

**EXHIBIT D****FIRST AMENDED AND RESTATED BYLAWS  
OF  
THE COUNCIL OF CO-OWNERS OF  
THE LEVY BUILDING CONDOMINIUMS, INC.**

The following provisions shall constitute the Bylaws by which, in addition to provisions of the Master Deed and any rules and regulations, the administration of the property shall be governed.

**Section I. Name and Ownership.**

(a) The term "Council of Co-Owners" as used herein and throughout this Master Deed shall mean The Council of Co-Owners of The Levy Building Condominiums, Inc., a non-profit, non-stock corporation, the members of which are all the owners, from time to time, of the Units. The Council of Co-Owners is formed pursuant to KRS 273.010, et. seq. to provide a means of structuring a self-governing body, but said Corporation shall act only as an Agent for Unit owners and in no event shall it be construed to be an income producing entity.

(b) 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 as if the Unit owners consisted of only one person in accordance with the proxy or other designation made by the persons constituting such Unit owner. The owners of Units created by recorded plans shall have one vote for each Unit in this Condominium Project. In the event the owners of a Unit cannot cast their vote in unison, they may designate a Member of the Board to cast their vote and the Board Members vote shall be final and conclusive as regards to that vote on any particular issue or matter properly before the Council for decision.

**Section II. Board of Directors.**

(a) The direction and administration of the property on behalf of the Unit owners shall be vested in the Board acting for the Council (herein referred to as the "Board"), consisting of five (5) persons who shall be elected in the manner hereinafter provided. Each member of the Board shall be one of the Unit owners; provided, however, that in the event a Unit 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.

(b) At each annual meeting of the Council, the Unit owners shall by a vote of a majority of the Unit owners present at such meeting elect the entire Board for the forthcoming year. Members of the Board shall serve without compensation and the terms of three (3) members of the Board shall be one (1) year and the terms of two (2) members of the Board shall be two (2) years, said terms being staggered. Vacancies in the Board shall be filled by the majority vote of the remaining members of the Board. 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.

(c) A regular annual meeting of the Board shall be held immediately after, and at the same place as the annual meeting of the Council. 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.

(d) A Member of the Board may be removed from office by the affirmative vote of sixty-six and two-thirds percent (66 2/3%) of the unit owners at a special meeting of the unit owners called for such purpose.

(e) The Board shall have the power:

(i) to engage the services of a full time janitor, 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; and,

(ii) to engage the services of any professional 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; and,

(iii) To establish or maintain one or more bank accounts for the deposit of any funds paid to, or received by, the Board.

(iv) To procure a policy or policies of insurance for the property against loss or damage by fire and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the common elements and the units. The Board may also purchase such other insurance as the Board deems advisable in the operation, and for the protection of the property and the Units. Premiums for all insurance provided for in this Master Deed shall be common expenses; and,

(v) To procure materials, supplies, furniture, services, maintenance and repair service, structural alterations, or assessments which the Board deems necessary or proper for the maintenance and operation of the property as first-class condominium project or for the enforcement of any restrictions or provisions contained herein; and,

(vi) Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the property or any part thereof which may in the opinion of the Board constitute a lien against the property or against the common elements, rather than merely against the interests therein of particular Unit owners. Where one or more Unit owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said Unit owners and shall, until paid by such owners, constitute a lien on

the interest of such owners in the property, which lien may be foreclosed in like manner as a mortgage; and,

(vii) To maintain all repair when necessary in all limited and general common elements; and,

(viii) Maintenance and repair of any Unit or any other portion of the property which a Unit owner is obligated to maintain or repair under the terms thereof if such maintenance or repair is necessary, in the discretion of the Board, to protect the common elements, or any other portion of the property, and the owner or owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said owner or owners; provided that the Board shall levy a special assessment against such Unit for the cost of said maintenance or repair and the amount of such special assessment shall constitute a lien on the interest of such Unit owners or owner in the property, which lien may be foreclosed in like manner as a mortgage.

### **Section III. Meetings: Annual and Special.**

(a) Overall management and operation shall be under the direction of Developer until terminated under Article 6 of the Master Deed at which time all maintenance funds, books, accounts, and the entire managing operation shall be turned over to the Council. In order to affect an orderly transaction, Developer shall, upon ten (10) days written notice to all unit owners, call the first annual meeting for purpose of selecting the Board and officers. Thereafter, an annual meeting of the Council shall be held on the second Tuesday in January in each year for the purpose of electing members of the Board and such other business as may come before the meeting. Special meetings of the Council may be called, for any reasonable purpose, either by the President, or not less than twenty-five percent (25%) of the Unit owners, the notice for which shall specify the matters to be considered at such special meeting.

(b) All meetings of the Council shall take place at 8:00 p.m. in some 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 any regular or special meeting of the Council stating the date, hour and place of such meeting shall be delivered or sent in person or by mail to each unit owner in care of his Unit at least five (5) days before the date of such meeting. A majority of the Unit owners shall constitute a quorum at all such meetings. A Unit owner may vote either in person or by proxy at any regular or special meeting of the Council. Every proxy must be in writing and no proxy shall be valid after eleven months from the date of its execution.

### **Section IV. Officers.**

(a) A president, one or more vice presidents, a secretary and a treasurer shall be elected at each annual meeting of the Board from among its members. A vacancy in any office may be filled by the Board for the unexpired term.

(b) The president shall preside over the meetings of the Board and the Council; 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 presidents (in the order elected) shall perform the duties of the president.

(c) The secretary shall keep the minutes book wherein all resolutions shall be recorded and shall see that all notices (except the notice for the first annual meeting of the Council) are duly given as herein provided.

