

THE DECLARATION OF CONDOMINIUM  
OF  
GREYSTONE MEDICAL BUILDING CONDOMINIUMS

THIS DECLARATION is made this 26th day of April, 2004, by Greystone Medical Building, LLC (the "Declarant"), for itself and for its successors, grantees and assigns, pursuant to the Alabama Uniform Condominium Act of 1991, Code of Alabama (1975), Section 35-8A-101 et seq., for the purpose of creating a condominium and establishing certain easements, covenants and restrictions to run with the land.

WHEREAS, Declarant is the fee simple owner of real property situated at 101 Missionary Ridge, Birmingham, Alabama 35242 in Shelby County, Alabama, hereinafter referred to as the "Property"; and described as follows:

Part of Lot 2, Brook Highland O and I No. 1, being more particularly described as follows:

Begin at the Northeast corner of Lot 2 Brook Highland O and I No. 1, as recorded in Map Book 24 on Page 71, in the Office of the Judge of Probate, Shelby County, Alabama, said corner also being on the West right of way line of Brook Highland Parkway as recorded in Map Book 12 on Page 71 A & B in the Office of The Judge of Probate, Shelby County, Alabama; thence run in a Northwesterly direction along the North line of said Lot 2 and also along the Southwest line of Lot 3 as recorded in said Brook Highland O and I No. 1 for a distance of 288.63 feet to a point on the Northeast line of said Lot 2, said point also at the Southwest corner of said Lot 3; thence turn an angle to the left of 126 degrees, 37 minutes, 03 seconds and run in a Southeasterly direction for a distance of 138.06 feet to a point; thence turn an angle to the right of 20 degrees, 06 minutes, 11 seconds and run in a Southwesterly direction for a distance of 155.92 feet to a point; thence turn an angle to the left of 18 degrees, 45 minutes, 54 seconds and run in a Southeasterly direction for a distance of 43.57 feet to a point on a curve to the right, having a central angle of 8 degrees, 05 minutes, 20 seconds and a radius of 266.86 feet; said point also being on the North right of way line of Missionary Ridge as recorded in said Brook Highland O and I No. 1; thence run in a Northeasterly direction along the arc of said curve and also along the North right of way line of said Missionary Ridge for a distance of 84.25 feet to a point; thence run tangent to last stated curve in a Northeasterly direction and along the North line of said Missionary Ridge for a distance of 94.00 feet to a point on a curve to the left, having a central angle of 90 degrees, 00 minutes, 00 seconds and a radius of 29.00 feet; thence run in a Northeasterly direction along the arc of said curve for a distance of 45.55 feet to a point on the East right of way line of said Brook Highland Parkway; thence run tangent to last stated curve in a Northeasterly direction along the West line of said Brook Highland Parkway for a distance of 97.74 feet to a point on a curve to the right, having a central angle of 13



degrees, 40 minutes, 57 seconds and a radius of 432.47 feet; thence run in a Northeasterly direction along the arc of said curve and also along the West line of said Brook Highland Parkway for a distance of 103.28 feet to the point of beginning; said parcel of land containing 1.4 acres, more or less.

***LESS AND EXCEPT***

A part of Lot 2, Brook Highland O & I No. 1, being more particularly described as follows:

Commence at the Northeast corner of Lot 2, Brook Highland O & I No. 1 as recorded in Map Book 24, on Page 71, in the Office of the Judge of Probate, Shelby County, Alabama, said corner also being on the West right of way line of Brook Highland Parkway, as recorded in Map Book 12, on Page 71 A & B, in the Office of the Judge of Probate, Shelby County, Alabama; thence run in a Northwesterly direction along the Northeast line of said Lot 2 and also along the Southwest line of Lot 3 in said Brook Highland O & I No. 1 for a distance of 239.14 feet to the point of beginning; thence continue along last stated course for a distance of 49.49 feet to a point on the Northeast line of said Lot 2, said point also being at the Southwest corner of said Lot 3; thence turn an angle to the left of 126 degrees, 37 minutes, 03 seconds and run in a Southeasterly direction for a distance of 138.06 feet to a point; thence turn an angle to the left of 159 degrees, 53 minutes, 49 seconds and run in a Northerly direction for a distance of 115.58 feet to the point of beginning; said part of Lot 2 containing 2,742 square feet or 0.06 acres, more or less.

WHEREAS, the said real property is being or has been, improved by the construction thereof of medical offices and said improvements have been fully and accurately depicted as to layout, location, unit numbers and dimensions identifying the Common Elements, Limited Common Elements, if any, and Private Elements of each Unit in accordance with the plan of Greystone Medical Building and the survey of the above described property prepared by Surveying Solutions, Inc. dated August 29, 2003, with a copy of the record map being placed on file in the Office of the Judge Shelby County, Alabama..

NOW, THEREFORE, the Declarant hereby makes the following Declaration, and specifies that the provisions hereof shall constitute covenants running with the land and shall be binding upon the Declarant, its successors and assigns, and all subsequent purchasers of all or any part of the Property together with their grantees, successors, heirs, executors, administrators, devisees or assigns.



**ARTICLE 1  
PURPOSE,**

The purpose of this Declaration is to submit the Property to the condominium form of ownership and use in the manner provided by the Alabama Uniform Condominium Act of 1991, Code of Alabama (1975), Section 35-8A-101 et seq. (the "Act") and the Property as that term is defined in Section 3.12 hereof, is hereby submitted to the condominium form of ownership as provided for in the Act.

**ARTICLE 2  
NAME**

The name by which this condominium is to be identified is:

GREYSTONE MEDICAL BUILDING CONDOMINIUMS.

**ARTICLE 3  
DEFINITIONS**

The terms used herein and in the Articles of Incorporation and By-Laws shall have the meaning stated in the Act and as follows:

3.01 "Act" means the Alabama Uniform Condominium Act of 1991, Code of Alabama (1975), Section 35-8A-101 et seq.

3.02 "Articles of Incorporation" means the articles of incorporation of the Association, recorded in the Office of the Judge of Probate of Shelby County, Alabama.

