

## DECLARATION OF COVENANTS AND RESTRICTIONS BLACK FOREST SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Covenants and Restrictions of Black Forest Subdivision ("Declaration"), made and entered into this \_\_\_\_ day of June, 2016, by W. BOYD LONAS ("Declarant") and TURNER HOMES, LLC, a Tennessee limited liability company ("Developer").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situated in the Sixth (6<sup>th</sup>) District of Knox County, Tennessee and being described on the Plat (as defined below), to which specific reference is hereby made for a more particular description.

WHEREAS, Declarant desires for Developer to create a residential community together with certain open spaces and/or other common facilities for the benefit of the said community; and

WHEREAS, Developer and Declarant desire to provide for the preservation of the values in said community and for the maintenance of drainage facilities and detention areas, open spaces and other such additions as may hereinafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer and Declarant have deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated under the Laws of the State of Tennessee, as a non-profit corporation, BLACK FOREST HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Developer and Declarant declare that the Property and all Lots which are a part thereof are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

### ARTICLE I DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- a) "Assessment" means such amounts as are levied against the Owners by the Association, in order to provide funds for payment of the expenses of owning, managing and maintaining the Common Areas.
- b) "Association" shall mean and refer to the Black Forest Subdivision Homeowners Association, Inc., a Tennessee non-profit corporation, its successors and assigns.
- c) "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- d) "Bylaws" shall mean and refer to the bylaws of the Association, as amended from time to time. The initial set of Bylaws is attached as Exhibit C.
- e) "Common Areas" shall mean and refer to those areas all portion of the Property, and all buildings, improvements and structures located thereon and all easements, rights

and appurtenances belonging thereto, other than the Lots or other improvements on a Lot. Common Areas shall include roads and streets, unless and until they have been accepted by the appropriate public authority for repair, maintenance and upkeep. The Common Areas may include, without limitation, fences, walls, entrance amenities, medians, landscaping, curbs, sidewalks, lighting, utilities, identification signage, irrigation systems, drainage areas, culverts, pipes and detention basins which Developer proposes to convey and transfer to the Association for the common use, benefit and enjoyment of the Owners.

- f) "Declaration" means this instrument as amended, extended or supplemented from time to time in the manner herein provided.
- g) "Developer" means TURNER HOMES, LLC, its successors and assigns.
- h) "Director" shall mean and refer to a Director or Member of the Board of Directors of the Association.
- i) "Living Unit" shall mean and refer to any portion of a building situated upon the Property designed and intended for use and occupancy as a residence by a single family.
- j) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision of the Property with the exception of Common Areas as heretofore defined.
- k) "Member" shall mean and refer to all those Owners who are part of the Association as provided in Article 3, hereof.
- l) "Owner" shall mean and refer to the owner, whether one of more persons or entities, of the fee simple title to any Lot situated upon the Property but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- m) "Plat" shall mean and refer to that certain plat entitled "Black Forest S/D" of record as Instrument Number \_\_\_\_\_ in the Register's Office for Knox County, Tennessee, and any new plats or surveys showing a revised division of the properties into Lots, additional phases, or reductions or addition of land which may hereinafter be recorded in said Register's Office.
- n) "Property" shall mean and refer to the real property described in the recitals above, as depicted and shown on the Plat, together with buildings, improvements, structures, rights of way and easements, whether now existing or hereafter located thereupon or made appurtenant thereto. Developer reserves the right to (i) add additional real property to the Subdivision and make such additional property subject to this Declaration, or (ii) reduce the real property in the Subdivision.
- o) "Subdivision" shall mean the Black Forest Subdivision as shown on the Plat.
- p) "Traditional Architecture" shall be defined as residential architecture categorized as Traditional Single Family Residential architecture common in the United States and not typically referred to as Contemporary.
- q) "Utility Easements" shall mean and refer to those areas of land designated for such purposes on any recorded subdivision plat of the Property of as may be provided for, in, or by this Declaration or any Supplemental Declaration.

## ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

### SECTION 2.1. EXISTING PROPERTY

The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in Knox County, Tennessee, is further described on the Plat which is attached hereto and made a part hereof Exhibit A.

## SECTION 2.2 ADDITIONAL PROPERTY

Additional units of Black Forest Subdivision may be made subject to this Declaration by recording of additional declarations or amendments, as the case may be and at the sole discretion of the Developer, its successors or assigns. Any such subsequent recording, once approved by Developer, shall interlock all rights of members to the Association to the end that all rights resulting to members of the Association shall be uniform as between all units in the Subdivision.

## SECTION 2.3 LIMITATION ON ADDITIONS

No one other than the Developer shall have the right to subject additional lands to this Declaration unless the Developer shall indicate in writing to the Association that such additional lands may be included hereunder.

# ARTICLE III MEMBERSHIP, BOARD OF DIRECTORS AND VOTING RIGHTS IN THE ASSOCIATION

## SECTION 3.1 MEMBERSHIP

Every person or entity who is the owner of a fee or undivided fee interest in any Lot shall be a member of the Association provided that any such person or entity who holds such interest nearly as a security for the performance of an obligation shall not be a member. Membership shall commence on the date such person or entity becomes the owner of a fee or undivided fee interest in a Lot and shall expire upon the transfer, release or other conveyance of said ownership interest, other than a transfer for security purposes.

## SECTION 3.2 VOTING RIGHTS

The Association shall have two classes of voting membership:

CLASS A: Class A Members shall be all those Owners described in Section 3.1 with the exception of the Developer (until the Developer's membership converts as provided below). Class A Members shall be entitled to one(1) vote for each Lot in which they hold interest required for membership by Section 3.1. When more than one person hold such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be excised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

If the Developer elects to add or annex additional Lots or property to the Subdivision as permitted by this Declaration, Developer shall have Class B membership in regard to such additional Lots or property on the same basis as outlined hereinabove.

Said Class B membership shall be non-transferrable, and shall remain in the Developer, except as follows: (i) as between Developer and Declarant or (ii) to the transferees of Developer's or Declarant's remaining interest in the Property. In the event more than one transferee acquires Declarant's or Developer's remaining interest in the Property, each transferee shall be a Class B Member and shall be entitled to the voting rights and privileges set forth in this Section 3.2.

## SECTION 3.3 BY- LAWS

The Developer has filed the Charter of the Association with the Tennessee Secretary of State, a copy of which is attached hereto as Exhibit B and prepared the Bylaws. The Bylaws shall govern the operation of the Association and may only be amended as provided therein. The

Developer shall prepare Bylaws to govern the Association and its members, which Bylaws shall be amended from time to time by the Association, as the need arises. The Bylaws include the following provisions:

- (a) *Votes Necessary for Action.* Except as otherwise specifically required by the Declaration, the Charter, the Bylaws or applicable law, any action to be taken at a duly called meeting of the Members at which a quorum is present shall be binding on the Members upon the affirmative vote of a majority of the votes which may be cast as such meeting.
- (b) *Board of Directors.* The affairs of the Association shall be governed by a *Board of Directors of not less than three (3) nor more than five (5), to be elected annually by the Members. The Members of the Board of Directors need not be Owners or Members. The Board of Directors may act in all instances on behalf of the Association, except as otherwise provide in this Declaration, the Charter, the Bylaws or applicable law.*
- (c) *Maintenance of Common Areas.* The Association, acting by and through its Board of Directors, shall have the right to engage and employ such individuals, corporations or professional managers for the purpose of managing and maintaining the Common Areas, performing its duties under this Declaration and performing such other duties as the Board of Directors shall from time to time deem advisable in the management of the Association.

