

EXHIBIT D

BY-LAWS

OF

DKX PRIVATE HANGARS UNIT OWNERS ASSOCIATION

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ARTICLE I. INTRODUCTION

DKX Private Hangars Unit Owners Association (hereinafter referred to as the "Association") is a corporation not for profit, organized and existing under the laws of the State of Tennessee for the purpose of administering the DKX Private Hangars project created by the Owner (R Squared Construction, a general partnership, sometimes referred to herein and in the Project Instruments as "the Developer") by means of the Master Lease, as lawfully amended and/or supplemented from time to time (hereinafter referred to as the "Master Lease"). Each Unit Owner has leasehold title to such Unit Owner's Unit as lessee pursuant to an Assignment and Assumption Agreement between the Owner and the Unit Owner (the "Assignment Agreement"). Pursuant to each Assignment Agreement, the Owner has assigned to the Unit Owner all of the Owner's right, title and interest in said Unit to the respective Unit Owner. The Owner has a leasehold interest in the Project, which is assignable, pursuant to that certain Lease and Operating Agreement dated as of _____, 2003 (the "Prime Lease") by and between the Owner and the Metropolitan Knoxville Airport Authority (the "Authority")

ARTICLE II. GENERAL PROVISIONS

Section 1. Definitions. Unless expressly indicated to the contrary, the terms used herein shall have the meanings given to them in the Master Lease.

Section 2. Conflicts. In the event of any conflict between these By-Laws, as amended from time to time, and the Master Lease, the Master Lease shall control.

Section 3. Application. All present and future Unit Owners and mortgagees of record of the Units located within the Project, as well as members of their families, their guests, tenants, licensees, and invitees, and any other persons who may use the Project in any manner are subject to the Master Lease, these By-Laws, the House Rules promulgated hereunder, and the Prime Lease (collectively, the "Project Instruments"), as the provisions of each of said instruments may lawfully be amended from time to time. The acceptance of a legal or equitable interest in a Unit, the occupancy of a Unit, as permitted in the Master Lease, or the entering into an Assignment Agreement to acquire a Unit shall constitute an agreement that the Master Lease, these By-Laws, the House Rules and the Prime Lease, as each may lawfully be amended from time to time, are accepted, ratified, and will be strictly observed.

Section 4. Membership. All Unit Owners and Developer, so long as it is deemed the Owner of any Unit(s) pursuant to the provisions of the Master Lease shall be members of the Association and shall continue to be members until they cease to be a Unit Owner. Transfer of a

Unit, whether such transfer occurs voluntarily or by operation of law, shall immediately and automatically terminate the transferor's membership in the Association, except to the extent that such transferor retains an interest in any other Unit(s); provided, however, that the transfer of a Unit shall not terminate the liability of the transferor for any unpaid Assessments or other amounts due the Association. The transfer of a Unit shall be deemed to have occurred upon the recordation in the Office of the Register of Knox County, Tennessee, of the deed or other instrument transferring title from the transferor to the transferee, the filing of a true and correct copy of such instrument with the Manager, on behalf of the Association, and the payment of any transfer fees required or authorized by the law or these By-Laws. The transferee shall, immediately and automatically upon the occurrence of all of the foregoing events, become a member of the Association. If a Unit is owned by more than one (1) person, then all of the persons so owning said Unit shall be members of the Association and shall be eligible to hold office, attend meetings, and exercise all of the other rights of a Unit Owner which are granted by the Project Instruments; provided, however, that each Unit shall have only one vote, which shall be cast only by the "voting member," as provided herein.

ARTICLE III. ASSOCIATION MEETINGS

Section 1. Annual Association Meetings. An organizational meeting of the Association shall be held within twelve (12) months following the date upon which the first Assignment Agreement conveying a Unit in the Project is recorded in the Office of the Register of Knox County, Tennessee. Thereafter, an annual Association meeting shall be held within the first ninety (90) days of each calendar year, at such date and time as the Board of Directors shall designate, commencing with the calendar year immediately succeeding the year in which the organizational meeting was held. At the organizational meeting and at all subsequent annual meetings, the members shall elect a Board of Directors in accordance with the provisions of these By-Laws, subject to Article IV, Section 2 below, and shall transact such other business as may properly come before them.

Section 2. Special Association Meetings. Special Association meetings for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President, and shall be called by the President or the Secretary at the request, in writing, of a majority of the Board of Directors, or at the request, in writing, of members representing twenty percent (20%) of the total votes eligible to be cast by all of the members of the Association. Each such request shall state the purpose or purposes of the proposed meeting. Any business transacted at a special Association meeting shall be confined to the subject(s) described in the notice thereof.

Section 3. Place of Meetings. All Association meetings shall be held at the Project or at such other suitable place which is reasonably convenient to the members as shall be designated by the Board and stated in the notice of the meeting. Each Association meeting shall be open to all of the members and such other persons as are not expressly excluded from such meeting by the affirmative vote of members representing a majority of the total votes eligible to be cast by the members present at such meeting, either in person or by proxy.

Section 4.

Notice of Meetings.

(a) Unless a member waives in writing his right to receive notice of an Association meeting, the Manager shall mail or deliver written notice of the annual and any special meetings of the Association to each member, and to the Authority, at his or its address as shown in the records of the Association. Such notice, which shall incorporate an identification of agenda items, shall be delivered or mailed to each member and the Authority by first class mail, postage prepaid, at least fourteen (14) days prior to the date of such meeting. Each such notice shall specify the time, date, and place of the meeting and shall also state whether it is an annual or a special meeting. In the case of a special Association meeting, the notice thereof shall briefly describe the business to be transacted or anticipated to be transacted at such meeting.

(b) In the event a Unit is owned by more than one person or entity, the Association shall provide notice, for meetings and all other purposes, to the address which one (1) or more of such co-Owners designate to the Association in writing or, if no such address is designated or such co-Owners do not agree on such a single address, to the address of any co-Owner contained on such co-Owners' Assignment Agreement.