3.03 "Assessment" means a proportionate share of the funds required for the payment of Common Expenses, including insurance, maintenance and fees required for the administration of the Condominium, and charges and expenses of the Association, which are assessed against the Unit Owners by this Declaration and the Board of Directors of the Association as necessary from time to time.

3.04 "Association" means GREYSTONE MEDICAL BUILDING OWNERS ASSOCIATION, INC. and its successors which shall administer the operating maintenance, control and administration of the Condominium property.

3.05 "Board" means the Board of Directors of the Association.



3.06 "Building" means any structure, erected on the land containing one or more Units or any maintenance facilities, as more particularly described hereinabove.

3.07 "By-Laws" means the duly adopted By-Laws of the Association, a copy of which is attached hereto as Exhibit "A".

3.08 "Common Elements" means common areas and facilities as defined in said Act and shall include all parts of the Condominium Property not included with the Unit boundaries as described in Section 5.01 hereafter, in which all of the Unit Owners have an undivided interest.

3.09 "Common Expenses" include those as defined by the Act, together with the expense for which the Unit Owners are liable to the Association, actual or estimated, pursuant to the By-Laws.

3.10 "Condominium" means GREYSTONE BUILDING CONDDOMINIUMS.

3.11 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements and Limited Common Elements which are appurtenant to the Unit.

3.12 "Condominium Property" or "Property" means and includes all the land described hereinabove and all improvements and structures thereon, and additions thereto, as are subject to this Declaration or any Amended Declaration under the provisions of Article 20 hereof and all easements, rights and appurtenances thereto.

3.13 "Declaration" means the within document as it may be amended from time to time.

3.14 "Developer" means GREYSTONE MEDICAL BUILDING, LLC, an Alabama corporation.

3.15 "Land" is the real property subject to the Declaration which is hereby submitted to the condominium form of ownership.

3.16 "Limited Common Elements" means the portions of the Condominium Property in which more than one but not all Unit Owners have an undivided interest.

3.17 "Limited Common Expense" means those expenses arising out of the ownership of Limited Common Elements for which the Unit Owners having an interest in the Limited Common Elements are liable to the Association.



3.18 "Limited Common Surplus" means the excess of all receipts of the Association arising out of ownership of the Limited Common Elements over the amount of Limited Common Expenses.

3.19 "Member" means a member of the Association. Membership in the Association shall be limited to those persons who hold a fee-type ownership interest in any Unit.

3.20 "Private Elements" means that part or parts of the Condominium Property intended for exclusive ownership by a Unit Owner.

3.21 "Unit" means the Private Elements, of the Condominium Property together with the undivided interest in the Common Elements and Limited Common Elements which are assigned thereto in the Declaration or any amendment thereto.

3.22 "Unit Number" means the number assigned to a Unit as set forth in Section 5.02 Article 5 herein.

3.23 "Unit Owner" or "Owner of a Unit" means the owner of a Condominium Parcel.

3.24 "Singular, plural, gender". Whenever the context so permits, the use of the plural shall include the singular, the use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

#### **ARTICLE 4**

#### **DESCRIPTION OF THE UNITS**

4.01 SURVEY, GRAPHIC DESCRIPTION AND PLOT PLAN. A survey of the Land submitted to condominium ownership is in the map filed for record in the Shelby County, Alabama Office of the Probate Court. A graphic description of the improvements in which Units are located and the identification of each Unit by number, so that no Unit bears the same designation as any other Unit, and the plot plan thereof, all in sufficient detail to identify the Common Elements, Limited Common Elements and each Unit and their respective locations and dimensions is on file in the Office of David B. Wilhelm, M. D., Greystone Medical Building, 100 Missionary Ridge, Suite 200, Birmingham, Alabama 35242 for inspection during normal business hours. Said site and location of the improvements are hereinafter collectively referred to as "Plans".

4.02 UNIT BOUNDARIES. Each unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit as follows:



(a) The upper and lower boundaries, of the Unit shall be the following boundaries extended to an intersection with perimetrical boundaries.

(1) Upper Boundaries. The horizontal plane of the undecorated finished ceiling of each room of the Unit.

(2) Lower Boundaries. The horizontal plane of the undecorated finished floor of each room of the Unit. If there is a basement, then the unfinished basement floor.

(b) The perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries.

(1) Exterior Building Walls. The intersecting vertical planes adjacent to and which include the undecorated interior surface of the outside walls of the Unit Building bounding the Unit and fixtures thereon. No open porches, patios or decks shall be extended, enclosed or altered in any manner whatsoever by a Unit Owner, except with the prior written, consent of the Board.

(2) Limitation. The owner of a Unit shall not be deemed to own the undecorated and unfinished surfaces of the exterior perimeter walls, or the undecorated and/or unfinished surfaces of the perimeter floors and ceilings surrounding his respective Unit, nor shall the Unit owner be deemed to own pipes, wires, conduits, air passageways and ducts or other public utility lines running through or adjacent to said Unit which are utilized for or serve more than one Unit or the common areas, which items are by these presents hereby made a part of the Common Elements. However, said Unit Owner shall be deemed to own the walls and partitions which are contained within said Owner's Unit, as herein defined, and shall also be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, including paint, wallpaper, and so forth.

(c) The air conditioning and heating system serving only an individual Unit, including all of the air conditioning system's component parts, attachments and lines shall be deemed owned by the Unit Owner, and shall not be considered part of the Common Elements.

4.03 EASEMENTS. The Declarant hereby reserves for and grants to the Unit Owners the following exclusive Easements:

(a) Unit Owner's Easements, An exclusive easement is granted to each Unit Owner to have exclusive use of the surface area of the interior portion of any exterior wall in his Unit. Said use shall include the right to paint, wallpaper, adorn or use to hang or mount objects upon said interior surface area of a wall provided such actions are not prohibited by the Declaration,



Articles of Incorporation, By-Laws or Rules and Regulations. This easement shall not, however, be construed as giving the Unit Owner the right to remove, alter, remodel or in any way endanger the structural soundness of any said walls.

Nothing in this section shall be construed as limiting in any way the right to the Association from performing maintenance on, or making repairs or improvements to the said walls, provided such maintenance, repairs or improvements are authorized by the Declaration or By-Laws. Maintenance of said walls shall be as provided for in Article 9 hereafter.

