STEVE HALL
REGISTER OF DEEDS
KNOX COUNTY

This Instrument Prepared By:

James W. Parris, Esq.
BERNSTEIN, STAIR & McADAMS LLP
530 South Gay Street, Suite 600
Knoxville, Tennessee 37902
865-546-8030

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

FRANKLIN CREEK

This Declaration of Covenants and Restrictions is made and entered into as of November 5, 2004, by Eagle Bend Realty, LLC, a Tennessee corporation ("Developer").

Developer is the owner of certain real property located in Knox County, Tennessee as more particularly described as follows (the "Property"):

Developer desires to create on the Property a residential community known as Franklin Creek (the "Subdivision") as shown on the Unit 1 Plat of record Instrument No. 200405200106984 and Unit 2 Plat of record Instrument No. 200407290008878 in the Register's Office for Knox County, Tennessee which may have common facilities for the use and benefit of the residents of the Subdivision.

Developer desires to provide for the preservation of the values in the Subdivision and for the maintenance of common facilities and, to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof.

Developer has deemed it desirable to create an entity to which should be delegated and assigned the powers of maintaining and administering the community and facilities, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created. In order to carry out such duties, Developer has incorporated under the laws of the State of Tennessee a non-profit corporation known as FRANKLIN CREEK HOMEOWNERS' ASSOCIATION, INC.

NOW, THEREFORE, the Developer declares that the Property and all Lots which are a part thereof are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

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RECORD FEE: $87.00
M. TAX: $0.00 T. TAX: $0.00

ARTICLE I

DEFINITIONS

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

"Association" shall mean and refer to the Franklin Creek Homeowners' Association, Inc.

"Board of Directors" shall mean and refer to the Board of Directors of the Association.

"Common Area" shall mean and refer to those portions of the Property which shall be conveyed to the Association by the Developer and any improvements, recreation facilities or other items located on such portions of the Property.

"Developer" shall mean Eagle Bend Realty, LLC and its successors and assigns.

"Directors" shall mean and refer to a Director of or Member of the Board of the Association.

"Lot" shall mean and refer to any plot of land shown upon any recorded subdivision of the Property with the exception of Common Area as heretofore defined.

"Member" shall mean and refer to all those Owners who are members of the Association as provided in Article II hereof.

"Owner" shall mean and refer to the owner, whether one or more persons or entities, of the fee simple title to any Lot but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

"Traditional Architecture" shall be defined as residential architecture categorized as Williamsburg, Cape Cod, American Colonial, Georgian, French Provincial, English Tudor, and all other Traditional single family residential architecture common in the United States and not typically referred to as "contemporary".

ARTICLE II

MEMBERSHIP, BOARD OF DIRECTORS, AND VOTING RIGHTS IN THE ASSOCIATION

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

2.2 Voting Rights. The Association shall have two classes of voting membership:

CLASS A. Class A members shall be all those owners as defined in Section 2.1 with the exception of the Developer. Class A members shall be entitled to one vote for each Lot in which they hold the interests required for membership by Section 2.1. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

CLASS B. The Class B member shall be the Developer, its successors and assigns. The Class B member shall be entitled to two votes for each Lot in which it holds the interest required for membership by Section 2.1. The Class B membership shall cease on the happening of either of the following events, whichever occurs earlier: (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or (b) on January 1, 2025. The Developer will then maintain Class A voting rights on any remaining Lots owned.

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

Said Class B membership shall be non-transferable except to transferees of Developer's remaining interest in the Property and shall remain in the Developer, its successor or assigns, until such time as Class B membership terminates as provided in this Section 2.2.

2.3 Votes Necessary for Action. Notwithstanding anything to the contrary contained herein, actions of the Association shall be effective only after two-thirds (2/3) vote of each of Class of Members approve said action.

2.4 Board of Directors. The Association shall be governed by a Board of Directors to be elected annually by the Members. As long as Class B membership exists, Class A members shall elect two Directors, and Class B members shall elect three Directors. Thereafter, the Class A members shall elect five Directors.

2.5 Maintenance of Common Area. The Association acting by and through its Board of Directors shall have the right to engage and employ such individuals, corporations or professional managers for the purpose of managing and maintaining the Common Area and performing such other duties as the Board of Directors shall from to time deem advisable in the management of the Association.