#### ARTICLE IV PROPERTY RIGHTS IN THE COMMON AREAS

##### SECTION 4.1 MEMBERS' EASEMENTS OF ENJOYMENT

Subject to the provisions of Section 4.2, every member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot.

##### SECTION 4.2. EXTENT OF OWNERS' EASEMENTS.

The rights and easements of enjoyment in and to the Common Areas created hereby shall be subject to the following:

- a) The right of the Association to take reasonable action to protect and preserve the rights of the Association and the individual Members in and to the Common Areas, including, but not limited to the rights to prevent the sale, confiscation or foreclosure of said Common Areas by creditors or lien holders of the Association or Members.
- b) The right of the Association to promulgate and adopt any reasonable rules and regulations regarding the use of the Common Areas.
- c) The right of the Association, as provided in its Charter and Bylaws, to suspend the enjoyment rights of any Member for any period during which any Assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations.
- d) The right of the Association to charge reasonable fees for the use of the Common Areas.
- e) The right of the Association to dedicate or transfer all or any part of the Common Areas or areas to any public agency, authority, utility, municipality or other governmental entity for any reasonable purposes or the right of the Association to

mortgage or convey the Common Areas, subject to such conditions as agreed upon by the Board of Directors of said Association; provided, however, that no such dedication or transfer, and the conditions and provisions incident thereto, shall be effective unless approved by two-thirds (2/3) of the votes eligible to be cast by the Owners of each class of membership in the Association, with each class voting as a class.

- f) The rights of the Owners shall not be altered or restricted because of the location of the Common Areas in a phase or portion of the Subdivision in which such Owner is not a resident. Notwithstanding the phase or portion of the Subdivision in which the Lot is located, the Owners of such Lots shall be entitled to full use and enjoyment of the all Common Areas as provided herein.
- g) The right of the Association to grant and reserve easements and rights-of-ways through, over and across the Common Areas.
- h) Any restriction shown on the Plat.

#### SECTION 4.3 DETENTION AREA.

All detention areas shown on the Plat are Common Areas. If additional detention area(s) are developed, they shall be treated as Common Areas of the Subdivision. All detention basins shall be maintained as Common Areas, insofar as maintenance, repair or replacement is concerned, and the Association shall budget for and assess its members for such maintenance, repair or replacement, as provided for in Article V, herein.

#### SECTION 4.4 DRAINAGE AND DETENTION OF EASEMENTS

An agreement between the Developer and Knox County has therefore been entered into and a copy of said Agreement is of record as Instrument Number \_\_\_\_\_ in the Register's Office for Knox County, Tennessee. In accordance with the provisions contained in said Agreement, a detention basin is to be constructed on a portion of the Property known as Black Forest Subdivision. The surface water run-off from Black Forest Subdivision will be permitted to drain through a series of drainage easements, into the detention basin located partially on property owned by the Association, and into the natural drainage area described on the Plat. Insofar as maintenance, repair or replacement of the foregoing is concerned, and the Association shall budget for and assess its members for such maintenance, repair or replacement, as provided for in Article V, herein.

#### SECTION 4.5. ENTRY MONUMENTS AND TRAFFIC SIGNS

Any and all monuments at the entry of the Subdivision, and/or traffic signs or signals shall be considered as Common Areas, to be installed, maintained, and replaced by the Association.

#### SECTION 4.6 DELEGATION OF USE

Any Owner may delegate, in accordance with the Bylaws, such Owner's right of enjoyment in the Common Areas to the members of such Owner's family, tenants or contract purchaser, who reside on the Lot.

#### SECTION 4.7 DEVELOPMENT PLAN

- (a) Developer reserves the right, without prior approval of the Members or the Association, to (i) subdivide, (ii) change the interior design and arrangement of the Lots, or (iii) alter the boundaries of the Lots, as long as Developer or Declarant own the Lots to be altered and complies with local laws and regulations.
- (b) It is contemplated that the Lots may be developed in multiple phases. Any additional phases may be developed and subdivided into a separate development at a later time by Developer or included within the Development, each at the election of Developer.
- (c) Developer, at its sole option, may elect to create and establish additional Common Areas. Nothing contained herein shall require Developer to establish or create any additional Common Areas. So long as Developer owns the Common Areas, Developer may change, delete, enlarge, reduce or otherwise modify the Common Areas to the maximum degree permitted by applicable laws and ordinances.

#### SECTION 4.8 TITLE TO COMMON AREAS

The Developer may retain legal title to the Common Areas until such time as, in the opinion of Developer, the Association is financially able to manage, maintain and insure the same. At such time, the Developer shall convey and transfer the Common Areas to the Association. Notwithstanding anything to the contrary in this Declaration, prior to the conveyance of any part of Developer's rights to the Common Areas to the Association, Developer shall manage, maintain and insure the Common Areas against liabilities; provided, however, that Developer shall be entitled to recover from the Association, and the Association shall pay to the Developer, a pro rata portion of the costs and expenses incurred by Developer in managing, maintaining and insuring the Common Areas based on the number of Lots in the Subdivision owned by Owners other than the Developer over the total number of Lots in the Subdivision (exclusive of the Common Areas). The cost incurred by the Association shall be paid by the Owners of Lots (excluding the Developer) in accordance with Article V. At the point in time that Developer conveys its right, title and interest in and to the Common Areas (or any portion thereof) to the Association, the Association shall have the duty to manage, maintain and insure the Common Areas against liability.

### ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

#### SECTION 5.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS

The Developer, for each Lot owned by it within the Property, hereby covenants and each Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges determined in accordance with this Declaration or the Bylaws; (2) special assessments for capital improvements, such special assessments to be fixed, established, and collected from time to time as further provided in this Declaration. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with such interest hereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation

of the person who was the Owner of the Lot (upon which the assessments were made) at the time when the assessment fell due.

## SECTION 5.2 PURPOSE OF ASSESSMENT.

The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, welfare, of the Owners and beautification of the Subdivision, for the acquisition, improvement, maintenance of properties, services, and facilities devoted to the foregoing purpose or for the use and enjoyment of the Common Areas, including but not limited to the payment of taxes and insurance thereon, the amenities, brick pavers in streets, detention basins, landscaping and irrigation, and repair, replacement and addition thereto, and for the cost of utilities, labor, equipment, materials, management and supervision thereof and the employment of attorneys and other professionals to represent the Association when necessary and for such other needs as may arise. The assessments shall not be specifically limited to the Common Areas, but shall extend to and include the right to maintain and repair all the previously enumerated areas and the street and area lighting, traffic signals, and signs pertaining to the Subdivision and the repair and replacement of any street signs located herein. The cost of the operation and maintenance of street lights and lighting regardless of the location within the Subdivision and the proximity to the individual lots shall be borne equally and prorated as to each Lot without regard to the ownership; it being the intent of the requirement to insure the safety, enjoyment and security of the entire subdivision.

