

NOTE:

1. Master Deed - Filed 4-3-85 3122 264+ (K=Cope)
 2. " " - Refile 11-7-85 3144 172+ (see pg. 6 of Deed)

MASTER DEED

BATTERY PATTEN CONDOMINIUM

3. " " - Amend 1-2-87 3294 279

THIS MASTER DEED is made and entered into as of the 19th day of June, 1985, by Battery Patten, Inc., a Tennessee corporation (the "developer");

W I T N E S S E T II:

WHEREAS, the developer is the owner of certain real property located in Hamilton County, Tennessee, and shown on the plan described below; and

WHEREAS, the developer wishes to submit such real property together with the improvements constructed and to be constructed thereon to a horizontal property regime pursuant to the provisions of the Tennessee Horizontal Property Act, as it has been amended, and this master deed.

NOW, THEREFORE, THE DEVELOPER DECLARES as follows:

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

(a) The words and terms "condominium," "condominium project," "co-owner," "council of co-owners," "master deed," "person," and "to record," shall have the same meaning as provided for such words and terms in the Act.

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

(c) "Board of administrators" or "board" shall mean the governing body of the council of co-owners.

(d) "Building" shall mean the structure containing the units.

(e) "By-laws" shall mean the by-laws of Battery Patten Condominium Association, Inc., a Tennessee non-profit corporation, (the "Association") attached hereto as Exhibit "A" and made a part hereof.

(f) "Common elements" shall mean both general common elements and limited common elements.

(g) "General common elements" shall mean those portions of the property not contained within the cubic boundaries of any unit and which are not designated as limited common elements.

(h) "Limited common elements" shall mean those common elements which are reserved for the use of certain units to the exclusion of other units, such as decks and storage areas as designated on the plan and as set forth herei

(i) "Plan" shall mean the plat and plans which are of record in Flat Book 41, beginning at page 38-173, Register's Office, Hamilton County, Tennessee, comprising the plan of the Condominium, which plan and any amendments thereto are incorporated herein and made a part hereof.

(j) "Property" shall mean and include the real property described on the plan, the buildings, all structures and improvements constructed and to be constructed thereon and all easements, rights and appurtenances belonging thereat

(k) "Unit" shall have the same meaning as the term "apartment" as defined in the Act and shall mean that portion of the property designated for the ownership and exclusive use of a co-owner. The boundaries for each of the units shall be the undecorated or unfinished interior surfaces of its perimeter walls, lowermost floors and uppermost ceilings, including the interior surfaces of all exterior doors and windows. If any pipes, ducts, wires, conduits or other facilities lie partially within and partially without the boundaries of a unit, any portions thereof serving only that unit shall be deemed a part of that unit, while any portion thereof serving more than one unit or any portion of the common elements shall be deemed a part of the common elements.

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2. SUBMISSION TO HORIZONTAL PROPERTY REGIME.

(a) This horizontal property regime shall be known as Battery Patten Condominium, or by such name or names as shall be selected from time to time by the developer or the council of co-owners.

(b) The real property described on the plan as well as the building, improvements and structures constructed and to be constructed thereon are hereby submitted to this horizontal property regime pursuant to the provisions of the Act and this master deed.

3. DESCRIPTION OF SPECIFIC UNITS.

All of the units are delineated upon the plan, and the legal description of each unit shall consist of the identifying number of such unit as shown upon the plan.

4. CO-OWNER'S RIGHTS - EXCLUSIVE AND COMMON.

A co-owner shall have the exclusive ownership in fee to the co-owner's unit and, as an appurtenance to such unit, an undivided one-eighteenth (1/18) interest in the common elements and the exclusive use of the limited common elements designated on the plan or set forth herein as appurtenant to such unit.

5. REAL ESTATE TAXES. It is intended that real estate taxes are to be separately taxed to each co-owner. In the event that for any year such taxes are not separately taxes to each co-owner, but are taxed on the property as a whole, then each co-owner shall pay an equal share thereof.