(b) The Association's Easements. The Declarant reserves for and grants to the Association for the benefit of its Members, their guests and lessees, the following easements, rights and privileges:

(1) An easement in common with others for ingress and egress by vehicle or on foot, in, to, upon, over and under all roads, walks and passageways located on the Property.

(2) An easement for the placement and maintenance of all roadways and utilities, including sewer, electricity, telephone and T.V. cable lines, pipes, sewers and conduits, in and through the Property, including the right unto itself, its successors and assigns, an easement through the common elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising special declarant rights.

## **ARTICLE 5**

### **COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND PRIVATE ELEMENTS**

5.01 COMMON ELEMENTS. The Common Elements of the Condominium will include the common areas and facilities located substantially as shown on the Plans. Such common areas and facilities will include the following, unless specifically included with a Unit.

- (a) The Land on which the improvements are located.
- (b) The yard driveways, walkways, parking areas, recreational areas, and landscaping.
- (c) All maintenance facilities, outdoor lighting and the like and storage areas. Those porch, patio, deck and step area lights that are operated by a Unit Owner for the exclusive use and convenience of said Unit Owner are Common Elements and the Association shall remain responsible for the ordinary maintenance of any said fixture(s). However, each Unit Owner shall



be responsible for the cost of the electricity used in the operation of these particular light fixtures.

(d) Easements through Units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to Units and the Common Elements.

(e) An easement of support in every portion of a Unit which contributes to the support of a Building,

(f) Installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation.

(g) The property and installation in connection therewith required for the furnishing of utilities and services to more than one unit or to the Common Elements.

(h) All open porch, patio and deck areas, provided, however, that Unit Owners who Units have direct access to an open porch, patio or deck directly from the interior of their Unit, shall have an easement for the exclusive use of such area. Any such open porch, patio and deck shall be maintained and kept in a neat and orderly manner and free of ice, snow and other accumulation by the Unit Owner entitled to such exclusive use.

(i) All easements and/or rights of access for ingress and egress across adjoining the property.

(j) All other parts or portions of the Condominium Property not included in the Units.

5.02 DETERMINATION OF THE PERCENTAGES OF OWNERSHIP IN COMMON ELEMENTS, COMMON EXPENSES AND COMMON PROFITS. The Common Profits shall be distributed among, and the common expenses shall be charged to, the Unit Owners according to the percentage of the undivided interest of the Unit in the Common Elements.

The condominium will consist of three (3) units, each having a different plan and design. These Units and their Assigned Value are as follows:

Unit	Assigned Value	Owner
100	32.5%	Harvey S. Harmon and Renee B. Harmon
101	17.5%	Michael B. Randle
200	25%	David B. Wilhelm and
	25%	Karin B. Rock



The Assigned Value of each Unit shall be the basis upon which the determination of percentages of ownership in Common Elements and prorations of Common Elements is made notwithstanding the fact that the Unit may actually contain more or less square footage than another Unit having the same. Assigned Value.

5.03 ENCROACHMENTS. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements as a result of the construction of the Building, or if any such encroachment shall occur hereafter as a result of settling or shifting of the Building, a valid easement for the encroachment and for the maintenance of the same, so long as the Building stands, shall exist. In the event the Building, any Unit, any adjoining Unit, or any adjoining Common Element shall be partially or totally destroyed as a result of fire, or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Elements upon any Unit or any Unit upon any other Unit or upon any portion of the Common Elements, due to such encroachments and maintenance thereof shall exist so long as the Building shall stand.

5.04 LIMITED COMMON ELEMENTS. The Limited Common Elements, if any, shall consist of all entrance ways, exits, stairways, stairwells and landings from which there is direct access from the interior of two or more Units and shall be for the exclusive use of the Owners of such Units. Said Limited Common Elements are as reflected on the Plat as recorded.

5.05 PRIVATE ELEMENTS. Any deck or porch open or enclosed which serves only one Unit is a Private Element for the benefit of that Unit Owner only. Such improvements are also shown on said Plats.

## **ARTICLE 6**

### **UNITS SUBJECT TO DECLARATION, ARTICLES OF INCORPORATION, BY-LAWS AND RULES AND REGULATIONS**

All present and future Unit Owners, tenants and occupants of the Units shall be subject to, and shall comply with the provisions of this Declaration, and Articles of Incorporation, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The initial By-Laws of the Association are attached hereto as Exhibit "A" and are incorporated herein by reference.

## **ARTICLE 7**

### **EXCLUSIVE OWNERSHIP**

Each Unit Owner shall have exclusive ownership and possession of his Unit. The percentage of undivided interest in the Common Elements shall not



be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Unit Owner may use the Common Elements in accordance with the purpose for which the same are intended, without hindering or encroaching upon the lawful rights of other owners, subject, however, to the provisions of Article 5.

## **ARTICLE 8 ENFORCEMENT**

Failure of any Unit Owner to comply strictly with the provisions of this Declaration, the Articles of Incorporation, the By-Laws and the Rules and Regulations, shall be grounds for an action to recover sums due, or damages, or injunctive relief of any or all of them. Such actions may be maintained by the Association on its own behalf or on behalf of the Unit Owners aggrieved. In any case of flagrant or repeated violation by a Unit Owner, he may be required by the Association to give sufficient surety or sureties for his future compliance with the provisions of this Declaration, the Articles of Incorporation, the By-Laws and Rules and Regulations. Nothing herein contained shall prevent, in a proper case, an independent action by an aggrieved Unit Owner for such relief. Furthermore, any Unit Owner shall have a right of action against the Association to recover sums due, or damages, or injunctive relief or any of them for failure of the Association to comply strictly with the provisions of the Declaration, the Articles of Incorporation, the By-Laws and the Rules and Regulations.

## **ARTICLE 9 MAINTENANCE**

The responsibility for the maintenance of the Property shall be as follows:

9.01 UNITS AND PRIVATE ELEMENTS. Each Unit Owner shall perform promptly, and at his own risk, cost and expense, all maintenance and repair work with respect to all portions of his Unit and Private Elements, as defined in this Declaration, and which, if omitted, would adversely affect or jeopardize the safety of the Condominium Property. Each Unit Owner shall promptly report to the Association any need for maintenance or repair of portions of the Condominium Property which may be the responsibility of the Association to maintain and repair.

