

SHERRY WITT
REGISTER OF DEEDS
KNOX COUNTY



STATE OF TENNESSEE
COUNTY OF KNOX

DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND EASEMENTS

FOR
BRANDYWINE AT TURKEY CREEK

THIS DECLARATION is made on the date set forth below by Brandywine at Turkey Creek, LLC, a Tennessee limited liability company (hereinafter referred to as "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of that certain real property located in Knox County, Tennessee and is described in Exhibit "A" attached hereto and incorporated herein by this reference;

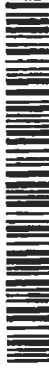
WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto, including the improvements thereof, to the provisions of this Declaration; and

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements located and to be located thereon, is hereby subjected to the provisions of this Declaration. By virtue of the recording of this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens set forth and/or described in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all Persons having any right, title or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors in title and assigns, and shall be for the benefit of all owners of the property subject to this Declaration.

THIS INSTRUMENT WAS PREPARED BY

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Knoxville, TN 37922



Knox County Page: 1 of 43
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Article 1. NAME

The name of the community is Brandywine at Turkey Creek (hereinafter sometimes called "Brandywine at Turkey Creek" or the "Community," as further defined herein), which Community is hereby submitted by Declarant to this Declaration.

Article 2. DEFINITIONS

Generally, terms used in this Declaration, the Bylaws, and the Charter shall have their normal, generally accepted meanings or the meanings given in the Act or the Tennessee Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws and the Charter shall be defined as follows:

Section 2.1. "Architectural Control Committee" or "ACC" shall mean the committee established to exercise the architectural review powers set forth in Article 8 hereof, which shall be the Board of Directors of the Association unless by resolution the Board appoints a separate Architectural Control Committee. Notwithstanding the foregoing, there shall be no Architectural Control Committee as long as Declarant owns a Lot for the purpose of sale and/or development and all references in this Declaration to the ACC shall be deemed to refer to the Declarant.

Section 2.2. "Area of Common Responsibility" shall mean and refer to the Common Property, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other Person, become the responsibility of the Association.

Section 2.3. "Association" shall mean Brandywine at Turkey Creek Homeowners Association, Inc., a Tennessee nonprofit corporation, and its successors or assigns.

Section 2.4. "Board" or "Board of Directors" shall mean the board of directors of the Association, which shall be the body responsible for the management and operation of the Association.

Section 2.5. "Bylaws" shall mean the Bylaws of Brandywine at Turkey Creek Homeowners Association, Inc., attached to this Declaration as Exhibit "B" and incorporated herein by this reference.

Section 2.6. "Charter" shall mean the Charter of Brandywine at Turkey Creek Homeowners Association, Inc., which have been filed with the Department of State of the State of Tennessee.


Section 2.7. "Common Property" shall mean those portions of the property subject to this Declaration, which are not included within the boundaries of a Lot, as more particularly described in this Declaration.

Section 2.8. "Common Expenses" shall mean the expenses by the Association for the general benefit of the Community including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Property.

Section 2.9. "Community" shall mean all the real property described in Exhibit "A" attached hereto and incorporated herein by this reference, submitted to the provisions this Declaration.

Section 2.10. "Community Instruments" shall mean this Declaration and all exhibits to this Declaration, including the Bylaws of the Association, and the Plat, as such documents may be supplemented or amended from time to time.





Section 2.11. “**Declarant**” shall mean Brandywine at Turkey Creek, LLC, a Tennessee limited liability company, its respective successors and assigns, provided such successors and/or assigns are designated in writing by Declarant as a successor and/or assign of the rights of Declarant set forth herein. The expiration of the Declarant Control Period shall not alter the status of Brandywine at Turkey Creek, LLC, a Tennessee limited liability company, as Declarant herein.

Section 2.12. “**Declarant Control Period**” shall mean the period of time during which the Declarant is authorized to appoint and remove the members of the Board of Directors as provided in Article III, Part A, Section 2 of the Bylaws.

Section 2.13. “**Domestic Partner**” shall mean any adult who cohabitates with an Owner and who has been designated as the Owner’s Domestic Partner in a written statement, signed by the Owner and filed with the Association’s Secretary. A person shall no longer be a Domestic Partner upon the Secretary’s receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

Section 2.14. “**Electronic Document**” shall mean information created, transmitted, received or stored by electronic means and retrievable in humanly perceivable form including, without limitation, e-mail, web pages, electronic documents, and facsimile transmissions.

Section 2.15. “**Electronic Signature**” shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

Section 2.16. “**Eligible Mortgage Holder**” shall mean those holders of first Mortgages secured by a lien on a Lot in the Community who have requested notice of certain items as set forth in this Declaration.

Section 2.17. “**Lot**” shall mean any plot of land in the Community intended for individual ownership and use, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single family residence site as shown on the Plat.

Section 2.18. “**Majority**” shall mean more than fifty percent (50%) of the total eligible number.

Section 2.19. “**Mortgage**” shall refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation including, but not limited to, a transfer or conveyance of fee title for such purpose.

Section 2.20. “**Mortgagee**” or “**Mortgage Holder**” shall mean the holder of any Mortgage.

Section 2.21. “**Occupied Lot**” shall have the same meaning as the term “occupied unit” as defined in 24 C.F.R. § 100.305, as amended or as may be amended.

Section 2.22. “**Occupant**” shall mean any Person staying overnight in a Lot for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any one (1) year period, regardless of whether such Person is a tenant or the Owner of such Lot.

Section 2.23. “**Official Records**” shall mean the official land records of the Register’s Office for Knox County, Tennessee.

Section 2.24. “**Owner**” shall mean the record titleholder of a Lot within the Community, but shall not include a Person who is only a Mortgage Holder. It is intended that the term “Owner” as used in this Declaration shall have the same meaning as the term “Co-owner” as used in the Act.

Section 2.25. “**Person**” shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.





Section 2.26. "Plat" shall mean that certain plat or plats of survey for Brandywine at Turkey Creek, as amended, filed in the Official Records. The Plat is incorporated herein by reference as fully as if the same were set forth in its entirety herein.

Section 2.27. "Secure Electronic Signature" shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

Section 2.28. "Total Association Vote" shall mean all of the eligible votes attributed to members of the Association (including votes attributable to Declarant), and the consent of Declarant for so long as Declarant owns a Lot primarily for the purpose of sale.

Article 3. PROPERTY SUBJECT TO THIS DECLARATION, CONVEYANCE AND PARTITION OF COMMON PROPERTY

Section 3.1. Property Hereby Subjected To This Declaration. The real property described in Exhibit "A" attached hereto and by this reference made a part hereof is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration.

Section 3.2. Other Property. Only the real property described in Section 3.1 is made subject to this Declaration.

Section 3.3. Conveyance of Common Property by Declarant to Association. Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section.

Section 3.4. Partition of Common Property. The Common Property shall remain undivided, and no Owner or any other Person, but excluding Declarant, shall bring any action for partition or division of the whole or any part of the Common Property without the written consent of all Owners and all holders of all Mortgages encumbering any portion of the Community.

Article 4. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES

All Owners, by virtue of their ownership of a fee or undivided fee interest in any Lot in the Community, excluding Persons holding such interest under a Mortgage, are members of the Association, and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Declaration and in accordance with the Bylaws. Subject to the provisions of the Community Instruments, the Owner or collective Owners of each Lot shall be entitled to one (1) equally weighted vote for each such Lot.



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Article 5. ASSOCIATION RIGHTS AND RESTRICTIONS

In addition to and not in limitation of all other rights it may have, the Association, acting through its Board of Directors, shall have the right and authority:

- (a) to enter into Lots for maintenance, emergency, or life-safety purposes, which right may be exercised by the Board of Directors, and/or its officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Lot. For the purposes of this Article, an emergency justifying immediate entry into a Lot shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a Person or animal might be injured or sick and require immediate medical attention. No one exercising the rights granted in this subparagraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights, except as provided in the Act. The failure to exercise the rights herein granted or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Lot shall exist;
- (b) to make and to enforce reasonable rules and regulations governing the use of the Community, including the Lots and Common Property;
- (c) to enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations by the imposition of reasonable monetary fines and suspension of use and voting privileges as provided in the Community Instruments;
- (d) to grant and accept permits, licenses, utility easements, leases, and other easements;
- (e) to control, manage, operate, maintain, improve and replace all portions of the Area of Common Responsibility;
- (f) to represent and act on behalf of the Owners in the event of damage or destruction as a result of casualty loss in accordance with the provisions of Article 7 of this Declaration;
- (g) to represent and act on behalf of the Owners in the event of any loss resulting from condemnation or eminent domain in accordance with the provisions of Article 13 of this Declaration;
- (h) to acquire, hold, and dispose of tangible and intangible personal property and real property;
- (i) to collect security deposits in reasonable amounts, as determined by the Board of Directors in its sole discretion, to protect against any damage to the Community, including, without limitation, damage resulting from: the transportation and use of construction materials in the Community; and the alteration, modification, or addition to a Lot. Costs for repair of such damage may be deductible from the security deposit and any additional expenses may be specifically assessed against the Lot under this Article;
- (j) to close permanently or temporarily any portion of the Common Property (excluding any Common Property the use of which is reasonably necessary for access to or from a Lot and any portion of the Common Property over, on, upon or which Declarant has easement) with thirty (30) days prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days after the closing explaining the reason for the closing. Notwithstanding the above, the Owners may re-open closed Common Property by a Majority vote of the Total Association Vote, cast at a duly called special or annual meeting; and





(k) to enter into joint agreements and contracts with other Persons for the provision of services, including, without limitation, management, landscaping, property monitoring services, and trash removal services.

