

*Dartmouth -  
Willow Terrace*

MASTER DEED

MASTER DEED AND DECLARATION OF  
HORIZONTAL PROPERTY REGIME  
DARTMOUTH-WILLOW TERRACE CONDOMINIUM

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THIS MASTER DEED AND DECLARATION (hereinafter referred to as "Master Deed"), made and entered into in the County of Jefferson, State of Kentucky, on this \_\_\_\_\_ day of \_\_\_\_\_, 1981, by DARTMOUTH-WILLOW TERRACE ASSOCIATES, LTD., a Tennessee Limited Partnership, authorized and qualified to do business in the State of Kentucky, (hereinafter referred to as the "Grantor").

W I T N E S S E T H :

THAT WHEREAS, the Grantor is the Owner in Fee Simple Absolute of land and premises with improvements, easements, rights-of-way and appurtenances thereto belonging, situated, lying and being in Jefferson County, Kentucky (which land and premises, together with certain buildings and improvements heretofore constructed thereon, easements, rights-of-way and appurtenances thereto, is hereinafter referred to as the "Property"), which land and premises is more particularly described as being situated and located in the City of Louisville, County of Jefferson, Kentucky, to-wit:

BEGINNING at the intersection of the Northwestwardly line of Baringer Avenue with the Southwestwardly line of Willow Avenue; thence Northwestwardly with the Southwestwardly line of Willow Avenue 288 feet to the intersection of a straight extension of said line of Willow Avenue with a straight extension of the Southeastwardly line of Edgeland Avenue; thence Southwestwardly with said line of Edgeland Avenue 236 feet 6 inches to its intersection with the Northeastwardly line of the tract of land conveyed to N. G. MacVey and Betty B. MacVey, his wife, by Deed dated September 12, 1957, and recorded in Deed Book 3468, Page 369, in the Office of the Clerk of Jefferson County, Kentucky; thence Southeastwardly with the Northeastwardly line of the MacVey tract aforesaid, 159 feet 6 inches to its intersection with the Northwardly line of an alley; thence Northeastwardly with the Northwardly line of said alley, 8 1/2 inches to its intersection with the Northwardly line of another alley; thence Eastwardly with the Northwardly line of said last mentioned alley, 20 feet to the Northeastwardly corner of same; thence Southeastwardly with the Northeastwardly line of said last mentioned alley, 170 feet 11 1/2 inches, more or less, to the Northwestwardly line of Baringer Avenue; thence Northeastwardly with the said line of Baringer Avenue, with the curve of same, 237 feet 1 1/2 inches to the beginning. Being Lots 1, 2, 3 and 4 and part of Lot 6, Block 4, as shown on Plat appended to and made a part of the Deed from Baringer Land Company to E. L. McDonald, recorded in Deed Book 894, Page 87, in the Office of the Clerk aforesaid, and alley adjoining the aforesaid Lot 6 on the Northeast, closed in Action No. 137-441, Jefferson Circuit Court. BEING a part of the same property acquired by the Grantor by Deed dated the \_\_\_\_\_ day of \_\_\_\_\_, 1981, of record in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, in the Office aforesaid; and,

WHEREAS, it is the express desire and intention of the Grantor to submit the said Property to a Horizontal Property Regime pursuant to the Horizontal Property Law, Sections 381.805 through 381.910 of the Kentucky Revised Statutes, as amended, (hereinafter referred to as the "Act") which shall be known as "DARTMOUTH-WILLOW TERRACE CONDOMINIUM" (hereinafter sometimes referred to as the "Condominium"); and,

WHEREAS, the Grantor desires to provide for the administration of the said Horizontal Property Regime by the ASSOCIATION OF CO-OWNERS OF DARTMOUTH-WILLOW TERRACE CONDOMINIUM (hereinafter referred to as the "Association"); said Association to consist of all the Co-Owners as defined herein, each of whose membership shall automatically arise with ownership of a Unit, as defined herein, in the Condominium and cease with the termination of such ownership, all in accordance with the provisions of this Master Deed and the By-Laws which are attached hereto as Exhibit "A" and made a part hereof.

