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Hamilton County Tennessee

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
MULBERRY PARK**

THIS INSTRUMENT PREPARED BY
AND RETURN TO:
HON AND KOPET, ATTORNEYS
617 Walnut Street
Chattanooga, TN 37402

GM

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
MULBERRY PARK**

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Exhibit "B"	Mulberry Park Community Association, Inc. Bylaws
Exhibit "C"	Charter of Mulberry Park Community Association, Inc.

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR MULBERRY PARK**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MULBERRY PARK is made by REALTY INNOVATIONS, LLC, a Tennessee limited liability company (hereinafter referred to as "Declarant"), and joined by MULBERRY PARK COMMUNITY ASSOCIATION, INC., a Tennessee nonprofit corporation (hereinafter referred to as the "Association").

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference which Declarant desires to develop a master-planned residential community incorporating traditional neighborhood development ("TND") design guidelines to be known as Mulberry Park. A TND incorporates traditional architectural elements from the Craftsman, Arts & Crafts, Tudor or Victorian eras; a variety of housing styles, such as townhomes, condominiums and conventional homes, often times intermixed; and streetscapes that place emphasis on sidewalks, porches and landscaping, with less emphasis on the garage. The Declarant desires to create various open spaces and walkable amenities such as parks, walking trails, sidewalks and nature trails; preserving the natural landscape wherever possible. Additionally, Declarant desires to develop common facilities for the benefit of said community;

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference;

WHEREAS, Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property (as defined herein), including any Additional Property (as defined herein), and to establish a method for the administration, maintenance, preservation, use and enjoyment of such portions of the Property as are now or may hereafter be submitted to this Declaration;

WHEREAS, Declarant intends by this Declaration to impose upon the Property, mutually beneficial restrictions under a general plan of improvements for the benefit of all owners and/or occupants, and all persons or entities having any interest in the Property, by the recording of this Declaration;

WHEREAS, as a part of the general plan of improvement of the Property, Declarant desires to create an Association (as defined herein) to manage the Property;

WHEREAS, Declarant desires that the Property be held, sold and conveyed subject to the provisions of this Declaration;

NOW, THEREFORE, the Property shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, reservations, assessments and other provisions set forth in this Declaration, which shall run with the Property, shall bind all parties having any right, title, or interest in any part of the Property, their successors and assigns, and shall inure to the benefit of each Owner (as hereinafter defined) thereof and which shall read as follows:

ARTICLE I: DEFINITIONS

1. Additional Property

"Additional Property" shall mean the real property that may hereafter be added to Mulberry Park, which may be subjected to this Declaration by Declarant, from time to time in accordance with the terms of this Declaration. Prior to and after the Turnover Date (as hereinafter defined), Declarant may unilaterally add property to Mulberry Park, as Declarant, in its sole and absolute discretion may determine appropriate.

2. Architectural Review Committee or "ARC"

Architectural Review Committee or "ARC" shall mean the committee formed to promulgate design and development guidelines and applications (the Design Code, as defined herein), to review procedures for new construction upon the Property and any modifications to improvements, and to review and approve the plans for the same.

3. Area of Common Responsibility

"Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration, a resolution of the Board of Directors of the Association, a Neighborhood Association or a governmental agency, shall become the responsibility of the Association, including without limitation, public areas located within or adjacent to the Property designated by Declarant as part of the Area of Common Responsibility.

4. Assessment

"Assessment" shall mean and refer to charges levied against Lots to fund Common Expenses, Neighborhood Expenses and any other expenses of the Association and shall include Common Assessments, Special Assessments and Neighborhood Assessments.

5. Association

"Association" shall mean and refer to Mulberry Park Community Association, Inc. and its successors or assigns. The Association is the property owners' association for the entire Community.

6. Board of Directors or Board

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

7. Builder

"Builder" shall mean a Person who acquires a Lot for the purpose of constructing, and reselling a Unit on it.

8. Bylaws

"Bylaws" shall mean and refer to the Bylaws of the Association, as the same may be adopted or amended from time to time. A copy of the Bylaws as of the date of this Declaration is attached as Exhibit "B".