NOTWITHSTANDING ANYTHING TO THE CONTRARY STATED HEREIN, THE ASSOCIATION SHALL NOT BE OBLIGATED TO TAKE ANY ACTION TO ENFORCE ANY COVENANT, USE RESTRICTION, OR RULE THAT THE BOARD, IN EXERCISE OF ITS BUSINESS JUDGMENT, DETERMINES IS OR IS LIKELY TO BE CONSTRUED AS INCONSISTENT WITH APPLICABLE LAW OR IN ANY CASE IN WHICH THE BOARD REASONABLY DETERMINES THAT THE ASSOCIATION'S POSITION IS NOT STRONG ENOUGH TO JUSTIFY TAKING SUCH ACTION. SUCH A DECISION SHALL NOT BE CONSTRUED A WAIVER OF THE RIGHT OF THE ASSOCIATION TO ENFORCE SUCH PROVISION AT A LATER TIME UNDER OTHER CIRCUMSTANCES OR ESTOP THE ASSOCIATION FROM ENFORCING ANY OTHER COVENANT, USE RESTRICTION OR RULE.

Article 6. ASSESSMENTS

Section 6.1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the common benefit and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 6.2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association (a) annual assessments or charges, (b) special assessments, such assessments to be established and collected as hereinafter provided, and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest not to exceed the maximum rate permitted by law per annum on the principal amount due, and costs, including, without limitation, reasonable attorney's fees actually incurred, 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 late charges, interest, costs, including, without limitation, reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

The Association shall, within seven (7) days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

Annual assessments shall be levied at a uniform rate per Lot and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days written notice, of the annual assessment for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in equal monthly installments due on or before the first (1st) day of each calendar month.

Section 6.3. Computation of Annual Assessment. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which





may include, if necessary, a capital contribution or reserve in accordance with a capital budget separately prepared.

The common assessment to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total revenue to the Association equal to the total budgeted operating costs of the Association. The Board shall cause the proposed budget and assessments to be levied against each Lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year (or at least thirty (30) days prior to the due date of the first installment in the case of the initial budget). The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 6.4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments to cover unbudgeted expenses or expenses in excess of those budgeted if approved by a majority of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 6.5. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, including, without limitation, reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association and the Association shall be entitled to file such a lien in the Official Records. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes and (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the Official Records and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 6.6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine which shall not exceed fifteen percent (15%) of the assessment payment. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include interest not to exceed the maximum rate permitted by law per annum on the principal amount due from the date first due and payable, all late charges, all costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same. In addition to the other remedies provided herein, the Association shall have the right to suspend the voting rights of a Lot Owner





for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid.

In the event that any assessment or other charge is delinquent for sixty (60) days, then, in addition to all other rights provided herein, upon no less than ten (10) days written notice, the Association shall have the right to suspend any services to the Lot paid for as a Common Expense by the Association. Any costs incurred by the Association in discontinuing and/or reconnecting any service, including reasonable attorney's fees, shall be an assessment against the Lot. The service shall not be required to be restored until all sums owed the Association are paid in full, at which time the Association shall make arrangements for restoration of the service.

Except as provided in Section 6.7 below, no Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant in the part of each Owner, and no diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

Section 6.7. Date of Commencement of Assessments. Assessments shall commence as to a Lot on the first day of the month following the conveyance of the Lot to a Person other than the Declarant. Notwithstanding anything to the contrary stated herein, Declarant shall not be responsible for the payment of any type of assessment, except that assessments shall commence on Lots containing occupied residences (but excluding those Lots containing model homes or a sales center) that are owned by Declarant on the first day of the month following the occupancy of the residence. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual common assessment shall be adjusted according to the number of months then remaining in that fiscal year.

Section 6.8. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article 5 of the Bylaws and the costs of maintenance performed by the Association for which the Owner is responsible for under Section 12.1 and Section 12.2 of this Declaration shall be specific assessments. The Board may also specifically assess Owners for the following Association expenses:

- (a) expenses of the Association which benefit less than all of the Lots in the Community may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and
- (b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Section 6.9. Budget Deficits During Declarant Control. During the Declarant Control Period, Declarant may (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital





reserves) and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of Declarant or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan.

Section 6.10. Working Capital Fund. Subject to the provisions of this Section 6.10, Owners shall contribute funds to the working capital fund to meet unforeseen Association expenditures, to purchase any additional equipment or services for the Association, or to pay for capital improvements. The contributions to the working capital fund shall be deposited in the Association's reserve account. A non-refundable contribution to the working capital fund of the Association shall be paid by the purchaser of a Lot at the closing of each sale or resale of a Lot in the amount of two (2) months of the general assessment to be charged to such Lot. During the Declarant Control Period, Declarant shall not use the working capital funds to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association. Notwithstanding anything to the contrary herein, the contribution to the working capital fund shall not be due from: (i) any grantee who is the Domestic Partner, spouse or former spouse of the grantor; (ii) any grantee that is a wholly-owned entity of the grantor; (iii) any grantee to whom a Lot is conveyed by a will or through the law of intestacy; or (iv) any grantee of a Lot who obtains title pursuant to judicial or nonjudicial foreclosure of any first Mortgage of record or secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot).

Article 7. INSURANCE

Section 7.1. Association Insurance. The Association, acting through its Board of Directors or its duly authorized agent, shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Property and on other portions of the Area of Common Responsibility to the extent that the Association has assumed responsibility for maintenance, repair and/or replacement thereof in the event of a casualty. If blanket "all-risk" coverage is not generally available at reasonable cost, then at a minimum an insurance policy providing fire and extended coverage, including coverage for vandalism and malicious mischief, shall be obtained. The face amount of such insurance shall be sufficient to cover the full insurable replacement cost of any repair or reconstruction in the event of damage or destruction from any insured peril.

The Board also shall obtain a commercial liability policy covering the Area of Common Responsibility, insuring the Association and its members for all damage or injury caused by the negligence of the Association, any of its members, its employees, agents, or contractors while acting on behalf of the Association. If generally available at reasonable cost, the commercial liability policy shall have at least a One Million Dollar (\$1,000,000) combined single limit as respects bodily injury and property damage and at least a Two Million Dollar (\$2,000,000) limit per occurrence and in the aggregate.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss, the deductible shall be treated as an expense of the Association in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful conduct of one or more Owners or Occupants, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Lots pursuant to Section 6.8 hereof.





All insurance coverage obtained by the Board of Directors shall be governed by the following provisions:

- (a) All policies shall be written with a company authorized to do business in the State of Tennessee.
- (b) All insurance shall be written in the name of the Association as trustee for the benefited parties. Policies on the Common Property shall be for the benefit of the Association and its members.
- (c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees.
- (e) All property insurance policies shall have an inflation guard endorsement, if reasonably available. If the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Knox County, Tennessee area.

(f) The Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

- (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;
- (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
- (iii) a statement that no policy may be cancelled, invalidated, suspended, or subjected to nonrenewal on account of any one or more individual Owners;
- (iv) a statement that no policy may be cancelled, invalidated, suspended, or subjected to nonrenewal on account of any curable defect or violation without prior demand in writing delivered to the Association to cure the defect or violation and the allowance of a reasonable time thereafter within which it may be cured by the Association, its manager, any Owner, or Mortgagee;
- (v) a statement that any "other insurance" clause in any policy excludes individual Owners' policies from consideration; and
- (vi) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to other insurance required by this Section, the Association shall obtain worker's compensation insurance if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, and flood insurance, if advisable.

The Association also shall obtain a fidelity bond or bonds, if generally available at reasonable cost, covering all persons responsible for handling Association funds. The amount of fidelity coverage shall be determined in the Board of Directors' best business judgment but, if reasonably available, may not be less





than one-sixth (1/6) of the annual assessments on all Lots plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification or nonrenewal.

Section 7.2. Owners Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" property insurance on its Lot and structures constructed thereon providing full insurable replacement cost coverage (less a reasonable deductible).

Each Owner further covenants and agrees that in the event of damage to or destruction of structures situated on the Owner's Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration. The Owner shall pay any costs of repair or reconstruction that are not covered by insurance proceeds.

Each Owner, by virtue of taking title to a Lot subject to the terms of this Declaration, covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. If reasonably available, the casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full insurable replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage on his or her Lots and structures constructed thereon. The deductible amount per occurrence for coverage obtained by an Owner shall not exceed Five Thousand and No/100 Dollars (\$5,000), or such other amount set by the Board. The policies required hereunder shall be in effect at all times. Upon request by the Association, an Owner shall furnish a copy of his/her insurance policy or policies to the Board. In the event that any Owner fails to obtain and maintain insurance, as required by this Section, the Association may purchase such insurance on behalf of the Owner and specifically assess the cost thereof to the Owner pursuant to Section 6.8 of this Declaration, to be collected in the manner provided for collection of Common Expenses under this Declaration.

Each Owner further covenants and agrees that in the event of damage and destruction of structures on his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 8 of this Declaration. The Owner shall pay any costs of repair or reconstruction that is not covered by insurance proceeds. In the event that the structure is totally destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition.

Section 7.3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other peril to all or any part of the properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other peril, allowing for any changes or improvements necessitated by changes in applicable building codes.





(b) Any damage to or destruction of the properties covered by insurance written in the name of the Association shall be repaired or reconstructed unless at least seventy-five percent (75%) of the Total Association Vote decide within sixty (60) days after the loss not to repair or reconstruct.

(c) If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Property shall be repaired or reconstructed.

(d) If it is determined in the manner described above that the damage or destruction to the Common Property shall not be repaired or reconstructed and no alternative improvements are authorized, the affected portion of the properties shall be cleared of all debris and ruins. Thereafter, the properties shall be maintained by the Association in a neat and attractive, landscaped condition.