NOW, THEREFORE:

FIRST: The Grantor does hereby declare, establish and create DARTMOUTH-WILLOW TERRACE CONDOMINIUM as a Horizontal Property Regime pursuant to the Act and does hereby submit the Property to said Condominium in accordance with the terms and conditions of this Master Deed and the attached By-Laws, the Plans recorded in the Office of the

County Court Clerk of Jefferson County, Kentucky, in Apartment Ownership Book \_\_\_\_\_, Pages \_\_\_\_\_ through \_\_\_\_\_, and Clerk's File # \_\_\_\_\_, which Plans are hereby incorporated by reference herein and made a part hereof.

SECOND: The Property is being submitted herewith in its entirety. The improvements consist of Two (2) Multi-Story Buildings containing 83 Units or Apartments as more particularly described hereinafter in Paragraph THIRD (and hereinafter referred to as "Units") and other improvements as shown on the plans aforesaid and described herein, including passage ways, power plant, garages and workshops. The areas of the Property and of the Buildings as built are shown on the recorded plans above mentioned. Each Unit will be capable of individual utilization; having its own exit to the Common Elements of the Condominium. Each of the Units, as more particularly described herein, is hereby declared to be held in Fee Simple and may be retained, occupied, conveyed, transferred, encumbered, inherited or devised in the same manner as any other parcel of real property, independent of the other individual Units, by or to one or more owners (hereinafter, sometimes referred to as "Co-Owners"), each Co-Owner being a person, corporation, trust or any other legal entity, or any combination thereof, which obtains a particular and unique property right in the Unit or Units and an undivided interest in the General and Limited Common Elements as defined hereinafter in Paragraph THIRD, all of

the above in accordance with the provisions of the Act and subject to the conditions herein set forth.

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

(a) Units: "Unit" means an apartment as shown on the plans hereinabove described, each of which is capable of individual utilization, with its own exit to the Common Elements of the Condominium. The lower vertical boundary of any such Unit is a horizontal plane (or planes), the elevation of which coincides with the elevation of the surface of the unfinished floor thereof, extended to intersect the lateral or perimetrical boundaries thereof. The upper vertical boundary of any such Unit is a horizontal plane (or planes), the elevation of which coincides with the lower surface of the ceiling joists thereof, extended to intersect the lateral or perimetrical boundaries thereof. The lateral or perimetrical boundaries of any such Unit are vertical planes which coincide with the unexposed surfaces of the perimeter walls of the Unit, to include the perimeter drywall or plaster, and the plenums, windows and doors thereof, extended to intersect the upper and lower vertical boundaries of the Unit. Mechanical equipment and appurtenances located within or contiguous with any one Unit and designed to serve only that Unit, such as appliances, range hoods, electrical receptacles and outlets, individual

air conditioning units, fixtures, and the like, shall be considered part of the Unit as shall all fireplaces, windows and doors not leading to the General Common Elements, all interior surfaces of all interior structural walls, floors and ceilings consisting of, inter alia and as appropriate, wallpaper, paint, plaster, stucco, carpeting and tiles. All pipes, wires, conduits, other public utility lines or installations constituting a part of the overall system designed for the service of one or more than one particular Unit, and any structural members or portion of any Unit or Building, and any other property of any kind, including fixtures and appliances within any Unit, which are not removable without in some degree jeopardizing the soundness, safety or usefulness of other portions of the building, shall be deemed to be part of the General Common or Limited Elements as hereinafter described and shall not be a part of any Unit.

