

BY-LAWS  
OF  
OAK CREEK MEDICAL CENTER OWNER'S ASSOCIATION

ARTICLE I  
NAME AND LOCATION

The name of the corporation is Oak Creek Medical Center Owner's Association, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 301 N. University, Suite 102, Murfreesboro, Tennessee, 37130, but meeting of members and directors may be held at such places within the State of Tennessee, County of Rutherford, as may be designated by the Board of Directors.

ARTICLE II  
DEFINITIONS

Reference is made to Article I of the Declaration to which these By-Laws are attached for "Definitions" which are incorporated herein by reference.

## ARTICLE III

### MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held at such time and place as designated by the Board upon notice given as set out herein.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or the Board of Directors, or upon written request of the members who are entitled to vote three (3) of all the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by or at the direction of the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting, to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association or supplied by such member to the Association for the purpose of such notice. Such notice shall specify the place, day, and hour of the meeting; and in the case of a special meeting, such notice shall specify the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, five (5) of all the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Voting. The aggregate number of votes for all members of the Association shall be ten (10). Unit number \_\_\_\_\_ shall not be a voting or dues paying Unit. Said Unit being owned in common by several other unit owners as a shared x-ray facility and each Owner shall be entitled to one (1) vote per each Unit owned. Each Unit Owner's respective percentage of ownership interests in the Common Elements shall be one-tenth (1/10). If any Unit Owner consists of more than one person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. The Developer may exercise the voting rights with respect to Units owned by it.

No Unit Owner who is in default in the payment of his assessments hereunder shall be entitled to exercise his right to vote hereunder until he has cured such default. A Unit Owner shall be deemed to be in default if he has not paid his assessments to the Board, or their agent, within fifteen (15) days after receipt of notice of assessment. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

#### ARTICLE IV

##### BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association. The initial Board of three (3) directors shall be appointed by the Developer and shall remain in office until the first annual meeting.

Section 2. Term of Office. At the first annual meeting, the members shall elect one (1) director for a term of one (1) year, one (1) director for a term of two (2) years, and one (1) director for a term of three (3) years; and at each annual meeting thereafter, directors as necessary shall be elected annually for three- (3) year terms.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation, or



removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## ARTICLE V

### NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors may be made by a Nominating Committee if one has been established.

Nominations may also be made from the floor at the annual meeting. Any Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. Prior to each annual meeting of the members, the Nominating Committee shall be appointed by the Board of Directors to serve from the close of such annual meeting until

the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall take as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot unless waived at the meeting by a majority of the members entitled to vote. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly without notice at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any one (1) of the directors, after not less

than three (3) days' notice to each director.

Section 3. Quorum. The attendance of each director shall be required to constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors shall be regarded as the act of the Board.

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

A. Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof; and to enforce the Declaration and these By-Laws.

B. Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty (60) days for infraction of published rules and regulations.

C. Exercise for the Association all power, duties, and authority vested in or delegated to this



Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration.

D. Establish, levy, assess, and collect the assessments or charges as may be necessary.

E. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

F. Appoint and remove at pleasure all officers, agents, and employees of the Corporation, prescribe their duties, fix their compensation, and require of them such bond as may be deemed necessary. Nothing contained in these By-Laws shall be construed to prohibit the employment of any member, officer, or director of the Corporation in any capacity whatsoever.

Section 2. Duties. It shall be the duty of the Board of Directors to:

A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote.

B. Supervise all officers, agents, and employees of this Association and see that their duties are



properly performed.

C. As more fully provided in the Declaration, to:

i. Fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period.

ii. Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period.

iii. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

D. Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

E. Procure and maintain adequate liability and hazard insurance on property owned by the Association.

F. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

G. Cause the Common Area to be maintained.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and a secretary/treasurer and such other officer as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President: The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments and shall co-sign promissory notes.

Secretary/Treasurer: The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association; keep proper books of account; cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members and shall perform such other duties as required by the Board.

#### ARTICLE IX

#### COMMITTEES

The Board may appoint committees such as Architectural Control Committees and Nominating Committees or any other committees deemed appropriate in carrying out its purpose. In addition, the Board of Directors shall appoint other committees as



deemed appropriate in carrying out its purpose.

ARTICLE X  
BOOKS AND RECORDS

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI  
ASSESSMENTS

Section 1. Obligation for Assessments. As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at eighteen percent (18%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property; and interest, costs, and reasonable attorney's fees

of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Unit.