(c) An Officer of the Association or the Manager shall provide an affidavit or United States Postal Service Certificate of mailing, to be included in the official records of the Association, affirming that the aforescribed notice was mailed or hand-delivered, in accordance with the provisions of this subsection, to each member at the address last furnished to the Association.

(d) Adequate notice of all Association meetings shall be posted in a conspicuous place at the Project at least fourteen (14) continuous days prior to the meeting date, except in an emergency.

(e) Notice of any Association meeting at which the amount of any Assessments to be levied against the members is to be considered shall contain a specific statement to such effect, along with a reference to the nature of any such Assessments.

(f) Upon receipt by the President of a written request therefor, any mortgagee of record shall be mailed a copy of each notice of an Association meeting. Upon notice being given in accordance with the provisions hereof, the failure of any member or mortgagee of record to receive actual notice of any Association meeting shall not in any way invalidate the meeting or any business transacted thereat.

Section 5. Quorum. Except as otherwise provided in the Project Instruments, the presence in person or by proxy of members representing a majority of Owners of Units shall constitute a quorum at all meetings of the Association. In the event a quorum is not present at any Association meeting at which Directors are to be elected, the meeting may be adjourned and reconvened within ninety (90) days for the sole purpose of electing Directors.

Section 6. Voting.

(a) Except as otherwise provided in the Master Lease, each member (including Developer with respect to any Unit(s) of which it is deemed the Owner, pursuant to the provisions of the Master Lease) shall be entitled to a vote which is equivalent to his undivided interest in the Common Elements of the Project, as set forth in Exhibit "C" to the Master Lease.

(b) Except as otherwise provided by law, the Master Lease, or by these By-Laws, the votes of members eligible to vote, present either in person or by proxy at any duly called Association meeting at which a quorum has been established, casting a majority of the total votes eligible to be cast by such members shall decide any question under consideration, and shall constitute the act of, and be binding upon, the Association.

Section 7. Designation of Voting Member. If a Unit is owned by more than one person, then only one (1) such person shall be entitled to cast the vote for such Unit. Such person shall be designated in a certificate, to be signed by each of the record Unit Owners of such Unit, and filed with the Manager (or the Secretary of the Association during any period of time in which the Association is temporarily without a Manager). If a Unit is owned by a corporation, the officer or employee thereof entitled to cast the vote of the Unit for the corporation shall be designated in a certificate which is signed by the president or a vice-president of said corporation and filed with the Manager (or the Secretary of the Association during any period of time in which the Association is temporarily without a Manager). The person so designated in such certificate who is entitled to cast the vote for a Unit shall be known as the "voting member." Such certificate shall be valid until revoked or until superseded by a subsequent certificate, or until a transfer of such Unit, whichever occurs earlier. If such a certificate is not on file for a particular Unit which is owned by more than one (1) person or entity, or a combination thereof, the following three (3) provisions shall apply:

(a) Such persons or entities may, but shall not be required to, designate a voting member.

(b) If such persons or entities do not designate a voting member, and if more than one (1) of the co-Owners of such Unit are present at a meeting, then any one (1) of them may cast the vote for their Unit; provided, however, that no vote for such Unit may be cast if any of the other co-Owners of such Unit promptly objects to the casting of such vote.

(c) If the co-Owners of a Unit do not designate a voting member and only one such co-Owner is present at an Association meeting (either in person or by proxy), then the person present may cast the Unit's vote, as though he owned the Unit individually, and without establishing the concurrence of the absent co-Owner(s) of such Unit.

Section 8. Proxies. Unless otherwise prohibited by law, votes may be cast by the members either in person or by proxy. All proxies shall be in writing, shall be signed and dated by the member entitled to vote (as set forth in Article III, Section 7 above), shall indicate the name of the person authorized to vote the proxy for such member, and shall be filed with the Secretary at or prior to the time of the meetings to which such proxies pertain. A proxy shall be effective only for the specific meeting for which it was originally given and any lawfully

adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. A proxy shall be revocable at any time in the sole discretion of the member who executed it. If a Unit is owned by more than one (1) person or entity, or a combination thereof, and if such co-Owners have not designated one (1) of them as the voting member, a proxy which designates a third person to cast their vote must be signed by each co-Owner.

Section 9. Order of Business. The order of business at all annual Association meetings shall be as follows:

- (a) Proof of notice of meeting;
- (b) Summary of business conducted and actions taken at preceding annual meeting;
- (c) Reports of Officers;
- (d) Reports of committees, if any;
- (e) Nomination of candidates for election to the Board of Directors;
- (f) Election of Directors;
- (g) Unfinished business; and
- (h) New business.

Section 10. Adjournment. Any Association meeting, whether or not a quorum is present, may be adjourned from time to time by the affirmative vote of members casting a majority of the total votes represented at said meeting, in person or by proxy. In the absence of a quorum, no other business may be transacted at such Association meeting; provided, however, that except as otherwise provided herein, any Association meeting which is adjourned due to the failure to establish a quorum shall be re-convened within thirty (30) days, and any business which properly could have been conducted at the original meeting, pursuant to the provisions hereof, may be conducted at the reconvention thereof, provided a quorum has been established. It shall not be necessary to give any notice of adjournment or of the business to be transacted at any reconvened meeting, other than by an announcement at the meeting at which such adjournment occurs.

Section 11. Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of all Association meetings when not in conflict with the Master Lease, these By-Laws, the decisions of the President, or the rulings of the Board of Directors.

Section 12. Attendance By Manager and Representative of the Authority. Each Manager, as long as its Management Agreement with the Association remains in effect, shall be entitled to notice of all Association meetings, shall be entitled to attend the Association's meetings, and may designate such person(s) as it desires to attend such meetings on its behalf. The Authority shall be entitled to notice of all Association meetings, which may be attended by its designated representative.