(b) General Common Elements: The General Common Elements shall consist of those areas and facilities which are not Units as hereinabove defined or Limited Common Elements as hereinbelow defined, including but not limited to: (i) the Property as hereinabove defined; (ii) the foundations, roofs, slabs, perimeter walls, bearing walls, main walls, structural interior walls and partitions, exterior steps, stairwells, elevators, beams, pipes, watermains, wires, conduits, public utility lines and meters (if not owned by the utility suppliers) and other service

installations regardless of location, columns, girders, supports, service rooms; (iii) the central service systems for distribution of power, light, water, including but not limited to any compressors, water storage tanks, pipes, power plant, heating, ventilation and air conditioning systems designed to service more than one Unit (if any), ducts, flues, stacks, chimneys, chutes, gutters, exterior downspouts, exhaust shafts, interior downspouts, conduits, cable and wire outlets and other utility lines; (iv) the parking areas, garages, streets, curbs, roads, walkways, paths, trees, shrubbery, retaining stonewalls, gardens, fountain and fountain pool, loading docks, service shop, lawn areas, exterior lighting and devices of common use or necessary to the existence, upkeep, use and safety of the buildings and other Condominium property, meeting rooms, reception areas, porches, Entrance Halls and all other public-type facilities, general security devices and decorative or ornamental statuary.

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

(c) Limited Common Elements: The Limited Common Elements consist of those so designated on the floor plans, doors leading to the General Common Elements and such others as are agreed upon by a majority of the Co-Owners to be



reserved for the exclusive use of a certain Unit or certain number of Units to include terraces, patios or balconies. These Limited Common Elements are reserved for the use and benefit of the Co-Owners of the Units to which they are adjacent or to which they are declared to be appurtenant by appropriate designation in the floor plans or such other as shall be agreed upon by a majority of the Co-Owners to be reserved for the exclusive use of a certain Unit or number of Units. Each Limited Common Element is owned in common by all of the Co-Owners but restricted to the exclusive use and benefit of the Unit or Units to which it is declared to be appurtenant. The cost of care, maintenance and upkeep of Limited Common Elements shall be the responsibility of the Unit or Units to which the same shall be declared appurtenant except as elsewhere provided herein or in the By-Laws. Such Limited Common Elements shall be cared for, maintained and kept up to such reasonable standards as required by the Association.

FOURTH: Each Co-Owner shall have an undivided ownership interest in the General and Limited Common Elements and shall share, as assessed in accordance with the provisions of the By-Laws, in the expenses of operating and maintaining the General and Limited Common Elements in accordance with the percentage attributable to such Co-Owner's Unit, as hereinafter described; except insofar as this Master Deed or the By-Laws require the Co-Owners of a Unit to which the use and enjoyment of Limited Common

Elements are reserved to be responsible for the normal maintenance of those particular Limited Common Elements.

The use of the General and Limited Common Elements shall be limited to the Co-Owners in residence and to their tenants in residence. The use of the General and Limited Common Elements shall be governed by the By-Laws, and the Rules and Regulations as adopted from time-to-time by the Association.

Tabulated below, according to Unit designations and their respective percentage of ownership, corresponding to and reflected in the floor plans, are all of the Units in the DARTMOUTH-WILLOW TERRACE CONDOMINIUM:

BUILDING: THE DARTMOUTH

<u>UNIT</u>	<u>% OWNERSHIP</u>	<u>UNIT</u>	<u>% OWNERSHIP</u>
2-A	2.3	7-A	2.3
2-B	2.3	7-B	2.3
3-A	2.3	8-A	2.3
3-B	2.3	8-B	2.3
4-A	2.3	9-A	2.3
4-B	2.3	9-B	2.3
5-A	2.3	10-A	2.3
5-B	2.2	10-B	2.3
6-A	2.3	11-A	2.3
6-B	2.3	11-B	2.3

BUILDING: WILLOW TERRACE

<u>UNIT</u>	<u>% OWNERSHIP</u>	<u>UNIT</u>	<u>% OWNERSHIP</u>
20	0.3	31	0.8
21	0.3	32	0.5
22	0.3	33	0.8
23	0.9	34	1.4
24	1.7	35	1.0
25	0.8	36	0.6
26	0.2	37	0.5
28	0.8	38	1.0
29	1.4	39	1.3

