true act and deed of  
said Corporation.

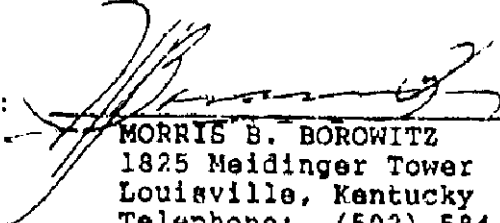
My commission expires: 1-20-93

Paula Morris  
Notary Public, State-at-Large, KY

THIS INSTRUMENT PREPARED BY:

BOROWITZ & GOLDSMITH

By:

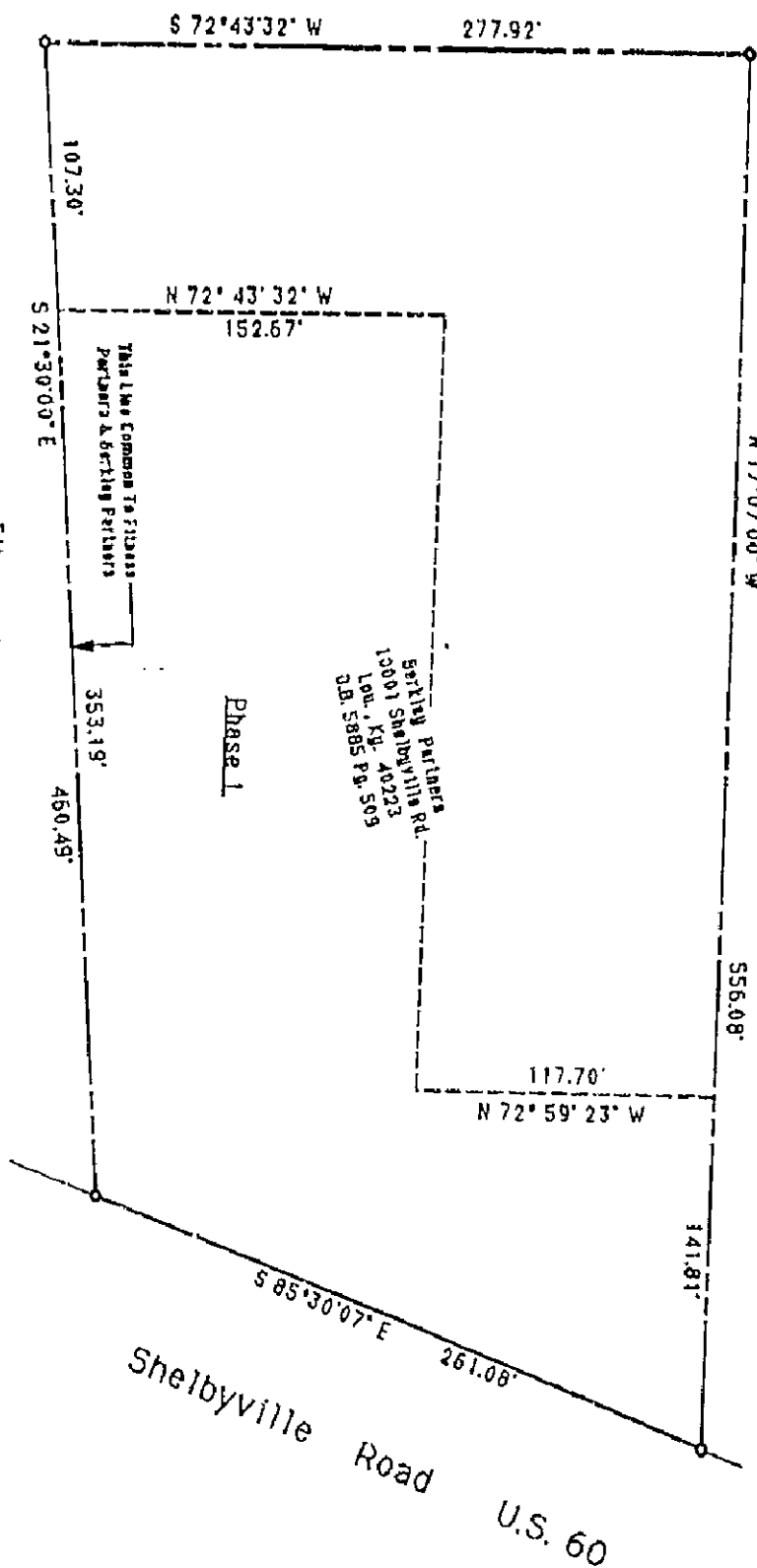
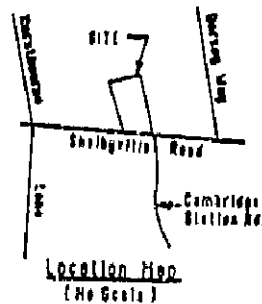
  
MORRIS B. BOROWITZ  
1825 Meidinger Tower  
Louisville, Kentucky 40202  
Telephone: (502) 584-7371

3320J

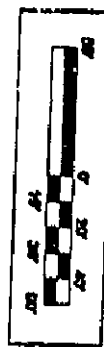
7/30/90

CONFORMED TO FNMA REQUIREMENTS

Benjamin Gabbard  
 Rt. 1 200 Dorsey Way  
 Lou., Ky. 40223



Fitness Partners Ltd.  
 9913 Shelbyville Rd.  
 Louisville, Ky. 40223  
 D.B. 5532 Pg. 784



Promenade Court Townhomes, A Condominium

PLAT A

Developer - Berkley Partners 1989-1  
 A Kentucky General Partnership  
 Engineer - Development Planning & Engineering, Inc.