(e) Any insurance proceeds remaining after defraying such costs of repair or reconstruction, or if no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

(f) If the insurance proceeds are insufficient to defray the costs of repairing or reconstructing the damage to the Common Property, the Board of Directors shall, without the necessity of a vote of the members, levy a special assessment against the Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Section 7.4. Insurance Requirements. The Association and Declarant, so long as Declarant owns any property in the Community for the purpose of development and/or sale, shall have the right to require that any builder, architect, subcontractor, or other Person performing any construction related activities on a Lot obtain such insurance coverage as may be required by the Association and/or Declarant.

Article 8. ARCHITECTURAL CONTROLS

Section 8.1. Architectural Control. All encroachments onto the Common Property and other alterations or improvements specified herein must be approved by the ACC. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing residences, and structures, and the location in relation to surrounding structures and topography. Notwithstanding anything to the contrary stated herein, the initial improvements constructed in the Community and all architectural modifications thereto that are made by Declarant shall not be subject to approval by the ACC or otherwise subject to this Article 8.

Section 8.2. Alteration of Lots. Subject to the other provisions of this Declaration, alterations to the interiors of Lots, relocation of the boundaries between adjoining Lots, and subdivision of Lots are subject to the following restrictions:

(a) Alterations to the Lots. Notwithstanding anything to the contrary stated herein, without first making a complete application to the ACC pursuant to this Article, and obtaining the prior written approval of the ACC, no Owner or Occupant may make any alteration to or within a Lot that: (i) involves connecting to or relocating pipes, lines, conduits and/or other apparatus for access to common utilities; (ii) involves the erection, placement or posting of any object, sign,





clothesline, speaker, playground equipment, light, fountain, flag (except national flags as provided in Section 13.3 below), or thing on a Lot that is visible from an adjacent Lot or the roadway (provided, no approval of wreaths or other decorative items on a door shall be required); (iii) involves materially replacing or altering the aesthetic appearance of any exterior improvements (including repainting in a different color); (iv) involves the construction of additional exterior improvements on a Lot; (v) involves the installation or modification of any fence, wall, or other exterior barrier; or (vi) otherwise requires a building permit. Such approval shall not be granted by the ACC unless the Owner or Occupant of the Lot has presented to the ACC such information as the ACC may reasonably require.

(b) Relocation of Boundaries. As long as Declarant owns a Lot for sale and/or development, the Owners seeking to relocate the boundaries of their Lots must submit an application to and obtain the prior written consent of Declarant and the Board of Directors in order to relocate the boundaries of such Lots. After Declarant no longer owns a Lot for sale and/or development, the Owners must submit an application to and obtain the prior written consent only of the Board of Directors in order to relocate the boundaries of their Lots. Notwithstanding anything to the contrary herein, Declarant shall have the right to relocate boundaries between Lots owned by Declarant without the approval of the Board of Directors, and the Board of Directors shall execute the required amendment to the Plat. No Lots shall be relocated unless such relocation complies with applicable subdivision regulations, zoning ordinances, and other applicable governmental laws and regulations.


(c) Subdivision of Lots. No Lot may be subdivided into a smaller Lot or Lots, provided, however, Declarant shall have the right to subdivide such any Lot(s) owned by it without the approval of the Board of Directors.

Section 8.3. National Flags. Notwithstanding anything to the contrary herein, an Owner may display one (1) national flag of the United States not exceeding twelve (12) square feet in size on a flag holder located on a Lot. The flag holder shall be affixed to the exterior façade of a residence. No flag shall be displayed in a manner inconsistent with any provision of the Freedom to Display the American Flag Act of 2005, or any applicable law. By taking title to a Lot, all Owners agree and acknowledge that the Board, on behalf of the Association, has a substantial interest in protecting the aesthetic appearance of the Community and therefore may adopt additional reasonable restrictions pertaining to the time, place, or manner of displaying the flag of the United States.

Section 8.4. Signs. Except as may be provided for herein or as may be required by legal proceedings, and except for signs that may be erected by Declarant related to the development and sale of Lots, no signs, for sale or for rent advertisements, advertising posters, flyers, political placards or billboards of any kind that are visible from the exterior of a Lot shall be erected, placed, or permitted to remain on the Community without the prior written consent of the Board or its designee, except that one (1) professional security sign not to exceed six inches (6") by six inches (6") in size may be displayed from within a Lot. The Board also shall have the authority to adopt regulations permitting temporary signs on the front door of a Lot announcing births, birthdays or other events for limited periods of time. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

Section 8.5. Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require, including, but not limited to, the documentation described in Section 8.2 above. Once an application and all required information is received by the ACC, the ACC shall stamp the application as being complete, and shall then forward to the applicant a written notice of application completion (the "Notice of Application Completion"). The ACC shall be authorized to retain an engineer, architect or other consultant to review such application and related documentation and plans, and all costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the ACC until such time as all costs and expenses related to the review of an application have been paid by the applicant. The





ACC shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, materials to be used, harmony with the external design of other structures that may be located in the Community, and it shall be entitled to stop any construction that is not in conformance with approved plans. The Board of Directors or ACC may publish written architectural standards for exterior alterations or additions.

If the ACC or its designated representative fails to approve or to disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, its approval will not be required and this Section will be deemed complied with; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement (other than that which was requested and to which the ACC did not respond) that is in violation of this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable zoning or other laws. Under no circumstances will alterations be made or permitted to be made by any Owner if such alteration will:

- (a) unreasonably diminish the benefits afforded to such other Owners by any easement or license or unreasonably interrupt such other Owner's use or enjoyment of any easement or license; provided, however, interruption of the use and enjoyment of any easement or license for temporary construction purposes for less than ninety (90) days shall not require consent of the Owners if, upon completion of construction, each Owner's use and enjoyment of the affected easement or license is restored; or
- (b) materially adversely affect facilities benefiting any other Owners.

Section 8.6. Encroachments onto Common Property. The ACC subject to this Article may permit Owners to make encroachments onto the Common Property as it deems acceptable.

Section 8.7. Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless such responsibilities are assumed by the Association in a written agreement. It is the responsibility of every Owner of a Lot to determine for him or herself what architectural modifications have been made to his or her Lot by any predecessor-in-interest. In the discretion of the Board of Directors or ACC, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

Section 8.8. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither Declarant, the Board of Directors, the Association nor the ACC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither Declarant, the Association, the Board of Directors, the ACC, nor member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot.

Section 8.9. No Waiver of Future Approvals. Each Owner acknowledges that the members of the ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the ACC may adopt different architectural standards for different parts of the Community, based on street visibility and location of the proposed modifications. The approval of the ACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.





Section 8.10. Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the ACC, Owners shall, at their own cost and expense, promptly remove or cause the removal of such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the ACC or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorneys' fees, may be assessed against the benefited Lot and collected as an assessment pursuant to this Declaration.

In addition to the foregoing, the Board of Directors at the request of the ACC shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions. Furthermore, the ACC and Board of Directors shall have the authority to record in the Official Records notices of violation of the provisions of this Article.

If any Owner or Occupant makes any change, alteration, or construction (including landscaping) upon the Common Property in violation of this Article, he or she does so at his or her sole risk and expense. The Board of Directors or ACC may require that the change, alteration or construction be removed or that it remain on the Common Property without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

Section 8.11. Commencement of Construction. All changes, modifications and improvements approved by the ACC hereunder must be commenced within six (6) months from the date of approval. If not commenced within six (6) months from the date of such approval, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. All work approved by the ACC hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the ACC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

Section 8.12. Work Rules. Any work performed by or on behalf of an Owner (except Declarant) related to the installation, construction, replacement, or repair of improvements to a Lot shall only be conducted between 8:00 a.m. and 6:00 pm on weekdays (excluding public holidays) except in the event of an emergency or upon written approval from the ACC. Notwithstanding anything to the contrary stated herein, the initial improvements constructed on the Community and all architectural modifications thereto that are made by Declarant or approved by Declarant shall not be subject to approval pursuant to this Section.

Article 9. USE RESTRICTIONS

Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of the Community Instruments and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, as a result of such Person's violation of the Community Instruments, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

In addition to the following use restrictions, the Board of Directors may adopt rules and regulations in accordance with the terms hereof and as specified in the Bylaws.





Section 9.1. Use of Lots. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Community, except that the Owner or Occupant residing in a Lot may conduct ancillary business activities within the Lot so long as, in the opinion of the Board of Directors:

- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Lot;
- (b) the business activity does not involve visitation of the Lot by non-domestic employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a Lot without business activity;
- (c) the business activity is legal and conforms to all zoning requirements for the Community;
- (d) the business activity does not increase traffic in the Community in excess of what would normally be expected for residential Lots in the Community without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);
- (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;
- (f) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as determined in the Board's sole and absolute discretion; and
- (g) the business activity does not result in a materially greater use of the Common Property or Association services.


The terms "business" and "trade," as used herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Lot by Declarant for any purpose or by an on site management agent operating on behalf of the Association shall not be considered a trade or business within the meaning of this Article.

Section 9.2. Number of Occupants. The maximum number of Occupants in a Lot shall be limited to two (2) people per bedroom. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

If an Owner of a Lot is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Lot. The designated Person(s) to occupy the Lot may not be changed more frequently than once every six (6) months without the express written consent of the Board as determined in the Board's sole discretion.