## SECTION 5.3 ESTABLISHING INITIAL ANNUAL ASSESSMENT

The Developer shall have the right to determine and set the annual assessment each year for a period of six (6) years from and after the date of this Declaration. The assessment shall be a sum reasonably necessary as deemed by the Developer to defray the expenses of the Association for such year and to satisfy the requirements of Section 5.2. From and after the expiration of the six (6) year period, the assessment may be adjusted upward or downward as herein provided. Owners shall pay the annual assessment monthly, quarterly or annually as determined by the Developer, during the initial six (6) years, or the Board thereafter.

## SECTION 5.4 CHANGE IN BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS

During the initial six (6) year term in which the Developer sets the annual assessment the Developer may, and after such six (6) year period the Board may, change the maximum and basis of the assessment fixed by Section 5.3 hereof prospectively for any period provided that if any such change is made by the Board it shall be approved by a majority affirmative vote of all members who are eligible to vote at a duly called membership meeting.

## SECTION 5.5 NOTICE AND QUORUM FOR ACTIONS AUTHORIZED UNDER SECTION 5.4

Written notice of any meeting called for the purpose of taking any action authorized under Section 5.4, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or Proxies entitled to cast fifty-one percent (51%) of all the votes of class of membership shall constitute quorum. If the required quorum is not present, another meeting may be subject to the same notice requirement, and the requirement quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the previous meeting. Subsequent meetings shall not be held more than sixty (60) days following the preceding meeting.

## SECTION 5.6 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized in Section 5.3, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall be approved by a super-majority

consisting of sixty-six and two-thirds percent (66 2/3%) of all Members who are eligible to vote at a duly called meeting for this purpose. All special assessments shall be fixed at uniform rate for all Lots and may be collected monthly, quarterly or annually or as otherwise determined by the Association.

#### SECTION 5.7 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS.

The first annual assessment shall become due and payable on the first day of the month following the lapse of thirty (30) days from the due date of the sale of the first Lot in the Subdivision. Thereafter, as each person or entity becomes a member, such new members assessments for the current year shall be a pro-rata part of the annual assessment and shall be due on the first day of the month following the date such person or entity becomes a member of the Association. Upon a person or entity's ceasing to be a Member of the Association, such Member shall not be entitled to any refund of his annual assessment.

It shall be the duty of the Board of Directors to notify each Owner of any change in the annual assessment of any special assessment and due date of the foregoing assessments. The requirement of notice shall be satisfied if such notice is given by regular deposit in the United States Mail to the last known address of each such Owner.

The due date of any special assessment under Section 5.4 shall be fixed in the resolution authorizing such assessment.

#### SECTION 5.8 EFFECT OF NON-PAYMENT OF ASSESSMENT; THE PERSONAL OBLIGATION OF THE OWNER; THE LIEN; REMEDIES OF ASSOCIATION

If the assessments are not paid on the date when due (being the dates specified in Section 5.7 hereof), then such assessments shall become delinquent and shall, together with such interest thereof and cost of collection (including reasonable attorneys' fees and costs) become a continuing lien on the Lot which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns..

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, foreclose the lien against the property, or both, and there shall be added to the amount of such assessment reasonable attorneys' fees, including but not limited to the cost of preparing and filling the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees to be fixed by the Court together with the costs of this action, including the cost of recording said judgment as a lien in the Register's Office for Knox County, Tennessee or any other jurisdiction where assets of the Owner may be found. An Owner may not waive or otherwise escape liability for the assessments provided herein by claiming offsets, the abandonment of the Lot or for non-use of the Common Areas.

#### SECTION 5.9 SUBORDINATION OF THE LIEN TO MORTGAGES.

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only the assessments which have become due and payable prior to a sale or transfer or such property pursuant to a decree or foreclosure or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due not from the lien of any such subsequent assessment. An assessment shall not be subordinate to a mortgage held by a prior owner who was the Owner at the time such assessment accrued.

#### SECTION 5.10 EXEMPT PROPERTY



The following property, to the extent that it is subject to this Declaration, shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement of other interest herein dedicated and accepted by the local authority and devoted to public use; (b) all Common Areas as defined in Article I hereof; (c) all properties exempted from taxation by the laws of the State of Tennessee or United States Government upon the terms and to the extent of such legal exemption; and (d) all properties hereinafter acquired by reason of foreclosure or otherwise by any mortgage lender of the Developer.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

#### SECTION 5.11 DEVELOPER OWNED PROPERTY

In view of the fact that Developer shall incur all of the initial costs of constructing, building, and installing common facilities, incurring most of the initial maintenance costs of same and subsequently transferring said Common Areas to the Association free of cost, neither Developer nor any entity controlled by Developer or under common ownership or control with the Developer or owned in part by any principal owner of Developer (each, and "Affiliate"), shall pay or be liable for the amount of any annual assessment or special assessment for any Lot owned by Developer or its Affiliates.

#### SECTION 5.12 REQUIRED RECORDS

The Association shall keep books and records sufficient to determine and ascertain (1) sums expended by the Association for development, improvements, maintenance and upkeep of the Common Areas, and (2) that such sums expended were expended for the purposes set forth herein.

### ARTICLE VII TERM; ENFORCEMENT

These covenants are to take effect immediately and shall be binding on all parties and all persons claiming under them until January 1, 2031, at which time said covenants shall be automatically extended for successive periods of ten years unless by vote of the majority of the then Owners it is agreed to change said covenants in whole or in part.

If the parties hereto or any of their heirs and assigns shall violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for the Association or any Owner as defined herein to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate or any such covenants or restrictions and either to prevent him or them from so doing or to recover damages or other dues for such violation.

### ARTICLE VIII MAINTENANCE AND INSURANCE

#### SECTION 8.1 MAINTENANCE BY OWNER

Each Owner (other than Developer) shall maintain and repair such Owner's Lot and all improvements thereupon, all open spaces and all front, side, and rear yards, including grass, trees and shrubberies, so that the Lot and improvements thereto are, at all times, in good condition and repair and neat in appearance when viewed from any street or other Lot and, if not properly maintained and repaired, the Association may perform such maintenance, repairs and replacements as it deems necessary or appropriate and charge the costs thereof to the Owner and the cost of such maintenance, together with a fifteen percent (15%) fee payable to the Association, shall be to and become part of the assessments to which such Lot is subject.

#### SECTION 8.2 ADDITIONS BY DEVELOPER

Developer may, but shall not be obligated to, improve any areas of the Subdivision other than those Lots owned by Owners with grass, mature trees, shrubs, foliage and other plantings and cut grass, trees, hedges, foliage and other plantings as Developer sees fit in Developer's sole discretion and Association shall be responsible for any costs or expenses so incurred.

### SECTION 8.3 INSURANCE

The Board, or its duly authorized agent, shall obtain such insurance policies upon the Common Areas, as the Board deems necessary or desirable in its sole discretion. The named insured and loss payee on all policies of the insurance shall be the Developer and the Association until the Developer and its affiliates no longer own any Lots. Thereafter, the loss payee shall be the Association. The Board is also authorized to obtain Directors and Officers Insurance.

The Board shall have the right to require that the Owners, excluding the Developer, maintain insurance sufficient to provide for the repair and replacement of any improvement on such Owner's Lot and to require that the Owner repair and restore such improvements in the event of damage or destruction (subject only to the rights of an institutional holder of a first mortgage lien on a damaged Lot).