BUILDING: WILLOW TERRACE (CONTINUED)

<u>UNIT</u>	<u>% OWNERSHIP</u>	<u>UNIT</u>	<u>% OWNERSHIP</u>
41	0.8	51	0.8
42	0.5	52	0.5
43	0.8	53	0.8
44	1.4	54	1.4
45	1.0	55	1.0
46	0.6	56	0.6
47	0.5	57	0.5
48	1.0	58	1.0
49	1.3	59	1.3
61	0.8	71	0.8
62	0.5	72	0.5
63	0.8	73	0.8
64	1.4	74	1.4
65	1.0	75	1.0
66	0.6	76	0.6
67	0.5	77	0.5
68	1.0	78	1.0
69	1.3	79	1.3
81	0.8	86	0.6
82	0.5	87	0.5
83	0.8	88	1.0
84	1.4	89	1.3
85	1.0		

TOTAL: UNITS 83 PERCENTAGE 100.00  
(DRAFTER'S NOTE: THERE IS NO UNIT 27)

The percentage of the undivided interest in the General and Limited Common Elements shall not be changed except with the unanimous consent of all of the Co-Owners expressed in an amendment to this Master Deed duly recorded.

FIFTH: The administration of the Condominium shall be by the Association and the Board of Administration as provided hereafter, in accordance with the provisions of this Master Deed and with the provisions of the By-Laws. All of the Co-Owners shall together constitute the Association. Every Co-Owner or group of Co-Owners of a Unit shall automatically be a member of the Association and shall remain a member of the Association until such time as his, her or its ownership ceases for any reason, at which time his, her or its membership in the Association shall automatically cease. Other than as an incident to a lawful transfer of title to a Unit, membership in the Association shall be non-transferable and any attempted transfer shall be null and void.

SIXTH: The above Paragraph notwithstanding, the administration of the Condominium, including the adoption and amendment of the By-Laws, adoption and amendment of the Rules and Regulations, assessment of Common Expenses and any and all other matters relating to the governing of the Condominium Project, shall be vested in the Developer until One Hundred Twenty (120) Days after Seventy-Five Percent (75%) of the Units in the Condominium have been sold and closed and the deed of conveyance delivered, or until the Grantor elects to surrender this power to the Co-Owners or until December 31, 1982, whichever shall first occur. Until that time, the Grantor shall constitute the Association of Co-Owners and the Board of Administration, and shall possess

the irrevocable proxy of the Unit Owners.

SEVENTH: In the event that any building or buildings are partially or totally destroyed and are then rebuilt in substantially the same location, and as a result of such rebuilding any portion of the General or Limited Common Elements encroaches upon the Units or any of them, or vice-versa, or any of the Units encroach upon another Unit, a valid easement for such encroachment and for the maintenance thereof, so long as it shall stand, shall and does exist. Easements are hereby reserved through each of the Units and or Limited Common Elements for the benefit of other Units or Public Utilities as may be required for emergency repairs, structural repairs, utility lines, plumbing and for heating, air conditioning (if any) and ventilation ducts in the locations as presently installed in the Units with rights of ingress and egress, or as subsequently approved in writing by the Association of Co-Owners in accordance with the procedures set forth in the By-Laws, or as approved by the Co-Owner of the burdened Unit. The rights accorded and the easements reserved herein shall be exercised only in a reasonable manner.

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

NINTH: Each Co-Owner shall comply with the provisions of this Master Deed, the By-Laws, the Decisions and Resolutions of the Association as lawfully amended from time-to-time, and the Rules and Regulations of the Board of Administration (hereinafter provided for), and failure to comply with any such provision, decision, resolution or rule and regulation shall be grounds for an action to recover sums due, for damages, for injunctive relief or for any other legal or equitable relief maintainable by the Association, or, in a proper case, by an aggrieved Co-Owner.

TENTH: All present or future owners, tenants, future tenants, or any other person who might use the facilities of the Condominium in any manner are subject to the provisions of this Master Deed; the mere acquisition or rental of any of the Units of the Condominium or the mere act of occupancy of any of said Units shall signify that the provisions of this Master Deed are accepted and ratified.