ARTICLE IV. BOARD OF DIRECTORS

Section 1. Number, Term, and Qualification. The affairs of the Association shall be governed by a Board of Directors comprised of three (3) persons, each of whom, with the exception of the initial Directors appointed by Developer, pursuant to Article IV, Section 2 below, shall be a member of the Association. For purposes of this Section, all officers and directors of a corporate member and all general partners of a general or limited partnership shall be considered members and shall qualify to serve on the Board. The number of Directors may be increased or decreased from time to time by an amendment to these By-Laws; provided, however, that the Board shall be comprised of at least three (3) but no more than seven (7) persons, and the Board shall at all times be comprised of an odd number of Directors. No decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director.

Except for those Directors appointed by Developer, each Director shall serve for a term of three (3) years or until the election of his successor, whichever occurs later, or until his death, incapacity, resignation, or removal; provided, however, that initially one (1) of the first Directors elected by the members shall serve for a one (1) year term, one (1) such Director shall serve for a two (2) year term, and the remaining such Director first elected by the members shall serve for a three (3) year term, and thereafter, the term of no more than one (1) of the Directors shall expire annually, unless and until the number of Directors is increased, whereupon such system of staggered terms shall be modified accordingly.

Section 2. Election.

(a) Notwithstanding any provision of the Project Instruments to the contrary, Developer shall have the right initially to appoint and remove all Directors, subject to the limitations set forth below in this Article IV, Section 2, unless Developer relinquishes such right in writing at an earlier date. Any such Director appointed by Developer shall serve until such time as Developer appoints a replacement Director or until his successor has been qualified and duly elected by the members of the Association, pursuant to the provisions hereof. During the period that the Developer appoints the majority of the Directors, the Developer shall provide to the Association a regular accounting as to all matters that significantly affect the interests of the Unit Owners at the Project.

(b) At such time as members other than Developer hold title to Units representing an aggregate undivided ownership interest of fifty percent (50%) or more of all of the Common Elements ultimately to be submitted to the Master Lease (including those contained in any additional Phases), the members other than Developer shall be entitled to elect not less than one-third (1/3) of the Directors.

(c) Members other than Developer shall be entitled to elect not less than a majority of the Directors upon the earliest to occur of the following:

(i) Three (3) months following the date as of which Assignment Agreements (as defined in the Master Lease) to Units representing an aggregate undivided ownership interest of ninety-five percent (95%) or more of all of the Common Elements ultimately to be submitted

to the Master Lease (including those contained in any additional Phases) have been recorded in the Office of the Register of Knox County, Tennessee, in the names of members other than Developer; or

(ii) The date as of which all of the Units that will ultimately be contained within the Project (including any additional Phases) have been completed, some of the Units have been conveyed to purchasers thereof, and none of the remaining Units are being offered for sale by Developer in the ordinary course of business.

(d) Notwithstanding the foregoing provisions of sub-section (c) above, Developer shall be entitled to elect at least one (1) Director for so long as Developer holds for sale, in the ordinary course of business, any Units submitted or ultimately to be submitted to the Master Lease (including those contained in any additional Phases).

(e) The election of Directors by members other than the Developer shall occur at the earlier to occur of the next scheduled annual meeting or at a special meeting of the Association called for such purpose.

(f) Following the relinquishment by Developer of its control over the Association, Developer may nevertheless exercise the right to vote with respect to any Unit(s) of which it is deemed the Owner, pursuant to the provisions of the Master Lease, in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting a majority of its Directors.

Section 3. Recall and Removal of Directors. At any annual Association meeting, or at any special Association meeting duly called for such purpose by members representing ten percent (10%) of the total votes eligible to be cast by all of the members of the Association, any one or more of the Directors, other than those Directors appointed by Developer, may be recalled and removed, with or without cause, by the affirmative vote of members casting a majority of the total votes eligible to be cast by all of the members of the Association, or by the written ballots of members representing a majority of the total votes eligible to be cast by all of the members of the Association. Notice of such recall meeting shall be delivered or mailed to each member at least ten (10) but not more than sixty (60) days prior to the date of such meeting, shall be accompanied by a dated copy of a signature list of members representing at least an aggregate ten percent (10%) undivided ownership interest in the Common Elements submitted to the Master Lease, and shall specify a person, other than a Director subject to recall, who shall call the meeting to order and determine whether a quorum is present. A successor shall be elected at such meeting for the remainder of the term to fill the vacancy thus created. Should the membership fail to elect such a successor, the Board of Directors shall fill the vacancy in the manner provided in Article IV, Section 5 below. Any Director whose removal has been proposed by the members shall be given prompt written notice of his proposed removal and shall be provided with a reasonable opportunity to attend and be heard at the meeting at which his removal is voted upon.

Section 4. Resignation of Directors. Any Director may resign at any time by sending written notice of his resignation to the Manager. Such resignation shall take effect upon receipt thereof by the Manager. Except for those Directors appointed by Developer, any Director who

ceases to be an Owner shall automatically be deemed to have resigned. In addition, any Director who is more than thirty (30) days delinquent in the payment of any Assessment or other amount owed to the Association shall be deemed to have resigned from the Board, effective upon the Board's receipt of notification of such delinquency from the Manager.

Section 5. Vacancies in General. If the office of any Director becomes vacant by reason of his death, incapacity, resignation, removal from office, or otherwise, a majority of the remaining Directors, though less than a quorum, may choose a successor or successors to fill such vacancy. Each Director so elected shall serve out the remaining term of his predecessor. Notwithstanding the foregoing and subject to Article IV, Section 2 above, only Developer may vote, in person or by proxy, to fill a vacancy on the Board previously occupied by a Director elected or appointed by Developer, and only members other than Developer may vote, in person or by proxy, to fill a vacancy on the Board previously occupied by a Director other than a Director elected or approved by Developer, in which case a quorum for purposes of such vote shall consist of a majority of members other than Developer.

Section 6. Vacancies Due to Increase in Directors. Any directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting or special meeting of the Association called for that purpose.