9.02 LIMITED COMMON ELEMENTS. The Unit Owners having an interest in Limited Common Elements shall perform promptly, and at their own risk, cost and expense, all maintenance and repair work with respect to such Limited Common Elements and which, if omitted, would adversely affect or



jeopardize the safety of the Condominium Property. The elevation which serves only the second floor units is a Limited Common Element.

9.03 COMMON ELEMENTS. The responsibility of the Association to maintain and repair, as a Common Expense of the Condominium, shall be limited to the portions of the Condominium Property designated as Common Elements in this Declaration, and all conduits, ducts, pipes, wiring or other facilities which may be contained within a Unit but which service part or parts of the Condominium Property other than or in addition to the Unit in which the facilities are contained. The Association shall repair, as a Common Expense of the Condominium, all incidental damage to an individual Unit resulting from maintenance or repair work done by the Association.

#### 9.04 ALTERATIONS AND IMPROVEMENTS.

(a) To Units or Private Elements. Neither a Unit Owner nor the Association shall make any alterations in the portion of a Unit, or Private Elements, or Building which is to be maintained by the Association, or remove any portion thereof or make any additions thereto, or do any work which would jeopardize the safety or soundness of the Building, or impair any easement, without first obtaining approval of the Board of Directors of the Association.

(b) To Common Elements. There shall be no substantial alteration or improvement (other than required maintenance and repairs) of the Common Elements without prior approval in writing of sixty-six and two-thirds ( $66\frac{2}{3}\%$ ) percent of the Unit Owners.

### **ARTICLE 10 DECORATING**

Each Unit Owner shall furnish and be responsible for, at his own expense, all of the decorating in his own Unit from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces, shall maintain them in good condition at his sole expense as may be required from time to time, and each such Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. The use of and the covering of the interior surfaces of the 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 Association. Decorating of the Common Elements (other than interior surfaces within the Units as above provided), and any redecorating of Units to the extent made necessary by damage to existing decoration of such Units caused by maintenance, repair or replacement work on the Common Elements by the Association, shall be furnished by the Association as part of the Common



Expenses. The interior and exterior surfaces of all windows forming part of perimeter wall shall be painted and repaired as a part of the Common Expenses of the Association at such time or times as the Association shall determine. No burglar bars, screens, or storm windows or doors shall be installed, without the prior written approval of the Association.

## **ARTICLE 11 ASSESSMENTS**

The making and collection of Assessments, against Unit Owners shall be pursuant to the By-Laws and subject to the following provisions:

11.01 SHARE OF COMMONS EXPENSE. Each Unit Owner shall be liable for a proportionate share of the Common Expenses, and shall share in the common surplus or profits, such share being the same as his percentage of ownership in the Common Elements.

11.02 LATE PAYMENTS. All monthly, assessments shall be due and payable on or before the first (1st) of the month. Any payment after the tenth (10th) of the month shall be considered delinquent and shall be subject, at the discretion of the Board, to a Ten Dollar (\$10.00) per day late charge.

11.03 MECHANIC'S LIENS. Each Unit Owner shall only be liable for the costs of repairs and replacements to his Unit, and for his proportionate share of the Common Expenses. No Unit Owner shall be liable for the liens of other Unit Owners except as provided for by the Act and this Declaration.

11.04 LIENS FOR ASSESSMENTS. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in the Common Elements, which lien shall secure the following Assessments now and hereafter levied or subject to be levied against each Unit Owner by the Association for advances made by the Association, together with interest thereon as herein provided, and all related costs, including reasonable attorney's fees:

- (a) All Assessments for Common Expenses;
- (b) All Assessments for taxes and other payments which maybe required to be advanced or paid by the Association in order to protect or preserve any lien; and
- (c) All Assessments for payments and expenses incurred in discharging any mechanic's lien, tax lien or other lien or encumbrance filed which in the opinion of the Board, may constitute a lien against the Property, the Common Elements or any Unit.



The lien for the Assessments herein granted to the Association shall be foreclosed in the manner of a mortgage, with a power of sale, and shall have priority to all of the liens, except those liens established as prior liens under the terms of the Act. The lien shall have priority to a first security interest on the subject units recorded prior to the date on which the assessment sought to be enforced became delinquent, to the extent of the Common Expense Assessments which would become due in the absence of acceleration during the six months immediately proceeding institution, of proceedings to enforce the lien. The Association shall have the power to bid on any Unit at a foreclosure sale, and to acquire, hold, lease, mortgage and convey the same. Suit by the Association to recover a money judgment for any sums secured by a lien hereunder shall be maintainable without foreclosing or waiving the lien securing the same.

**11.05 RENTAL PENDING FORECLOSURE** In any foreclosure of a lien for Assessments, the Unit Owner subject to the lien shall be required to pay a reasonable rental for the Unit from the date on which the payment of, any assessment or installment thereon became delinquent, and the Association shall be entitled to the appointment of a receiver for such Unit. The rental required to be paid shall be equal to the rental then charged on comparable types of rental Units in Greystone Medical Building Condominiums or comparable office space in the area.

**11.06 NO EXCEPTION FOR ASSESSMENTS.** No Unit Owner may exempt himself from liability for contribution toward the Common Expenses by waiver of the same or the enjoyment of any of the Common Elements or by the abandonment of his Unit.

**11.07 SUBORDINATION OF LIENS.** Any institutional mortgagee which comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage or deed in lieu of foreclosure, shall take the property free of any claim for unpaid assessments or charges of the Association against the mortgaged Unit which accrue prior to the time such institutional mortgagee comes into possession of the Unit (except for claims for a prorata share of any tax or special assessment as provided for in this Declaration of Condominium; and except for six months of maintenance assessments on the foreclosed unit).

## **ARTICLE 12 ASSOCIATION**

The operation and administration of the Condominium shall be performed by an Association, pursuant to the provisions of the Act, and shall be organized and shall fulfill its functions pursuant to the following provisions:



12.01 NAME. The name of the Association shall be GREYSTONE MEDICAL BUILDING OWNERS ASSOCIATION, INC. an Alabama not for profit corporation.