Section 2. Annual Budget. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as his respective monthly assessment for the common expenses, one-twelfth ( $1/12$ ) of his proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with his respective ownership interest in the Common Elements. The Board may determine different allocations with respect to a part of such charges whenever it appears to the Board that such an allocation would be unfair. The allocations shall be applied uniformly to all Owners of like situations. The allocation of the Board shall be final and binding upon all parties. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment as last determined.

Section 3. Partial Year or Month. For the first fiscal year, the annual budget shall be as approved by the First Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of occupancy of his Unit, each Unit Owner shall pay his assessment for the following month or fraction of a month, which assessment shall be in proportion to his respective ownership interest in the Common Elements and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be as computed by the Board.

Section 4. Annual Report. Within forty-five (45) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner a statement for such year so ended showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. Supplemental Budget. In the event that during the course of any year it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished



to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget.

Section 6. Expenditures. Except for expenditures and contracts specifically authorized by the Declaration and By-Laws, the Board shall not approve any expenditure in excess of Two Thousand Five Hundred Dollars (\$2,500.00) unless required for emergency repair, protection, or operation of the Common Elements, nor enter into any contract for more than three (3) years without a ninety (90) day cancellation clause without the prior approval of two-thirds (2/3) of the total membership of the Association and without securing consents of mortgagees, if necessary.

Section 7. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit ownership. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.



Section 8. Holding of Funds. All funds collected hereunder shall be held and expended 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 in the percentages of the Unit Owners as from time to time existing.

## ARTICLE XII

### INDEMNIFICATION

Section 1. General. The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association, and the Board against all contractual and other liabilities to others arising out of contracts made by or other acts of such directors, Board, officers, or committee members on behalf of the Unit Owners or arising out of their status as directors, Board, officers, or committee members, unless any such contract or act shall have been made in clear violation of the Declaration or these By-laws, or fraudulently, or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to counsel fees, amounts of judgments paid, and amounts paid in settlement) reasonably

incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative, or other in which any such director, officer, Board, or committee member may be involved by virtue of such persons being or having been such director, officer, Board, or committee member; provided, however, that such indemnity shall not be operative with respect the following:

A. Any matter as to which such person shall have been finally adjudged in such action, suit, or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, or committee member.

B. Any matter settled or compromised unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for criminal (i.e., a felony) acts, or clearly violating the Declaration or these By-Laws, or for gross negligence or fraud in the performance of his duties as such director, officer, Board, or committee member.

Section 2. Success on Merits. To the extent that a member of the Board of Directors, or an officer of the Association, or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 1, or in defense of any claim, issue, or matter therein,

he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking satisfactory to the Board by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.

Section 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article; provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officer, or members of such committees, or out of the aforesaid indemnity in favor of the directors, Board, officers, or members of such committees, shall be limited to such proportion of the total liability hereunder as said Unit Owner's percentage of interest in the Association bears to the total percentage interest of all the Unit Owners in the Association. Every agreement made by the directors, Board, officers, members of such committees, or by the



Managing Agent on behalf of the Unit Owners shall provide that the directors, Board, officers, members of such committees, or the Managing Agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as expressly set forth herein), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Association bears to the total percentage interest of all Unit Owners in the Association. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association, or disinterested members of the Board of Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be a member of the Board of Directors, officer of the Association, or a member of such committee and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of such person or entity. In no event shall this indemnity exceed coverage occasioned by officers' and directors' liability insurance coverage which the Association shall be required to carry and maintain to the extent that the same is reasonably available in the marketplace.



## ARTICLE XIII

### AMENDMENTS

Section 1. These By-Laws may be amended at a regular or special meeting of the members by a majority of a quorum of the Board present in person.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

## ARTICLE XIV

### MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation. The Board may elect a different fiscal year.

Section 2. Arbitration. Any dispute between any member, any director, or between a member and director shall be resolved by binding arbitration in accordance with the rules of the American Arbitration Association.

IN WITNESS WHEREOF, I, being the Incorporator of the  
OAK CREEK MEDICAL CENTER OWNERS' ASSOCIATION, have hereunto  
set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
John T. Blankenship, Incorporator

#### CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the  
OAK CREEK MEDICAL CENTER OWNERS' ASSOCIATION, a Tennessee  
corporation, and

That the foregoing By-Laws constitute the original By-Laws of  
said Association as duly adopted at a meeting of the Incorporator  
thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and  
affixed the seal of said Association this \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Secretary

STATE OF TENNESSEE                    )  
COUNTY OF \_\_\_\_\_ )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, \_\_\_\_\_ and \_\_\_\_\_, the within named bargainors, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon their several oaths, acknowledged that they executed the foregoing instrument for the purposes contained therein.

Witness my hand and seal at office, this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

OC/oc.by10