

**MASTER DEED AND DECLARATION**  
**OF**  
**HORIZONTAL PROPERTY REGIME**  
**SMYRNA PLACE CONDOMINIUMS**

**THIS MASTER DEED**, and Declaration (hereinafter referred to as "Master Deed" Made and entered into the County of Jefferson, State of Kentucky, on this 19<sup>th</sup> day of August, 2004, by OAG PROPERTIES, LLC, a Limited Liability Company, (hereinafter referred to as the "Grantor").

**WITNESSETH**

WHEREAS, the Grantor is the owner in fee simple absolute of land and premises with improvements, easements, rights of way and appurtenances thereto belonging, situate, lying and being in Jefferson County, Kentucky (which land and premises together with certain buildings and improvements heretofore constructed thereon, easements, rights of way and appurtenances thereto is hereinafter referred to as the "Property") and which land and premises is more particularly described as:

BEING Tract 2 as shown on the Minor Subdivision Plat approved by the Louisville and Jefferson County Planning Commission on the 6<sup>th</sup> day of December, 1999 and of record in Deed Book 7377, Page 150 in the Office of the Jefferson County Clerk.

BEING the same property conveyed to the Grantor by Deed dated September 11, 2003 and recorded in Deed Book 8261, Page 862, in the office aforesaid.

WHEREAS, it is the express desire and intention of the Grantor to submit the said property to a horizontal property regime pursuant to the Horizontal Property Law, Sections 381.805 through 381.910 of the Kentucky Revised Statutes, as amended, (hereinafter referred to as the "Act") which shall be known as SMYRNA PLACE CONDOMINIUMS as a horizontal property regime pursuant to the Act and does hereby submit the property to said Condominium in accordance with the terms and conditions of this Master Deed and Plans recorded in the Office of the County Clerk of Jefferson County, Kentucky, in Apartment Ownership Book 103, Pages 83 through 84, which Plans are hereby incorporated by reference herein and made a part hereof.

NOW, THEREFORE,

**FIRST**: The Grantor does hereby declare, establish and create SMYRNA PLACE CONDOMINIUMS as a horizontal property regime pursuant to the Act and does hereby submit the property to said Condominium in accordance with the terms and conditions of this Master Deed and the Plans recorded in the Office of the County Clerk of Jefferson County, Kentucky, in Apartment Ownership Book 103, Pages 83,

through 84, which Plans are hereby incorporated by reference herein and made a part hereof.

**SECOND:** The Property is being submitted herewith in its entirety. The present improvements consist of Two building (s) containing Twelve (12) dwelling units as more particularly described hereinafter in Paragraph **THIRD** (and hereinafter referred to as "Units"). The areas of the property and of the Buildings are shown on the recorded Plans. Each Unit is capable of individual utilization; having its own exit to the common elements of the Condominium. Each of the Units, as more particularly described herein, is hereby declared to be held in fee simple and may be retained, occupied, conveyed, transferred, encumbered, inherited or devised in the same manner as any other parcel of real property independent of the other individual units, by or to one or more owners (herein referred to as "Co-Owners"), each Co-Owner being a person, corporation, trust or any other legal entity or any combination thereof which obtains a particular and unique property right in the Unit or Units and an undivided interest in the General and Limited Common Elements as defined hereinafter in Paragraph **THIRD**, all of the above in accordance with the provisions of the Act and subject to the conditions herein set forth.

**THIRD:** The Condominium is hereby divided in the manner and to the extent described herein, and in the Recorded Plans into (a) Units; (b) General Elements; and (c) Limited Common Elements.