12.02 POWERS. The powers and duties of the Association shall include those set forth in the Act, this Declaration and the By-Laws of the Association, and it shall have the power to purchase a Unit of the Condominium.

12.03 MEMBERS.

(a) Qualification. The members of the Association shall consist of all the record owners of Units.

(b) Change of Membership. Change of membership in the Association shall be established by recording in the public records of Shelby County, Alabama, a deed or other instrument establishing a record title to a Unit of the Condominium, and the delivery to the Secretary of the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. Membership of the prior owner shall be thereby terminated.

(c) Voting Rights. The vote for a Unit shall be cast by the Unit Owners thereof or the duly authorized proxy of the Unit Owner, or the Unit Owners certified voting representative in the manner providing by the By-Laws. Subject to any provision of the By-Laws applicable thereto, voting shall be in accordance with the percentage of Common Elements apportioned to each Unit Owner's unit and allocations shall require approval of 66 2/3 % of the unit percentage ownership.

12.04 BOARD OF DIRECTORS. The affairs of the Association shall be conducted by a Board of Directors who shall be designated in the manner provided by the By-Laws.

12.05 INDEMNIFICATION. Every Director and every Officer of the Association shall be indemnified by the Association against expenses and liabilities, in the manner provided for in the Articles of Incorporation of the Association and the By-Laws.

12.06 LIMITATION OF LIABILITY. Notwithstanding the liability of the Association to maintain and repair parts of the Property, the Association shall be not be liable for injury or damage caused by a latent condition of the Property to be maintained and repaired by the Association nor for injury or damage caused by the elements for loss or injury to personal property occurring on or within the Common Elements.



12.07 BY-LAWS. The operation of the Association shall be governed by the By-Laws of the Association, a copy of which is attached hereto as Exhibit "A" and made a part hereof by reference.

12.08 AGENTS TO RECEIVE SERVICE OF PROCESS. The following person, whose place of business is in Shelby County, Alabama, is, designated as an agent to receive service of process upon the Association:

Name: David B. Wilhelm, M.D.

Address: 101 Missionary Ridge, Suite 200  
Birmingham, Alabama 35242

### **ARTICLE 13 INSURANCE**

Insurance (other than tide insurance) which shall be carried, upon the Property shall be governed by the provisions of the By-Laws.

13.01 INSURANCE: SHARES OF PROCEEDS. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagee as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association, for the use and benefit each of the Unit Owners and their mortgagees. The duty of the Association shall be to receive such proceeds as are paid and hold the same for the purposes elsewhere stated and for the benefit of the Unit Owners and their mortgagees, as follows:

(a) Common Elements and Facilities. Proceeds on account of damage to Common Elements and facilities an undivided share for each Unit Owner, such share being the same as his undivided interest in the Common Elements appurtenant to his Unit.

(b) Units. Proceeds on account of Units shall be held for the owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner.

(c) Mortgages. In the event a mortgage endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interest may appear.

13.02 DISTRIBUTION OF PROCEEDS. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be used to defray the cost thereof as elsewhere provided. Any proceeds remaining after



defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and, their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

13.03 ASSOCIATION AS AGENT. The association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

13.04 RESPONSIBILITY OF UNIT OWNERS TO MAINTAIN SEPARATE COVERAGE. It shall be the responsibility of each Unit Owner to provide insurance for his or her benefit for loss or damage to his wall coverings, fixtures, furniture, furnishings and other personal property contained in his Unit and all betterments and improvements to the Unit and against injuries sustained as a result of accidents occurring within his Unit, provided that all such policies shall contain waivers of subrogation and further providing that the liability of the carriers issuing insurance obtained by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

## **ARTICLE 14 CONDEMNATION**

In the event of condemnation of all or a portion of the Property, the disposition of proceeds of the award shall be governed by the following provisions:

14.01 ENTIRE PROPERTY. In the event of condemnation of a portion of the Property, the Association shall be entitled to receive the proceeds of the award which shall be distributed in accordance with the findings of a panel of three (3) arbitrators to be selected by the Board which shall proceed in accordance with the then existing rules of the American Arbitration Association to determine the portion of the award due to be distributed to each of the several Unit Owners and their mortgagees, as their interests may appear, by virtue of the Unit Owners interest solely in the units or portion thereof taken and the portion of the award allocable to the Common Elements taken by condemnation. The portion of the award which shall treat the same as insurance proceeds and proceed under Article 13 hereof to reconstruct and restore the affected portion of the Property to a complete architectural unit, the portion of the award allocable to the Common Elements shall be distributed to the Unit Owners and their mortgagees, as their interests may appear, in proportion to their undivided interest therein. The expense of the arbitration shall be paid by the Association and shall constitute a Common Expense.



## **ARTICLE 15**

### **RECONSTRUCTION OR REPAIR AFTER CASUALTY**

In the event of the damage or destruction of all or part of the Property, then, unless it be determined by the vote of Sixty-six and two-thirds (66 2/3%) percent of the Unit Owners including every owner of a Unit or assigned Limited Common Element which will not be rebuilt, not to repair or reconstruct such damaged or destroyed property, the, following provisions shall apply:

15.01 RECONSTRUCTION OR REPAIR. If any part of the Property shall be damaged by casualty, it shall be reconstructed or repaired.

(a) Common Elements. If the damaged improvement is a Common Element, the damaged property shall be reconstructed or repaired.

(b ) Building.

(1) Partial Destruction. If the damaged improvement is part of the Building or a Common Element, the damaged property shall be reconstructed, replaced or repaired.

(2) Total Destruction. If the Building is so damaged that the same is untenable, the Building shall be reconstructed, unless the Condominium is terminated in the manner designated by the Act.

(c) Plans and Specifications. Any such reconstruction or repair must be in accordance with the plans and specifications for the original Building, or as the Building was last constructed, or according to plans approved by the Board.

15.02 RESPONSIBILITY. If the loss shall occur within a single Unit without damage to the Common Elements, then the Unit Owner shall be responsible for reconstruction and repair after casualty. Where a loss or damage occurs to more than one Unit, to the Common Elements, or to any Unit or Units and the Common Elements, the responsibility or reconstruction and repair after casualty shall be that of the Association.