2.6 Insurance for Common Area. The Association shall obtain and maintain on the Common Area comprehensive general liability insurance in the amount of One Million Dollars ($1,000,000) per claim for bodily injury, death and property damage. Such insurance policy shall name the Developer as an additional insured for so long as the Developer maintains any interest in the Subdivision and any Lot.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON AREA

3.1 Members' Easements of Enjoyment. Subject to the provisions of Section 3.3, every Member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot.

3.2 Title to Common Area. The Developer shall retain the legal title to the Common Area until such time it, in the sole and exclusive discretion, shall convey same to the Association.

3.3 Extent of Members' Easements. The rights and easements of enjoyment in and to the Common Area created hereby shall be subject to the following:

(a) any rules and regulations reasonably adopted by the Association.

(b) the right of the Association to take reasonable action to protect and preserve the rights of the Association and the individual Members in and to the Common Area.

(c) the right of the Association, as provided in its Articles and bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of rules and regulations reasonably adopted by the Association.

(d) the right of the Association to dedicate or transfer all or any part of the Common Area or areas to any public agency, authority, utility, municipality or other governmental entity for any reasonable purposes or the right of the Association to mortgage or convey the Common Area, and subject to such conditions as may be agreed upon by the Board of Directors of said Association; provided, however, than no such dedication or transfer, and the conditions and provisions incident thereto, shall be effective unless approved by at two-thirds of the members of each class of membership in the Association;

(e) the rights of Members of the Association shall not be altered or restricted because of the location of the Common Property in a phase or portion of the Subdivision in which such Member is not a resident. Notwithstanding the phase or portion of the Subdivision in which the Lot is located, the Owners of such Lots shall be entitled to full use and enjoyment of all Common Area as provided herein.

3.4 Parking Rights. The Developer shall have the absolute authority to determine the manner of parking within the Property and the manner in which vehicles may be parked on any Lot. At such time as the Association obtains authority over the Common Area wherein said parking is situated, it shall have the absolute authority to regulate the maintenance and use of the same.

3.5 Swimming Pool and Recreation Areas. Any swimming pool, play ground or other recreation or play areas or equipment furnished by the Developer (collectively, the "Recreation Equipment") on the Common Area or otherwise within or adjacent to the Subdivision, shall be used at the sole risk of the user. Neither the Developer, the Association nor any of their officers, directors, members, shareholders, agents or employees, shall be liable to any person or entity for any claim, damages, liability or injury relating to or arising out of the use of the Recreation Equipment. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to have released any and all claims of any kind, type or nature relating to or arising out of the use of the Recreation Equipment and accepted the terms of this Section 3.5. The use of the Recreation Equipment is subject to rules and regulations established from time to time by the Association, including, without limitations, rules addressing hours of use, appropriate dress and other matters. The Recreation Equipment, generally, and any swimming pool specifically, is intended for family use and all users of the Recreation Equipment shall at all times dress and conduct themselves in a manner consistent with the presence of families and young children. Pursuant to Section 2.6, the Association shall provide general liability insurance relating to bodily injury, death or property damage resulting from use of the Recreation Equipment.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments. The Developer for each Lot owned by him within the Property hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges determined in accordance with these Declarations; and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Upon default in the payment of such assessments, the Association is authorized and entitled to record a notice of lien claim in the Register's Office for Knox County, Tennessee, and to foreclose that lien claim by attachment and sale of the property through appropriate legal proceedings. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation, jointly and severally, of the person who was the Owner of such property at the time when the assessment fell due. The Association may bring an action in court to recover such assessment, together with interest, costs and reasonable attorney fees, from each person who was an Owner of such Lot at the time when the assessment fell due, which action may be brought in lieu or in addition to the filing or foreclosure of the lien pursuant hereto. The personal obligation or the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

4.2 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, welfare and beautification of the Property and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and of the homes situated upon the Property, and administrative costs related thereto. Such uses shall include, without limitation, the payment of taxes and insurance thereon and repair, replacement, and addition thereto, and for the cost of utilities, labor, equipment, materials, management and supervision thereof, including all such costs relating to or arising out of the Recreation Equipment. The assessments shall not be specifically limited to the Common Area, but shall extend to and include the right to maintain and repair the streets and access ways and the lighting, traffic signals and signs pertaining to the Subdivision, and any common easements and driveways. The costs of operation and maintenance of street lights and lighting regardless of the location within the Subdivision and the proximity to the individual Lots shall be borne equally and prorated as to each Lot without regard of the ownership; it being the intent of this requirement to insure the safety, enjoyment and security of the entire Subdivision.

