

THIS INSTRUMENT PREPARED BY:  
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STEVE HALL  
REGISTER OF DEEDS  
KNOX COUNTY

DECLARATION OF COVENANTS AND RESTRICTIONS  
OF  
INVERNESS

THIS Declaration of Covenants and Restrictions made and entered into this 10th day of March, 2003, by RIVER GATE, LLC, Tennessee limited liability company, hereinafter referred to as "Developer".

W I T N E S S E T H

WHEREAS, Developer is the owner of the real property situated in District 6 of Knox County, Tennessee, and being all or part of the property described in the Quitclaim Deed recorded as Instrument No. 200210220034458 in the records of the Knox County Registrar's Office, and desires to create thereon a residential community with certain amenities and common facilities for the benefit of the said community; and

WHEREAS, Developer, in order to provide for the preservation of the values in said community and to provide for the use and maintenance of said amenities and common areas, including the swimming pool, clubhouse and recreation area, subdivision entrance and accessway, walking trails, drainage easements, lighting, landscaping, and sprinkler, and other common facilities, desires to subject the real property known as Inverness, as shown on the map of said subdivision of record as Instrument No. 200212040048966 in the Knox County, Tennessee, Register's Office, as the same may be revised, amended and supplemented from time to time, to the covenants, restrictions, easements, charges and liens hereinafter set forth for the benefit of said property and each Owner thereof; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values in said community to create an association to maintain and administer the community and facilities and to administer and enforce the covenants and restrictions and collect and disburse the assessments and charges hereinafter created; and

WHEREAS, Developer, by and through Patrick J. Schaad, has incorporated under the laws of the State of Tennessee a not-for-profit corporation known as INVERNESS HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid;

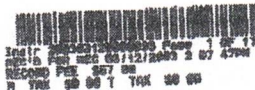
NOW, THEREFORE, the Developer declares that the above-described real property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1.

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



- (a) "Association" shall mean and refer to the Inverness Homeowners Association, Inc.
- (b) The "Properties" shall mean and refer to all subdivided and numbered lots in Inverness, as shown on the map of the same of record in the records of the Knox County, Tennessee, Register's Office as Instrument No. 200212040049956 and any subsequent revision thereof. At Developer's option, additional lots, units and/or lands may be added to the "Properties" by Supplemental Declaration and/or by recording additional subdivision maps of Inverness subdivision. All such additional lots, units, and lands shall thereupon be subject to this Declaration of Covenants and Restrictions of Inverness.
- (c) "Common Properties" shall mean and refer to the swimming pool, clubhouse, and recreation area; subdivision entrance and accessway; walking trails; all open space as designated on plats recorded for any unit of the subdivision, and all other common facilities and amenities, including the lighting, landscaping and sprinklers, so designated on the recorded subdivision map of Inverness, and any additional recorded maps of additional lots, units or lands as same may be added to the "Properties" as provided herein and any additional common areas so designated by Developer by an executed and recorded Declaration or Supplemental Declaration. At any time, the "Common Properties" may, at the sole option of the Developer and in its sole discretion be conveyed to the Association.
- (d) "Limited Common Properties" shall mean and refer to easements for water drainage lying within the boundaries of any Lot.
- (e) "Lot" shall mean and refer to all numbered residential lots shown upon any recorded subdivision plat or map of the Properties.
- (f) "Living Unit" shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy as a residence by a single family.
- (g) "Owner" shall mean and refer to the owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Properties but, notwithstanding any applicable legal theory, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired possession or title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (h) "Member" shall mean and refer to all those Owners who are members of the Association as provided in the Charter and By-Laws of the Corporation and in Article II, Section 1, hereof.
- (i) "Director" shall mean and refer to a member of the Board of Directors of the Inverness Homeowners Association, Inc.
- (j) "Board of Directors" shall mean and refer to the Board of Directors of the Inverness Homeowners Association, Inc.
- (k) "Planning Committee" shall mean and refer to Patrick J. Schaad, Michael E. Schaad, and James S. Schaad, or such other person(s) as may be appointed by unanimous agreement of said Planning Committee members. In the event of the death of any of the above-named members of the





Planning Committee, the survivors or survivor shall exercise the powers under this paragraph.

## ARTICLE II

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

#### Section 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 expires upon the transfer or release of said ownership interest.

#### Section 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 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 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 determine among themselves, 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. The Class B Member shall be entitled to one vote for each Lot in which it holds the interest required for membership by Section 1. Notwithstanding anything to the contrary contained in this Declaration of Covenants and Restrictions or in the Charter or By-Laws of the Inverness Homeowners Association, Inc., the Class B Member shall be entitled to exercise veto power at any time and for any reason, so long as Class B Membership continues to exist as provided herein. Said veto power shall entitle the Class B Member to overrule and/or nullify any vote taken by Class A Members.