Section 7. Organizational Board Meetings. The organizational meeting of each newly constituted Board of Directors shall be held immediately following each annual Association meeting. No notice of each such organizational Board meeting shall be required.

Section 8. Regular Board Meetings. Regular meetings of the Board of Directors may be held at such time, date, and place as shall be determined from time to time by the President; provided, however, that at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director and to the Manager, personally or by mail, telephone, electronic facsimile, or telegraph, at least fourteen (14) but not more than sixty (60) days prior to the scheduled meeting date. Adequate notice of all Board meetings (which specifically incorporates an identification of all agenda items) shall also be posted conspicuously at the Project at least forty-eight (48) continuous hours prior to the scheduled meeting time, except in an emergency; provided, however, that written notice of any Board meeting at which non-emergency Special Assessments, or at which the amendment of any rules regarding Unit use will be proposed, discussed, or approved, shall be mailed or delivered to the members and posted conspicuously at the Project not less than fourteen (14) days prior to the scheduled meeting date. Compliance with such fourteen (14) day notice requirement shall be evidenced by an affidavit executed by the Association's Secretary and filed among the official records of the Association. Upon notice to the members, the Board shall designate a specific location at the Project upon which all notices of Board meetings shall be posted. Board meetings (and meetings of any committees of the Board) shall be open to all members. Notice of any Board meeting at which Common Expense Assessments to be levied against the members are to be considered shall contain a specific statement to such effect, along with a reference to the nature of any such Assessments.

Section 9. Budget Meetings. The members shall be given written notice of the time, date, and place of all Board meetings at which the Association's annual budget will be

considered. Not less than fourteen (14) days prior to any such meeting, a copy of the proposed annual budget shall be mailed or delivered to each member. If an adopted budget requires Assessments levied against members in any fiscal or calendar year which exceed 120% of the Assessments levied with respect to the preceding year, the Board, upon written application of members representing ten percent (10%) of the total votes eligible to be cast by all of the members of the Association, shall call a special Association meeting within thirty (30) days following the date of such application, upon not less than ten (10) days' prior written notice to each member. At such special meeting, members shall consider and enact a budget by a vote of a majority of the voting interests represented by all members in attendance at such meeting, whether in person or by proxy. The Board may propose a budget to the members at a meeting thereof or in writing, and if said budget or proposed budget is approved by the members at the meeting or by a majority of all voting interests in writing, the budget shall be adopted. If a meeting of the members has been called and a quorum is not attained or a substitute budget is not adopted by the members, the budget adopted by the Board shall go into effect as scheduled. In determining whether Assessments exceed 120% of similar Assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Unit or Common Elements, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, or Assessments for betterments to the Project shall be excluded from the computation.

Section 10. Special Board Meetings. Special meetings of the Board of Directors may be called by the President, and in his absence, by the Vice-President, or by a majority of the Directors, by giving at least fourteen (14) days' notice to each Director and to the Manager, personally or by mail, telephone, electronic facsimile, or telegraph. Notices of special Board meetings shall state the time, date, place, and purpose of the special Board meetings to which they pertain.

Section 11. Meetings by Telephone Conference. Both regular and special Board meetings may be conducted by telephone conference. To the extent permitted by law, any Director who is not physically in attendance at any regular or special meeting of the Board of Directors, but who is in telephone contact with the other Directors during such meeting and is thereby able to participate in the discussions, reports, debates, votes, and other matters conducted thereat, shall be deemed to be in attendance at said meeting for all purposes, including but not limited to the purpose of creating a quorum. During any Board meeting conducted by telephone conference, each Director shall be in telephone contact with every other Director participating in such meeting, whether by direct telephone contact or through the use of a telephone speaker such that any discussion among Directors may be heard by each Director and any Owners present at such meeting.

Section 12. Waiver of Notice. Any Director may at any time waive notice of any meeting of the Board of Directors, in writing, and such waiver shall be deemed to be the equivalent of that Director having actually been given notice of such meeting. Attendance by a Director at any meeting of the Board, either physically or by telephone, shall constitute a waiver by him of notice of the time, date, and place thereof, except when a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 13. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business. The vote of a majority of the Directors present at a Board meeting at which a quorum has been established shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors a quorum is not established, a majority of those Directors present may adjourn the meeting, one or more times, to a subsequent time, date, and place. At any such reconvened meeting of the Board at which a quorum has been established, any business which might have been transacted at the meeting prior to its adjournment may be transacted upon proper notice. Any Director who is present at a Board meeting at which action is taken on any Association matters shall be presumed to have consented to such action unless he votes against such action or abstains from voting with respect thereto because of an asserted conflict of interest. Directors may not vote by proxy or by secret ballot at Board meetings. All votes and abstentions by Directors present at a Board meeting shall be recorded in the meetings' minutes.

Section 14. Attendance by Manager and Representative of the Authority. Each Manager, as long as its Management Agreement with the Association remains in effect, shall be entitled to notice of all Board meetings, shall be entitled to attend the Board meetings, and may designate such person(s) as it desires to attend such Board meetings on its behalf. The Authority shall be entitled to notice of all Board meetings, which may be attended by its designated representative.

Section 15. Compensation. No Director shall receive any compensation from the Association for acting as such, provided that a Director may be reimbursed for the reasonable costs of any travel, meals, accommodations, or related expenses incurred by such Director in order to attend meetings of the Board of Directors.

Section 16. Liability and Indemnification.

(a) No Director, Officer, employee, or agent of the Association, and no heir, executor, administrator, or personal representative of any such person, shall be liable to the Association for any loss or damage suffered by it on account of any action or omission by him as a Director, Officer, employee, or agent if he acted in good faith and in a manner reasonably believed to be in, or not opposed to, the interests of the Association, unless with respect to an action or suit by or in the name of the Association to procure a judgment in its favor such person shall have been adjudged to have been grossly negligent or acted with willful misconduct in the performance of his duties to the Association.