Project -> Promenade Court Townhouses, A Condominium  
Phase 1, Building 1

Unit no.	Unit Total (square foot)	Percentage of Common Interest
136	2724.10	13.734%
138	2723.59	13.731%
140	2237.06	11.278%
142	2238.93	11.288%
144	2724.28	13.735%
146	2713.28	13.679%
148	2237.13	11.279%
150	2236.92	11.277%

EXHIBIT B-11

BOOK 43 PAGE 6-11  
FILE NO. 598

CONDOMINIUM  
OR  
APT. OWNERSHIP

*Mullins*

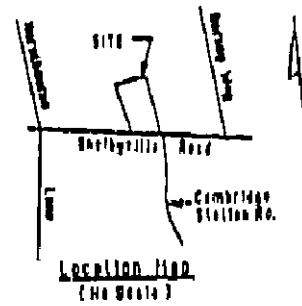
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1000000  
*Baronville*  
*7/4/21*

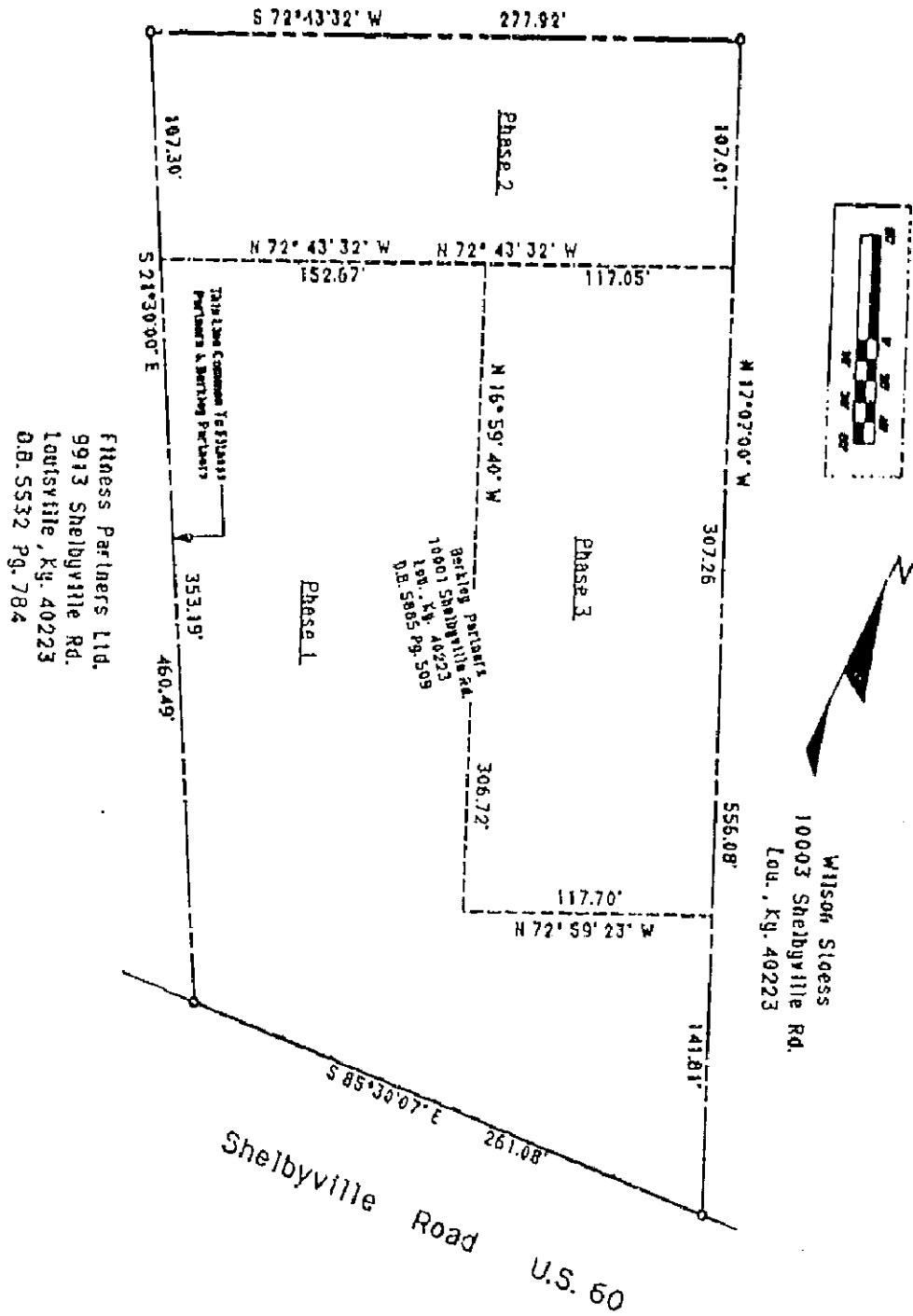
Totals ->

19835.29

100.00%



Benjamin Gabbard  
 Rt. 1 200 Dorsey Way  
 Lou., Ky. 40223



Fitness Partners Ltd.  
 9913 Shelbyville Rd.  
 Louisville, Ky. 40223  
 O.B. 5532 Pg. 784

Promenade Court Townhomes, A Condominium

Phase Development Plat

Developer - Berkley Partners 1909-1  
 A Kentucky General Partnership

Engineer - Development Planning & Engineering, Inc.

EXHIBIT C