6. USE AND OCCUPANCY OF UNITS AND COMMON ELEMENTS. The units and common elements shall be occupied and used as follows:

(a) Each unit shall be used only as a dwelling or for such other uses permitted by this master deed.

(b) No industry, business, trade, occupation or profession of any kind shall be conducted, maintained, or permitted on any part of the property.

(c) There shall be no obstruction of the common elements nor shall anything be stored in the common elements without the prior consent of the board, except as expressly provided herein. The use of and the covering of the interior surfaces of windows whether by draperies, shades or other items visible on the exterior of the building, shall be subject to the rules and regulations of the board.

(d) Nothing shall be done or kept in any unit or in the common elements which will increase the rate of or result in cancellation of the insurance on the building or the contents thereof.

(e) Nothing shall be hung or displayed on the outside of windows or placed on the outside of walls of the building and no sign, awning, canopy, shutter, radio or television antenna (except as constructed by the developer) shall be affixed to or placed upon the exterior walls or roof or any part thereof. No signs shall be displayed on the interior of a unit so as to be visible from the exterior of the unit.

(f) No animal shall be kept in the common elements or in any unit if such animal becomes an annoyance or nuisance to the co-owners or occupants or otherwise violates any rules or regulations adopted by the board. At any time an animal is in or upon a common element, it must be accompanied by and be under the control of its owner.

(g) No noxious or offensive activities shall be carried on in any unit nor in the common elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the co-owners or occupants.

(h) 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 or damage the building.

(i) Nothing shall be altered or constructed in or removed from the common elements, except a co-owner may remove his own personal property from the common elements.

(j) Without the prior written approval of the board, no boat, trailer, motorcycle, truck, motorhome, camper or any other recreational vehicle, or any vehicle which is in an inoperable condition, shall be parked stored, or left standing upon any of the common elements, including, but not limited to, the vehicle parking areas. The board may also cause the removal from the common elements of any vehicle which, in the reasonable opinion of the board, is in a state of disrepair or in an unsightly condition. The board may also impose parking regulations.

(k) Outdoor drying of laundry and similar items shall not be permitted at any time.

(l) Except within individual units, no planting, transplanting or gardening shall be permitted and no fences, hedges or walls shall be erected or maintained upon the property except as approved in writing by the board.

(m) The foregoing may be modified as provided herein.

Sept 8, 2006
 7. SANCTIONS FOR VIOLATION. The violation of any restriction or condition or regulation adopted by the board or the breach of any covenant or provision herein or contained in the by-laws, unless such violation or breach is remedied within thirty (30) days after written notice thereof to such co-owner, shall give the board the right, in addition to any other rights provided in this master deed:

(a) to enter upon the unit or any portion of the property upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting co-owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the exhibits hereto, and the rules and regulations of the board, and the board, or its employees or agents shall not thereby be deemed guilty in any matter of trespass; and

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

8. ENTRY BY BOARD. The board, its agents or employees may enter any unit when necessary in connection with the painting, maintenance or reconstruction for which the board is responsible, or which the board has a right or duty to do. Such entry shall be made with as little inconvenience to a co-owner as practicable, and any damage caused thereby shall be repaired by the board as a common expense.

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

10. EASEMENTS.

(a) In the event that any unit shall encroach upon any common elements for any reason not caused by the purposeful or negligent act of the unit owner or owners, or agents of such owner or owners, then an easement appurtenant to such unit shall exist for the continuance of such encroachment upon the common elements for so long as such encroachment shall naturally exist; and, in the event that any portion of the common elements shall encroach upon any unit, then an easement shall exist for the continuance of such encroachment of the common elements into any unit for so long as such encroachment should naturally

exist. In the event a portion of the condominium property is partially or totally destroyed and then rebuilt, then in the event that any unit shall encroach upon any common elements for any reason not caused by the purposeful or negligent act of the unit owner or owners, or agents of such owner or owners, then an easement appurtenant to such unit shall exist for the continuance of such encroachment upon the common elements for so long as such encroachment shall naturally exist. Should a discrepancy exist between the measurements shown on the plan and an actual measurement to a point of reference therein noted the actual measurement to such point of reference shall govern.