Section 9.3. Use of Common Property Including Amenities. There shall be no obstruction of the Common Property, nor shall anything be kept on, parked on, or removed from any part of the Common Property without the prior written consent of the Board, except as specifically provided herein. With prior written Board approval, and subject to any restrictions imposed by the Board (including restrictions limiting the hours of operation), an Owner may reserve portions of the Common Property for





use for a period of time as set by the Board. Any such Owner who reserves a portion of the Common Property as provided herein shall assume, on behalf of such Owner and his, her or its guests, Occupants and family, all risks associated with the use of the Common Property and all liability for any damage or injury to any Person or thing as a result of such use. Upon the request of the Association, such Owner shall also immediately reimburse the Association for any expenses that it incurs related to any damage or injury to any Person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees. There shall be no gardening or landscaping on the Common Property by Owners or Occupants without the prior written consent of the Board. This Section shall not apply to Declarant for so long as Declarant shall own a Lot for sale and/or development.

Section 9.4. Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Community, or any part thereof, which would increase the rate of insurance on the Community or any Lot or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

The Lots in the Community are built in close proximity to one another. As a result, noise and vibration may be detectable between Lots or between Lots and the Common Property. Therefore, an Owner or Occupant shall not conduct activities within a Lot or use a Lot in a manner that interferes with or causes disruption to the use and quiet enjoyment of another Lot by its respective Owner and/or Occupant.


Furthermore, noxious, destructive or offensive activity shall not be carried on within any portion of the Community. No Owner or Occupant of a Lot may use or allow the use of the Lot or any portion of the Community at any time, in any way or for any purpose that may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Lot may use or allow the use of a Lot or the Common Property in any manner that creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will, in the sole discretion of the Board of Directors, interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his, her or its property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or safety of the Community or any structure thereon, would reduce the value thereof, or would impair any easement or other interest in the real property thereto, without, in every such case, the prior unanimous written consent of all members of the Association and their Mortgagees.

No damage to or waste of the Common Property, or any part thereof, shall be permitted by any Owner or member of his, her or its family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his, her or its family, guests, invitees, or Occupants of his, her or its Lot.

Section 9.5. Firearms and Fireworks. The display or discharge of fireworks on the Common Property or Lots is prohibited. The display or discharge of firearms or fireworks on the Common Property is prohibited; provided, however, the display of lawful firearms on the Common Property is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Property to or from the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size, and shall also include, without limitation, slingshots, archery, and other projectile emitting devices.





Section 9.6. Animals. No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Community. No Owner or Occupant may keep more than a total of two (2) dogs and/or cats per Lot (for a combined total of two (2)). Notwithstanding the foregoing, a reasonable number of other generally recognized household pets, as determined in the Board's sole discretion, weighing less than two (2) pounds each (including by way of illustration, but not limitation, fish, gerbils and small birds), may be kept in Lots.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Property. No pets are allowed on any portion of the Common Property except for areas, if any, designated by the Board; provided, however, an Owner or Occupant may walk a pet across the Common Property (or such portions thereof designated by the Board) to enter or exit the Community property. Notwithstanding the foregoing, pets must be kept on a leash and be under the physical control of a responsible Person at all times while on the Common Property. Feces left upon the Common Property by pets must be immediately removed by the owner of the pet or the Person responsible for the pet.

No potbellied pigs, snakes, Pit Bulls (including, but not limited to American Pit Bull Terriers, American Stafford Shire Terriers, Stafford Shire Bull Terriers, and Bull Terriers), Rottweilers, Doberman Pinschers, or any mixed breed of any of the foregoing animals may be brought onto or kept on the Community at any time. In addition, other animals determined in the Board's sole discretion to be dangerous or potentially dangerous shall not be brought onto or kept on the Community at any time. The Board may require that any animal that, in the Board's opinion, endangers or potentially may endanger the health of any Owner or Occupant or creates or potentially may create a nuisance or unreasonable disturbance, be permanently removed from the Community upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board may remove the animal. Any animal that in the Board's sole discretion presents an immediate danger to the health, life-safety or property of any community member may be removed by the Board without prior notice to the animal's owner, provided that the Association, and its directors, officers and agents shall have no liability for any decision not to remove any animal.

Any Owner or Occupant who keeps or maintains any pet upon the Community shall be deemed to have agreed to defend, indemnify and hold the Association, the Declarant, and their directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Community.

Section 9.7. Parking. The Board may adopt reasonable rules limiting the number of vehicles that may be parked at the Community. Notwithstanding the foregoing, an Owner or Occupant of a Lot shall be permitted to park the maximum number of cars or similarly sized motor vehicles that can be parked in a garage according to its design capacity. Parking may also be permitted on other areas authorized in writing by the Board.

Disabled vehicles are prohibited from being parked on the Community. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable.

Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Tennessee Department of Motor Vehicles), recreational vehicles (RVs and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than Sheriffs, Marshals, or police officers' vehicles marked as such, are also prohibited from being parked on the Community, except in a garage or such other areas, if any, that may be designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Property during normal business hours for the purpose of serving any Lot or the Common





Property; provided, however, no such vehicle shall remain on the Common Property overnight or for any purpose unless prior written consent of the Board is first obtained.

If any vehicle is parked on any portion of the Community in violation of this Article or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the Person or entity that will do the towing or booting and the name and telephone number of a Person to contact regarding the alleged violation. If twenty four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Lot or parking space, is obstructing the flow of traffic, is parked on any grassy area, is parked in a parking space that has been allocated as exclusively serving another Lot, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 9.8. Garages. Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. All garages shall be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible, unless a garage is converted into livable residential space with the approval of the ACC in accordance with Article 8 hereof.

Section 9.9. Rubbish, Trash, and Garbage. No garbage or trash shall be placed on the Common Property temporarily or otherwise, except as provided herein. Rubbish, trash and garbage shall be disposed of in appropriate sealed bags and placed in proper trash receptacles in a garage or interior of a residence, except within the designated pick-up area for the twelve (12) hours preceding such Owner or Occupant's scheduled garbage or recycling pickup. All such garbage, trash and rubbish receptacles shall be removed from the pick-up area within twelve (12) hours after such scheduled garbage or recycling pickup.

Section 9.10. Unsanitary or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Community. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the residence of Lot.

Section 9.11. Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless approved in writing by the Board of Directors.

Section 9.12. Antennas and Satellite Dishes.

(a) No satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any portion of the Community, including the Lots; provided, however, the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners:



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(i) No transmission antenna, of any kind, may be erected anywhere on the Community, including the Lots, without written approval of the Board of Directors or the Architectural Control Committee.

(ii) No DBS antenna or MMDS antenna larger than one (1) meter in diameter shall be placed, allowed or maintained upon the Community, including the Lots.

(iii) DBS and MMDS satellite dishes or antennas one (1) meter or less in diameter and television broadcast service antennas may only be installed by an Owner in accordance with Federal Communication Commission (FCC) rules, and only if and to the extent such rules mandate that such dishes or antennas be allowed, and the rules and regulations of the Association, both as may be amended from time to time.

(iv) In the event of a transfer of the Lot which includes a satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

(v) To the extent that any of the foregoing subsections (i) through (iv) is not permitted under the FCC's rules and regulations, the remaining portion of this Section shall survive independently to the extent permissible under the FCC's rules and regulations.

Section 9.13. Grilling. The use of outdoor grills on any portion of the Community shall be governed by applicable state laws and local ordinances having jurisdiction over the Community.

Section 9.14. Abandoned Personal Property. Personal property, other than vehicles as provided for in this Article, shall not be kept, or allowed to remain for more than one (1) hour upon any portion of the Common Property, without prior written permission of the Board of Directors. If the Board of Directors determines that a violation exists, then, the Board of Directors may remove and either discard or store the personal property in a location that the Board of Directors may determine and shall have no obligation to return, replace or reimburse the owner of the property; provided, however, in such case, the Board of Directors shall promptly give the property owner, if known, notice of the removal of the property and the disposition of the property.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 9.15. Lighting. Except as may be permitted by the ACC, exterior lighting shall not be permitted except for (a) approved lighting as originally installed on a Lot; and (b) illumination for all exterior lighting shall be generated from clear light bulbs or such other light bulbs specified by the Association.

Section 9.16. Fences and Wall. No fence, wall, or similar type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the ACC. The ACC may issue guidelines detailing acceptable wall or fence styles or specifications and locations. All applications for walls and fencing shall be submitted in accordance



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with Article 8 of this Declaration. The ACC may require that all or a part of the wall or fencing be painted in order to preserve architectural harmony within the Community.

Section 9.17. Recreational Areas and Equipment. Any recreational area or other areas or equipment located on the Common Property shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof. No equipment (including basketball goals) shall be erected, installed or placed on any Lot without the prior written consent of the ACC.

Section 9.18. Air Conditioning Units. Except as may be permitted by written consent of the ACC, no window air conditioning units may be installed. Unless otherwise placed on a Lot by the Declarant, condensing units for air conditioners shall only be located in the rear or along the side of a residence and shall be screened so as to be concealed from view of neighboring Lots, Common Property and all streets which border the Lot.

Section 9.19. Boundary Line Changes. Boundaries lines between adjoining Lots may be relocated with the consent of the Owners of the affected Lots, provided any such relocation does not violate the applicable subdivision and/or zoning regulations.

Section 9.20. Subdivision of Lots. No Lot shall be subdivided; except Declarant expressly reserves the right to subdivide, combine and/or replat any Lot boundaries owned by Declarant. Any such subdivision, combination or replating by Declarant shall not be in violation of the applicable subdivision and/or zoning regulations.

Section 9.21. Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Lots, it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Community as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion and sale of the Lots, including, but without limitation, business offices, signs, model residences, and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities on the Community for such purposes and to use the Lots owned by Declarant as model residences and as offices for the sale of the Lots and related activities.

Article 10. LEASING

The leasing of Lots shall be governed by the restrictions imposed by this Article. "Leasing," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any Person other than the Owner. Notwithstanding the foregoing, "Leasing" shall not include occupancy by a roommate of an Owner who occupies a Lot as such Owner's primary residence.