9. Charter

"Charter" shall mean and refer to the Charter of the Association, as the same may be amended from time to time. A copy of the Charter as of the date of this Declaration is attached as Exhibit "C".

10. Common Area

"Common Area" or "Common Areas" shall mean all of the real property owned by the Association, plus all property designated as Common Areas in any future Supplemental Declaration or any portion of a plat or replat of the Property dedicated to or for the Association together with any improvements thereon and any personal property owned by the Association, and which are intended for the common use and enjoyment of all Members of the Association. Common Area shall also include the Exclusive Common Area unless the context otherwise requires.

11. Common Assessments

"Common Assessments" shall mean those Assessments for which all Members of the Association are responsible to pay for Common Expenses.

12. Common Expenses

"Common Expenses" shall mean the actual and estimated costs and expenses incurred or to be incurred by the Association for the general benefit of all Owners, including any reasonable reserves for deferred maintenance, repairs or replacements, which the Board of Directors may find necessary and appropriate.

13. Community

"Community" shall mean the master-planned residential community to be known as MULBERRY PARK.

14. Community Guidelines

The "Community Guidelines" are design guidelines regulating the entire community. The Community Guidelines are part of the Design Code and are subject to change by the Declarant and/or the ARC.

15. Community-Wide Standards

"Community-Wide Standards" shall mean the standards of conduct, maintenance, or other activity generally prevailing throughout the Community. The Board of Directors, the Declarant, and/or the Architectural Review Committee may more specifically determine such standards.

16. Condominium Association

"Condominium Association" shall mean the property owners' association of a neighborhood containing condominium homes.

17. Declarant

"Declarant" shall mean and refer to REALTY INNOVATIONS, LLC or one of its successors or assigns provided such successor or assign is designated as the Declarant by the immediately preceding Declarant in a recorded instrument executed in accordance with the terms of this Declaration. The Declarant may assign all or part of its rights hereunder by a Supplemental Declaration.

18. Declaration

"Declaration" shall mean this document, as the same may be amended or supplemented from time to time.

19. Design Code

"Design Code" shall mean the design guidelines, to be known as the Mulberry Park Design Code, that (along with the Declaration) regulate setbacks, porches, building materials, outbuildings, housing styles and colors and well as related matters so that the plan of architectural control be continued throughout the lifetime of the community. The Design Code consists of Community and Neighborhood Guidelines.

20. Documents

"Documents" shall mean this Declaration, and the Charter, Bylaws, and Rules and Regulations of the Association.

21. Exclusive Common Area

"Exclusive Common Area" shall mean and refer to certain portions of the Common Area, including any improvements and fixtures thereon, the use of which has been granted exclusively or primarily to one or more, but less than all, Units for the common use and enjoyment of Owners of such Units. Such Exclusive Common Area shall be designated by Supplemental Declaration.

22. Institutional Mortgagee

"Institutional Mortgagee" shall mean: (a) any generally recognized lending institution having a first deed of trust or mortgage lien upon a Lot or (b) such other lenders as the Board of Directors shall hereafter approve in writing which have acquired a deed of trust or first mortgage lien upon a Lot.

23. Lot

"Lot" shall be an inclusive term referring to a portion of the Property, whether developed or undeveloped, intended for development, use, and occupancy as a residence and shall, unless otherwise specified, include within its meaning by way of illustration, but not limitation, condominium homes, townhomes, conventional homes, and estate homes, as well as vacant land intended for development as such, all as may be developed, used and defined as herein provided or as provided in a Supplemental Declaration covering all or a part of the Property. The term shall include all portions of the Lot owned as well as any structure thereon. In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Lots designated for residential use for such parcel on the master plan approved by Declarant until such time as a subdivision plat has been recorded in the public records of Hamilton County, Tennessee, on all or a portion thereof. After a subdivision plat has been recorded on all or a portion thereof, the portion designated in that plat shall constitute a separate Lot or Lots as determined above and the number of Lots on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

24. Master Plan

"Master Plan" shall mean and refer to the plan for the development of the Property, as the same may be amended or supplemented from time to time.

25. Member

"Member" shall mean and refer to a Person entitled to membership in the Association. All Owners shall be Members of the Association, provided, however, that there shall be no more than one Member for each Lot. In addition, Declarant shall also be a Member of the Association as described more fully in Article VIII, Section 1, hereof and the Bylaws of Association.