15.03 ESTIMATES OF COST. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain estimates of the cost to rebuild or repair so as to place the damaged property in condition as good as that before the casualty.

15.04 ASSESSMENTS. If the proceeds of insurance and reserves are not sufficient to defray the estimated costs of reconstruction and repair by the Association, Assessments shall be made against all Unit Owners in sufficient



amounts to provide funds to pay the estimated costs. If at any time during reconstruction and repair upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient. Assessments shall be made against the Unit Owners in sufficient amount to provide funds for the payment of such costs. Such Assessments for reconstruction or repair of damage to Common Elements shall be proportion to the Unit Owner's share in the Common Elements.

15.05 CONSTRUCTION FUNDS. The funds for payment of costs of reconstruction and repair after casualty for which the Association is responsible, which shall consist of proceeds of insurance held by the Insurance Trust and funds collected by the Association from Assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:

(a) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Unit Owner shall be paid by the Insurance Trustee to the Unit Owner, or if there is a mortgagee endorsement, then to the Unit Owner and the mortgagee jointly, who shall use such funds for the restoration of his Unit.

(b) Association. Where it shall be obligatory upon the Association to repair or reconstruct the damage caused by said loss, then the construction fund shall be disbursed in payment of such costs upon the order of the Association.

(c) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, then such balance may be retained as a reserve, or wholly or partly distributed, at the discretion of the Board of Directors.

## **ARTICLE 16**

### **USE RESTRICTION**

The use of the Property of the Condominium. shall be in accordance with the following provisions:

16.01 OFFICES. The Property shall be used solely for professional offices.

16.02 NUISANCES. No nuisances shall be allowed upon the Property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents. All parts of the Property shall be kept in a clean and sanitary



condition and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist.

16.03 LAWFUL USE. No immoral, improper, offensive or unlawful use shall be made of the Property nor any part thereof; and all valid laws, zoning ordinances, and regulations of all governmental bodies which require maintenance, modification or repair of the Property shall be the same as the responsibility for the maintenance and repair for the property concerned.

16.04 REGULATIONS. Reasonable regulation concerning the use of the Property not inconsistent with the provisions of this Declaration may be made by the Board. Copies of such regulations or amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium.

## **ARTICLE 17**

### **NOTICE OF LIEN OR SUIT**

17.01 NOTICE OF LIEN. A Unit Owner shall give notice to the Association of every lien upon his Unit including taxes and special assessments, such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.

17.02 NOTICE OF SUIT. A Unit Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his Unit, such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.

17.03 FAILURE TO COMPLY. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

## **ARTICLE 18**

### **CONPLIANCE AND DEFAULT**

Each Unit Owner shall be governed by and shall comply with the terms of the Act this Declaration, the Articles of Incorporation, the By-Laws and Rules and Regulations adopted pursuant thereto and said documents and regulations as they may be amended from time to time. A default shall entitle the Association or other Unit Owners to follow relief in addition to the remedies provided by the Act:

18.01 NEGLIGENCE. Each Unit Owner shall be responsible for all damages to all other Units and/or Common Elements necessitated by his act, negligence or misuse or by that of any of his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association, and the Association shall have the





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right to levy an Assessment on such Unit Owner, which Assessment shall have the same force and effect as all other Assessments. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances.

18.02 COSTS AND ATTORNEY'S FEES. In any proceeding arising because of an alleged default by a Unit Owner, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.

## **ARTICLE 19 COVENANT AGAINST PARTITION**

There shall be no judicial or other partition of the Property, any part thereof of any Unit, nor shall Developer, any Unit Owner or any person acquiring any interest in the project or any part thereof seek any such partition unless the Property has been removed from the provisions of the Act, as in said Act provided.

## **ARTICLE 20 AMENDMENT**

This Declaration of Condominium may be amended in the following manner:

20.01 NOTICE. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is considered.

20.02 RESOLUTION. A resolution adopting a proposed amendment may be proposed by either the Board or by the Members of the Association. The resolution must be approved by the affirmative vote or agreement of Unit Owners of Units to which at least 2/3 of the votes in the Association are allocated. No amendment in the absence of unanimous consent of the Unit Owners may create or increase special declarant rights; increase the number of Units; change the boundaries of any Unit; the allocated interest of a Unit, or the uses to which a Unit is restricted. The Declarant hereunder may amend the Declaration in connection with the exercise of any development rights set forth herein, pursuant to the provisions of the Act.

In addition, amendments must be approved by eligible mortgage holders who represent at least 51% of the votes of Units that are subject to mortgages held by eligible holders. Eligible mortgage holders are those holders of a first mortgage on a Unit who have requested the Association to notify them on any proposed action that required the consent of a specified percentage of eligible mortgage holders. Implied approval may be assumed when an eligible mortgage



holder fails to submit a response to any written proposal for an amendment in writing thirty (30) days after it received proper notice of the proposal by certified or registered mail, return receipt requested.

20.03 RECORDING. A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the public records of Shelby County, Alabama.

20.04 PROVISIO. Provided, however, that no amendment shall discriminate against any Unit Owner nor against any Unit or class or group of units or Unit Owners unless the Unit Owners so affected shall consent.

## **ARTICLE 21 TERMINATION**

The Condominium may be terminated in the manner provided by the Act; provided, however, that in the event of termination, each Unit shall be subject to the payment of a share of the Common Expenses as heretofore defined.

## **ARTICLE 22 EASEMENTS AND LICENSES**

The Association shall have the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium Property.