(b) Utility easements are reserved through the condominium property as may be required for utility services in order to adequately serve the condominium. Such easements through a unit shall be only according to the plans and specifications for the condominium property, or as the building is constructed, unless approved in writing by the unit owner, which approval shall not be unreasonably withheld.

(c) Ingress and egress is created for pedestrian traffic over, through and across sidewalks, paths, walks, driveways, passageways and lanes as the same from time to time may exist upon the common elements; and for vehicular traffic over, through and across such portions of the common elements as from time to time may be paved and intended for such purposes.

(d) Easements are reserved to the owners of units in the condominium for pedestrian and vehicular traffic over, through and across such driveways, parking areas, and other areas as from time to time may be paved and intended for such purposes; and for the construction and maintenance of water, sewer and other utilities.

(e) The owner of each unit shall have an exclusive easement for the use of the air space occupied by said unit as it exists at any particular time.

(f) The use of any easement by a unit owner shall be subject to this master deed and the rules and regulations of the board.

(g) Two parking spaces are assigned to each unit and an exclusive parking easement is reserved to the owner of the unit to which the two spaces are assigned. No unit owner shall use or occupy a parking space assigned to another unit except with the permission of the owner of the unit to which the space is assigned. Any vehicle improperly parked may be removed by the board or by the owner of the unit to which the space is assigned. Such removal shall be at the vehicle owner's expense and without liability for any damage to the vehicle as a result of such removal.

11. WAIVER OF CLAIM. Each co-owner hereby waives and releases any and all claims which he may have against any other co-owner, the officers and members of the board, and the developer and their respective employees and agents, for damage to common elements, the units, or any personal property located in the units or common elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

12. LIABILITY FOR DAMAGES. If, due to the act or neglect of a co-owner, or a member of his family or household pet or a guest or other authorized occupant or visitor of such unit and/or co-owner, damage shall be caused to the common elements or to a unit owned by others, or maintenance, repairs, or replacement shall be required which would otherwise be at common expense, then such co-owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the board, to the extent not paid by insurance.

13. MAINTENANCE EXPENSES, ETC. All expenses, charges and costs of the maintenance, repair or replacement of the common elements, and any other expenses, charges or costs which the board may incur or expend pursuant hereto shall be approved by the board, and a written memorandum thereof prepared and signed by the treasurer. There shall be no structural alterations to, capital additions to, or capital improvements on, the common elements (other than for purposes of replacing or restoring portions of the common elements) requiring an expenditure in excess of \$1,000 without the prior approval of the co-owners of not less than twelve (12) units.

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14. BUDGET AND ASSESSMENTS. Each year on or before November 15, the board shall estimate the annual budget of the common expenses (the "annual budget") including the total amount required for the cost of wages, materials, insurance, services, and supplies which will be required during the ensuing calendar year for the rendering of all services together with a reasonable amount considered by the board to be necessary for a reserve for contingencies and replacements, and shall on or before December 1 notify each co-owner in writing as to the amount of such estimate with reasonable itemization thereof. Said annual budget shall be assessed to the co-owners equally. On or before January 10 of the ensuing year, and on the tenth day of each month of said year, each co-owner shall be obligated to pay to the board, or as it may direct, 1/12 of the assessment made pursuant to this paragraph. On or before the first day of March of each calendar year, the board shall supply to all co-owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid together with the tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited equally to the next monthly installments due from co-owners under the current year's estimate, until exhausted, and any shortage shall be added equally to the installments due in the succeeding three months after rendering of the accounting. The board shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserve, but if said annual budget provision is inadequate for any reason, including nonpayment of any co-owner's assessment, the board may at any time and from time to time levy a further assessment, which shall be assessed to the co-owners according to each co-owner's percentage of ownership in the common elements. The board shall serve notice of such further assessment to all co-owners by a statement in writing giving the amount and reasons therefor, and such assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment, and all co-owners shall be obligated to pay the adjusted monthly amount.