(d) The treasurer shall keep all financial records and books of account. 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 thereto, shall be approved by the Board, and a written voucher thereof prepared and signed by the treasurer. There shall be no structural alterations, capital additions to, or capital improvements on the common elements (other than for purposes of replacing or restoring portions of the common areas and facilities) requiring an expenditure in excess of One Thousand Dollars (\$1,000.00) without the prior approval of 75% of the unit owners. The provision shall not be applicable until management has been transferred by Developer.

#### **Section V. Assessments.**

(a) Each year on or before December 1<sup>st</sup>, the Board shall estimate the annual budget of 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 15<sup>th</sup>, notify each unit owner in writing as to the amount of such estimate with reasonable itemization thereof. Said annual budget shall be assessed to the owners according to each owner's percentage of ownership in the common elements. All sums so assessed shall be deemed common expenses. On or before January 1<sup>st</sup> of each year, and the first of each and every month of said year, each unit owner shall be obligated to pay to the Board, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before the first day of February of each calendar year following the transfer of management by Developer, the Board shall supply to all unit owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the accounts 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 according to each owner's percentage of ownership in the common elements to the next monthly installments due from owners under the current year's estimate, until exhausted, and any net shortages shall be added to each owner's percentage of ownership in the common elements to the installments due in the succeeding six months after rendering of the accounting. The Board shall build up and maintain a reasonable reserve for contingencies and replacements. If said annual budget proves inadequate for any

reason, including nonpayment of any owner's assessment, the Board may at any time levy a further assessment, which shall be assessed to the unit owners according to each owner's percentage of ownership in the common elements. Said further assessment shall also be deemed common expenses. The Board shall serve notice of such further assessment on all unit owners by a statement in writing giving the amount and reasons therefor, and such further 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. All unit owners shall be obligated to pay the adjusted monthly amount. The Board shall collect all such assessments and any other assessments herein provided for.

(b) 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 December 31<sup>st</sup> of the calendar year in which said election occurs. Assessments shall be levied against the unit owners during said period as provided in this paragraph.

(c) The failure or delay of the Board to prepare or serve the annual adjusted budget on the Unit owners shall not constitute a waiver or release in any manner of the unit owner's 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 unit 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 not more than ten (10) days after such new annual or adjusted budget shall have been mailed or delivered.

#### **Section VI. Books and Records.**

(a) The Board shall keep full and correct books of account and the same shall be open for inspection by any unit owner or any representative of a unit owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the owner.

(b) All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the unit owners and for such 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 the unit owners hereof, and as amended after the recording of the plans of other buildings.

#### **Section VII. Collection of Assessments.**

(a) In addition to any remedies or liens provided by law, if any unit owner is in default in the monthly payment of the aforesaid charges or assessment for thirty (30) days, the Council acting through the Board may bring suit for and on behalf of itself and as representative of all unit owners, to enforce collection thereof or to foreclose the lien hereinafter provided; and there shall be added to the amount due the costs of said suit, together with legal interest and reasonable attorney fees.

(b) No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common elements, or abandonment of his or her unit. The unpaid common expenses assessed to a unit owner shall constitute a lien against the unit of such owner and against such owner's interest in the property, as provided in the Kentucky Horizontal Property Act as amended.

(c) Upon ten (10) days notice to the Board, and the payment of a reasonable fee fixed by the Board, any unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

**Section VIII. Rules and Regulations.**

(a) The Board may from time to time adopt or amend such administrative rules and regulations governing the operation, maintenance and assessments, beautification and use of the common elements, the limited common elements, and the Units not inconsistent with the terms of this Master Deed, but such adoption or amendments must be with the approval of the majority of the Unit owners, and the Unit owners shall confirm to and abide by such rules and regulations.

(b) Written notice of such rules and regulations shall be given to all unit owners and occupants. A violation of such rules or regulations shall be deemed a violation of the terms of this Master Deed.

**Section IX. Developer.**

(a) This Section shall be exercised by Developer and Developer shall act as the Board in order to complete the development and to assure the placing of the Council on a sound basis for the protection of all owners in this Condominium Project, provided, however, that the Developer shall not be responsible for the paying of any ordinary assessments or maintenance of any Unit before it is sold by Developer and upon conveyance, the maintenance charge shall commence to run against the Unit conveyed.

(b) Developer shall pay all operational and maintenance expenses of the project in excess of the maintenance fees collected on sold Units until management is transferred to the Council. A reasonable management fee shall be paid to Developer prior to transfer of management to offsets administrative expenses. Developer shall have the right to increase the maintenance charge to offset increased costs of maintenance.

**Section X. Miscellaneous.**

(a) In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control and in the case of a conflict between the Master Deed executed in connection herewith and these Bylaws, the Master Deed shall control.

(b) These bylaws may be amended from time to time as set forth in the Master Deed at any annual meeting or special meeting of the Members.

(c) These Bylaws shall be interpreted and enforced under the laws of the Commonwealth of Kentucky.

(d) The invalidity of part or any portion of these Bylaws shall neither impair the validity nor affect in any manner the Master Deed, the Articles of Incorporation of the Council of Co-Owners or the rest of these Bylaws. These Bylaws shall be binding upon and shall inure to the benefit of the Council of Co-Owners, and the Members, heirs, successors and assigns. Where the context requires masculine, feminine and/or neuter terminology shall include one another, and the singular shall include the plural, and the plural shall include the singular.

Adopted this 20th day of April, 2005.

THE COUNCIL OF CO-OWNERS OF THE  
LEVY BUILDING CONDOMINIUMS, INC.

BY: Michael A. Libes

TITLE: President

Document No.: DN2005061674  
Lodged By: MORGAN & POTTINGER  
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No. 107 Page 83  
Part No. 1998