Said Class B membership shall remain in the Developer, its successors or assigns, until such time as the Developer, its successors or assigns, has relinquished ownership in all lots within the subdivision.

Once the Developer, its successors or assigns, has relinquished ownership of all lots in the subdivision, Class B membership shall cease to exist from and after such time and there shall be only Class A membership.

#### Section 3. BOARD OF DIRECTORS

The Association shall be governed by a Board of Directors, which are to be elected as provided in the By-Laws.

## ARTICLE III

### PROPERTY RIGHTS IN THE COMMON PROPERTIES

#### Section 1. MEMBERS' EASEMENTS OF ENJOYMENT.

Subject to the provisions of Sections 2 and 3, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.



**Section 2. TITLE TO COMMON PROPERTIES.**

The Developer may retain the legal title to the Common Properties and Limited Common Properties until such time as it, in its sole and exclusive discretion, shall convey same to the Association.

**Section 3. EXTENT OF MEMBERS' EASEMENTS.**

The rights and easements of enjoyment created herein shall be subject to the following:

- (a) The right of the Association to take reasonable action to protect and preserve the rights of the Association and the individual Members in and to the Common Properties and Limited Common Properties.
- (b) The right of the Association, as provided in its Articles and By-laws, 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 its published rules and regulations; and
- (c) The right and obligation of the Association to charge reasonable fees for the costs and expenses incident to the use and maintenance of the swimming pool and recreation area, subdivision entrance and accessway, drainage easements and detention basins for water drainage, and all other common facilities, amenities, Common Properties and Limited Common Properties, including the construction, maintenance, upkeep and repair of facilities and equipment located thereon.
- (d) The right of the Association to dedicate or transfer all or any part of the Common Properties and Limited Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Board of Directors of said Association; provided, however, that no such dedication or transfer, and the conditions and provisions incident thereto, shall be effective unless approved by at least four Members of the Board of Directors at a duly constituted board meeting.
- (e) The rights of Members of the Association shall in no way be altered or restricted because of the location of the Common Properties and Limited Common Properties in a unit of Inverness in which such Member is not a resident.

**Section 4. ACCESS EASEMENTS**

Developer reserves for the benefit of the Association easements for access to the Limited Common Properties on, over, and across any Lot for maintenance and repair of the drainage easements located thereon.

**Section 5. MANAGEMENT AND MAINTENANCE OF COMMON PROPERTIES**

Prior to the Conveyance to the Association by the Developer of all of its right, title and interest in and to the Common Properties, or any portion thereof, as defined herein and as shown on any plat related to the subdivision, the Developer shall have the obligation to manage, maintain and insure the Common Properties. As provided in the plats of units of this subdivision, the Town of Farragut has accepted responsibility for the maintenance of any walking trail easements within the subdivision which are designated as such for use by the public.





ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

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; (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, including attorneys fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Annual Assessments shall be due and payable upon sale and conveyance of any Lot, and the pro-rata portions of such annual assessment shall be collected and paid to the Association at the time the sale and conveyance to the new Owner is closed.

In addition to the Annual Assessments, each Owner shall at the closing of the purchase of any Lot pay to the Association an Initial Capital Contribution of \$360.00, or such other amount as the Association shall from time to time determine.

In consideration of the fact that Developer has constructed at its own expense various amenities and facilities for the use and benefit of the Association, including the swimming pool, clubhouse, recreation area, parking area and other improvements, Developer, River Gate, LLC, and all companies and entities in which Patrick J. Schaad holds an ownership interest, shall be exempt from all such annual assessments and shall not be obligated to pay an annual assessment or prorated portion thereof for any subdivided lot or land owned by it.

Section 2. PURPOSE OF ASSESSMENT.

The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents of the properties, and in particular for the improvement, maintenance and beautification of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties, including but not limited to, 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. The use of the assessments shall not be specifically limited to the maintenance and upkeep of the Common Areas, but shall also extend to and include the right and obligation to maintain and repair the drainage facilities located on the Limited Common Properties and the right to maintain and repair street lights and lighting; sprinkler system; landscaping and grass; swimming pool, clubhouse, and recreation area; walking trails; and accessways in the Common Properties. The cost of the operation and maintenance of street lights and lighting and sprinkler system, regardless of location within the subdivision and of the proximity to individual Lots, shall be borne equally by and prorated to each Lot without regard to ownership, it being the intent and purpose of this provision to insure the safety, enjoyment and security of the Properties. The Association acting by and through its Board of Directors shall have