4.3 Annual Assessment. The Developer shall have the right to determine and set the annual assessment each year for a period of two (2) years from and after the establishment of the Association. The assessment shall be a sum reasonably necessary as deemed by the Developer to defray the expenses of the Association for such year and to otherwise satisfy the provisions of Section 4.2. From and after the expiration of the first year, the assessment may be adjusted upward or downward as herein provided.

Until January 1, 2006, the maximum annual assessment shall be $300.00 per Lot.

Each purchaser of a Lot will pay $100.00 at closing to fund the Association. Such amount shall be in addition to any other assessments required to be paid by Lot Owners.

4.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 4.3 hereof, the Association may levy in any year a special assessment applicable to the time period set forth in such special assessment for the purpose of defraying in whole or in part the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, and any other matter as determined by the Association provided that any such assessment shall have the assent of at least three members of the Board of Directors.

4.5 Change in Basis and Maximum of Annual Assessments. The Association may change the maximum annual assessment and basis of the assessment fixed by Section 4.3 hereof prospectively for any period provided that any such change shall have the assent of at least three Members of the Board of Directors.

4.6 Quorum for any Action Authorized Under Sections 4.4 and 4.5. The quorum required for any action authorized by Sections 4.4 and 4.5 hereof shall be as follows:

At the first meeting called as provided in Sections 4.4 and 4.5 hereof, the presence at the meeting of Members in person or by proxy entitled to cast fifty one (51%) percent of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth in Sections 4 and 5 and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.7 Commencement of Annual Assessments. The first annual assessment shall become due and payable on the first day of the month following the lapse of thirty (30) days from the date of the sale of the first Lot in the Subdivision. Thereafter as each

person or entity becomes a member such new Members' assessment for the current year shall be a pro-rata part of the annual assessment and shall be due on the first day of the month following the date such person or entity becomes a Member of the Association. Upon a person or entity's ceasing to be a Member of the Association, such Member shall not be entitled to any refund of his annual assessment.

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

The due date of any special assessment under Section 4.4 hereof shall be fixed in the resolution authorize such assessment.

4.8 Effect on Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of Association. If any assessment is not paid on the date when due (being the dates specified in Section 4.7 hereof), then such assessment shall become delinquent and shall, together with interest thereon and cost of collection, as hereinafter provided, thereupon become a continuing lien on the Owner's Lot which shall bind such property in the hands of the then Owner, his heirs, devises, personal representatives and assigns.

If the Assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, may foreclose the lien against the Owner's Lot, or may take both such actions, and there shall be added to the amount of such assessment reasonable attorneys fees, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys fees together with the costs of the action.

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

4.10 Exempt Property. The following property to the extent it is subject to this Declaration, shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and

accepted by the local authority and devoted to public use; (b) all Common Area as defined in Article I, Section 1 hereof; (c) all properties exempt from taxation by the laws of the State of Tennessee or United States Government upon the terms and to the extent of such legal exemption.

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

4.11 Assessment on Lots Owned by Developer. The amount of the annual or special assessments on any Lots owned by the Developer shall be zero.

4.12 Books and Records. The books and records of the Association shall be kept in such a manner that is possible to determine and ascertain that (I) such sums are expended by the Association for development, improvements, maintenance and upkeep of all Common Area of the Association, and (ii) such sums are expended for the purposes set forth herein.

ARTICLE V

TERM

These covenants are to take effect immediately and shall be binding on all parties and all persons claiming under them until January 1, 2030, at which time said covenants shall be automatically extended for successive periods of ten years unless by vote of the majority of the then Owners of Lots it is agreed to change said covenants in whole or in part.

ARTICLE VI

ENFORCEMENT

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

ARTICLE VII

SEVERABILITY

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

ARTICLE VIII

BUILDING LOCATION

No building shall be located on any Lot nearer to the front boundary than 20 feet unless such requirement is waived by the Developer for so long as said Developer shall own any Lot in the Subdivision, and thereafter the Association which shall have exclusive jurisdiction and authority to permit or deny variances. As to all other front, rear and side set back requirements, the regulations of the applicable municipal zoning authority shall be controlling and said zoning authority shall have the exclusive authority to permit or deny variances as to rear and side set back requirements.