ELEVENTH: The Association shall establish and pay into a Maintenance Fund all Common Expense Collectins from the Unit Owners assessed for and attributable to current expenses and shall pay from such fund all current Common Expenses of the Condominium and the Replacement Reserve Fund.

TWELFTH: The Association shall establish a Replacement Reserve Fund and pay into the said fund monthly that portion of Common Expense Assessments collected from the Unit Owners attributable to the Capital Replacement

Reserves as required by the Association.

THIRTEENTH: A valid first mortgagee of a Unit who obtains title by reason of a deed in lieu of foreclosure or foreclosure of a mortgage or other first lien security interest covering a Unit, his successors or assigns, shall not be liable for assessments by the Association which became due prior to his acquisition of title, it being understood, however, that the above shall not be construed to prevent the Association from filing and claiming liens for such assessments and enforcing same as provided by law, but that such assessment liens shall be subordinate to such mortgage or security interest: provided, however, any foreclosure action affecting a unit shall name the Association as a party defendant to establish its lien rights.

FOURTEENTH: In a voluntary conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor of the Unit for all unpaid assessments by the Association against the latter for its share of the Common Expenses up to the time of the grant or conveyance (without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor). However, any such grantee shall be entitled to a statement from the managing agent or the Association, as the case may be, setting forth the amount of the unpaid assessments or installments thereon, if any, against the grantor due the Association and such grantee shall not be

liable for, nor shall the Unit conveyed be subject to a lien for any unpaid assessments made by the Association against the Grantor in excess of the amount therein set forth within 30 days of the date of such statement. The Association may charge a reasonable fee for such service, not to exceed \$10.00 for each such request. The cost for this service may be adjusted in accordance with changes in the Consumer Price Index or any replacement standard thereof adopted by the U.S. Department of Labor.

FIFTEENTH: Any assessments of the Association or the Board, whether the same are regular or special assessments, shall be a lien against the unit and the personal obligation of the Co-Owner at the time the assessment becomes due and payable, and no Owner may exempt himself from liability therefor by waiver of the use or enjoyment of any of the General or Limited Common Elements or by the abandonment of his Unit; it being provided, however, that the personal obligation for delinquent assessments shall not pass to successors in title or interest unless assumed by them, but said assessments shall constitute a lien on the Unit to which they are assessed which may be enforced or foreclosed in the same manner as mortgages under Kentucky Law. In the event any assessment shall be unpaid when due and remain unpaid for a period of Ten (10) Days from the due date, the Board shall assess a "late charge" of Ten Percent (10%) of the amount overdue. In the event such assessment shall remain unpaid after Thirty



(30) Days from the due date, any increases notwithstanding, the entire assessment for the Twelve (12) Months next following shall immediately become due and payable in full without demand and the Board may commence collection of the same. Costs and Attorneys' fees of the Board shall be recoverable on any delinquent assessment. The foregoing notwithstanding, the Grantor reserves the right to, and at its option may, (i) pay maintenance fees on each of the Units owned by the Grantor until control of the development is transferred to the Unit Owners as provided in Paragraph SIXTH above, or (ii) apply all collections from closed Units as required hereunder and pay the balance of all expenses: provided, however, upon the transfer of control of the development as provided in the said Paragraph SIXTH, the Grantor shall pay all regular monthly assessments as required herein.

SIXTEENTH: The dedication of the Condominium to the plan of ownership herein described shall not be revoked, nor shall the Condominium be removed from the plan of ownership, unless all of the Co-Owners and holders of all of the Mortgages or other security interest covering the Units and all other parties having any security interest in any Unit unanimously agree to revocation and removal of the Condominium from the plan by duly recorded instruments, except as provided in those portions of Article V of the By-Laws that deal with destruction of the Units, or by operation of law.

SEVENTEENTH: The submission of the Property is subject to all covenants, conditions, easements and restrictions now recorded.