Section 10.1. Leasing Provisions. Leasing that is authorized, pursuant to permit, hereunder shall be governed by the following provisions:

(a) **Notice.** At least seven (7) days prior to entering into the lease of a Lot, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with this Declaration and any rules and regulations adopted pursuant thereto.

(b) **General.** Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may charge an administrative fee to an Owner





requesting approval of a lease form. The Board may maintain and, upon request, provide a form that is deemed acceptable. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Lot. The Owner must provide at Owner's sole expense the lessee copies of the Community Instruments, as well as a copy of any rules and regulations of the Association. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(c) Liability for Assessments, Use of Common Property, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:


(i) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of this Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance. The Owner shall cause all Occupants of his, her or its Lot to comply with this Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any such violation. If the lessee, or a Person living with the lessee, violates this Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with Article 5 of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of this Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Tennessee law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of this Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney in fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Lot.

(ii) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property, including but not limited to, the use of any and all recreational facilities and other amenities, provided, however, no lessee may reserve any portion of the Common Property without the written consent of the Owner of the lessee's Lot. Furthermore, no lessee shall have the right to attend any meeting of the Association.

(iii) Liability for Assessments. When an Owner who is leasing his, her or its Lot fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the





Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under this Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

Section 10.2. Applicability of this Article. Notwithstanding the above, this Article shall not apply to any leasing transaction entered into by Declarant (regardless of whether said lease is entered into prior to or after the expiration of the Declarant Control Period), the Association, or the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage; provided, however, the Declarant or holder of any first Mortgage which leases a Lot must still provide the name, address and telephone number of the Person to whom the Lot is being leased and Section 10.1(c) shall apply to all such leasing transactions.

Article 11. TRANSFER OR SALE OF UNITS

An Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the purchase agreement (in the case of the purchase of a Lot) or transfer or sales documents (in the case of the conveyance of a Lot without a purchase of said Lot). The Owner shall furnish to the Board of Directors as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board of Directors may reasonably require. In addition, the purchase agreement or transfer documents shall attach a copy of this Declaration and Bylaws. This Article shall not be construed to create a right of first refusal in the Association or in any third party.

In addition, a non-refundable contribution to the working capital fund of the Association shall be paid to the Association by the purchaser of a Lot at the closing of each sale or resale of a Lot in the amount of two (2) months of the general assessment charges to such Lot in accordance with Article 6 hereof. This payment is not in lieu of an Owner's obligation to pay monthly general assessments.

Within seven (7) days after receiving title to a Lot, the new Owner of the Lot shall give written notice to the Board of Directors of his, her or its ownership of the Lot. Upon failure of an Owner to give the required notice within the seven (7) day time period provided herein, the Board may levy fines against the Lot and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his, her or its identity.

Article 12. MAINTENANCE RESPONSIBILITY

Section 12.1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall be deemed to include the following:

- (a) maintenance, repair, and replacement subject to any insurance then in effect, of the Common Property, including, but not limited to, all Common Property landscaping and grassy areas not included in a Lot, all roads, sidewalks and other concrete and paved areas not included in a Lot, the entry feature, and all recreational amenities;





(b) maintenance and repair of all water and sewer pipes or facilities which serve more than one (1) Lot to the extent that such pipes and facilities are not maintained by the Owner as set forth below or by public, private, or municipal utility companies; and

(c) all lawn and landscape maintenance on a Lot (excluding landscaping within any fenced, gated, or walled area and excluding the removal of trees and shrubbery as provided in Section 12.2 below).

Upon resolution of the Board of Directors and approval of a majority of the members present or represented by proxy at a duly constituted meeting of the members, the Association may assume responsibility for providing additional exterior maintenance upon Lot improvements. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Area of Common Responsibility or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Lot or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order to directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Lot resulting from performance of work which is the responsibility of the Association. Repairs to improvements on a Lot shall be completed only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard and at the sole discretion of the Board of Directors. In performing its responsibilities hereunder, the Association shall have the authority to delegate such Persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not completely covered or paid for by insurance, then the Association may perform the maintenance, repair or replacement at the expense of the Owner, and all costs shall be specifically assessed against the Owner and shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

In performing its responsibility hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

Section 12.2. Owner's Responsibility. Except as provided in Section 12.1 above, all maintenance of the Lot shall be the responsibility of the Owner thereof. In addition, the Owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Lot located within the Lot's boundaries or, if located outside the Lot's boundaries, the portion of the pipe from the cutoff valve serving the Lot (including all gas, electricity, water, sewer and air conditioning pipes, lines, ducts, conduits and other apparatus and the cut off valves for same serving only the Lot). The Owner shall also maintain and repair all exterior building surfaces, roofs, doors and windows on the Lot. Any maintenance which





involves an exterior change, including, without limitation, repainting of the exterior of improvements in a different color, shall require prior approval of the Board or its designee pursuant to Article 8 of this Declaration.

Each Owner shall be responsible, at such Owner's cost, for removing any diseased or dead trees and shrubbery located on such Owner's Lot, provided, however, any Owner who removes any diseased or dead tree or shrubbery pursuant to this Section shall replace such tree or shrubbery with a substantially similar tree or shrubbery or such other tree or shrubbery approved by the ACC. In addition, with the prior written approval of the ACC, an Owner may remove trees or shrubbery on such Owner's Lot needing to be removed to promote the growth of other trees or shrubbery, for safety reasons, or for any other reason acceptable to the ACC. Owners acknowledge that there may from time to time also be restrictions on tree removal contained in Knox County ordinances; in the event of any conflict between such ordinances and this Declaration, the more restrictive provision shall apply.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Property by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Property) shall be performed at the sole expense and risk of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

Each Owner also shall be obligated:

(a) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Lots.

(b) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.

(c) Not to make any alterations in the portions of the Lot which are to be maintained by the Association or to remove any portion thereof or to make any additions thereto or do anything with respect to the exterior or interior of the Lot which would or might jeopardize or impair the safety or soundness of any Lot without first obtaining the written consent of the Board of Directors of the Association and all Owners and Mortgagees or the Lots affected, nor shall any Owner impair any easement without first obtaining written consent of the Association and of the Owner or Owners and their Mortgagees for whose benefit such easement exists.

(d) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Owner's next chargeable assessment.

(e) To aid and assist the Association and its agents and employees as requested by the Association or its agents and employees. The Association and its agents and employees shall not be liable for any injury, damage or loss to such personal property that is not removed, covered, shielded or otherwise protected by the Owner or Occupant of the Lot on which such personal property is located as requested by the Association or its agents and employees.

Section 12.3. Failure to Maintain. If the Board of Directors determines that: (a) any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair or replacement of items of which he or she is responsible hereunder; or (b) that the need for maintenance, repair, or replacement which is in the Area of Common Responsibility is caused through the willful or negligent act of any Owner, his or her family, guests, lessees, or invitees, and is not covered or paid by



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insurance, in whole or in part, then, except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors. In the case of (a) above where the Owner has not discharged his or her responsibility, unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair and diligently pursue completion thereof within ten (10) days. If the Board determines that an emergency exists or that an Owner has not complied with the demand given by the Association as herein provided, or that the need for maintenance or repair is in the Area of Common Responsibility as in the case of (b) above, then the Association may provide any such maintenance, repair or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Lot, and shall be collected as provided herein for the collection of assessments.

Section 12.4. Measures Related to Insurance Coverage.

(a) The Board of Directors, upon resolution, shall have the authority to require all or any Owner(s) to do any act or perform any work involving portions of the Community which are the maintenance responsibility of the Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage to the Community, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage.

(b) In addition to, and not in limitation of, any other rights the Association may have, if any Owner does not comply with any reasonable requirement made by the Board of Directors pursuant to subsection (a) of this Section, the Association, upon ten (10) days written notice (during which period the Owner may perform the required act or work without further liability), may perform such required act or work at the Owner's sole cost and expense. Such cost shall be specifically assessed against the Owner and shall be added to and become a part of the assessment obligation of such Owner and shall become a lien against the Lot and shall be collected in the manner provided for collection of assessments. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this subsection, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Lot, except that access may be had at any time without notice in an emergency situation.

Section 12.5. Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary as the composition of the Board of Directors changes. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

Section 12.6. Mold Disclosure and Waiver. Mold, mildew, fungi and microbiological organisms (collectively, "Mold"), are present in soil, air and elsewhere in the environment. Mold can proliferate in various environments, including, among others, damp areas such as bathrooms and within walls and partitions. Concerns have been expressed about the possible adverse effects on human health from exposure to Mold. According to the Consumer Product Safety Commission and the American Lung Association, some diseases or illnesses have been linked with biological pollutants in the indoor environment, including some forms of Mold. However, it is believed that many of these conditions may also have causes unrelated to the indoor environment. Therefore, as of the date of this Declaration, it is unknown how many potential health problems relate primarily or exclusively to indoor air quality or Mold. Declarant and the Association are not qualified and have not undertaken to evaluate all aspects of this very complex issue. Declarant and the Association have not performed any testing or evaluation of, and



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make no representations or warranties, express or implied, concerning the past, current or future presence or absence of Mold in the Lot, any improvements located within the Lot, or any Common Property or within the vicinity of the Community. Declarant and the Association recommend that each Owner, at the Owner's expense conduct its own investigation and consult with such experts as the Owner deems appropriate regarding the occurrence and effects of Mold, the potential sensitivity or special risk the Owner, his, her or its family members, and others individuals, who will occupy or use the Lot.