ARTICLE IX

DIVISION OF LOTS

Not more than one single family dwelling may be erected on any Lot and no Lot may be subdivided or reduced in size by any method such as voluntary alienation, partition, judicial sale, or other process of any kind except for the express purpose of increasing the size of another Lot; provided however, the Developer may subdivide or otherwise change the boundaries of any Lot.

ARTICLE X

FRANKLIN CREEK ADVISORY COMMITTEE

No building shall be erected, placed, altered (including, without limitation, any change of exterior color), or permitted to remain on any Lot until the building plans and specifications and a plan showing the location of a dwelling have been approved in writing by the Franklin Creek Advisory Committee as to quality of workmanship and materials, harmony of exterior design with existing structures and as to location with respect to topography and finish grade level and elevation. The Franklin Creek Advisory Committee shall be composed of three members appointed by the Developer. A majority of the Committee may designate a representative to act for the Committee.

In the event of the death or resignation of any member of the Committee, the Developer shall have the exclusive authority to designate a successor. In the event the said Committee or its designated representative fails to approve or disapprove such plans or specifications within twenty (20) days after the same have been submit, as to the Lot for which such plans and specifications were submitted to it, such approval shall be implied and no longer required and this covenant will be deemed to have been fully complied with. Further, such plans must be left with Franklin Creek Advisory Committee during the period of construction after approval. If no suit to enjoin the construction has been filed prior to completion thereof, approval will not be required and the covenant shall be deemed to be fully satisfied. In the event Franklin Creek Advisory Committee rejects plans submitted for approval under this covenant, upon written application for approval by 75 percent of the Owners within a 200 foot radius of the affected Lot the said proposed plans shall be deemed approved by the Advisory Committee. The Developer shall continue to have the exclusive authority to appoint the Members of the Advisory Committee until such time as it shall in writing expressly confer such authority to the Association as provided in Paragraph XX.

ARTICLE XI

DWELLING RESTRICTIONS

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

1. The dwelling and related improvements must be of Traditional Architecture and design as defined herein.

2. The minimum living area square footage requirements shall be determined by the Franklin Creek Advisory Committee on a case by case basis and shall be within the sole discretion of the Committee.

3. All dwellings shall have a minimum roof pitch of 6/12.

4. All dwellings shall have not less than a one car attached garage.

5. Except by approval of the Advisory Committee, there shall be no occupancy permitted of any dwelling until such time as the dwelling, yard and landscaping are complete.

6. The finished grading for all Lots shall be completed in conformity with the recorded plat for the Subdivision and in such manner as to retain all surface water drainage on said Lot or Lots in "property line swales" designated to direct the flow of all surface waters into the drainage easements as created by the overall drainage plan for the subdivision, as approved by the municipal authority having jurisdiction over said subdivision.

7. There shall be no above-ground swimming pools, outbuildings or accessory structures built or constructed on any Lot. Basketball goals are permitted upon written approval of the Association but shall not be placed in the street, street right-of-way or attached to the home in any manner.

11.2 Miscellaneous Restrictions.

1. Mail boxes shall be of a traditional type and design consistent with the overall character and appearance of the subdivision and as selected by the Developer.

2. No outside radio transmission towers, receiving antennas, television antennas, satellite antennas or dishes or solar panels may be installed or used, provided, however, satellite dishes of not more than thirty-six (36) inches in diameter may be installed behind the back plane of a house if properly screened to prevent viewing from any road or any other lot.

3. No one shall be permitted to store or park house trailers, campers, pleasure or fishing boats, trailers or other similar type vehicle on or about said residences unless the same are stored or parked inside a garage so as not to be readily visible from the street or adjoining properties. No automobiles which are inoperable or being stored shall be repeatedly parked, kept, repaired or maintained on the street, driveway or lawn of any Lot.

4. Builders will be responsible for providing silt control devices on each Lot during construction activities.

5. Clotheslines and other devises or structures designed and customarily used for drying or airing of clothes, blankets, bed linen, towels, rugs or any other type of household ware shall not be permitted and it shall be strictly prohibited for articles or items of any description or kind to be displayed or placed on the yard or exterior of any dwelling for the purpose of drying, airing or curing of said items.