26. Neighborhood

"Neighborhood" shall mean and refer to any Lots which are designated as a Neighborhood by Declarant in a Master Deed or Supplemental Declaration, in which Owners may have common interests other than those common to all Owners, such as a common theme, entrance feature, development name and/or common area and facilities which are not available for use by all Owners. The use of the term Neighborhood within the Documents shall be interchangeable with the term "Condominium", where applicable.

27. Neighborhood Assessments

"Neighborhood Assessments" shall mean assessments levied by either the Association or a Neighborhood Association against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as more particularly described in Article IX, Section 5 of this Declaration.

28. Neighborhood Association

"Neighborhood Association" shall mean any property owners' association, or such other entity, its successors and assigns, which shall be responsible for administering any Neighborhood. A Neighborhood

shall not be required to have a Neighborhood Association. The owners' association of a Neighborhood containing condominium homes shall be referred to as a "Condominium Association."

29. Neighborhood Declaration

"Neighborhood Declaration" shall mean the protective covenants, conditions, restrictions and other provisions (if any) imposed by a recorded instrument upon one or more Neighborhoods. A Neighborhood may, but shall not be required to, have a Neighborhood Declaration. The Neighborhood Declaration of a Neighborhood containing condominium homes shall be called a "Master Deed."

30. Neighborhood Documents

"Neighborhood Documents" shall mean a Neighborhood Declaration together with the charter, Bylaws and rules and regulations of a Neighborhood.

31. Neighborhood Expenses

"Neighborhood Expenses" shall mean and include those actual and estimated expenses incurred or to be incurred by the Association primarily for the benefit of the Owners of Lots within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for deferred maintenance, repairs, and replacements, all as may be specifically authorized from time to time by the Board of Directors of the Association or the applicable Neighborhood Association and as more particularly authorized herein.

32. Neighborhood Guidelines

"Neighborhood Guidelines" are design guidelines governing a specific neighborhood to include without limitation the type and design of buildings, permitted structures, set backs, required materials, and landscaping requirements. The Neighborhood Guidelines are part of the Design Code and are subject to change by the Declarant and/or the ARC.

33. Owner

"Owner" shall mean and refer to the record owner of fee simple title to a Lot (including Declarant, and Builders, but specifically excluding any party holding an interest merely as security for the performance of an obligation). The term Owner may also include any other Person who owns any portion of the Property other than the Association.

34. Person

"Person" means any individual, corporation or other legal entity.

35. Property

"Property" shall mean and refer to the real property legally described on Exhibit "A" attached hereto, together with such additional property as is hereafter subjected to this Declaration by a Supplemental Declaration.

36. Special Assessment

"Special Assessment" shall mean and refer to assessments levied in accordance with Article IX, Section 6 hereof.

37. Supplemental Declaration

"Supplemental Declaration" shall mean a supplement to this Declaration executed by or consented to by Declarant in accordance with Article II, Section 2 hereof.

38. Turnover Date

"Turnover Date" shall mean the date on which the Declarant transfers control of a Neighborhood or of the Community to the appropriate Neighborhood Association or the Association.

39. Unit

"Unit" shall mean and refer to any structure constructed on a Lot, including without limitation, condominium homes, townhomes, conventional homes, and estate homes.

ARTICLE II: GENERAL PLAN FOR DEVELOPMENT

1. Plan for Development

(a) In General. Declarant presently plans to develop the Property as a multi-phased residential community with various common areas, in accordance with the Master Plan and subject to any required governmental approvals. Declarant reserves the right to modify the Master Plan in its sole discretion from time to time, and the consent of the Association, any Owner and any mortgagee of any Owner shall not be required in connection therewith.

(b) Association. Declarant has caused the Association to be formed to perform certain administrative and operational functions regarding the Property as set forth more fully in the Documents.

(c) Neighborhoods. Declarant intends that Lots may, but need not be, grouped together in residential Neighborhoods. Neighborhoods may, but are not required, to be administered by Neighborhood Associations.