### ARTICLE IX LAND USE AND BUILDING TYPE

All Lots in the subdivision shall be known and designated as residential lots unless otherwise noted on the Plat. No structure shall be erected, altered, placed or permitted to remain on any of the said lots other than one detached, single-family dwelling not to exceed two stories in height and a private attached garage except by approval and sanction of the Architectural Review Committee pursuant to Article XII.

### ARTICLE X BUILDING LOCATION

No building shall be located on any Lot nearer to any boundary line than setbacks as noted on the subdivision plat, or required by the Knox County Zoning Ordinance and/or subdivision regulations, which zoning ordinance and subdivision regulations shall be controlling and the appropriate County Zoning Authority shall have the exclusive authority to permit or deny variances in hardship based as to the rear, side, or front setback requirements.

### ARTICLE XI DIVISION OF LOTS

No more than one single family dwelling may be erected on any one Lot as shown on the recorded map and, except as provided in Section 4.7, no lot shown on said map may be subdivided or reduced in size by any method such as voluntary alienation, partition, judicial sale, or other process of any kind except for the explicit purpose of increasing the size of another Lot.

ARTICLE XII  
BLACK FOREST SUBDIVISION  
ARCHITECTURAL REVIEW COMMITTEE

SECTION 12.1 CREATION OF THE ARCHITECTURAL REVIEW COMMITTEE

No building shall be erected, place, altered, or permitted to remain on any Lot until the building plans and specifications and a plan showing the location of the dwelling have been approved in writing by the Black Forest Subdivision Architectural Review Committee (the "Architectural Review Committee") as to quality of workmanship and materials, harmony of exterior design (including paint colors), with existing structures and as to location with respect to topography and finish grade level and elevation. The Architectural Committee shall be composed of three (3) members appointed by the Developer (which may include Developer). A majority of the committee may designate a representative to act for the Committee. In the event of death or resignation of any member of the Committee, the Developer shall have the exclusive authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. In the event the said Committee or its designated representative fails to approve or disapprove such plans or specifications within thirty (30) days after the same have been submitted to it, such approval shall automatically be granted without further action. Plans must be left with the Committee during the period of construction after approval. The building shall be constructed consistent with approved plans and specifications. If no suit to enjoin the construction has been filed prior to completion thereof, further approval will not be required and the covenant shall be deemed to be fully made. The Developer shall continue to have the exclusive authority to appoint the Members of the Architectural Review Committee until such time as it shall in writing expressly confer such authority to the Association as provided in Article XXIV.

SECTION 12.2 PURPOSE, POWERS AND DUTIES OF THE ARCHITECTURAL REVIEW COMMITTEE

The purpose of the Architectural Review Committee is to assure that the installation, construction or alteration of any structure on and Lot is consistent with the aesthetics of the Subdivision and to require that Owners submit all designs to the Architectural Review Committee for approval (i) as to whether the proposed installation construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the development of the Property and (ii) that the location of structures is proper. To the extent necessary to carry out such purpose, the Architectural Review Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purposes, including, without limitation, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any structure on any Lot. The Architectural Review Committee has the absolute and sole authority of approving or rejecting any house plans brought forth by any party.

SECTION 12.3 SUBMISSION OF PLANS AND SPECIFICATIONS

No structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any Lot or existing structure upon any Lot be altered in any way which materially changes the exterior appearance of the structure or Lot, unless plans and specifications therefore shall have been first submitted to and approved in writing by the Architectural Review Committee. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Architecture Review Committee, including without being limited to:

- a) a site plan showing the location of all proposed and existing structures on the Lot, including building setbacks, open space, driveways, walkways and parking spaces including the number thereof;

- b) floor plans;
- c) exterior elevations of all proposed structures and alterations to existing structures, as such structures will appear after all back-filling and landscaping are completed;
- d) specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors of all proposed structures and alterations to existing structures, and also showing front, side and rear elevations.
- e) samples of building and paint materials to be used, including, but not limited to, roofing shingles (style, color, type, year rating), brick and mortar (color and style), exterior trim color, front door and garage door color and windows;
- f) a comprehensive landscaping plan for each home site must be designed by a registered Landscape Architect or person of similar competence and must be submitted to and approved by the Architectural Review Committee;

#### SECTION 12.4 APPROVAL OF BUILDERS

Any builder or landscaper, prior to performing any work on any Lot, must first be approved by the Architectural Review Committee. No person shall be approved as a builder or landscaper unless such person obtains his income primarily from construction or landscaping or the type which builder or landscaper is to perform upon the Lot. No Owner will be permitted to act as his own builder or contractor except where such Owner obtains his income primarily from the construction of the type of construction to be constructed on the Lot and otherwise meets the qualification herein above set forth.

#### SECTION 12.5 RIGHT OF INSPECTION

The Architectural Review Committee, its agents and representatives, shall have the right during reasonable hours to enter upon and inspect any Lot and structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any structure of the use of any Lot or structure is in compliance with the provisions of the Declaration; and the Architectural Review Committee shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

#### SECTION 12.6 VIOLATIONS

If any structure shall be erected, placed, maintained or altered upon any Lot, other than in accordance with the plans and specifications approved by Architectural Review Committee pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the Architectural Review Committee such a violation shall have occurred, the Architectural Review Committee shall be entitled and empowered to enjoin or remove any such construction. Any costs and expenses incurred by the Architectural Review Committee in enjoining and/or removing any construction or improvements shall be added to and become part of the assessment to which the Owner and his Lot are subject.

The Architectural Review Committee shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within twenty (20) days after the mailing of the aforesaid notice of violation, then the Architectural Review Committee shall have the right of abatement. In addition to the right of abatement, the Board, upon being informed of such violation by the Architectural Review Committee, shall be entitled to seek equitable relief to enjoin such construction.

#### SECTION 12.7 REQUIREMENTS OF BUILDERS AND OWNERS

All builders and Owners shall be held responsible for the acts of their employees, sub-contractors, suppliers and other persons or parties involved in construction or alteration of a home site. In this regard, a builder or Owner shall be responsible for the following.

- a) ensuring that the construction site is kept clean and free of debris and waste materials, and that stockpiles of unused materials are kept in a neat and orderly fashion;
- b) prohibiting the consumption of alcoholic beverages, illegal drugs or other intoxicants that could hamper the safety or well-being of other personnel on the site or affect the quality of workmanship;
- c) assuring that the aforementioned are properly insured;
- d) assuring that aforementioned do not commit any violation of the rules and regulations of the Association; and
- e) ensuring that all driveways on the construction site are sufficiently graveled, they a portable toilet is available and used by the construction workers and any mud or any debris caused by the construction are removed from the adjoining roadways as soon as reasonably possible. Further, silt fences shall be installed as required to keep silt, mud, and other debris off the street.

## SECTION 12.8 GOVERNMENT REQUIREMENTS

Nothing contained herein abrogates, modify, or changes the applicability of any ordinances, statutes, coats, rules, and regulations of Knox County or other governmental units, as applicable, and the necessity of obtaining a building permit, inspection or otherwise complying with applicable provisions of government codes, statutes, rules and regulations.