## **ARTICLE 22 INTERPRETATION**

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a Condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

## **ARTICLE 23 SEVERABILITY**

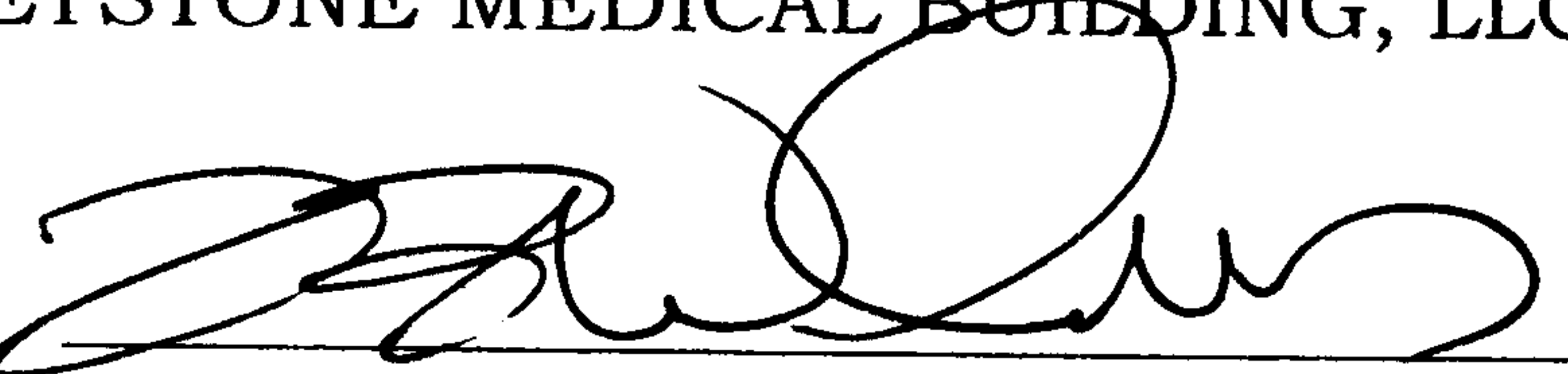
The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or work, or other provision of this Declaration and the By-Laws shall not affect the validity of the remaining portions thereof



IN WITNESS WHEREOF, Greystone Medical Building, LLC, Declarant, has caused this instrument to be executed by all of its Partners on the day and date first above written.

GREYSTONE MEDICAL BUILDING, LLC

BY:



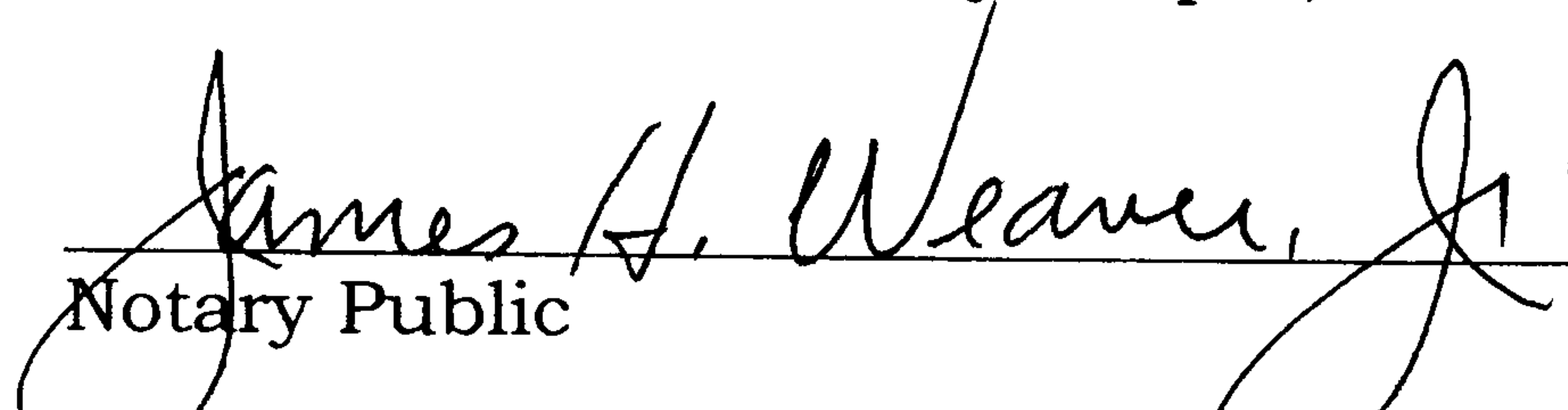
David B. Wilhelm

Its: President

STATE OF ALABAMA  
COUNTY OF SHELBY

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that David B. Wilhelm, whose name is signed to the foregoing as President of Greystone Medical Building LLC, a Corporation, is signed to the foregoing instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 26th day of April, 2004.



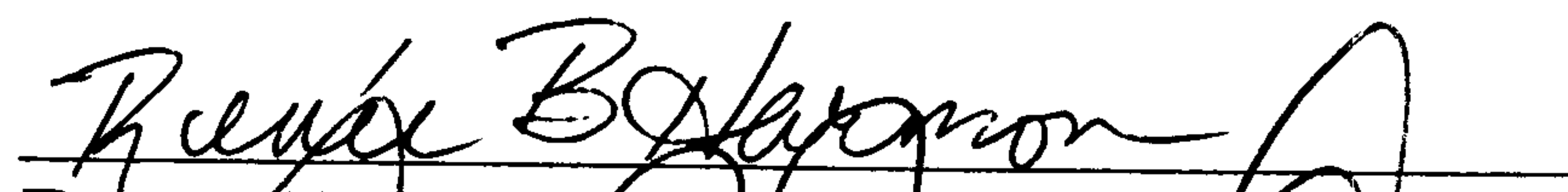
Notary Public

My Commission Expires: 11/4/07


All of the partners of Greystone Medicine Building LLC are: Harvey S. Harmon, Renee B. Harmon, Michael B. Randle David B. Wilhelm and Karin B. Rock