ARTICLE XII

TEMPORARY STRUCTURES

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

ARTICLE XIII

EASEMENTS

Easements and other restrictions in conformity with the recorded plat of the Subdivision are expressly reserved for the overall development of the subdivision, and no easements, rights of way or rights of access shall be deemed granted or given to any person or entity over, across, upon or through any Lot unless prior written permission is granted by the Developer. The Franklin Creek Homeowners Association has the right and responsibility to maintain the entrance structure and landscaping.

ARTICLE XIV

COMMISSION OF WASTE AND UNSIGHTLINESS

At no time shall any Lot be stripped of its topsoil, trees, or allowed to go to waste or waste away by being neglected, excavated, or having refuse or trash thrown, dropped or dumped upon it. No lumber, brick, stone, cinder block, concrete block or other materials used for building purposes shall be stored upon any Lot for more than a reasonable time for the construction in which they are to be used to be completed. No person shall place on any Lot refuse, stumps, rock, concrete blocks, dirt or building materials or other undesirable materials. Any person doing so shall be subject to notification by the Developer or the Association to correct said condition within five (5) days of notification and if said condition is not corrected within said time period, the Developer or Association shall have the right to injunctive relief against the Owner of the affected Lot and the contractor or agent of the Owner and, further, the Developer or Association may make all necessary corrections and the expense of same shall be a lien upon the Lot.

ARTICLE XV

SIGNS

No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than five square feet advertising the Lot for sale or rent or signs used by the builder to advertise the Lot during the construction and sales period.

ARTICLE XVI

LIVESTOCK AND POULTRY

No animals, livestock, poultry or fowl of any kind shall be raised, bred or kept on any Lot except pets such as dogs or cats; provided they are not kept, bred or maintained for any commercial purpose and do not create a nuisance. The Homeowner's Association shall have exclusive authority to further regulate the maintenance and care of said animals as it deems necessary.

ARTICLE XVII

GARBAGE AND REFUSE DISPOSAL

No Lot shall be used or maintained as a dumping ground for trash or rubbish. Trash, garbage or other waste shall not be kept except on a temporary basis and in sanitary covered containers. All incinerators or other equipment for the storage of such material shall be kept in a clean and sanitary condition, subject to the approval of the Developer, and may be used only during the construction period.

ARTICLE XVIII

FENCES AND WALLS

No fences or walls or hedge rows shall be erected, placed or altered on any Lot unless approved by the Developer or the Advisory Committee as the case may be. Chain link fences and dog runs are prohibited. No fences may be erected in the side or front yard setback including corner lots having two front yard setbacks.

ARTICLE XIX

WAIVER AND MODIFICATION

Developer hereby reserves the right in its absolute discretion at any time to annul, waive, change or modify any of the restrictions, conditions or covenants contained herein as to any part of the Subdivision then owned by Developer and with the consent of the Owners as to any other Lot in the Subdivision. Developer shall have the further right before a sale to change the size of or locate or relocate any Lots, streets, or roads shown on any of the plats of the Subdivision.

ARTICLE XX

ASSIGNMENT OR TRANSFER

Any or all of the rights and powers, titles, easements and estates reserved or given to Developer in this Declaration may be assigned to any one or more corporations or entities which will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights and powers, and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by Developer and Developer shall thereupon be released therefrom.

ARTICLE XXI

FUTURE ADDITIONS

21.1 Additional land may be annexed by the Developer without the consent of Members within twenty (20) years of the date of this instrument, provided that the Federal Housing Administration and the Veterans Administration determine that the annexation is in accord with the general plan heretofore approved by them.

21.2 Additional residential property and Common Area may be annexed to the Subdivision with the consent of two-thirds (2/3) of each Class of Members.

ARTICLE XXII

AMENDMENTS

22.1 The covenants, conditions and restrictions set forth herein may be amended during the first twenty year period by an amended declaration signed by not less than ninety percent (90%) of the then Owners of the Lots in the Subdivision, and thereafter by an amended declaration signed by no less than seventy-five percent (75%) of the then Owners of the Lots. Any amendment must be properly recorded to be effective.

22.2 As long as there is a Class B Membership, the following actions will require the approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Area, amendment of this Declaration of Covenants and Restrictions and amendment of the Articles of Incorporation of the Association.

IN WITNESS WHEREOF, Eagle Bend Realty, LLC, a Tennessee corporation has caused this instrument to be executed and its name to be signed by its president as of the date set forth above.