### ARTICLE XIII DWELLING RESTRICTIONS

## SECTION 13.1 DESIGN REQUIREMENTS

No dwelling shall be erected, placed, altered or permitted to remain on any Lot unless it conforms to the following requirements:

- 1) All windows and the related exterior trim must be of final construction as approved by the Architectural Review Committee. All windows must have grilles.
- 2) All dwellings shall be of brick or stone as approved by the architectural review committee. Any other exterior finishes must be approved by the Architectural Review Committee on an individual house basis. Vinyl, masonite or other similar type synthetic siding materials will be permitted
- 3) All above ground exterior foundation walls shall be veneered with brick or stone, as approved by the Architectural Review Committee.
- 4) The outside wiring for all dwellings, buildings and other structures shall be placed under ground. No overhead wiring at any type shall be permitted. Outside light poles and their location shall be approved by the Architectural Review Committee.
- 5) All private swimming pools must be constructed below the ground surface, shall be enclosed and maintained in a manner consistent with the Knox County health department regulations, and all other appropriate governmental agencies, and the plans and specifications must be submitted to, and approved by, the Architectural Review Committee, prior to construction. Any fencing requirements which vary from those set out

here in our also subject to the prior approval of the Architectural Review Committee, before construction may commence.

- 6) The finished grading for all Lots shall be completed in conformity with the recorded plat for the Property and in such manner as to retain all surface water drainage on said Lot or Lots in "property line swales" find to direct the flow of all surface waters into the drainage easements as created by the overall drainage easement as created by the overall drainage plan for the development, as approved by Knox County or other such authority as may have jurisdiction over the Property.
- 7) All dwellings shall have not less than a two car attached garage, capable of accommodating two automobiles, approved by the Architectural Review Committee.
- 8) There shall be no occupancy permitted until final inspection and issuance of a certificate of occupancy has been issued by Knox County.
- 9) Finish Colors shall be applied consistently to all sides of the buildings. Color selections shall be harmonious with each other and with natural materials, and it shall be compatible with colors of the natural surroundings and other adjacent property. All exterior wood must be painted.
- 10) Exterior window and door trim and similar decorations shall be of the same color in materials, unless otherwise approved, and it shall be either of the same material as exterior walls over directly compatible. Fascia, gutters and down spouts shall blend in and be directly compatible with the architectural detail of the exterior walls. Reflective glass is prohibited.
- 11) All interior window treatments such as drapes and blinds shall have a solid light colored appearance from the exterior.
- 12) Any playground equipment must not be a visual nuisance, and is not permitted in front yard or side yards, nor within 20 feet of any side or street lot line.
- 13) Every dwelling shall be connected to the sanitary sewer in public water system serving the Lot.
- 14) The Board shall choose annual garbage collection agency which shall be used by all Owners of record, so as to prevent trash collection on more than one day per week. All garbage containers must be retrieved from the curb by the end of the designated pick up day.

#### SECTION 13.2 MISCELLANEOUS RESTRICTIONS.

- 1) No outside radio transmission towers, receiving antennas, television antennas, satellite antennas or dishes or solar panels maybe installed or used except as approved by the Architectural Review Committee. Digital satellite dishes not to exceed 22 inches are acceptable, but must not be visible from main street over extend above the roofline of the dwelling unless otherwise required by Federal Law.
- 2) No one shall be permitted to store or park house trailers, campers, pleasure or fishing boats, trailers or other similar type vehicle on or about said residences unless the aforementioned are stored or parked inside a garage so as not to be readily visible from the street or adjoining properties. No automobiles which are inoperable or being stored shall be repeatedly part, kept, repaired or maintained on the street, driveway or lawn or any Lot.
- 3) Clotheslines and other devices or structures designs and customarily used for the drying or airing of clothes, blankets, bed linen, towels, rugs or any other type of household

wares shall not be permitted and it shall be strictly prohibited for articles or items of any description of kind to be displayed on the yard or exterior of any dwelling for the purpose of drying, airing or curing of said items.

- 4) No road or driveway shall be constructed on any Lot without the prior written approval of the Architectural Review Committee or plans and specifications for such roads and driveways. Such specifications shall include the proposed substance to be used in construction of such roads and driveways, which substance shall be satisfactory to the Architectural Review Committee. Parking spaces, garages, and the driveway to the garage shall be planned and executed in an attractive and functional manner and shall consider the location of existing trees, topography, street scape and compatibility with surrounding improvements. All home sites shall have a paved driveway of stable and permanent construction of at least twelve (12) feet in width. Unless prior written approval is obtained by the Architectural Review Committee, all driveways must be concrete. Circular driveways are not permitted.
- 5) Outdoor basketball goals are permissible, provided that they have attractive shrubbery for screening. The location and manner of installation of basketball goals is subject to the approval of the Architectural Review Committee.
- 6) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner shall be responsible for any curbing, sidewalks, or street resulting from construction on such Lot. Any damage to any sections(s) of the sidewalk must be repaired by replacing completely all sections affected. Repairs of such damage must be made as soon as reasonably possible, but in no event, more than thirty (30) days after completion of such construction.

#### ARTICLE XIV NUSANCES

No offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become, in the judgement of the Board, an annoyance or nuisance to the neighborhood.

#### ARTICLE XV TEMPORARY STRUCTURES

No trailer, basement, tent, shack, garage, barn or other outbuildings erected on the tract shall at any time be used as a residence temporarily or permanently nor shall any structure of a temporary character be used as a residence.

#### ARTICLE XVI GENERAL PROVISIONS

The Association, the Architectural Review Committee, or any Owner shall have the right to enforce, by and proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Architectural Review Committee, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The Architectural Review Committee shall have the right abatement in all cases where a Owner shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the certified mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Review Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without

being deemed to have committed a trespass or wrongful act by reason of such entry and such actions. Further, the Architectural Review Committee, the Association, the Developers or any Owner may (i) prosecute proceedings at law for the recovery of damages against those violating or attempting to violate the declaration of covenants and restrictions, and or (ii) maintain a proceeding in equity against those so violating or attempting to violate any covenants or restrictions, for the purpose of preventing or enjoying all of any such violation or attempted violations, and/or to have any such violations removed from the Lot or cured.

The remedies contained in this section shall be construed as cumulative of all other remedies now or hereafter provided by law. If the Association, the Architectural Review Committee, the Board or any other person or persons owning a Lot shall successfully prosecute in law or equity and action pursuant to this or any other enforcement section of these covenants or restrictions, then that party shall be entitled to receive its reasonable attorney's fees and the costs reasonably necessary to prosecute the case against the party violating the covenants and restrictions herein.

## ARTICLE XVII EASEMENTS

### SECTION 9.1 GENERALLY

Easements and other restrictions in conformity with and as shown on the Plat are expressly reserved for the Developer, the Association and their representatives, agents, employees, contractors, successors and assigns, for the overall development of the Subdivision, and no additional easements, rights of way or rights of access shall be deemed granted or given to any person or entity over, across, upon or through any Lot unless (a) prior written permission is granted by Developer or the Association or (b) as set forth in this Declaration.