When excessive moisture or water accumulates indoors, Mold growth can and will occur, particularly if the moisture problem remains unaddressed. There is no practical way to eliminate all Mold in an indoor environment. The key to controlling indoor Mold growth is to control moisture. Each Owner shall maintain the Lot in such a manner as to reduce the potential for increased Mold formation or growth, including, without limitation, keeping dryer and other vents and/or fans clear and functioning and preventing and repairing plumbing, window and other leaks and sources of moisture. Each Owner shall conduct periodic inspections of the Lot for the presence of Mold or conditions that may increase the ability of Mold to propagate within the Lot or other portions of the Community. Furthermore, each Owner shall monitor the Lot on a continual basis for excessive moisture, water or Mold accumulation. If water or moisture is discovered in or around the Lot, the Owner shall immediately seek to eliminate the source of the water or moisture. Failure to eliminate the source of moisture can result in additional damage and the growth of Mold. Declarant will not be responsible for damages, and each Owner, by taking title to a Lot, hereby waives all rights to damages and subrogation of damages. Each Owner shall defend and indemnify Declarant and the Association and hold Declarant and the Association harmless from damages, including all cases of personal injury or property damage, caused by the presence of Mold and/or water or moisture in the Lot or other portions of the Community to the extent that the damages are caused by: (i) the Owner's negligence or failure to properly maintain and monitor the Lot or other portions of the Community for which the Owner is responsible for maintaining, or (ii) the Owner's failure to promptly take appropriate corrective measures and minimize any damage caused by water or moisture (including, without limitation, failure to promptly notify and engage the help of appropriate professionals or experts).

Article 13. EMINENT DOMAIN

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after the taking, Owners holding at least eighty percent (80%) of the Total Association Vote other than Declarant and the Declarant otherwise agree, the Association shall restore or replace the improvements taken on the remaining land included in the Common Property to the extent lands are available. The Declarant's vote is required hereunder only during the Declarant Control Period.

Article 14. EASEMENTS

Section 14.1. Use and Enjoyment. Each Owner and Occupant shall have a right and a non-exclusive easement of use and enjoyment in and to the Common Property (including the right of access, ingress and egress to and from his, her or its Lot over those portions of the Community designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Lot, subject to (i) to the right of the Association to control the use and enjoyment of the Common Property as provided by the terms of this Declaration including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein; and (ii) the right of the Association to have access to the Lots to discharge its rights and obligations, under the Community Instruments, including without limitation, the repair and maintenance responsibilities of the Association.

Section 14.2. Encroachments. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and adjacent portion of the Common Property or as



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between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered (in accordance with the terms of this Declaration). The easement shall be five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point. However, an easement for encroachment shall not exist if the willful conduct by an Owner, Occupant, or the Association caused the encroachment.

Section 14.3. Utilities. To the extent that any utility line, pipe, wire, or conduit serving any Lot, Lots or the Common Property shall lie wholly or partially within the boundaries of another Lot or the Common Property, such other Lot, Lots, or the Common Property shall be burdened with a non-exclusive easement for the use, maintenance, repair and replacement of such utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Lot, Lots, or Common Property served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Lot of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Lot resulting from performance of any such work.

There is reserved to Declarant, and the Association, blanket easements upon, across, above and under all Lots on the Community for access, ingress, egress, installation, repairing, replacing and maintaining all utilities and services, including but not limited to any irrigation system and all street lights serving the Common Property, and reading meters for: (a) all utilities serving the Community or any portion of the Common Property, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, (b) water runoff and storm drainage systems, (c) street lights, and (d) any other services such as, but not limited to, a master television antenna system, cable television system, master satellite system or security system which may be installed to serve the Community. It shall be expressly permissible for Declarant, the Association, or the designee of either, to do or to authorize the installation, repairing, replacing, and maintaining of the wires, conduits, cables, bulbs and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, Declarant or the Board, as applicable, shall have the right to grant such easement.

Section 14.4. Easement for Association Maintenance. Declarant expressly reserves a perpetual easement; for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required pursuant to this Declaration. This maintenance shall be performed with a minimum of interference to the quiet enjoyment to a Lot.

Section 14.5. Declarant Easements. For so long as Declarant owns any Lot primarily for the purpose of sale and/or development, Declarant and its duly authorized contractors, subcontractors, representatives, agents, associates, employees, tenants and successors and assigns shall have: (i) a non-exclusive easement for access and ingress to, egress from and use of the Common Property for the placement and maintenance of signs, banners, balloons, decorations marketing materials and tables, a sales office, a leasing office, a business office, promotional facilities and model Lots on any portion of the Community, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, sale or lease of any Lot; (ii) a non-exclusive easement to use the Common Property for special events and promotional activities; and (iii) a transferable, non-exclusive easement on, over, through, under and across the Common Property for the purpose of making improvements on the Community or any portion thereof, for the purpose of constructing, installing, replacing, repairing, restoring and maintaining all utilities, buildings, driveways, landscaping and any other improvements on the Community property or serving the Community, and for the purpose of doing all things reasonably necessary and proper in connection therewith.



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Article 15. MORTGAGEE'S RIGHTS

Section 15.1. Notices of Action. An Eligible Mortgage Holder will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder;
- (b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any first Mortgagee, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- (d) Any proposed action which would require the consent of a specified percentage of eligible Mortgagees.

Section 15.2. Special Mortgagee Approval. Unless at least two-thirds (2/3) of the first Mortgagees or at least two-thirds (2/3) of the Total Association Vote entitled to vote thereon consent, the Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);
- (b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot;
- (c) By act or omission waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and Lots and of the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection);
- (d) Fail to maintain insurance, as required by this Declaration; or
- (e) Use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 15.3. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in



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the cases of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 15.4. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of any Mortgagee holding a Mortgage encumbering such Owner's Lot.

Section 15.5. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the mortgagee within thirty (30) days of the date of the Association's request.

Section 15.6. Construction of this Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Community Instruments or Tennessee law for any of the actions set forth in this Article.

Article 16. GENERAL PROVISIONS

Section 16.1. SECURITY. THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE THE SECURITY OF THE COMMUNITY; HOWEVER, EACH OWNER, FOR HIMSELF, HERSELF OR ITSELF, AND HIS, HER OR ITS TENANTS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER ENTITY SHALL HAVE A DUTY TO PROVIDE SECURITY ON OR AT THE COMMUNITY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE COMMUNITY AND COMMIT CRIMINAL ACTS ON THE COMMUNITY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE COMMUNITY WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS, HER OR ITS PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF ITS FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF MEASURES UNDERTAKEN.

Section 16.2. Parking Spaces and Vehicles. Neither Declarant nor the Association shall be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage to any property placed or kept in any parking space or garage in the Community or in any area designated by the Board for other parking. Each Owner or Occupant with use of a parking space or garage or any area designated by the Board for other parking who places or keeps a vehicle and/or any personal property in the vehicle, parking space, garage or in any area designated by the Board for other parking does so at his, her or its own risk.

Section 16.3. Dispute Resolution.

(a) Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the Person requesting the hearing.





The Board shall schedule this hearing for a date not less than seven (7) or more than twenty one (21) days from the date of receipt of the request.

(b) All Owners hereby acknowledge and agree that the Association shall not be entitled to institute, fund, finance, or join in any legal action, suit, or claim against anyone on behalf of any or all of the Owners that is based on any alleged defect in any Lot or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Lots or allegedly sustaining such damage.

(c) All Owners hereby acknowledge and agree that no Owner shall be entitled to institute or join in any legal action against anyone that is based on any alleged defect in the Common Property, but rather, that all such actions shall be instituted by the Association on behalf of the Owners.

(d) Prior to filing any claim relating to alleged physical damage or defects to a Lot, as soon as reasonably possible after the discovery of any alleged physical damage or defects to the Lot, the Owner shall provide prompt written notice to Declarant describing in detail the basis for such claim and the repairs and/or alterations reasonably necessary to remedy the alleged defect or damage (the "Requested Repairs"). An Owner's failure to provide prompt written notice to Declarant after the Owner's discovery of any alleged physical damage or defects to the Lot shall constitute a waiver by such Owner of any potential obligation of Declarant or its contractors to remedy the alleged physical damage or defects to the Lot and all claims related thereto. Within thirty (30) days of its receipt of such notice, Declarant shall provide the Owner with notice stating whether Declarant intends to perform the Requested Repairs. In the event Declarant elects to perform the Requested Repairs, the Owner shall provide Declarant and its contractors with the opportunity to perform the Requested Repairs within a reasonable period, including access to the Lot during regular business hours to perform the Requested Repairs. An Owner shall only have the right to file a claim against Declarant or its contractors in the event the Owner provided prompt written notice to Declarant of alleged physical damage or defects to the Lot as provided herein, and Declarant and its contractors subsequently elects not to perform the Requested Repairs or does not perform the Requested Repairs in a competent manner after having the opportunity to perform the Requested Repairs as provided herein.

(e) Prior to filing any claim relating to alleged physical damage or defects to the Common Property, as soon as reasonably possible after the discovery of any alleged physical damage or defects to the Common Property, the Association shall provide prompt written notice to Declarant describing in detail the basis for such claim and the repairs and/or alterations reasonably necessary to remedy the alleged defect or damage (the "Requested Repairs"). The Association's failure to provide prompt written notice to Declarant after the Association's discovery of any alleged physical damage or defects to the Common Property shall constitute a waiver by the Association of any potential obligation of Declarant or its contractors to remedy the alleged physical damage or defects to the Common Property and all claims related thereto. Within thirty (30) days of its receipt of such notice, Declarant shall provide the Association with notice stating whether the Association intends to perform the Requested Repairs. In the event Declarant elects to perform the Requested Repairs, the Association shall provide Declarant and its contractors with the opportunity to perform the Requested Repairs within a reasonable period, including access to the Common Property during regular business hours to perform the Requested Repairs. The Association shall only have the right to file a claim against Declarant or its contractors in the event the Association provided prompt written notice to Declarant of alleged physical damage or defects to the Common Property as provided herein, and Declarant and its contractors subsequently elects not to perform the Requested Repairs or does not perform the Requested Repairs in a competent manner after having the opportunity to perform the Requested Repairs as provided herein.