EIGHTEENTH: The Association may, but shall not be required to, incorporate as a Not-For-Profit corporation under the Laws of the Commonwealth of Kentucky. In the event the Association shall elect to incorporate, the By-Laws attached hereto shall become the By-Laws of the Corporation. For all purposes the agent for service of process upon the Condominium or the Association shall be the President of the Association and his designated representative, if any, for such purpose.

NINETEENTH: The Association acting as a body of the whole and through its Board of Administration shall be the governing body of this Condominium. The powers and authority of the Association are more specifically described and set out elsewhere herein and in the By-Laws.

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

TWENTY-FIRST: The Grantor does hereby reserve unto itself, its successors and assigns, the right to modify or amend this Master Deed as may be necessary for the completion of this Condominium project and to adjust for

technical or mathematical errors and matters related thereto so long as Grantor owns more than Twenty-Five Percent (25%) of the Units or until the 31st day of December, 1982, whichever shall first occur; and by acceptance of a Deed to a Unit, the Co-Owner does thereby grant unto the Grantor a Power-Of-Attorney for this purpose. After the termination of the Grantor's control as provided above, this Master Deed may be amended on the affirmative vote and signatures of Seventy Percent (70%) or more of the ownership interest as set forth in Paragraph FOURTH above. Such amendment shall not be effective until the writing evidencing the amendment shall be duly executed, acknowledged and logged of record in the Office of the County Court Clerk of Jefferson County, Kentucky.

TWENTY-SECOND: Until the time specified in Paragraph TWENTY-FIRST above, the Grantor does further reserve unto itself, its successors and assigns, the right to grant such easements as may be necessary or appropriate to fulfill the objectives of this Master Deed and to provide for adequate facilities, utilities and other services and to promote a harmonious relationship in the Condominium, and by acceptance of a Deed to a Unit, the Co-Owner does thereby grant unto the Grantor a Power-of-Attorney for this purpose.

TWENTY-THIRD: It is intended that this Master Deed be in full compliance with the Act, and all applicable federal, state and local laws or ordinances, and should any section, paragraph, sentence, phrase or word be construed by

a court of competent jurisdiction to be in conflict therewith, then such conflicting portion or portions shall be deemed void and severed from this instrument, and all remaining terms shall be valid so as to give effect to the Regime hereby created.

TWENTY-FOURTH: It is the intention of the Grantor that the provisions of this Master Deed are severable so that if any provision, condition, covenant or restriction thereof shall be invalid or void under any applicable federal, state or local law or ordinance, the remainder shall be unaffected thereby. In the event that any provision, condition, covenant or restriction thereof is, at the time of recording this Master Deed, void, voidable or unenforceable as being contrary to any applicable federal, state or local law or ordinance, the Grantor, its successors and assigns and all persons claiming by, through or under this Master Deed covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability, or unenforceability, shall be deemed to apply retrospectively to this Master Deed thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein declared as fully as if they had been in effect at the time of the execution of this instrument.

IN TESTIMONY WHEREOF, Witness the signature of  
the Grantor by its General Partner this \_\_\_\_\_ day of  
\_\_\_\_\_, 1981.

DARTMOUTH-WILLOW TERRACE ASSOCIATES, LTD.

By: \_\_\_\_\_

STATE OF KENTUCKY        )  
                                  ) SS:  
COUNTY OF JEFFERSON    )

The foregoing MASTER DEED was acknowledged before  
me by \_\_\_\_\_ as GENERAL  
PARTNER of DARTMOUTH-WILLOW TERRACE ASSOCIATES, LTD., a  
Tennessee Limited Partnership, on behalf of the Partnership,  
this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

My Commission Expires:

THIS INSTRUMENT PREPARED BY:

\_\_\_\_\_  
MAPLE AND STINSON, ATTORNEYS  
100 Legal Arts Building  
200 South Seventh Street  
Louisville, Kentucky 40202  
502/585-3979