### SECTION 9.2 OWNER'S GRANT OF EASEMENTS

- a) All Owners grant a permanent easement to and for the benefit of an adjoining Owner of the Association for any minor encroachment over said Owner's boundary line to connect fences and walls of the same or substantially similar type, height, size, and construction.
- b) All Owners grant a permanent easement to the Association over and across all lawn and landscaped areas of any Lot for the purpose of maintaining all lawns which are a part of Lots and providing such other services as the Association may elect to provide from time to time.
- c) All Owners grant the Developer and the Association a reasonable right of entry upon any Lot, the Common Areas and any other part of the Property to make emergency repairs, fulfill their obligations under this Declaration, conduct any other maintenance, care, repair, replace or such other actions as authorized under this Declaration or the Plat, and to do such work as is reasonably necessary for the proper maintenance, architectural continuity, welfare, safety and operation of the Subdivision (but the Developer and the Association shall have no duty to do so). Therefore, a perpetual non-exclusive easement for access, ingress and egress upon each Lot, the Common Areas and any other part of the Property is hereby created, granted and reserved to the Developer, the Association and their representatives, agents, employees, contractors, successors and assigns for such purpose.

## ARTICLE XVIII COMISSION OF WASTE AND UNSIGHTLINESS

At no time shall any lot of parcel be stripped of its top soil, trees, or allowed to go to waste or waste away by being neglected, excavated, or having refuse or trash thrown or dropped or dumped upon it. No lumber, brick, stone, cinder block, concrete block or other materials used



for building purpose shall be stored upon any Lot more than a reasonable time for the construction in which they are to be used to completed. No person shall place on any Lot in the subdivision refuse, stumps, rock, concrete blocks, dirt or building material or other undesirable materials. No burial of building materials shall be allowed. Any person doing so shall be subject to notification by the Developer or the Association to correct said condition within five (5) days of notification and if said condition is not corrected within said time period, the Developer or Association shall have the right to injunctive relief against the Owner of the affected Lot and Contractor or Agent of the Owner and to make all necessary corrections and the expense of same shall be a lien upon the real property affected.

#### ARTICLE XIX SIGNS

No signs of *any* kind shall be displayed to the public view of any Lot except one sign of not more than five square feet advertising the property for sale, or signs used by the Developer and/or building to advertise the property during the construction and sales period.

#### ARTICLE XX LIVESTOCK AND POULTRY

No animals, livestock, poultry or fowl of any kind shall be raised, bred or kept on any Lot, except pets such as dogs or cats which are permitted, provided, they are not kept, bred or maintained for any commercial purpose and do not create a nuisance, provided, however, in no event shall any household have more than two animals of any species. No fenced dog runs or kennels shall be allowed. The Association shall have exclusive authority to further regulate the maintenance and care of said animals as it deems advisable.

#### ARTICLE XXI GARBAGE AND REFUSE DISPOSAL

No Lot shall be used or maintained as a dumping ground for trash or rubbish. Trash, garbage or other waste shall not be kept except on a temporary basis and in sanitary covered containers.

#### ARTICLE XXII FENCES AND WALLS

No fences or walls or hedge rows shall be erected, placed or altered on any Lot or parcel unless approved by the Architectural Review Committee. Chain link fences of any kind are specifically prohibited on any Lot.

#### ARTICLE XXIII WAIVER AND MODIFICATION

Owner and Developer hereby reserve the right in their absolute discretion at any time to annual, waive change or modify any of the restrictions, conditions or covenants contained herein as to any part of the Property, subject to its declaration, then owned by Owner and Developer as to any other land in said subdivision, and shall have the further right before a sale to change the size of or locate or relocate any of the Lots, parcels, streets, or roads shown on any of the plats of Black Forest Subdivision.

#### ARTICLE XXIV ASSIGNMENT OR TRANSFER

Any or all of the rights and powers, titles, easements and estates reserved or given to Developer in this Declaration may be assigned to any one or more corporations or assigns which will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in

which assignee or transferee shall join for the purpose of evidencing its acceptance of such rights and powers, and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by developer and developer shall thereupon be released therefrom.

ARTICLE XXV  
SEVERABILITY

Invalidation of any one of these covenants by judgment or court order shall not in any way affect any of the other provisions which shall remain in full force and effect.

ARTICLE XXV  
AMENDMENTS

This Declaration may be amended by an amended declaration signed by the current Owners of not less than seventy-five percent (75%) of the Lots in the Subdivision; provided, any such amendment must have the approval of and be signed by the Developer so long as the Developer owns a Lot in the Subdivision. Any amendment will not be effective until it is recorded in the Register's Office for Knox County, Tennessee.

Notwithstanding the foregoing, the Developer shall have the unilateral right to amend this Declaration, the Charter and the Bylaws of the Association, and the rules and regulations of the Subdivision and to file new plats and surveys showing additional phases and/or revised division of the Property into Lots so as to (a)(i) conform with applicable laws, governmental regulations, statutes and municipal planning commission standards, (ii) meet the requirements of lending institutions and agencies associated with the Subdivision so that the development and said documents are "approved," (iii) correct any inconsistencies, errors or inadequacies therein, (iv) more particularly re-subdivide the Property into Lots (by legal description if necessary), or (v) exercise of the rights of the Developer as set forth in this Declaration.

*[Signatures on Following Page]*

IN WITNESS THEREOF, Developer and Declarant have caused this instrument to be executed on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

DECLARANT:

\_\_\_\_\_  
W. BOYD LONAS

STATE OF TENNESSEE  
COUNTY OF KNOX

Personally appeared before me, the undersigned authority, a Notary Public in and for said county and state, the within named bargainor, W. BOYD LONAS, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office in the aforesaid county, this \_\_\_\_ day of June, 2016.

Notary Public  
My Commission expires: \_\_\_\_\_

DEVELOPER:

TURNER HOMES, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF KNOX

Or me, the undersigned authority, an Notary Public in and for said County and State aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath acknowledged himself to be the \_\_\_\_\_ of TURNER HOMES, LLC, the within named bargainer, a Tennessee Limited Liability Company, and that he as such officer, bring authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as such officer.

Witness my hand and seal at office, this \_\_\_\_ day of June, 2016.

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

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

EXHIBIT A  
PROPERTY DESCRIPTION

EXHIBIT B

CHARTER OF BLACK FOREST SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

**INSERT RECORDED CHARTER**

EXHIBIT C

BYLAWS OF BLACK FOREST SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

**BYLAWS  
OF  
BLACK FOREST HOMEOWNERS ASSOCIATION, INC**

**ARTICLE I  
GENERAL**

**SECTION 1. NAME**

The name of this corporation is Black Forest Homeowners Association, Inc. Its principle place of business shall be \_\_\_\_\_. The corporation may have such other offices within or without the State of Tennessee as the Board of Directors may from time to time designate.

**SECTION 2. APPLICABILITY**

These bylaws and each provision thereof shall be applicable to all Lots and all Members, as hereinafter defined, with in the residential subdivision known as BLACK FOREST SUBDIVISION, located in Knox County, Tennessee (the "Property"), and within such other subdivisions or property which may become subject to the Declaration.

**SECTION 3. DEFINITIONS**

All the terms of these bylaws shall have the same meaning as set forth in the Declaration of Covenants and Restrictions for Black Forest Subdivision (the "Declaration").

**ARTICLE II  
MEMBERSHIP**

**SECTION 1. ELIGIBILITY**

Every Member in compliance with all of the requirements and conditions contained in the Declaration and these Bylaws shall be entitled to attend and vote at all meetings of the Association. The Declarant and Developer shall be Members for each Lot owned by them until each Lot is sold and title transferred.