(a) **Units.** "Unit" means an enclosed space consisting of one or more rooms occupying one or more floors in a building and attached garage, if any, as shown on the floor plans hereinabove described, each of which is capable of individual utilization, with its own exit to the common elements of the Condominium. The lower vertical boundary of any such Unit is a horizontal plane (or planes), the elevation of which coincides with the elevation of the upper surface of the unfinished surface of the first floors or sub floors thereof, extended to intersect the lateral or parametrical boundaries thereof. The upper vertical boundary of any such Unit is a horizontal plane (or planes), the elevation of which coincides with the lower surface of the unfinished ceiling of the upper most floor thereof, extended to intersect the lateral or parametrical boundaries thereof. The lateral or parametrical boundaries of any such Unit and vertical planes which coincide with the unexposed surfaces of the perimeter walls of the Unit, to include the perimeter dry wall, plenums, windows and doors thereof, extended to intersect the upper and lower vertical boundaries of the Unit. Mechanical equipment and appurtenances located within any one Unit and designated to serve only the Unit, such as appliances, range hoods, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, water heaters, fixtures and the like, shall be considered part of the Unit as shall all decorated interior surfaces of all interior structural walls, floors and ceilings consisting of, inter alia and as appropriate, wallpaper, paint, plaster carpeting and tiles. All pipes, wires, conduits or other public utility lines or installations constituting a part of the overall system designed for the service of one or more than one particular Unit, and any structural members or portion of any Unit or building, and any other property of any other kind, including fixtures and appliances within any Unit, which are not removable without jeopardizing the soundness, safety or usefulness of the remainder

of the building, shall be deemed to be part of the General Common Elements as hereinafter described and shall not be a part of any Unit.

- (b) **General Common Elements**, The General Common Elements shall consist of those areas and facilities which are not Units as hereinabove defined or Limited Common Elements as hereinafter defined: (i) the foundations, roofs, slabs, chimneys, perimeter walls, bearing walls main walls, structural interior walls and partitions, beams, public utility lines and other service installations, regardless of location, columns, girders, and supports: (ii) the central service systems for distribution of power, light gas, hot and cold water, including but not limited to pipes, ducts, flues, chutes, exhaust shafts, interior down spouts, conduits, cable and wire outlets and other utility lines: (iii) the land in fee simple described hereinabove, the parking areas, streets, curbs, roads, walkways, paths, trees, shrubbery, gardens, lawn areas, exterior lighting and devices of common use or necessary to the existence, upkeep, use and safety of the buildings and other Condominium property.

The General Common Elements shall be owned in common by all of the Co-Owners. The General Common Elements shall remain undivided and no Co-Owner shall bring any action for partition or division of the whole or any part thereof except as otherwise provided by law.

- (c) **Limited Common Elements**, The Limited Common Elements consist of those so designated on the floor plans and such others as are agreed upon by a majority of the Co-Owners to be reserved for the exclusive use of a certain Unit or certain number of Units to include terraces, patios or balconies, and any assigned parking area, if any. The semi-finished attic areas are not included as a part of individual Units, but, however, are designated as Limited Common Elements. These Limited Common Elements are reserved for the use and benefit of the Co-Owners of the Units to which they are adjacent or to which they are declared to be appurtenant by appropriate designation in the floor plans or such other as shall be agreed upon by majority of the Co-Owners to be reserved for the exclusive use of a certain Unit or number of Units. Each Limited Common Element is owned in common by all of the Co-Owners but restricted to the exclusive use, and benefit of the Unit or Units to which it is declared to be appurtenant.

**FOURTH:** Each Co-Owner shall have an undivided ownership interest in the General and Limited Common Elements and shall share, as assessed in accordance with the provisions of the By-Laws, in the expenses of operating and maintaining the General and Limited Common Elements, except insofar as the By-Laws require the Co-Owner of a Unit, to which the use and enjoyment of Limited Common Elements are reserved, to be responsible for the normal maintenance of those particular Limited Common Elements, in the accordance with the percentage attributable to such Co-Owner's Unit, as hereinafter described.

The use of the General and Limited Common Elements shall be limited to the Co-Owners in residence and to their tenants in residence. The use of the General and Limited Common Elements shall be governed by the By-Law and the rules and regulations as adopted from time to time by the Council.

Tabulated below, are the Unit designations corresponding to and reflected in the Floor Plan of the Condominium containing the percentages of square foot area of each of the Units, including its proportionate share of the area of the General and Limited Common Elements (which percentage is sometimes referred to in this Master Deed and the By-Laws as the "Individual percentage Interest") is listed below by Unit.