(d) Minimum Square Footage Restrictions. No Unit may be erected or be allowed to occupy any lot or lots unless the main structure, exclusive of garages, open porches and basements is not less than the following minimum square foot restrictions:

- (1) Condominium Homes. The minimum square foot restrictions for Condominium Homes shall not be less than 1,300 square feet exclusive of open porches, garages and basements.

(2) Townhomes. The minimum square foot restrictions for a single-story Townhome shall not be less than 1,200 square feet exclusive of open porches, garages and basements. The minimum square foot restrictions for the ground floor of a two-story Townhome shall not be less than 800 square feet exclusive of garages, open porches, and basements.

(3) Conventional Homes. The minimum square foot restrictions for a single-story Conventional Home shall not be less than 1,300 square feet exclusive of open porches, garages, and basements. The minimum square foot restrictions for the ground floor of a two-story Conventional Home shall not be less than 900 square feet exclusive of open porches, garages, and basements.

(4) Estate Homes. The minimum square foot restrictions for a single-story Estate Home shall not be less than 2,200 feet exclusive of open porches, garages, and basements. The minimum square foot restrictions for the ground floor of a two-story Estate Home shall not be less than 1,200 square feet exclusive of open porches, garages, and basements.

2. Supplemental Declarations

Declarant shall have the right, alone and in its sole discretion, from time to time, to execute and record in the public records of Hamilton County, Tennessee, Supplemental Declarations containing provisions which (a) assign a specific use to a portion of the Property; (b) designate a Neighborhood and any specific uses or provisions with respect to the Neighborhood; (c) impose additional restrictions or delete restrictions on a portion of the Property; (d) assign some or all of Declarant's rights and obligations hereunder; or (e) do anything else permitted by this Declaration.

3. Neighborhood Declaration

Declarant, or another Person with Declarant's prior written consent, may record instruments subjecting a Neighborhood to a Neighborhood Declaration, upon which event the Property shall then be subject to both this Declaration and such Neighborhood Declaration. Such Neighborhood Declaration may also create a Neighborhood Association, and such Neighborhood Association may have the same, additional, or different rights, powers, duties or privileges with respect to such Neighborhood as the Association, in which event such Neighborhood may be subject to the jurisdiction of both the Neighborhood Association and the Association, and may cause the Owners of Lots within the Neighborhood to be members of the Neighborhood Association under such terms and conditions as may be provided therein, which may be the same as or substantially different from the terms and conditions of membership in the Association as provided herein. When in conflict, the Documents shall prevail over Neighborhood Documents, except as Declarant sets forth in the Neighborhood Documents.

4. Annexation of Additional Property

(a) Prior to the Turnover Date. Prior to the Turnover Date, Declarant shall have the right, privilege, and option, in its sole discretion, to subject any Additional Property to the provisions of this Declaration and to the administration of the Association by filing a Supplemental Declaration in the public records of Hamilton County, Tennessee. Such Supplemental Declaration shall not require the consent of any of the Owners, any mortgagee of any Owner or the Association, but shall require the consent of the owner of such additional property, if the owner of such additional property is other than Declarant. Any such annexation shall be effective upon the filing of record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the right, in its sole discretion, to transfer to any other Person the right, privilege, and option to annex

additional property which is reserved herein to Declarant, provided that such transfer is memorialized in a Supplemental Declaration.

(b) After the Turnover Date, Following the Turnover Date, Declarant shall have the unilateral right, privilege and option to subject Additional Property to the provisions of this Declaration and the jurisdiction of the Association, whether or not said Additional Property was defined by Declarant in a Supplemental Declaration filed prior to the applicable Turnover Date. Such annexation shall be accomplished by filing in the public records of Hamilton County, Tennessee, a Supplemental Declaration annexing such Additional Property. Such Supplemental Declaration shall not require the consent of any of the Owners, any mortgagee of the Owners or the Association, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

5. Amendment of Article

This Article shall not be amended without the prior written consent of Declarant so long as Declarant owns any portion of the Property or the Additional Property.