**SECTION 2. VOTING RIGHTS**

The voting rights of the Membership shall be at pertinent to the ownership of a Lot, each owner of a Lot being entitled to one (1) vote for each Lot owned.

At every meeting of the Members, each of the Members shall have the right to cast his vote on each question. Subject to the Declarations, control and other rights set forth in the Declaration, the vote of the Members representing a fifty-one percent (51%) majority of the total votes cast with respect to any question, in person or proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of statute, the Association's Charter, the Declaration or these Bylaws, a different vote is required, and which case such express provision shall govern and control.

The vote of any membership which is owned by more than one person may be exercised by any of them present at any meeting unless any objection or protest by the other owner of such

membership is noted at such meeting. In the event all of the co-owners of any membership who are present at any meeting of the Members are unable to agree on the manner in which the vote for such membership shall be cast on any particular question, then such vote shall not be counted for purposes of deciding that question.

No Member shall be eligible to vote, either in person or by proxy, who is shown on the books or management accounts of the association to be more than thirty (30) days delinquent in any payment due the Association.

### SECTION 3. PROXIES

A Member may appoint any other Member, the Declarant, the Developer or any other person permitted by law as his proxy. In no case may any Member, except the Declarant, cast more than one vote by proxy in addition to his own vote. Any proxy must be in writing and must comply with all requirements imposed by law or by these Bylaws.

### SECTION 4. QUORUM

The presents, either in person or by proxy of members representing at least fifty-one percent (51%) of the total votes entitled to be cast with respect to any question shall be requisite for, and shall constitute a quorum for, the transaction of business at all meetings of the members. If the number of Members at a meeting drops below the quorum and a question of lack of quorum is raised, no business may thereafter be transacted.

A meeting maybe adjourned despite the absence of a quorum. When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken. At the adjourned meeting any business may be transacted that might have been transacted on the original date of the meeting. The quorum for each successive resumed meeting shall be equal to one half (1/2) of the required quorum at the previous adjourned meeting.

### SECTION 5. PLACE OF MEETING

Meetings of the membership shall be held at the principal office or place of business of the Association or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

### SECTION 6. ANNUAL MEETINGS

Annual meetings of the members of the Association shall be held at 7:00 PM on the third Monday in January of each year beginning in 2017. At such meeting there shall be elected a Board of Directors by secret written ballot of the Members in accordance with the requirements of these bylaws. The Members may also transact such other business of the association as me properly come before then.

### SECTION 7. SPECIAL MEETINGS

It shall be the duty of the President to call a special meeting of the Members as directed by resolution of the Board of Directors or upon a written petition signed by the Members representing at least twenty (20%) percent of the total number of votes outstanding.

The notice of any special meeting shall state the time and place of such a meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

## SECTION 8. NOTICE OF MEETINGS

It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at his address as it appears on the membership books of the Association, or if no such address appears, at his last known place of address, at least ten (10) days but no more than sixty (60) days prior to such meeting. Service may also be accomplished by the delivery of any such notice to the Member at his last known address by deposit in the box or slot for the United States mail. Notice by either such method shall be considered a notice served. Attendance by a Member at any meeting of the Members shall be a waiver of notice by him of the time, place, and purpose thereof.

## SECTION 9. ORDER OF BUSINESS

The order of business at all regularly scheduled meetings of the Members shall be as follows:

- (a) Roll call and certificate of proxies
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of Officers, if any
- (e) Reports of Committees, if any
- (f) Unfinished business
- (g) New business
- (h) Election or appointment of inspectors of election
- (i) Election of Directors

In the case of a special meeting, items (a) through (d) shall be applicable, and thereafter the agenda shall consist of the items specified in the notice of the meeting.

## **ARTICLE III BOARD OF DIRECTORS**

### SECTION 1. NUMBER AND QUALIFICATIONS

Affairs of the Association shall be managed by the Board of Directors, composed of natural persons, each of whom shall be of legal age.

### SECTION 2. INITIAL DIRECTORS

The initial Board of Directors shall be appointed by the Declarant and shall consist of three (3) persons who need not be Members of the Association. The initial Directors, or their successors as appointed by Developer, shall act as such from the date on which the Declaration is recorded in the Registers Office of Knox County, Tennessee, until the Association is transferred to the owners at which time the Directors shall be elected as provided herein.

### SECTION 3. SUBSEQUENT DIRECTORS

Beginning with the fifth annual meeting of the Members, and thereafter, the Board of Directors shall be composed of three (3) to five (5) persons, who need not be Members of the Association.



#### SECTION 4. NOMINATION

Nomination for election of the Board of Directors of the Association shall be made by a Nominating Committee. The 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. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, 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. Nominating Committee shall make 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. Nominations may also be made from the floor of the annual meeting.

#### SECTION 5. POWER AND DUTIES

The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and the property and may do all such acts and things as are not by law or in these Bylaws directed to be exercised and done by the Members. The powers and duties of the Board of Directors shall include, but not be limited to, the following:

To provide for:

- (a) Care and upkeep of the Property charged to the care of the Association.
- (b) Establishment and collection of assessments and/or carrying charges from the Members and for the assessment and/or enforcement of liens therefor and borrowing of funds, all in a manner consistent with the law and the provisions of these Bylaws and the Declaration.
- (c) Designation, hiring and or dismissal of the personnel necessary for the good working order of the Property and to provide services for the community in a manner consistent with law and the provisions of these Bylaws and Declaration.
- (d) Promulgation and enforcement of such rules and regulations and such restrictions or requirements as may be deemed proper respecting the use, occupancy and maintenance of the Property, all of which shall be consistent with the law and the provisions of these Bylaws and Declarations.
- (e) Fulfillment of all duties promulgated by these Bylaws and the Declaration.

Further the Board of Directors shall have the power to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid and for any period not to exceed ninety (90) days for the infraction of it's published rules and regulations.

#### SECTION 6. ELECTION AND TERMS OF OFFICE

Term of the Directors shall expire when their successors have been duly elected and are duly qualified. At the third annual meeting of the Members shall determine the number of Directors consistent with these Bylaws, who shall constitute the Board of Directors to serve until the next annual meeting. The term of office of each director thereafter shall be for a period of one (1) year and until their successors shall have been elected.

#### SECTION 7. VACANCIES

And sees in the Board of Directors caused by any reason other than the removal of a Director by a vote of the membership shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

## SECTION 8. REGULAR MEETINGS

Regular meetings of the Board of Directors may be held at such place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail or telephone, at least six (6) days prior to the day named for such a meeting.

## SECTION 9. SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally or by mail or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least one-third (1/3) of the Directors.

## SECTION 10. WAIVER OF NOTICE

Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Directors are present and remain present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

## SECTION 11. QUORUM

At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of its Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such subsequent meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

## SECTION 12. ACTION WITHOUT MEETING

Any action of the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the Members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

## SECTION 13. FIDELITY BONDS

The Board of Directors may require that all officers and employees of the Association handling or responsible for the Association's funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

## **ARTICLE IV OFFICERS**

### **SECTION 1. DESIGNATION**

The principal Officers of the Corporation shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. After the third annual meeting of Members, the Officers of the Association must be Members of the Association. The Directors may appoint such other officers as in their judgment may be necessary. The offices of Secretary and Treasurer may be filled by the same person.