EAGLE BEND REALTY, LLC

By: _____
Scott Davis, Chief Manager

STATE OF TENNESSEE

COUNTY OF KNOX

Before me, a notary public of the state and county aforesaid, personally appeared Scott Davis, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath acknowledged himself to be a Chief Manager of Eagle Bend Realty, LLC, the within named bargainer, a limited liability company , and that he as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company by himself as such officer.

Witness my hand and seal, this 5th day of November, 2004.

Notary Public

My Commission Expires:

March 29, 2005

V:\wp\Franklin Creek Declarations of Restrictions 7-06-04
9/29/2004 11:10 AM

STEVE HALL
REGISTER OF DEEDS
KNOX COUNTY

This instrument prepared by:

James W. Parris, Esq.
Bernstein, Stair & McAdams LLP
4823 Old Kingston Pike, Suite 300
Knoxville, Tennessee 37919
(865) 546-8030

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF FRANKLIN CREEK

This Amendment of Declaration of Covenants and Restrictions of Franklin Creek is made and entered into as of February 21, 2005, by Eagle Bend Realty, LLC, a Tennessee limited liability company ("Developer").

Pursuant to the terms of the Declaration of Covenants and Restrictions of Franklin Creek dated as of November 5, 2004, of record as Instrument No. 200411100039789 in the Office of the Register of Deeds for Knox County, Tennessee, (the "Declaration"), the Developer submitted the Property to the provisions of the Declaration.

The Developer is a Class B member of the Association and the Owner of not less than ninety percent (90%) of the Lots in the Subdivision. Pursuant to the terms of Art. XXII of the Declaration, the Developer is authorized to amend the Declaration.

The Developer now wishes to amend the Declaration.

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1. Amendments. The Developer hereby amends the Declaration:

(a) To delete in its entirety Article IV, Section 4.3 of the Declaration and to insert in its place the following:

> 4.3. Annual Assessment. The Developer shall have the right to determine, set and adjust the annual assessment each year for a period of two (2) years from and after the establishment of the Association. The assessment shall be a sum reasonably necessary as deemed by the Developer to defray the expenses of the Association for such year and to otherwise satisfy the provisions of Section 4.2. The assessment may be adjusted upward or downward as herein provided.

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RECORD FEE: $17.00
M. TAX: $0.00 T. TAX: $0.00

Until January 1, 2006, the maximum annual assessment shall be Eight Hundred Dollars ($800) per Lot.

Each purchaser of a Lot will pay One Hundred Dollars ($100) at closing to fund the Association. Such amount shall be in addition to any other assessments required to be paid by Lot Owners.

(b) To delete in its entirety Article IV, Section 4.5 of the Declaration and to insert in its place the following:

4.5. Change in Basis and Maximum of Annual Assessments. After the initial two-year period specified in Section 4.3, the Association may change the maximum annual assessment and basis of the assessment fixed by Section 4.3 hereof prospectively for any period provided that any such change shall have the assent of at least three Members of the Board of Directors.

2. Capitalized Terms. Any capitalized term not otherwise defined in this document shall have the same meaning as in the Declaration.

3. Continued Effect. To the extent not specifically amended hereby, the Declaration shall remain in full force and effect.

4. Approval of Amendment. Pursuant to the terms of Article XXII of the Declaration, this Amendment of the Declaration has been approved by and is signed by the Developer, the Owner of not less than ninety percent (90%) of the Lots in the Subdivision.

IN WITNESS WHEREOF, the Developer has executed this Amendment as of the date set forth above.

EAGLE BEND REALTY, LLC
a Tennessee limited liability company

By: _____
Its: _____

N. ANDREW SMIDDY
STATE OF TENNESSEE
NOTARY PUBLIC
KNOX COUNTY

My commission expires Oct. 11, 2008

STATE OF TENNESSEE
COUNTY OF KNOX

Before me, the undersigned, of the state and county aforesaid, personally appeared Scott Davis, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chief Manager of Eagle Bend Realty, LLC, the within named bargainor, a limited liability company, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of Eagle Bend Realty, LLC by himself as Chief Manager.

Witness my hand and seal, this 21 day of February, 2005.

Notary Public

My commission expires: My commission expires Oct. 11, 2008

V:\JWP\Saddlebrook\Franklin Creek\Amendment to Declaration

N. ANDREW SMIDDY
STATE OF TENNESSEE NOTARY PUBLIC
KNOX COUNTY

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