ARTICLE III: LAND DESIGNATION AND ADMINISTRATION

1. In General

The Property may be subjected to designated uses in accordance with the terms of this Declaration, by any Supplemental Declaration or by any other reasonable means by Declarant. Declarant may, in its sole and absolute discretion, establish any use for the Property consistent with the terms of the Master Plan, this Declaration and applicable law. Without limiting the foregoing, the Property may be used in the following manner:

(a) Residential Areas. Residential areas shall be those areas used for residential use, which shall include Lots and improvements associated with residential purposes and uses including, but not limited to streets, driveways, sidewalks, entranceways, street lighting, open spaces, parking spaces, landscaping, swimming pools, other recreational facilities and other areas or amenities appurtenant to the Lots. Unless otherwise provided in a Supplemental Declaration or Neighborhood Documents, each Owner shall be responsible for the maintenance of his or her Lot.

(b) Common Area. Exclusive Common Area.

(1) In General. Every Owner shall have a right and non-exclusive easement of use, access and enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time, and to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate his or her right of use and enjoyment in the Common Area to the members of his or her family, lessees and invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

Declarant shall determine the manner of making improvements to all Common Areas and the use thereof so long as Declarant owns any portion of the Property or the Additional

Property, and, thereafter, the Association shall have the same right provided the general quality of the Master Plan is not materially and detrimentally changed.

(2) Administration and Operation. The administration and operation of the Common Area shall be the responsibility of the Association, except that the Association with the prior consent of the accepting party may assign or delegate such responsibility, in whole or in part, exclusively or non-exclusively, and permanently or temporarily, for any portion of the Common Area to a Neighborhood Association, governmental entity or other person determined to be appropriate by Declarant so long as Declarant owns any portion of the Property or the Additional Property.

(3) Certain Declarant Rights. Declarant shall have the right, so long as Declarant owns any portion of the Property or the Additional Property, and in its sole and absolute discretion, to alter the boundaries of the Common Area and construct, develop or modify the Common Area and any improvements, easements and use rights thereon or appurtenant thereto in a manner determined appropriate by Declarant, in its sole discretion, without the joinder or consent of any Person, including, without limitation, the Association, any Neighborhood Association, any Owners or any mortgagee of any Owner.

(4) Declarant Approval. The Association shall not abandon, partition, alienate, release, transfer, hypothecate, or otherwise encumber the Common Area so long as Declarant owns any portion of the Property or the Additional Property without the prior written approval of Declarant. The preceding sentence shall not prohibit the Association from granting such easements over, under and above Common Area as are reasonably necessary or appropriate for the development and operation of the Property in a manner consistent with the provisions of this Declaration, nor shall the foregoing prohibit the Association from encumbering Common Area provided such encumbrances are solely to secure loans obtained for improving Common Area, and the lien of such encumbrance is not superior to the provisions of this Declaration.

(5) Exclusive Common Area. Certain provisions of the Common Area may be designated as Exclusive Common Areas and reserved for the exclusive use of Owners and occupants of Lots within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of Owners within a particular Neighborhood or Neighborhoods, and supported exclusively by Neighborhood Assessments.

(c) Other Uses. Any other use shall be designated by Declarant in a Supplemental Declaration, and Declarant may, in any such Supplemental Declaration, set forth any restrictions, conditions and covenants that run with such portion of the Property. Declarant may also set forth any rights and obligations of the Owner of such portion of the Property, and the manner in which such portion of the Property shall be administered and assessed under this Declaration. Notwithstanding the foregoing, a portion of the Property may be used as an information center for the sale and resale of Lots and Units within the Community or other communities designated by Declarant. Declarant may assign, in whole or in part, its rights under this Article III, Section I (c).

2. Disputes As To Use

If there is any dispute as to whether the designation of any portion of the Property complies with this Declaration, any Supplemental Declaration or any other documents, then, so long as Declarant owns any portion of the Property or the Additional Property, the dispute shall be referred to Declarant. After Declarant no longer owns any portion of the Property or the Additional Property, the dispute shall be referred to the Association. The determination rendered by Declarant or the Association, as the case may be, shall be final and binding on all Persons involved in the dispute.