(f) The exclusive period of limitation for an Owner or Occupant bringing any claim of any nature against Declarant or its contractors, including, but not limited to, a claim of construction defect or defective design of a Lot, shall be the earliest of: (i) for claims alleging construction defect or defective design, one (1) year from the date that the Owner or Occupant discovered or reasonably should have



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discovered evidence of the claim, provided, however, that in no event shall the limitation period exceed four (4) years from the date Declarant conveyed the Lot to the original Owner unless the basis of the claim was intentionally concealed or willfully concealed by Declarant or its contractors, in which case, the state law governing the limitation period and period of repose shall apply to the claim; (ii) for claims other than those alleging construction defect or defective design, two (2) years after the date Declarant conveyed the Lot to the original Owner or such other shorter period specified in any written agreement between Declarant and the Owner to whom Declarant initially conveyed the Lot, unless the basis of the claim was intentional fraud or willful misconduct, in which case, the applicable law governing the limitation period and period of repose shall apply to the claim; or (iii) the end of the statutory period provided under applicable law governing the limitation period and period of repose.

(g) The exclusive period of limitation for the Association to bring any claim of any nature against Declarant or its contractors, including, but not limited to, a claim of construction defect or defective design of the Common Property, shall be the earliest of: (i) for claims alleging construction defect or defective design, one (1) year from the date that the Association or its agents discovered or reasonably should have discovered evidence of the claim, provided, however, that in no event shall the limitation period exceed four (4) years from the date Declarant substantially completed the Common Property unless the basis of the claim was intentionally concealed or willfully concealed by Declarant or its contractors, in which case, the state law governing the limitation period and period of repose shall apply to the claim; (ii) for claims other than those alleging construction defect or defective design of the Common Property, two (2) years after the Declarant Control Period, unless the basis of the claim was intentional fraud or willful misconduct, in which case, the applicable law governing the limitation period and period of repose shall apply to the claim; or (iii) the end of the statutory period provided under applicable law governing the limitation period and period of repose.

(h) No legal action, suit, or claim (including administrative claims) (hereinafter the "Claim") shall be commenced or prosecuted by the Association unless approved by a vote of the Owners as hereinafter provided. The Board shall prepare a budget of the total estimated cost of the Claim that shall be submitted to the Owners for a vote along with the estimate of the total cost of the Claim made by the attorney being retained by the Association for the Claim. No capital contribution made by an Owner in accordance with Article 6 hereof or reserve account funds shall be used for funding the costs of the Claim. The proposed Claim, the budget, and any special assessment therefore, must all be approved by a vote of the Owners representing at least two-thirds (2/3) of the Total Association Vote. This Section shall not apply, however, to (i) actions involving imposition and collection of assessments as provided herein, (ii) actions brought by the Association to enforce the covenants in this Declaration (including, without limitation, the foreclosure of liens); (iii) proceedings involving challenges to ad valorem taxation, (iv) counterclaims brought by the Association in proceedings instituted against it, (v) any land-use or zoning proceedings, or (vi) actions brought by the Association for damages in magistrate court. This Section shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

(i) Notwithstanding the above, after the expiration of the Declarant Control Period, the Board of Directors may negotiate the resolution of any alleged defect(s) in the Common Property on behalf of the Owners and shall have the right and authority to settle and release on behalf of any and all of the Owners claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Owners and their successors and assigns. No amendment to this Declaration shall (i) modify, alter, or delete any provision of this Declaration that benefits the Declarant or any rights, privileges, easements, protections, or defenses of the Declarant; or (ii) alter the rights of the Owners or the Association in relationship to the Declarant, without the written consent of the Declarant attached to and recorded with such amendment.

(j) Notwithstanding anything to the contrary, no Occupant may file any legal action, suit, or claim against Declarant but rather the Owner of such Occupant's Lot shall bring the legal action, suit, or claim on behalf of the Occupant. Furthermore, if any Occupant files any legal action, suit, or claim





against Declarant in breach of the preceding sentence, the Owner shall indemnify and hold harmless Declarant from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid in settlement of claims, reasonable attorneys' fees actually incurred, consultant and expert fees, arising as a result of any such legal action, suit, or claim filed by the Occupant of such Owner's Lot.

Section 16.4. Successor Declarants. Any successor to Declarant shall not be responsible or subject to liability by operation of law or through the purchase of Declarant's interest in the Community or any portion thereof at foreclosure or otherwise for any act, omission, or matter occurring or arising from any act, omission, or matter occurring prior to the time the successor succeeded to the interest of Declarant.

Section 16.5. Disclosures. Each Owner and Occupant acknowledges the following:

- (a) The Community is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.
- (b) The natural light available to and views from an Owner's Lot may change over time due to, among other circumstances, additional development and the removal or addition of landscaping.
- (c) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.
- (d) No representations are made regarding the schools that currently or may in the future serve the Lot.
- (e) Since in every community, there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Community that an Owner or Occupant may find objectionable and that it shall be the sole responsibility of the Owners and Occupants to become acquainted with community conditions that could affect the Lot.
- (f) The Plat and the dimensions and square footage calculations shown thereon are only approximations. Any Owner who is concerned about any representations regarding the Plat should do his/her own investigation as to the dimensions, measurements and square footages shown thereon.
- (g) Declarant may be constructing portions of the Community and engaging in other construction activities related to the construction of Common Property. Such construction activities may, from time to time, produce certain conditions on the Community, including, without limitation: (A) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (B) smoke; (C) noxious, toxic, or corrosive fumes or gases; (D) obnoxious odors; (E) dust, dirt or flying ash; (F) unusual fire or explosion hazards; (G) temporary interruption of utilities; and/or (H) other conditions that may threaten the life-safety of Persons on the Community. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Community resulting from renovation and construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of this Declaration.
- (h) Concrete surfaces in portions of the Community are subject to cracking due to (i) water penetration, (ii) expansion and contraction of the concrete with temperature changes, (iii) building settlement; and (iv) other circumstances. Such cracking shall not be considered a construction defect and shall not be covered by any warranty provided by Declarant.
- (i) No representations are made that the Lot is or will be soundproof or that sound may not be transmitted from one Lot to another or from the Common Property (including, but not limited to, any amenity areas) to a Lot.



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(j) While the drainage system for surface water runoff on the Community will be constructed in accordance with applicable governmental standards, the Community may still be subject to erosion and/or flooding during unusually intense or prolonged periods of rain.

(k) Trucks, sports utility vehicles, vans, or any other vehicles other than compact passenger vehicles may not fit into the garages.

(l) The performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or Lot in relation to the sun. Declarant shall, therefore, have no obligation other than to install a heating and cooling system at the Lot which has been sized and designed based on industry standards for the type and size of residence to be constructed.

(m) Water may pond on various portions of the Community having impervious surfaces, such as the driveway, and patios, as applicable.

(n) Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, fire hydrants or storm drain inlets or basins.

(o) Natural wood has considerable variation due to its organic nature. There may be shades of white, red, black or even green in areas. In addition, mineral streaks may also be visible. Grain pattern or texture will vary from consistent to completely irregular; wood from different areas of the same tree can also have variations in pattern or texture. It is these variations in wood that add to its aesthetic appeal. These variations in grain will in turn accept stain in varying amounts, which will show throughout the wood products from one door to the next, one panel to the next or one piece of wood to the next. Also, cabinet finishes (including gloss and/or matte finishes) will not be entirely consistent and some minor irregularities will be apparent. Additionally, wood and wood products may be subject to warping, splitting, swelling and/or delamination. Each Owner agrees that the foregoing conditions are normal conditions and shall not constitute a construction defect.

(p) Veins and colors of any marble, slate or other stone in a residence, if any, may vary drastically from one piece of stone to another. Each piece is different. Marble, granite, slate and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble, granite, slate and other stone finishes may be dangerously slippery and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, granite, slate and other stone and it is each Owner's responsibility to properly maintain these materials. Marble, granite, slate and other stone surfaces may scratch, chip or stain easily. Such substances, as part of their desirable noise attenuating properties, may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

(q) All buildings contain products that have water, powders, solids and industrial chemicals. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring and moisture will contribute to the growth of molds, mildew, fungus or spores. Declarant is not responsible for any illness or allergic reactions that an Owner or Occupant may experience as a result of mold, mildew, fungus or spores. It is the responsibility of each Owner to keep the Owner's residence clean, dry, well ventilated and free of contamination.



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(r) Certain materials used for fixtures in a residence (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and brass/chrome light fixtures) are subject to discoloration and/or corrosion over time.

(s) Various substances used in the construction of the improvements in the Community property or otherwise located on the Community property may now or in the future be determined to be toxic, hazardous or undesirable and may need to be specifically treated, handled and/or removed from the Community. The construction materials used may contain some of the following chemicals and minerals in measurable amounts: water (which may allow the growth of mold, mildew and fungus); formaldehyde (used in the manufacture of carpeting, insulation and pressed wood products); arsenic (used in treating wood products); methylene chloride (used in paint thinners); fiberglass; and petroleum products. Declarant has no expertise with respect to toxic wastes, hazardous substances, pet dander, dust mites, or other undesirable substances. Such substances can be extremely costly to correct and remove and Declarant shall have no liability to the Association, any Owner or any Occupant regarding the presence of such substances in the Community.