(b) The Association shall indemnify each person who was, is, or is threatened to be named a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the name of the Association) by reason of the fact that he is or was a Director, Officer, employee, or agent of the Association, against expenses (including reasonable attorneys' fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him in connection with such action, suit, or proceeding if he acted in good faith and in a manner reasonably believed to be in, or not opposed to, the interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of

nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

The Association shall indemnify each person who was, is, or is threatened to be named a party to any threatened, pending, or completed action or suit by or in the name of the Association against expenses (including reasonable attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner reasonably believed to be in, or not opposed to, the interests of the Association, except that no such indemnification shall be made with respect to any claim, issue, or matter as to which such person shall have been adjudged to be liable on the basis that personal benefit was improperly received by him or if such person was found liable for gross negligence or willful misconduct in the performance of his duties to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such court deems proper and equitable.

To the extent that a Director, Officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in this Section, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including reasonable attorneys' fees), actually and reasonably incurred by him in connection therewith.

Any indemnification under this Section (unless pursuant to a determination by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, Officer, employee, or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in this Section. Such determination may be made (i) by the Board upon a majority vote of a quorum consisting of Directors who were not parties to such action, suit, or proceeding; (ii) if such a quorum is not obtainable or, even if obtainable, by a majority vote of a committee duly designated by the Board (in which Directors who are parties may participate) consisting solely of two or more Directors not at the time parties to the proceeding; (iii) by independent legal counsel selected by the Board or a committee of the Board by vote as set forth in subsection (i) or (ii) above, respectively, or if such a quorum of the Board cannot be obtained for purposes of sub-section (i) and no committee is designated for purposes of sub-section (ii), selected by a majority vote of all Directors (including those who are parties); or (iv) by majority vote of the members in a vote that excludes the vote of Directors who were parties to such proceeding.

Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in a particular case, upon receipt of a written affirmation by the applicable Director, Officer, employee or agent of his good faith belief that he has satisfied the standard of conduct necessary for indemnification hereunder and a written undertaking by or on behalf of such Director, Officer, employee, or agent to reimburse the Association for the amount of such expenses if it is ultimately determined that he has not met those requirements,

and after a determination that the facts then known to those making the determination would not preclude indemnification.

The indemnification and advancement of expenses provided pursuant to this Section shall not be deemed exclusive of any other rights to which those indemnified may be entitled, shall continue as to a person who has ceased to be a Director, Officer, employee, or agent, and shall inure to the benefit of the heirs, executors, administrators, and personal representatives of such person.

Section 17. Powers and Duties. On behalf of the Association, the Board of Directors shall have all of the powers and duties reasonably necessary for the maintenance, repair, replacement, restoration, improvement, and operation of the Project, and for the operation and administration of the Association, and may do all such acts and things except as by law, by the Master Lease, the Prime Lease, or by these By-Laws may not be delegated to the Board of Directors by the members. The powers and duties of the Board of Directors shall be subject to approval by the members only when such approval is specifically required by law or by the Project Instruments. Such powers and duties shall include, but shall not be limited to, the following:

(a) To exercise all of the powers specifically set forth in the Master Lease, the Prime Lease and in these By-Laws, and all powers incidental thereto;

(b) To repair, maintain, repaint, improve, alter, furnish, or refurnish the interior and exterior portions of all Units, together with the Common Elements; to establish reserves for anticipated costs; to acquire and pay for equipment, materials, supplies, furniture, labor, and services which the Board deems necessary or proper for the maintenance and repair of the Units and the Common Elements;

(c) To levy, collect, and enforce Assessments against the Owners in the manner and for the purposes provided in the Master Lease or these By-Laws in order to pay all of the common expenses of the Project, and to do all things necessary to enforce each Unit Owner's obligations under the Project Instruments and to establish and maintain a Common Expenses maintenance fund with a balance equal to one (1) year's estimated expenses;

(d) To employ, dismiss, and control whatever personnel are necessary for the maintenance and operation of the Project;

(e) To delegate all or a portion of the responsibilities of the Board for the physical and fiscal management of the Project and the Association, respectively, to one (1) or more agents, including, without limitation, the Manager.

(f) To adopt, publish, and enforce, from time to time, rules and regulations pertaining to the possession, use, and enjoyment of the Units and the Common Elements, which rules and regulations shall be consistent with the provisions of the Master Lease, the Prime Lease and these By-Laws and shall be known as "House Rules;"

(g) To open bank accounts on behalf of the Association and its members, and to designate the signatures required therefor;

(h) To procure and maintain insurance, pursuant to the provisions of the Master Lease and these By-Laws;

(i) To engage such legal, accounting, and other professional services as are necessary or proper for the operation of the Project, the administration by the Association, and/or the enforcement of the Project Instruments;

(j) To pay the amount necessary to discharge any lien or encumbrance against a Unit or Common Element, if deemed appropriate by the Board, in its sole discretion; provided, that if the Board determines that one (1) or more Unit Owners are responsible for such lien or encumbrance, such Unit Owner(s) shall be jointly and severally liable to the Association for any costs incurred by the Association in discharging it, and for any other costs incurred by the Association by reason of such lien or encumbrance;

(k) To appoint such committee(s) as the Board may deem appropriate which, to the extent provided in the resolution appointing such committee(s), shall have the powers of the Board of Directors in the affairs and business of the Association. Such committee(s) shall keep regular minutes of their proceedings and shall report their findings and recommendations to the Board of Directors, as appropriate;

(l) To enter into and terminate (as permitted by law) contracts and agreements, on behalf of the Association, providing for the provision of services to the Association and/or the members, including but not limited to contracts or agreements with respect to the rental of furniture, furnishings, equipment, and/or recreational facilities or other amenities from Developer or other persons or entities, as well as utility, television, communication, security, and pest control services;

(m) To act as agent for the members in connection with the collection of ad valorem taxes and special governmental assessments and the remittance thereof to the appropriate governmental authority;

(n) To perform all other acts deemed by the Board to be necessary, desirable, or appropriate in order to ensure the proper maintenance, repair, replacement, restoration, improvement, and operation of the Project, and to ensure the proper operation and administration of the Association; and

(o) To convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion or other public purposes, whether negotiated or as a result of eminent domain proceedings.