**PHASE 2  
BUILDING 2  
UNIT NOS.**

	<b>AREA (SQ. FT.)</b>	<b>PERCENTAGE</b>
8200	1074	7.96%
8202	1199	8.89%
8204	1124	8.33%
8206	1127	8.35%
8208	1252	9.28%
8210	911	6.75%

**PHASE 3  
BUILDING 3  
UNIT NOS.**

	<b>AREA (SQ. FT.)</b>	<b>PERCENTAGE</b>
8336	1073	7.95%
8338	1217	9.02%
8340	1112	8.24%
8342	1116	8.27%
8344	1231	9.12%
8346	1056	7.83%

**FIFTH:** The administration of the Condominium shall be by the Council in accordance with the provisions of this Master Deed and with the provisions of the By-Laws. All of the Co-Owners shall together constitute the Council. Every Co-Owner or group of Co-Owners shall automatically be a member of the Council and shall remain a member of the Council until such time as his or her ownership ceases for any reason, at which time his or her membership in the Council shall automatically cease. Other than as an incident to a lawful transfer of title to a Unit, membership in the Council shall be non-transferable and any attempted transfer shall be null and void. The Council of Co-Owners and governing body has heretofore been incorporated as a non-stock, nonprofit corporation in the administration of the Project with the membership and voting rights of such corporation being the same as membership and voting rights defined herein. The corporate name of the Council of Co-Owners is and shall be "**Smyrna Place Condominiums Association, Inc.**".

The above paragraph notwithstanding, the administration of the Condominium, including the adoption and amendment of By-Laws, amendment of the Master Deed, assessment of Common expenses, and all other matters relating to the governing of the Condominium shall be vested in the Grantor until all of the units have been conveyed, five (5) years after the first Unit has been conveyed, or until the Grantor elects to surrender this power to the Co-Owners, whichever event first occurs. Until that time, the Grantor shall constitute the Council of the Co-Owners and the Board of Administration, and shall possess the irrevocable proxy of the Co-Owners (which proxy each Co-Owner gives the Grantor upon acceptance of a deed to a Unit), all Co-Owners agreeing to such administration by the Grantor in accepting Unit conveyances.

**SIXTH:** If any part of the General Common Elements encroaches upon any Unit of Limited Common Element, a valid easement for such, encroachment, the maintenance, repair and replacement thereof, so long as it continues, shall and does exist. In the event that any building is partially or totally destroyed and is then rebuilt in substantially the same location, and as a result of such rebuilding any portion of the General and Limited Common Elements encroaches upon the Units, or any of them, or vice versa, or any of the Units encroach upon another Unit, a valid easement for such encroachment and for the maintenance thereof, so long as it stands, shall and does exist. Easements are hereby reserved through each of the Units for the benefit of other Units as may be required for structural repairs, repair and replacement of any and all pipes, wires conduits, utility lines, and plumbing, in the locations as presently installed in the Unit, with rights of ingress and egress, or as subsequently approved in writing by the Council of Co-Owners in accordance with procedures set forth in the By-Laws, the Co-Owner of the burdened Unit and any mortgagee having a security interest therein. An easement in favor of the Council of Co-Owners, exercisable by the Board of Administration and its agents, 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 Condominium or, in the event of emergency at any time for necessary action to prevent damage to any part of the Project shall and does hereby exist. This easement shall include the right of entry to enforce the rules and regulations of the Board.

**SEVENTH:** The undivided interest in the General and Limited Common Elements shall not be separated from the Unit of which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest may not be expressly mentioned or described in the conveyance or other instrument.

**EIGHTH:** Each Co-Owner shall comply with the provisions of this Master Deed, the By-Laws, decisions and resolutions of the Board and of the Council or its representatives, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolution shall be grounds for an action to recover sums due, for damages or for injunctive relief or for any other legal or equitable relief maintainable by the Council, or Board of Administration on behalf of the Council or, in proper case, by an aggrieved Co-Owner.

**NINTH:** All present or future owners, including the Grantor as owner of any unsold Units as such relates to said unsold Units, tenants, future tenants, or any other person who might use the facilities of the Condominium in any manner are subject to the provisions of this Master Deed and the mere acquisition or rental of any of the Units of the condominium or the mere act of occupancy of any of said units shall signify that the provisions of this Master Deed are accepted and ratified.