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15. INTERIM BUDGET. When the first board elected hereunder takes office, it shall determine the estimated budget, as hereinabove defined, for the period commencing thirty (30) days after said election and ending on the last day of each calendar year in which said election occurs. Assessments shall be levied against co-owners during said period based on such estimated budget.

16. BUDGET DELAY. The failure or delay of the board to prepare or serve the annual or adjusted budget on the co-owners shall not constitute a waiver or release in any manner of the co-owners' obligation to pay the maintenance and other costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, the co-owners shall continue to pay the monthly assessment charges at the then existing monthly rate established for the previous period until the monthly assessment payment which is due more than ten (10) days after new annual or adjusted budgets shall have been mailed or delivered.

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

* 18. AUTHORITY OF DEVELOPER. Until such time as the first board provided for herein is elected, the developer may assess each co-owner a maintenance fee not to exceed \$100 per month. All the rights, duties and functions of the board set forth in the master deed and the exhibits thereto shall be exercised by the developer for a period beginning on the date of execution of the master deed and ending thirty (30) days after the first meeting of the board pursuant to the terms of the Bylaws.

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19. **DEFAULT.** If a co-owner is in default in the monthly payment of the aforesaid charges or assessments for ten (10) days, the board ~~may~~ notify his mortgagee and may assess a service charge of one and one-half percent (1.5%) of the balance of the aforesaid charges and assessments in default for thirty (30) days for each month, or part thereof, that said balance or any part thereof, remains unpaid. In addition to any remedies or liens provided by law or equity, if a co-owner is in default in the payment of any charges or assessments for twenty (20) days, the board may bring suit for and on behalf of itself as representative of the council of co-owners to enforce collection thereof or to foreclose a lien thereon as provided by law; and there shall be added to the amount due the costs of said suit and reasonable attorney's fees.

20. **MORTGAGES.** Any mortgage or deed of trust owned or held by a bank, savings and loan association, insurance company, corporation, or other institutional lender and recorded prior to the recording in the Register's Office of a notice by the board of the amount owing by a co-owner who has refused or failed to pay his share of the monthly assessments when due, shall be superior to the lien of such unpaid assessments and to all assessments for common expenses which shall become due subsequent to the date of the recording of such mortgage or deed of trust.

21. **RULES AND REGULATIONS.** The board may, from time to time, adopt or amend such rules and regulations governing the operation, maintenance, beautification and use of the common elements and the units not inconsistent with the terms of the Act and the master deed as the board sees fit, and the co-owners shall conform to, and abide by, such rules and regulations. Written notice of such rules and regulations shall be given to all co-owners and occupants. A violation of such rules and regulations shall be deemed a violation of the master deed.

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

23. **NOTICES.** Notices required or permitted to be given to the board or to any co-owner may be delivered to any member of the board or to such co-owner either personally or by mail addressed to such board member or co-owner at his unit.

24. **AMENDMENTS.** This master deed and the exhibit hereto may be amended, changed or modified by an instrument in writing setting forth such amended, change or modification, signed and acknowledged by the co-owners owning at least 70% of the undivided interest in the common elements and their mortgagees, where applicable, if the interests of such mortgagees are to be materially adversely affected, and containing an affidavit by an officer of the board certifying that a copy of the amendment, change or modification has been mailed by certified mail to all parties having bona fide liens of record against any unit, not less than ten days prior to the date of such affidavit. Any amendment, change or modification shall conform to the provisions of the Act and shall be effective upon recordation thereof in the Register's Office of Hamilton County, Tennessee.