ARTICLE V. OFFICERS

Section 1. Designation. The Officers of the Association shall be the President, Vice President, Secretary, and Treasurer, all of whom shall be elected by the Board of Directors and

each of whom, with the exception of the initial Officers elected by the initial Board of Directors, shall be a member of the Association. The Board of Directors may also elect an Assistant Treasurer, an Assistant Secretary, and such other Officers as in its judgment may be necessary or appropriate.

Section 2. Election of Officers. The Officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each newly constituted Board of Directors.

Section 3. Term and Removal of Officers. Officers shall be elected by the Board of Directors at the first annual Directors' meeting and at each annual meeting thereafter to serve until the next annual meeting, or until their successors are elected and installed, except that with the exception of the Officers elected by the Board of Directors appointed by the Developer, each Officer's position shall immediately become vacant when and if he ceases to be an Owner or, in the case of the President, Secretary, and Treasurer, if he ceases to be a Director, whether by resignation, removal, death, incapacity, ineligibility, or otherwise. Any Officer may be removed at any Board meeting, with or without cause, by the Board of Directors; provided, however, that no Officer shall be removed except by the affirmative vote for removal of a majority of the Directors. Any Officer whose removal has been proposed shall be given prompt written notice of his proposed removal and shall be provided with a reasonable opportunity to attend and be heard at the Board meeting at which his removal is voted upon. If the office of any Officer becomes vacant for any reason, the vacancy shall promptly be filled through the election of a successor by the Board of Directors.

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors and, in general, shall have all of the powers and duties which are incident to the office of president of a stock corporation organized under the laws of the State of Tennessee, to the extent that such duties have not been delegated to the Manager. In addition, the President or his designee shall represent the Association and its members at all meetings with the Authority and may cast such votes thereat as the Board expressly authorizes.

Section 5. Vice-President. The Vice-President shall assume the powers and duties of the President whenever the President is absent from any meeting of the Association or the Board of Directors or is unable to act in his capacity as President. If neither the President nor the Vice-President is able to act, a majority of the remaining Directors shall appoint some other Officer to act in the place of the President, on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be delegated to him by the Board of Directors or by the President.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and the Board of Directors and shall make such minutes available for inspection by members, their authorized representatives, and the Directors at reasonable times. The Secretary shall take such steps as are necessary or appropriate to ensure that the Association retains such minutes for a period of not less than seven (7) years from the date of the meetings to which they pertain. The Secretary shall also perform all of the duties incident to the office of secretary of a stock corporation organized under the laws of the State of Tennessee, to the extent that such

duties have not been delegated to the Manager. In addition, the Secretary shall, during any period of time in which the Association is temporarily without a Manager, issue notices of all meetings of the Association and the Board of Directors, have charge of the Association's books and records, and receive and incorporate into the records of the Association all notices which are required or permitted to be transmitted to the Manager, including notices from Owners designating voting members and providing changes of address, and also including requests from Mortgagees of Record for copies of notices from the Association to their respective mortgagors.

Section 7. Treasurer. The Treasurer shall, during any period of time in which the Association is temporarily without a Manager, keep full and accurate financial records and books of account, be responsible for the preparation of all required financial data, and be responsible for the deposit of all money and other valuables in such repositories as may from time to time be designated by the Board of Directors. The Treasurer shall perform all of the duties incident to the office of treasurer of a stock corporation organized under the laws of the State of Tennessee, to the extent that such duties have not been delegated to the Manager.

Section 8. Execution of Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by any two (2) Officers, or by such other person or persons, including the Manager, as may be designated by the Board of Directors.

Section 9. Compensation of Officers. No Officer shall receive any compensation from the Association for acting in his capacity as an Officer unless such compensation is approved by the affirmative vote of members casting a majority of the total votes eligible to be cast by all of the members of the Association.

ARTICLE VI. MANAGER

Section 1. Management Agreement. The Board, on behalf of the Association, shall at all times engage a responsible managing agent as the Manager, pursuant to a management agreement.

Section 2. Discharge of Manager. Members other than Developer casting sixty-six percent (66%) of the total votes eligible to be cast by all members of the Association other than the Developer, either in person or by proxy, at any duly called Association meeting at which a quorum has been established held within twelve (12) months after the members are first entitled to elect a majority of the Board pursuant to Article IV, Section 2 of these By-Laws, may discharge the Manager upon sixty (60) days notice. In the event the Manager is discharged, the Board, on behalf of the Association, shall promptly engage a new Manager.

Section 3. Compensation. The compensation of the Manager shall be determined by the Board and set forth in each management agreement.

Section 4. Powers and Duties. The Manager shall have all such powers and duties as are delegated to or imposed upon it by the Board, from time to time, as set forth in the management agreement. Such powers and duties shall at all times include, but shall not necessarily be limited to, the following:

(a) To be responsible for the immediate management and operation of the Project and the affairs of the Association;

(b) To arrange for the regular cleaning, maintenance, repair, replacement, and restoration of the Common Elements, and the contents thereof, including but not limited to all common furnishings, and any additions or alterations thereto, as needed and/or as directed to do so by the Board;

(c) To enter into any Unit for the purpose of abating a nuisance or other dangerous, unlawful, or prohibited activity being conducted therein;

(d) To employ or otherwise engage, dismiss, and control, on behalf of the Association, such personnel as it deems necessary for the maintenance and operation of the Project and the Association, including attorneys, accountants, contractors, and other professionals, as needed;

(e) To enter into contracts (and subcontracts), in the name of and on behalf of the Association, for the furnishing of such services as it deems necessary and appropriate for the proper execution of its duties;

(f) To arrange for the preparation and submission of a proposed budget and schedule of Assessments to the Board for its review and approval, at least sixty (60) days prior to the start of each fiscal year;