(t) Declarant makes no representations or warranties regarding the future development or use of other properties adjacent to or in the vicinity of the Community, which shall not necessarily be restricted exclusively to residential use, but shall be subject only to uses allowed by applicable zoning ordinances, including without limitation, office, retail or other commercial uses. Any floor plans, renderings, models, drawings, and the like, which purport to depict such properties, or any portion thereof, are merely projections, which are subject to change and do not reflect an actual commitment to develop the such property in any particular manner. No Owner and Occupant shall rely or any projected plans for the future development of other properties adjacent to or in the vicinity of the Community as an inducement to acquire of occupy a Lot.

(u) Asbestos can found as accessory minerals in mineral deposits and occurs in its natural state in some rock formations. Neither Declarant nor the Association shall conduct tests to determine the presence or absence of any type of naturally occurring asbestos in the soil of the Community. Neither Declarant nor the Association makes any representations or warranties concerning the presence or absence of said minerals.

(v) The grading of the soil and other elements created by nature, as well as building materials developed by humans, many times create unwanted and undesired gases and other contaminants in homes and residential buildings, both new and used. Also, since energy conservation has become a concern, there is a need to build homes and residential buildings that are more airtight. As a result, these homes and residential buildings trap unwanted gases in different degrees depending on how each person lives within their home or such residential building. To date measurements of such unwanted gases (such as the radon gas described below and carbon dioxide) are reported as parts of the air they occupy. Since the quality of air a person breathes can affect his or her health, Declarant recommends frequent airing of a Lot to introduce fresh air uncontaminated with such gases.

(w) The United States Environmental Protection Agency ("EPA") has indicated that a number of homes and residential buildings in the United States experience elevated levels of radon gas. Radon is a naturally occurring gas that is caused by radioactive decay of the element radium. Since radium is contained in the earth's crust and dissolves readily in water, radon can be found virtually everywhere and can enter the home or residential buildings through a variety of sources. Owners or Occupants seeking information about radon can contact the EPA or a state environmental office. Neither Declarant nor the Association has any expertise in the measurement or reduction of radon in homes or residential buildings or regarding acceptable levels or possible health hazards associated with radon. Neither Declarant nor the Association makes any warranty or representation of any kind, express or implied, regarding the presence or absence of radon gas, or regarding the effectiveness of any architectural activities for reducing the presence of radon.



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(x) Carbon monoxide is a dangerous gas that typically cannot be smelled or seen. It is produced as a common by-product of the combustion (burning) of fossil fuels. Most fuel burning equipment (natural gas, gasoline, propane, fuel oil, and wood), if properly installed and maintained, produces little carbon monoxide. The by-products of combustion are usually vented to the outside. However, if there is a shortage of oxygen to the burner, or the venting is not adequate, carbon monoxide production can increase to dangerous levels. Common sources of carbon monoxide include gasoline engines running in closed garages, fuel-burning space heaters or water heaters with improper venting, and blocked chimneys or vent pipes. Each Owner should have a qualified professional routinely maintain and inspect all heating systems and any fuel-burning appliances serving the Owner's Lot annually to ensure they are in good working condition. Each Owner should have a qualified professional routinely inspect appliance vents in the Lot annually for blockages, corrosion, cracks or leakage. Each Owner should consider installing and maintaining a carbon monoxide detector and alarm that measures the amount of carbon monoxide in the air and sounds an alarm at certain levels. The detector should be considered as a backup and not as a replacement for proper use and maintenance of fuel-burning appliances.

Section 16.6. Services During Declarant Control. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by communities such as the Community including, but not limited to, management services. Each Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates.

Section 16.7. Amendments. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if an amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, or regulation or judicial determination with which it is in conflict; (b) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if an amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if an amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration. However, any such amendment shall not adversely affect the title to any Owner's Lot unless the Owner consents to the amendment in writing. Further, until the expiration of the Declarant Control Period, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner, nor shall it adversely affect title to any Lot without the consent of the affected Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners holding at least two-thirds (2/3) of the Total Association Vote. During the Declarant Control Period, any amendment to this Declaration shall require the written consent of the Declarant. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified in the amendment. No provision of this Declaration which reserves, grants, or exempts special rights or exemptions to the Declarant shall be amended without the Declarant's prior written consent until the later of the following: (i) the date upon which Declarant no longer owns any Lot; or (iii) ten (10) years after the date on which this Declaration is recorded in the Official Records.

Any action to challenge the validity of an amendment adopted under this Article must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

Section 16.8. Severability. Invalidation of any one of these covenants, conditions, or restrictions contained in this Declaration by judgment or court order or otherwise shall in no way affect the application



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of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

Article 17. DECLARANT RIGHTS

Section 17.1. Sales and Leasing Activities. Declarant hereby reserves the right to maintain sales, leasing, or management offices, signs advertising the Community, and models in all Lots, or portions thereof, owned by Declarant and in the Common Property. Declarant reserves the right to determine in its sole discretion the appropriate number, size, location and relocation of sales, leasing, or management offices, advertising signs, and models maintained by Declarant. Declarant, and its duly authorized agents, representatives, associates, and employees, shall have a non-exclusive easement over the Common Property in order to exercise the rights granted herein. Declarant shall have the right to exercise the rights in this Section for so long as Declarant owns a Lot for sale and/or development.

Section 17.2. Easements. Declarant reserves the right to use easements, including without limitation those described in Article 19 herein, over and through Common Property and Lot, for the purpose of making improvements within the Common Property and Lots owned by Declarant or within real estate that may be added to the Community.

Section 17.3. Directors and Officers. During the Declarant Control Period, Declarant reserves the right to appoint directors and officers of the Association as set forth in the Bylaws. The expiration of the Declarant Control Period shall not divest Declarant of other rights specifically reserved to Declarant herein.

[SIGNATURES ON FOLLOWING PAGE]



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IN WITNESS WHEREOF, Declarant has executed this Declaration under seal this _____ day of _____, 201_____.

DECLARANT: BRANDYWINE AT TURKEY CREEK, LLC
a Tennessee limited liability company

By: [Signature] (SEAL)
Name: Bruce Matzel
Title: Managing Member

STATE OF Tennessee
COUNTY OF Knox

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Bruce Matzel, with whom I am personally acquainted and who, upon oath, acknowledged himself to be the Managing Member of Brandywine At Turkey Creek LLC, the within named bargainer, a limited liability company, and that he as such Managing Member being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the LLC by himself as such Managing Member.

Witness my hand and official seal at office this 14th day of July, 2011.

[Signature]
Notary Public

12/18/13
My commission expires: _____



EXHIBIT "A"

Description of Submitted Property

Property situated in the Sixth Civil District of Knox County, Tennessee, outside the corporate limits of the City of Knoxville, lying on the westerly side of Fretz Road south of its intersection with N. Campbell Station Road, and being all of Lot 1 as shown on plat entitled Brandywine at Turkey Creek recorded as Instrument Number 201007280005606 in the Office of the Knox County Register of Deeds, more particularly bounded and described as follows:

BEGINNING on an iron pin (found) in the westerly line of Fretz Road 25 feet from its centerline and South 18deg 36min West 1217.3 feet more or less from the centerline intersection of Fretz Road and N. Campbell Station Road, at a common corner with property owned by Glen Earl Crawford and Robin Lea Smith (DB 1670 pg 914 and DB 2003 pg 29), and being located by reference at Tennessee Lambert Grid Position North = 575,005.02 and East = 2,505,195.12; THENCE, along the westerly right of way of Fretz Road South 13deg 12min 16sec East 241.90 feet to an iron pin (set) in a line of the property owned by Alvin G. Perdue and Ila P. Perdue (DB 1624 pg 647); THENCE along the common lines with Perdue, South 83deg 25min 18sec West 1080.13 feet to an iron pin (set) and South 54deg 09min 48sec West crossing an axle (found) at 428.84 feet and continuing for a total distance of 645.00 feet to an axle (found) in a line of the property owned by Towering Oaks Partnership (Instr #200609260027320); THENCE along the common line with Towering Oaks Partnership North 33deg 30min 28sec West 412.96 feet to an iron pin (found) at the southernmost corner of Ridgeland Subdivision Unit 1 (Map Bk 65-S pg 71) at a common corner with Lots 39 and 40; THENCE along the common line with Lot 40 of Ridgeland Subdivision Unit 1 owned by Mary Beth Heath and Dean C. Heath (Instr #200606010100736) North 53deg 35min 59sec East 160.62 feet to an iron pin(set) in said line of Lot 40 at a common corner with property owned by Josef F. Walker and Angela B. Walker (DB 1986 pg 860 Tract 2); THENCE along the common lines with Walker for the following six calls: 1.) South 35deg 30min 21sec East 129.03 feet to an iron pin (set); 2.) North 54deg 24min 39sec East 266.43 feet to an iron pin (set); 3.) North 36deg 14min 48sec East 147.46 feet to an iron pin (set); 4.) North 39deg 24min 26sec East 29.73 feet to an iron pin (set); 5.) North 47deg 42min 47sec East 81.59 feet to an iron pin (set); 6.) North 31deg 01min 34sec West 50.98 feet to an iron pipe (found) at a common corner with the property of Glen Earl Crawford and Robin Lea Smith; THENCE along the common line with Crawford and Smith (Instr #201006230079726) North 89deg 40min 50sec East 1207.64 feet to the POINT OF BEGINNING. Containing 12.859 acres (more or less).

The above as surveyed by Lackey and Associates, Inc., of 214 Main Street, Oliver Springs, Tennessee, 37840, being shown on "Final Plat of Brandywine at Turkey Creek" designated as Drawing Number 10-426-R2 with survey date of July 13, 2010, and a Drawing Revision Date of July 27, 2010, with directional bearings being reference to Tennessee Lambert Grid North and positions being reference to Tennessee Lambert Grid Position (NAD83- 95).

Property is Parcel 72.03 on Knox County Tax Map 130.





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