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

26. **CONSTRUCTION.** The provisions of this master deed and exhibits hereto shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first class condominium project.

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

28. EASEMENTS RESERVED FOR DEVELOPER. Developer reserves for itself and its successors in title to Lot Two as shown on the plan the following easements and rights:

(a) A non-exclusive, permanent easement for pedestrian and vehicular ingress and egress over and across that portion of Lot One extending from the eastern right of way of Douglas Street to the four (4) parking spaces reserved on Lot One for the benefit of Lot Two as shown on the plan, together with the right to connect drives from Lot One to Lot Two to serve any improvements constructed on Lot Two from time to time.

(b) A non-exclusive, permanent easement to connect to the drainage and utility lines now or hereafter located on Lot One in order to serve any improvements constructed on Lot One from time to time.

(c) In exercising any of the easements hereby reserved, Developer and its successors shall, at its sole expense, repair any damage caused by such exercise. In addition, Developer and its successors shall pay one-third (1/3) of the costs of maintaining the drives on Lot 2 used by the owner of Lot 1 and shall pay the cost of maintaining the parking spaces on Lot One reserved for Lot Two.

29. EASEMENT GRANTED BY DEVELOPER. Developer hereby grants to the owners of Lot One a non-exclusive, permanent easement for the maintenance and use of that portion of Lot Two covered by the asphalt drive now serving Lot One as shown on the plan. This easement shall terminate at such time as the owner of Lot Two shall, at its expense, relocate the paved drive on Lot One to the area marked "future relocation of drive" on the plan and repair any damage to planting or landscaping caused by such relocation.

30. USE OF LOT TWO. Developer reserves the right to use Lot Two and the appurtenant easements herein reserved for any lawful purpose, including, but not limited to, condominium residences.

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

BATTERY PATTEN, INC.

By: _____
Gordon B. Henderson, President

STATE OF TENNESSEE

COUNTY OF HAMILTON

Before me, the undersigned notary public of the state and county aforesaid, personally appeared Gordon B. Henderson, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the President of the Battery Patten, Inc., the within named bargainer, a corporation, and that he as such President, executed the foregoing for the purposes therein contained, by signing the name of the corporation by himself as President.

WITNESS my hand, at office, this _____ day of August, 1985.

Date of Expiration of Commission: _____

Notary Public

(SEAL)

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EXHIBIT "A"
BY-LAWS OF BATTERY PATTEN CONDOMINIUM ASSOCIATION, INC.

The following provisions shall constitute the by-laws of Battery Patten Condominium Association, Inc. which shall, along with the provisions of the master deed and rules and regulations adopted by the board, govern the administration of the property.

1. **VOTING.** Any specified percentage of the co-owners, majority or otherwise, for purposes of voting and for all other purposes wherever provided, shall mean such percentage in the aggregate in interest of the common elements. If any unit is owned by more than one person, the voting rights with respect to such unit shall not be divided, but shall be exercised with a proxy or other designation made by the persons constituting the owners of such unit.

2. **BOARD OF ADMINISTRATORS.** The direction and administration of the property shall be vested in a board of administrators (the "Board") consisting of three persons who shall be elected in the manner hereinafter provided. Each member of the board shall be one of the co-owners; provided, however, that in the event a co-owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any shareholder, officer or director of such corporation, partner of such partnership, beneficiary or individual trustee of such trust, or manager of such other legal entity shall be eligible to serve as a member of the board.

3. **MEMBERS OF BOARD.** The members of the board shall serve for a term of two (2) years and until their successors are elected. At the first meeting of the council of co-owners, the co-owners shall, by a vote of a majority of the co-owners present at such meeting, elect the members of the board, one of whom shall be elected to serve for one year. Thereafter, at each annual meeting of the council of co-owners, the co-owners ~~(shall)~~ by a vote of a majority of the co-owners present at such meeting, elect members to fill the vacancies of those expiring terms. A majority of the members of the board shall constitute a quorum. The board shall act by the vote of the majority of those members present at a meeting of the board when a quorum is present, or by unanimous consent signed by all of the members of the board. Until the first meeting of the council of co-owners, the developer shall act as and for the board.