(g) To supervise the preparation of, and submit to the Board, within sixty (60) days after the close of each fiscal year, a complete set of financial statements of the Association for the previous fiscal year as described in Article VII, Section 6 below, and to ensure that copies thereof are mailed or delivered to each member within ninety (90) days following the end of the Association's fiscal year;

(h) To arrange each year for an independent audit of all of the Association's books and financial records by a certified public accountant in accordance with generally accepted auditing standards, to forward a copy thereof to each Officer of the Association, and to make copies thereof available for inspection and reproduction by the members at reasonable times in the office of the Manager;

(i) To assess and collect from the members all Assessments, ad valorem and other taxes, and any other amounts due and owing the Association or a third party pursuant to the provisions of any applicable law or the Project Instruments;

(j) To arrange for the payment of all of the Association's bills, to the extent of available Association funds;

(k) To procure and maintain in effect insurance on behalf of the Association, as required by the Master Lease and these By-Laws;

(l) To ensure that a copy of the then-current House Rules is kept in each Unit and/or is furnished to each Unit Owner, and to ensure that the provisions of the Project Instruments are strictly observed and enforced;

(m) Subject to Article X, Section 1 below, to maintain at the Project all books and records of the Association, including but not limited to detailed and accurate records of the Association's receipts and disbursements, an individual account for each member designating such member's name and address and the amounts of any Assessments paid and/or due by such member, minutes of all Association and Board meetings, correspondence, amendments to the Master Lease, the Prime Lease, the By-Laws, and the House Rules, and a list of the names and current mailing addresses of all members and mortgagees of record. All books and financial records related to the Project or the Association shall be maintained in accordance with generally accepted accounting principles;

(n) To establish and maintain federally insured deposits of the Association's funds in such manner as to indicate the custodial nature thereof;

(o) To procure all necessary supplies, equipment, and services on the Association's behalf;

(p) To arrange for an inspection and inventory of each Unit;

(q) To organize and attend all Association and Board meetings, and to attend and perform such tasks as may be assigned to the Manager by the Board at all Board meetings; and

(r) To fulfill such other duties and responsibilities of the Association under the Project Instruments as from time to time may be delegated to the Manager by the Board or as may be required by any applicable provision of law, rule, or regulation.

Section 5. Change in Scope of Duties. The Board of Directors may, in its discretion, from time to time, grant additional powers to and/or impose additional duties upon the Manager, or limit any powers previously granted to the Manager, but only to the extent that such powers and duties are not expressly granted to or imposed upon the Manager by law or by the Project Instruments.

Section 6. Delinquent Account Statements. Upon receipt of a written request therefor, the Manager shall mail to a mortgagee of record, during any month in which its mortgagor is delinquent in the payment of any Assessments or other amounts due the Association, a statement showing the status of such mortgagor's account.

Section 7. Legal Action. The Manager, subject to the direction of the Board of Directors, may represent the Association in any action, suit, or other proceeding concerning one or more members or one or more Units, provided that any such action shall be brought in the name of the Association.

ARTICLE VII. FINANCES AND ASSESSMENTS

Section 1. Annual Budget. Prior to the end of each fiscal year, the Board shall review the budget submitted by the Manager, pursuant to Article VI, Section 4(f) hereof, and shall establish and approve a budget for the next fiscal year.

Section 2. Collection of Assessments. Assessments shall be paid by the members and collected by the Association in the manner and according to the terms and provisions set forth in the Master Lease and as determined by the Board from time to time.

Section 3. Depositories. The funds of the Association shall be deposited in a federally insured financial institution, in a manner designed to indicate the custodial nature thereof, and shall be withdrawn by the Manager (or the Association during any period of time in which the Association is temporarily without a Manager) for the payment of the Association's common expenses in accordance with the provisions of the Project Instruments.

Section 4. Fiscal Year. The Association shall operate on a fiscal year which begins on the first day of January of each year; provided, however, that the Board of Directors may, in its sole discretion, change to a different fiscal year in the event that the Board of Directors deems it advisable to do so.

Section 5. Application of Payments and Commingling of Funds. All sums collected by the Association, from Assessments or otherwise, may be commingled in a single fund or divided into more than one (1) fund, as determined by the Board of Directors; provided, however, that reserve funds shall at all times be maintained separately from operating funds after thirty (30) days after receipt of the same, and none of the Association's funds shall be commingled with the funds of any other person or entity. Furthermore, amounts collected by the Association and attributable to ad valorem taxes or special governmental assessments pursuant to Article VII, Section 7 below shall be maintained in an escrow account. Reserve funds and any interest accruing thereon shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the members present, either in person or by proxy, at any duly called Association meeting at which a quorum has been established, casting a majority of the total votes eligible to be cast by such members. The Association may, at its option, require that reserve funds be held in an escrow account by an independent escrow agent on behalf of the Unit Owners. All Assessments paid by a member shall be applied to interest, delinquencies, costs, attorneys' fees, and other charges, expenses, and advances in such manner and amounts as the Manager determines to be appropriate, unless otherwise directed by the Board and except as otherwise provided in the Project Instruments. All members, mortgagees of record, and the authorized agents thereof, shall be entitled to inspect the Association's records of its receipts and disbursements at the office of the Manager, during normal business hours, and upon ten (10) days' notice to the Manager or the Board of Directors, any member shall be furnished with a statement of his account setting forth the amount of any unpaid Assessments or other amounts due and owing from such member. The Manager shall be responsible, as the agent of each member, for paying the common expenses, subject to the supervision and direction of the Board. Neither the Board nor the Manager shall be individually liable for the payment of any of the common expenses; rather, they shall merely serve to direct

and authorize the payment, to the extent of available funds, of the common expenses on behalf of the members.

Section 6. Accounting Records; Audit. As soon as practicable following the end of the Association's fiscal year, the Board or the Manager shall arrange for an independent audit of all books and records related to the Project and the Association for the previous fiscal year. Said financial statements shall be audited in accordance with generally accepted auditing standards. A copy of such audited financial statements shall be made available to the members for inspection at reasonable times in the office of the Manager.