### **SECTION 2. ELECTION OF OFFICES**

The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the sole discretion of the Board of Directors.

### **SECTION 3. REMOVAL OF OFFICERS**

Upon an affirmative vote of a majority of the Members of the Board of Directors, any Officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

### **SECTION 4. PRESIDENT**

The President shall be the chief executive officer of the association. In the event he is also a member of the Board of Directors, he shall preside at all meetings of the members and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of an Association, including, but not limited to the power to appoint committees from Time to time as he may in his discretion decide it is appropriate to assist in the conduct of the affairs of the Association.

### **SECTION 5. VICE PRESIDENT**

The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other Member of the board to do so on an interim basis. The Vice President shall also perform such duties as shall from time to time be delegated to him by the Board of Directors.

### **SECTION 6. SECRETARY**

The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Members of the Association; shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of the Secretary.

### **SECTION 8. EXECUTION OF ASSOCIATION DOCUMENTS**

With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by both the President, and the Secretary, and all checks shall be executed on behalf of the association by such officers, agents, or other persons as are from time to time authorized by the Board of Directors.

## **ARTICLE V INDEMNIFICATION AND CONFLICTS**

### **SECTION 1. LIABILITY AND INDEMNIFICATION OF OFFICERS AND DIRECTORS**

The Association shall indemnify every officer and director of the association against any and all expense, including attorney's fees, reasonably incurred or imposed upon any Officer or Director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding if approved by the Board of Directors of the Association) to which he may be made a party by reason of being or having been an Officer or Director of the Association, whether or not such person is an Officer or Director at the time such expenses are incurred. The officers and directors of the Association shall not be liable to the members of the association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Officers and Directors of the association shall have no personal liability with respect to any contract where other commitment made by them, and good faith, on behalf of the Association or the Property (except to the extent that such Officers or Directors may also be Owners of Lots within the Property) and the Association shall indemnify and forever hold each such Officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Officer or Director of the Association, or former Officer or Director of the Association, may be entitled.

### **SECTION 2. CONFLICTS OR COMMON OR INTERESTED DIRECTORS**

The directors shall exercise their powers and duties in good faith and with a view to the interests of the Association and the Property. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any corporation, firm or association (including the Developer) in which one or more of the Directors of this Association are directors or officers or are pecuniarily or otherwise interested, as either void or voidable because such Director or Directors are present at the meeting of the Board of Directors of any committee they are of which authorizes or approve the contract or transaction, or because his or their votes are counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

- (a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; and
- (b) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof of which authorizes, approves or rectifies any contract or transaction with like force and effect as if he were not such director or officer of such other Corporation or not so interested.

## **ARTICLE VI EXPENSE, MAINTENANCE AND EMERGENCIES**

### **SECTION 1. MANAGEMENT AND COMMON EXPENSES**

The Association, acting by and through its Board of Directors, shall manage and operate the property for the benefit of the Lots and the Owners thereof, shall enforce the provisions hereof and shall pay out of the association's funds, the following:

- (a) The cost of such insurance as the Association may affect.

- (b) The cost of providing such legal and accounting services as may be considered necessary to the operation of the Property.
- (c) The cost of any and all materials, supplies, labor, services, maintenance, repairs, taxes, assessments or the like, which the Association secures in the discretion of the Board of Directors or by the vote of the Members which are deemed necessary or proper.
- (d) The cost of the maintenance or repair on any Lot in such event such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the common areas or to preserve the appearance or value of the Property or is otherwise in the interest of the general welfare of all owners of the Lots; provided, however, that such maintenance or repair shall be undertaken in accordance with the Declaration.
- (e) All other items which are listed as responsibilities of the Association as found in the Declaration.

## SECTION 2. DUTY TO MAINTAIN

Except for maintenance requirements herein imposed upon the Association, the Owner of any Lot shall, at his own expense, maintain said Lot in accordance with the Declaration.

## SECTION 3. EMERGENCIES

For the purpose solely of performing any of the repairs or maintenance required or authorizing by these Bylaws or the Declaration, or in the event of a bona fide emergency involving illness or potential danger to life or property, the Association, through its duly authorized agents or employees, shall have the right, after reasonable efforts to give notice to the Owner or occupant, to enter upon any lot at any hour consider to be a reasonable under the circumstances.

# ARTICLE VII FINANCIAL ASPECTS

## SECTION 1. FISCAL YEAR

Fiscal year of the Association shall begin on the first day of January every year, except for the first fiscal year of the Association, which shall begin at the date of incorporation. The commencement day of the fiscal year herein establish shall be subject to change by the Board of Directors.

## SECTION 2. BOOKS AND ACCOUNTS

Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practices. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures affecting the Property and its administration and shall specify the maintenance and repair expenses incurred. The amount of any assessment required for payment of any capital expenditures shall be credited upon the books of the Association to the "Paid in Surplus" account as a capital contribution by the Members.

### SECTION 3. REPORTS

Within ninety (90) days from date of close of each fiscal year, the Association shall furnish its Members and the holders of first mortgages requesting the same and annual financial statement, including the income and disbursements of the Association.

### SECTION 4. INSPECTION OF BOOKS

The books and accounts of the Association, and vouchers accrediting the entries made thereupon, shall be available for examination by the Members, by the institution holder of any first mortgage on any Lot, and/or their duly authorized agents or attorneys, during normal business hours for purposes of reasonably related to their interests as members or lenders.

## **ARTICLE VIII MISCELLANEOUS**

### SECTION 1. NOTICE TO THE BOARD OF DIRECTORS

Any owner who mortgages such Lot shall promptly notify the Board of Directors of the name and address of his mortgagee and, if requested so to do, shall file a conformed copy of such mortgage with the Board of Directors. The Board of Directors shall maintain suitable records pertaining to such mortgages.

### SECTION 2. AGENT FOR SERVICE OF PROCESS

The President of the Association shall be designated as the person authorized to accept service of process in any action relating to two or more Lots or to the Common Area.

### SECTION 3. NOTICES

Unless another type of notice is herein elsewhere specifically required, any and all notices called for in the Declaration or these Bylaws shall be given in writing.

### SECTION 4. SEVERABILITY

In the event any provision or provisions of these Bylaws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

### SECTION 5. WAIVER

No restriction, condition, obligation or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

### SECTION 6. CAPTIONS

The captions contained in these Bylaws are for convenience only and shall not in any way limit or enlarge the terms and provisions of these Bylaws.

### SECTION 7. GENDER, ECT.

Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

## SECTION 8. CONFLICTS

These Bylaws are subordinate to all provisions of the Declaration including, without limitation, those provisions granting certain rights, privileges and powers to the Declarant. All of the terms hereof, except where clearly repugnant to the context of the Declaration, shall have the same meaning as in the Declaration. In the event of any conflict between these Bylaws and the Declaration, the provisions of the Declaration shall control, and in the event of any conflict between these Bylaws and any of the law of the State of Tennessee, the provisions of said law shall control.

## SECTION 9. AMENDMENTS

These Bylaws may be amended from time to time as permitted by state law as it may change from time to time.

DULY ADOPTED ON June \_\_\_\_, 2016.

\_\_\_\_\_  
R. Christopher Trump, Incorporator