4. **MEETINGS OF BOARD.** A regular annual meeting of the board shall be held within seven (7) days after, and at the time and place as announced at the annual meeting of the council of co-owners. Other meetings of the board may be called, held and conducted in accordance with such regulations as the board may, from time to time, adopt.

5. **REMOVAL OF BOARD MEMBER.** Any member of the board may be removed from office by the affirmative vote of at least fifty (50) percent of the co-owners at a special meeting of the council of co-owners called for such purpose.

6. **LIABILITY OF BOARD.** The members of the board and the officers thereof shall not be liable to the co-owners for any mistake of judgment, or of any acts or omissions made in good faith as such members or officers. The council of co-owners shall indemnify and hold harmless each member of the board and officers against all liabilities to others arising out of contracts made or acts or omissions by such members or each officer on behalf of the council of co-owners, unless any such contract, act or omission shall have been in bad faith or contrary to the provisions of the master deed, or this exhibit thereto. The liability of any co-owners arising out of any contract, act or omission by such member or officer of the board or out of the aforesaid indemnity shall be limited to such proportion of the total liability thereunder as such co-owner's percentage interest in the common elements bears to the total percentage interest of all of the co-owners in the common elements. Each agreement made by such members ~~of~~ officers shall be executed by such members or officers as agents for the council of co-owners.

7. **DISPUTES.** In the event of any dispute or disagreement between any co-owners relating to the rules and regulations of the board regarding the use of the property, the determination thereof by the board shall be final and binding on the co-owners.

8. POWERS OF BOARD. The board shall have the power:

(a) to engage the services of a manager or managing agent, who may be any person, firm or corporation, upon such terms and compensation as the board deems fit, and to remove such manager or managing agent at any time;

(b) to engage the services of any persons deemed necessary by the board at such compensation deemed reasonable by the board, in the operation, repair, maintenance and management of the property, and to remove at any time any such personnel;

(c) to establish or maintain one or more bank accounts for the deposit of any funds paid to, or received by the board; and

(d) to make such charges as it sees fit for the use by co-owners or others of the common elements or portions thereof on such terms as the board sees fit. Any funds received by the board for any such use shall become a part of the maintenance fund.

9. DUTIES OF BOARD. The board shall acquire and make arrangements for, and pay out of the maintenance fund, in addition to the manager, managing agent or other personnel above provided for, the following:

(a) water, waste removal, electricity and telephone and other necessary utility service for the common elements and such services to the units as not separately metered to the co-owners thereof;

(b) Such insurance as the board is required to obtain, and such other insurance as the board deems advisable in the operation of the condominium (any losses under such policies of insurance shall be payable and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of the Act, the master deed, and this exhibit thereto);

(c) the services of a bank or trust company authorized to do business in the state of Tennessee to act as trustee or agent on behalf of the board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss and the proceeds from any condemnation, upon such terms as the board shall determine consistent with the provisions of the master deed and this exhibit thereto;

(d) a policy or policies insuring the board and the council of co-owners against any liability incident to the ownership and the use of the common elements, the liability under such insurance shall be not less than \$1,000,000 for bodily injury for any one accident, and \$100,000 for property damage (such limits to be reviewed at least annually by the board and increased in its discretion) with severability of interest endorsements;

(e) worker's compensation insurance to the extent necessary to comply with any applicable laws;

(f) landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the common elements (not including the interior surfaces or windows and doors of the units, and decks and storage which the co-owners have the exclusive right to use and occupy pursuant to the master deed and this exhibit thereto, which the respective co-owners shall paint, clean, decorate, maintain and repair) and such furnishings and equipment for the common elements as the board shall determine are necessary, and the board shall have the exclusive right and duty to acquire the same for the common elements;