ARTICLE IV: DEVELOPMENT OF COMMON AREAS

1. Construction and Inspection of Common Area

Declarant will construct, furnish and equip (or cause to be constructed, furnished and equipped), at its sole cost and expense, Common Area. Upon completion of construction of Common Area, Declarant may engage independent licensed inspectors to inspect any Common Area improvements to determine if they were built in substantial accordance with the applicable plans and specifications as modified by any change orders. Any repairs indicated by the inspection reports shall be completed by Declarant (or by the builder if the improvements were constructed by a builder), at its sole cost and expense.

2. Transfer of Common Area

On or before the Turnover Date, Declarant agrees to convey, transfer, assign and deliver to the Association, and the Association shall accept the same from Declarant, Declarant's interest in the Common Area as the same exists on the date of conveyance.

3. Disclaimer of Warranties

The Association agrees that the Common Area shall be conveyed in its "where is, as is" condition and without recourse, and Declarant disclaims and makes no representations, warranties or other agreements express or implied with respect thereto, including without limitation, representations or warranties of merchantability or fitness for the ordinary or any particular purpose, and representations or warranties regarding the condition, design construction, accuracy, completeness, adequacy of the size or capacity in relation to utilization or the future economic performance or operations of the Common Area. No claim shall be made by the Association or any Owner relating to the condition, operation, use, accuracy or completeness of the Common Area or for incidental or consequential damages arising there from. Declarant will transfer and assign to the Association, without recourse, all warranties which it receives from manufacturers and suppliers relating to any of the Common Areas which exist and are assignable.

ARTICLE V: USE RESTRICTIONS

1. In General

The Property shall be used only for residential, recreational, and related business and commercial purposes, which purposes may include, without limitation, offices for any property manager retained by the Association or business, sales, or real estate offices for Declarant or the Association and other

businesses which serve and are a part of the Community, as may more particularly be set forth in this Declaration and amendments hereto. Any Supplemental Declaration or additional covenants imposed on the property within any Neighborhood may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards. The Association, acting through its Board of Directors, shall have authority to make, and the Association acting through its Board of Directors shall have the authority to enforce, standards and restrictions governing the use of the Property in addition to those contained herein and in the Community-Wide Standards. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees and licensees. Notwithstanding anything to the contrary herein, Declarant shall be exempt from application of the provisions of this Article.

- (a) Accessory Structure. Doghouses, tool sheds or structures of a similar kind or nature are not permitted on any part of the Property within view of the sidewalk or street.
- (b) Air Conditioning Unit. Except as may be permitted by the ARC, no window air conditioning units may be installed in any Unit.
- (c) Animals and Pets. No animals, reptiles, livestock, wildlife or poultry of any kind shall be raised, bred or kept on any portion of the Property, except that dogs, cats or other usual and common household pets may be permitted on a Lot. However, those pets which are permitted to roam free, or which, in the sole discretion of the Board of Directors, endanger the health and safety of the Members of the Association, make objectionable noise, or constitute a nuisance or inconvenience to the other Members of the Association shall be removed upon request of the Board of Directors. If the Owner fails to honor such request, the pet may be removed by the Board of Directors. No pets shall be kept, bred or maintained for any commercial purpose. Household pets shall at all times whenever they are outside the Owner's Unit be confined on a leash held by a responsible person. In addition, the owner of the pet or the person responsible for the pet must remove any of the pet's feces left upon the Common Areas, Lots owned by other Owners, and the areas of the pet owner's Lot which the Association maintains.
- (d) Antennas, Satellite Dishes. No exterior antennas, aerials, or other apparatus for the transmission of television, radio, or other signals of any kind shall be placed, allowed, or maintained upon any Unit or Lot, except as permitted by the ARC. Satellite dishes for the transmission of television, signals shall be allowed upon any Unit or Lot, so long as they are not visible from any street and have a diameter of less than 24 inches. Any other form or size of satellite dish must be approved by the ARC.
- (e) Artificial Vegetation- Exterior Decorations and Similar Items. No artificial vegetation shall be permitted on any Lot. Exterior decorations, including without limitation, sculptures, fountains, flags, and similar items must be approved in writing by the ARC.
- (f) Garbage Cans, Tanks, Etc. Garbage cans, storage tanks, mechanical equipment, or other similar items shall be stored in the Owner's garage or Accessory Structure. All rubbish, trash, and garbage shall be stored in appropriate containers with lids. On days designated for trash collection, garbage cans must be removed from the street within 12 hours of trash collection. Garbage cans may only be placed on the street after 5 p.m. on the day prior to collection. Clotheslines' shall not be permitted.
- (g) Business Use. No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as:

(a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the providers 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 therefore. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Property or its use of any Units which it owns within the Property.