**TENTH:** A mortgagee or other purchaser of a Unit who obtains title by reason of foreclosure of a mortgage or other security interest covering a Unit, his successors or assigns, shall not be liable for assessments by the Council which became due prior to his acquisition of title, it being understood, however, that the above shall not be construed to prevent the Council from filing and claiming liens for such assessments and enforcing same as provided by law, and that such assessment liens shall be subordinate to such mortgage or security interest.

**ELEVENTH:** The common expenses assessed against as Unit by the Council of Co-Owners shall constitute a lien against the Unit so assessed and shall be the personal obligation of the Unit Owner. In a voluntary conveyance of a Unit, the grantor of the Unit shall remain personally liable for all unpaid assessments by the Council against the latter for his share of the common expenses up to the time of the grant or conveyance, however said prior assessments shall not become the personal obligation of a grantee in a voluntary conveyance unless assumed by said grantee. Any such grantee shall be entitled to a statement from the managing agent or Board as the case may be, setting forth the amount of the unpaid assessments against the grantor due the Council and the Unit conveyed shall not be subject to a lien for, any unpaid assessments made by the Council against the grantor in excess of the amount therein set forth.

**TWELFTH:** The dedication of the Condominium to the Plan of Ownership herein described shall not be revoked, nor shall the Condominium be removed from the Plan of Ownership, or any of the provisions herein amended unless all of the Co-Owners and holders of all of the deeds of trust, mortgages, or other security interest in any Unit unanimously agree to such revocation, amendment or removal of the Condominium from the Plan by duly recorded instruments, except as provided in those portions of Article VI of the By-Laws that deal with destruction of the Units, or by operation of law.

**THIRTEENTH:** The submission of the property is subject to all covenants, conditions, easements, and restrictions now recorded or hereafter placed on record. The Developer may, until it relinquishes control and thereafter the Board representing the Council of Co-Owners may execute documents to grant easements for the benefit of the condominium or any parts thereof.

**FOURTEENTH:** The agent for service of process shall be the President of the Council of Co-Owners or the Grantor so long as it retains control of the Condominium.

**FIFTEENTH:** It is hereby declared that this Deed covers Building 1 of Phase 1 of an intended incremental development of Eleven (11) phases as shown on the Reserved Space in Apartment Ownership Book 103, Pages 83 through 86, File # 1852

**SIXTEENTH:** There is hereby reserved unto Grantor an irrevocable Power of Attorney, coupled with an interest, for the purpose of reallocating the percentage interest and voting rights appurtenant to each of the condominium units in the condominium in accordance with the provisions of this declaration and to execute, acknowledge, and deliver such further instruments and amendments as may from time to time be required in order to accomplish the purposes of this Article. Each owner and each mortgagee of a condominium unit in the Condominium shall be deemed to have acquiesced in the amendments to this declaration and in amendments to the Condominium Plat for the purpose of adding additional condominium units and common elements to the condominium in the manner set forth in this Article, and shall be deemed to have granted unto the said Grantor an irrevocable Power of Attorney, coupled with such an interest to effectuate, execute, acknowledge and deliver any such amendments, and each unit owner and mortgagee shall be deemed to have agreed and covenanted to execute such further instruments, if any, as may be required by the Grantor, its successors, and assigns, to properly accomplish such amendments. The Grantor hereof expressly reserves the option and right to expand this condominium pursuant thereto.

The consent of unit owners of the project shall not be required for such expansion and the Grantor may proceed with such expansion as its sole option.

This option to expand the condominium project shall expire six (6) years after the settlement of the first unit to be sold, if not sooner exercised; however, the Grantor may, at any time prior to the expiration of such period, terminate its option to expand by recording among the land records wherein this Declaration is recorded an executed and notarized document terminating this option.

**SEVENTEENTH:** Nothing contained herein shall be deemed or construed to dedicate to private or public use or to create a general scheme of development in or to vest rights and/or benefits with respect to any other property owned or hereafter acquired by the Grantor, its successors and assigns.