Section 7. Ad Valorem Taxes. For purposes of ad valorem taxation and special governmental assessments, to the extent permitted by law, the Association shall be the agent of each member for the receipt and payment of tax bills and governmental assessments.

ARTICLE VIII. AMENDMENTS TO THE BY-LAWS

The provisions of these By-Laws may be amended at any duly called Association meeting upon the affirmative vote of members casting a majority of the total votes eligible to be cast by all of the members of the Association; provided, however, that these By-Laws shall not be amended in any manner that will materially impair or prejudice the rights and priorities of the Authority without the written consent of the Authority. Amendments to these By-Laws shall be effective only upon the recordation of an instrument in the Office of the Register of Knox County, Tennessee, signed and acknowledged by any two (2) Officers of the Association, setting forth the complete text of such amendment, and otherwise fully complying with Section 48-60-105, Tennessee Code Annotated. Notwithstanding any provision to the contrary contained herein, Developer reserves the right to amend these By-Laws by recording an instrument in the Office of the Register of Knox County, Tennessee, setting forth the text of such amendment in full provided, that such amendment will not materially impair or prejudice the rights and priorities of the Authority without the written consent of the Authority.

ARTICLE IX. RULES AND REGULATIONS

Section 1. Adoption. The Board of Directors shall have the right to establish and amend, from time to time, such uniform rules and regulations, to be known as "House Rules," as the Board may deem necessary and appropriate for the management, preservation, safety, control, and orderly operation of the Project and for the benefit of all of the members and Unit Owners. Such House Rules may, to the extent not in conflict with the provisions of the Master Lease, the Prime Lease or these By-Laws, impose such reasonable restrictions upon the use and occupancy of any portion of the Project as the Board, in its sole discretion, deems necessary or appropriate.

Section 2. Compliance with House Rules. Each member shall obey the House Rules, as the same may lawfully be amended from time to time, and shall ensure that the same are faithfully observed by the members of his family, his guests, invitees, and licensees. Each person who comes within the Project shall be subject to the House Rules for the duration of his

presence therein. A copy of the House Rules, as amended from time to time, shall be made available to members upon request.

Section 3. Conflict. In the event of any conflict between the House Rules of the Association, as amended from time to time, the Master Lease, the Prime Lease or these By-Laws, the latter instruments shall control.

ARTICLE X. MISCELLANEOUS PROVISIONS

Section 1. Association's Records. The Association shall at all times maintain the Association's official records. The Association's list of the complete names and addresses of all members shall be updated no less frequently than quarterly. The Association shall not publish or furnish the name or address of any member to any other member or authorized agent thereof unless the member whose name and address are requested first approves such disclosure in writing; provided, however, that the Association shall initiate a mailing to members upon the request of any member if the purpose of such mailing, in the Board's discretion, is to advance a legitimate Association business or interest (such as proxy solicitation) and the member who requests such mailing reimburses the Association in advance for the Association's actual costs in performing the mailing.

The Association's official accounting records, including the minutes of all Association and Board meetings, shall be available for inspection by the members, at reasonable times, in the office of the Manager. Said minutes, which shall be available for inspection by members or their authorized representatives within five (5) days following the meetings to which they pertain, shall be retained by the Manager, on behalf of the Association, for a minimum of seven (7) years from the date of the meetings to which they pertain. The right to inspect such official records includes the right to make or obtain copies, at the reasonable expense, if any, of the member seeking same. The Manager, on behalf of the Association, shall maintain an adequate number of copies of each of the Project Instruments at its office at the Project to ensure their availability to members and prospective members, and may charge its actual costs for preparing and furnishing such documents to those requesting the same.

Section 2. Notices. Each member shall register his mailing address with the Manager upon becoming a member, and shall promptly notify the Manager of any subsequent changes of address. Any notices required by Project Instruments to be given to the Association or the Board of Directors shall be sent by registered or certified mail to the Manager, or in the event that the Association is temporarily without a Manager, to the office of the Association or to such other address as the Board of Directors may hereafter designate from time to time, by notice in writing to all of the members. All notices required by the Project Instruments to be given to any member shall be sent by first class mail, postage prepaid, to such member's most recent address as shown in the records of the Association. All notices required by the Project Instruments to be given to mortgagees of record shall be sent to their respective addresses, as designated by them from time to time, in writing, to the Manager. All notices shall be deemed to have been given when mailed, postage prepaid, except notices of changes of address, which shall be deemed to have been given when received.

Section 3. Liability Survives Transfer of Unit. The transfer or foreclosure of a Unit shall not relieve or release the former Unit Owner thereof from any liabilities or obligations incurred in connection with the Project during the period of his ownership, or impair any rights or remedies which the Association may have against such former Unit Owner arising out of or in any way connected with such ownership and the covenants and obligations incident thereto.

Section 4. Severability. The provisions hereof shall be deemed to be independent and severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision shall not affect the validity or enforceability of any other provision hereof.

Section 5. Captions. The captions used in these By-Laws are inserted solely for convenience of reference and in no way define, limit, or describe the scope of these By-Laws or the meaning or intent of any of the provisions hereof.

Section 6. Number and Gender. Whenever the context so requires, the use of any gender in these By-Laws shall be deemed to include both genders, and the use of the singular shall be deemed to include the plural, and the plural shall include the singular.

Section 7. Waiver. No restriction, condition, obligation, or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 8. Interpretation. The provisions of these By-Laws shall be liberally construed to effectuate the purpose of ensuring that the Project shall at all times be operated and maintained in a manner so as to optimize and maximize its enjoyment and utilization by each member as provided in the Master Lease.

Section 9. Mediation. Any disputes arising between Developer, other members, the Board, the Association, the Manager, and/or their agents or assigns, shall be submitted to mandatory non-binding mediation.