(h) Decks and Patios. All decks and patios must be approved in writing by the ARC prior to construction. The configuration, detail and railing design of a deck should be harmonious with the architectural style of the Unit.

(i) Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person, other than Declarant or the Association, may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Property for the purpose of altering drainage and water flow.

(j) Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot or Unit unless it is an integral and harmonious part of the architectural design of the Lot or Unit, as determined in the sole discretion of the ARC. Under no circumstances shall solar panels be installed so as to be visible from any street in the Community.

(k) Firearms and Fireworks. The discharge of firearms within the Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section. The discharge of fireworks is prohibited.

(l) Golf Carts, Go-carts, ATV's, etc. Private golf carts will be permitted within the Community. No go-carts, ATV's, minibikes, motorized scooters, or the like, will be permitted within the Community.

(m) Irrigation. No sprinkler or irrigation systems of any type which draw from any body of water within the Property shall be installed, constructed or operated by any Person, other than the Association or the Declarant, without the prior written approval of the ARC. All parcels which are developed are required to have an underground irrigation system. Each Builder shall, at

his/her/its sole cost and expense, be required to connect the irrigation system for its parcel to the effluent source.

(n) Lighting. Each Builder may be required to install on any Units constructed by such Builder exterior lighting as determined by the ARC. Lots or Owners of the Lots or Units served by such lighting will be responsible for maintaining the lighting and the Association shall have the right, at Owner's cost and expense, to maintain such lighting in the event Owner fails to do so. All exterior lighting must be approved by the ARC prior to installation.

(o) Mailboxes and Exterior Hardware. The style and design of all mailboxes, lettering and numbering, and exterior hardware must be in accordance with the Design Code, as set forth by the ARC.

(p) Maintenance of Lots.

(1) Landscaping. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any Lot, and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Lot. All landscaping, sprinkler systems and any property, structure, improvement and appurtenance shall be kept in a good, safe, clean, neat and attractive condition.

(2) Painting. The painted exterior of all Units shall have no excessive cracks, peelings, or strippings, and the paint shall not be dull or faded.

(3) Roofing. The roofs of all Units shall be maintained in a clean, neat and attractive condition with a full complement of roof tiles or shingles. Upon the failure to maintain the premises as aforesaid to the satisfaction of the Association, the Association may, but shall not be required, to enter upon such premises and make such improvements or corrections as may be necessary, the costs of which along with an administrative surcharge of ten percent (10%) of such amount shall be assessed against the affected Owners in accordance with Article X hereof.

(g) Nuisance. No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding Units. No noxious, illegal or offensive activity shall be carried on upon any portion of the Property.

(r) Occupants Bound. All provisions of this Declaration, the Bylaws, the Articles and the Rules and Regulations or any use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Unit. Every Owner shall cause all occupants of his or her Unit to comply with this Declaration, the Bylaws, the Articles and the Rules and Regulations and shall be responsible for all violations and losses to the Common Area caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of this Declaration, Bylaws, Articles and Rules and Regulations.

(s) On-Site Fuel Storage. No on-site storage of gasoline or other fuels shall be permitted on any part of the Property, except an Owner may, in his/her/their own garage or Accessory Structure, store small fuel storage containers with a maximum capacity of two gallons necessary to store fuel used by lawnmowers, weed eaters, and other lawn care equipment. Furthermore, an Owner may keep a gas grill with an attached propane tank of the standard size. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

(t) Vehicles. Vehicles shall be parked only in the garages or in the driveways, if any, serving the Units or in appropriate spaces or designated areas in which parking may or may not be assigned. Notwithstanding the above, no more than two (2) vehicles shall be parked in the driveway serving any Unit on a regular basis. For purposes of this paragraph, a car shall be deemed parked on a "regular basis" if parked in such driveway more than seventy-two (72) hours in any seven-day period without prior written approval of the Board of Directors. Garage doors shall remain closed at all times except during ingress and egress. Any vehicle which is parked in violation of this paragraph or parking rules promulgated by the Board may be towed in accordance with the Bylaws. Notwithstanding the foregoing, service and delivery vehicles may be parked in the driveway of a Unit during daylight hours for such period of time as is reasonably necessary to provide service or make a delivery to the Unit.