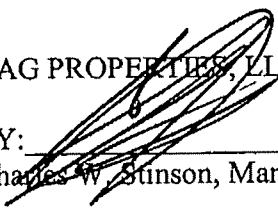
**EIGHTEENTH:** It is the intention of the Grantor that the provisions of this Master Deed are severable so that if any provision, condition, covenant, or restriction thereof shall be invalid or void under any applicable federal, state or local law or ordinance, the remainder shall be unaffected thereby. In the event that any provision, condition, covenant, or restriction thereof is, as of the time of recording this Master Deed, void, voidable or unenforceable as being contrary to any applicable federal, state or local law or ordinance, the Grantor, its successors and assigns and all persons claiming by, through or under this Master Deed covenant and agree that any future amendments or supplements to the said laws having the effect of removing the invalidity, violability, or unenforceability, shall be deemed to apply retrospectively to this Master Deed thereby operating to validate the provisions of this instrument which otherwise might be invalid

and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein declared as fully as if they had been in effect at the time of the execution of this instrument.

**NINETEENTH:** It is the further intention of the Grantor to cause the Condominium to be qualified under the requirements of FHLMC, FNMA, HUD, FHA, and VA and other similar programs to assist the Unit Owners in financing the purchase of the Units in the Condominium and in the re-sale of such Units. It is therefore reserved unto the Grantor an irrevocable Power of Attorney, coupled with an interest for the purpose of amending this declaration so that it shall comply with the requirements of such governmental and quasi-governmental agencies and to execute, acknowledge and deliver such instruments and amendments as may be required in order to accomplish the purposes of the Article. Each owner and each mortgagee of a condominium unit in the Condominium shall be deemed to acquiesced in the amendments to this declaration for the purpose of acquiring FHLMC, FNMA, HUD, FHA, VA and other similar program approvals in the manner set forth in this Article, and shall be deemed to have granted unto the said Grantor an irrevocable Power of Attorney, coupled with such interest to effectuate, execute, acknowledge and deliver any such amendments, and each unit owner and mortgagee shall be deemed to have agreed and covenanted to execute such further instruments, if any, as may be required by the Grantor to properly accomplish such amendments. The Grantor hereof expressly reserves the right to secure the approvals set out above.

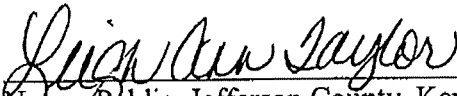
The consent of unit owners of the project and the mortgagee of any unit shall not e required for such amendments.

IN TESTIMONY WHEREOF, Witness the signature of the Grantor this 19<sup>th</sup> day of August, 2004.

OAG PROPERTIES, LLC  
BY:   
Charles W. Stinson, Managing Member

STATE OF KENTUCKY )  
  )  
COUNTY OF JEFFERSON )

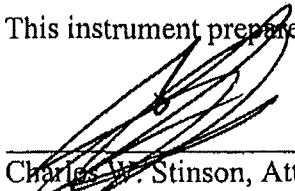
The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of August, 2004 by Charles W. Stinson, as Managing Member of OAG PROPERTIES, LLC, A Limited Liability Company, on behalf of said company.

  
Notary Public, Jefferson County, Kentucky  
My commission expires: 4-23-08



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This instrument prepared by:



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Charles W. Stinson, Attorney at Law  
10613 Elder Lane  
Louisville, KY 40059

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## SMYRNA PLACE

	SQUARE FEET	PERCENTAGE
<b>BUILDING 2</b>		
8200	1074	7.96%
8202	1199	8.89%
8204	1124	8.33%
8206	1127	8.35%
8208	1252	9.28%
8210	911	6.75%
<b>TOTAL</b>	<b>6687</b>	

<b>BUILDING 3</b>		
8336	1073	7.95%
8338	1217	9.02%
8340	1112	8.24%
8342	1116	8.27%
8344	1231	9.12%
8346	1056	7.83%
<b>TOTAL</b>	<b>6805</b>	

**TOTAL**                    13492                    100.00%