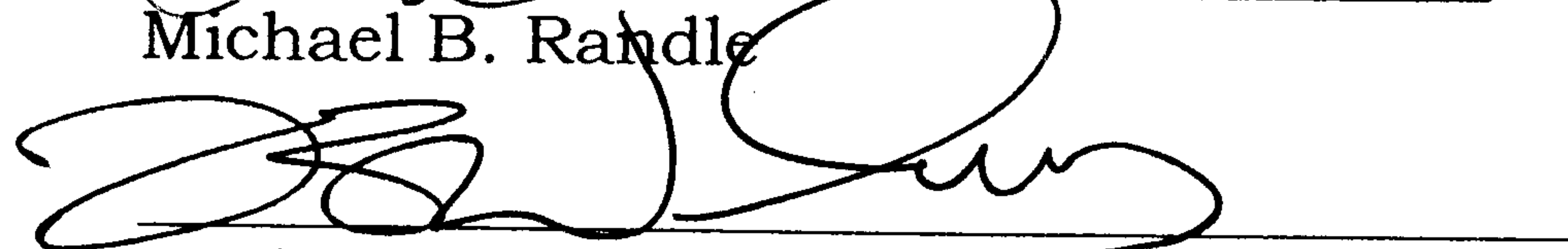
Harvey S. Harmon



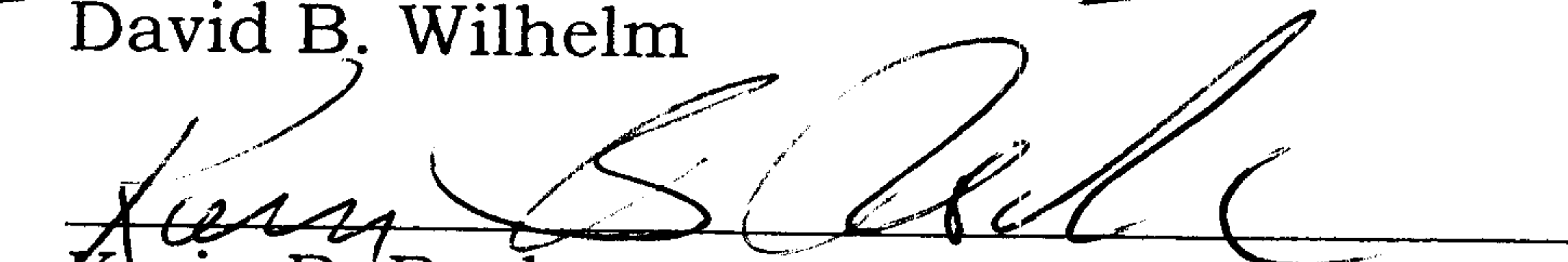
Renee B. Harmon



Michael B. Randle




David B. Wilhelm



Karin B. Rock

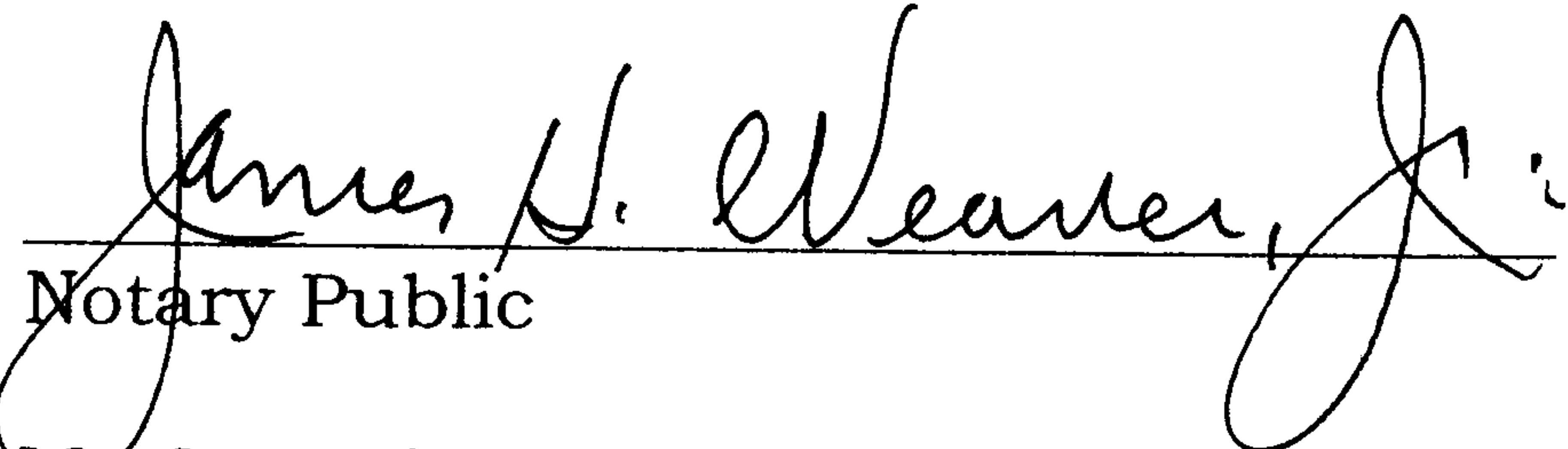


STATE OF ALABAMA  
COUNTY OF SHELBY

  
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Shelby Cnty Judge of Probate, AL  
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I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Harvey S. Harmon, Renee B. Harmon, Michael B. Randle, David B. Wilhelm and Karin B. Rock whose names are signed to the foregoing instrument executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 26th day of April, 2004.

  
Notary Public  
My Commission Expires: 11/4/07



MORTGAGEE

20070109000011690 24/24 \$80.00  
Shelby Cnty Judge of Probate, AL  
01/09/2007 09:55:58AM FILED/CERT

The undersigned, as Mortgagee under the Mortgage encumbering the real Property identified in the foregoing Declaration of Condominium of Greystone Medical Building Condominiums, joins in the execution of the foregoing Declaration of Condominium of Greystone Medical Building Condominiums, as required by law. The undersigned is not the Developer, and does not assume any obligation whatsoever under the terms, covenants and conditions of the foregoing Declaration of Condominium and the execution hereof does not in any way subordinate or make the said Mortgage inferior to the said Declaration of Condominium.

AMSOUTH BANK

BY: Shane Spray

Its: Vice President

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Kathryn Jones Hallmark, a Notary Public in and for said County in said State, hereby certify that Shane Spray whose name as Shane Spray, VICE PRESIDENT of AmSouth Bank of Birmingham, Alabama is signed to the foregoing Declaration of Condominium and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Declaration of Condominium, he as such officer and with full authority, executed the same voluntarily for and as the act of said bank on the day the same bears date.

Given under my hand and official seal of office this 13<sup>th</sup> day of February, 2006.

Kathryn Jones Hallmark  
Notary Public

My Commission Expires: \_\_\_\_\_

MY COMMISSION EXPIRES MAY 27, 2008