(g) 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 condominium, for the enforcement of any restrictions or provisions contained in the Act, these by-laws and the master deed;

(h) any amount necessary to discharge any mechanic's lien or other encumbrance levied against the property or any part thereof which in the opinion of the board constitutes a lien against the property or against the common elements, rather than merely against the interest therein of particular co-owners (where one

or more co-owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any cost incurred by the board by reason of said lien or liens shall be specially assessed to said co-owners, and shall, until paid by such co-owners, constitute a lien on the interest of such co-owners in the property as provided in the Act with respect to liens for failure to pay a share of the common expenses);

(i) maintenance and repair of any unit or of any other portion of the property which a co-owner is obligated to maintain or repair under the terms and master deed or the exhibits thereto, if such maintenance or repair is necessary, in the discretion of the board, to protect the common elements, or any portion of the property, and the co-owner or co-owners of said unit have failed or refused to perform said maintenance or repair within a reasonable time after the notice of the necessity of said maintenance or repair delivered by the board to said co-owner or co-owners; provided that the board shall levy a special assessment against such unit for the cost of such maintenance or repair and the amount of such special assessment shall constitute a lien on the interest of said co-owner or co-owners in the property as provided in the Act with respect to liens for failure to pay a share of the common expenses; and

(j) a fidelity bond covering each employee handling funds of the council of co-owners.

10. MEETINGS OF COUNCIL OF CO-OWNERS. The first meeting of the council of co-owners shall be called by the developer within thirty (30) days after the closing of the sale of the last unit. Thereafter an annual meeting of the council of co-owners shall be held on the first Tuesday in May of each year for the purpose of electing members of the board and such other business as comes before the meeting. Special meetings of the council of co-owners may be called, for any reasonable purpose, either by the president, or not less than sixty (60) percent of the co-owners, the notice for which shall specify matters to be considered in such meeting.

→ Council or Board?

11. PLACE, NOTICE AND PROXIES. All meetings of the council of co-owners shall take place in same section of the property designated by the person or persons calling a special meeting, or at such other reasonable place or time designated by the board. Written notice of the holding of the regular or a special meeting of the council of co-owners, stating the date, hour and place of such meeting shall be delivered or sent in person or by mail to each co-owner in care of his unit at least five (5) days before the date of such meeting. A majority of the co-owners shall constitute a quorum at such meeting. A co-owner may vote either in person or by proxy at a regular or special meeting of the council of co-owners. Every proxy must be dated and in writing, and no proxy shall be valid after twelve months from the date of its execution.

12. BOARD OFFICERS. A president, a vice president, a secretary and a treasurer shall be elected at each annual meeting of the board from among its members. Any two or more offices may be held by the same person, except the offices of president and secretary. Any such officer may be removed by the majority of the board at any time. A vacancy in any office may be filled by the board for the unexpired term.

13. DUTIES OF PRESIDENT. The president shall preside over the meetings of the board and the council of co-owners; he may sign, together with any other officer designated by the board, any contracts, checks, drafts, or other instruments designated or approved by the board. In the absence of the president, or in the event of his inability to act, the vice president shall perform the duties of the president.

14. SECRETARY. The secretary shall, in addition to any other duties, see that all notices are dully given as herein provided.

15. WAIVERS. Whenever any notice whatever is required to be given under the provisions of the master deed or these by-laws, a waiver thereof in writing of the person or persons entitled to such notice, whether before or at the time stated therein, shall be deemed equivalent to the giving of such notice.

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16. **BUSINESSES.** Nothing contained in these by-laws shall be construed to give the board authority to conduct any business for profit on behalf of the council of co-owners or any co-owner.

BATTERY PATTEN, INC.

By: _____