(u) Playground, Play Equipment, Strollers. All bicycles, tricycles, scooters, skateboards, goals, and other play equipment, wading pools, baby strollers and similar items shall be stored so as not to be visible from streets or property adjacent to a Unit. No such items shall be allowed to remain in the open so as to be visible from adjacent property when not in use. Swings sets, jungle gyms, trampolines and other permanent type playground equipment shall not be visible from the street. Basketball goals are not permitted on any Lot. Notwithstanding the above, Declarant and/or the Association may, but shall not be obligated to, permit and/or install playground equipment, basketball goals and similar permanent playground equipment to be erected within the Common Areas. Any playground or other play areas or equipment furnished by the Association or erected within the Common Areas shall be used at the risk of the user, and neither Declarant nor the Association shall be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

(v) Pools. No above ground pools shall be erected, constructed or installed on any Lots. Above ground spas and Jacuzzis are permitted, but they are required to be located or screened so as to be concealed from view of neighboring Lots and streets. The placement of above ground spas and Jacuzzis must be approved by the ARC.

(w) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted within the Community, except within enclosed garages. For purposes hereof, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior written approval of the Board of Directors. Notwithstanding the foregoing, service and delivery vehicles may be parked in the driveway of a Lot during daylight hours for such period of time as is reasonably necessary to provide service or make a delivery to a Lot. Any vehicle which is parked in violation of this paragraph may be towed by the Board of Directors at the Owner's expense.

This paragraph shall not apply to any commercial vehicles providing service or making deliveries to or on behalf of the Association, Declarant or their designees.

(x) Roadways, Sidewalks, Driveways. All utilities within the Property shall be installed underground, unless otherwise specifically permitted by Declarant or the ARC. Utility lines, including without limitation cable television and gas, may only be installed, repaired or replaced under existing roadways, sidewalks and driveways by a method which will not disturb the paved surface of such roadway, driveway or sidewalk. This restriction is intended to preserve the aesthetic nature of the paved surfaces.

(y) Setback Requirements. Declarant shall set forth all front, side, and rear setback requirements in Supplemental Declarations.

(z) Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

(aa) Signs and Flagpoles. No sign, flagpole, billboard or advertisement shall be erected except as otherwise specifically permitted by the ARC. The Board of Directors shall have the right to erect signs as it deems appropriate, in its discretion. The ARC shall set forth the form, style, and size of the type of sign that must be used by any Owner or real estate agent to market any Lot, and the placement location of said sign. All other forms and styles of real estate marketing signs are prohibited.

(bb) Subdivision of Unit. No Lot shall be subdivided or its boundary lines changed except by Declarant or with the prior written approval of the Board of Directors of the Association. No Unit shall be made subject to any type of timeshare program, interval ownership or similar program whereby the right to exclusive use of the Unit rotates among multiple owners or members of the program on a fixed or floating time schedule over a period of years, except that Declarant hereby reserves the right for itself and its assigns to operate such a program with respect to Units which it owns. This paragraph shall not prohibit ownership of a Unit by up to two (2) joint tenants or tenants-in-common.

(cc) Tents, Trailers and Temporary Structures. Except as may be permitted by the ARC during initial construction within the Community, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed within the Community.

(dd) Tree Removal. No trees greater than 6 inches in diameter, other than diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, shall be removed unless approved in writing by the ARC. Any stumps resulting from trees being damaged by acts of God must be removed. This Section shall not apply to Declarant.

(ee) Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Community, except as otherwise specifically permitted by Declarant or the ARC.

(ff) Walls and Fencing. Except as otherwise specifically permitted by the ARC, walls and fencing (structural or invisible) on a Lot shall not be permitted.

(gg) Wells. No private wells are permitted on any Lot without the prior written approval of Declarant or the ARC.

(hh) Wetlands, Lakes and Water Bodies. All wetlands, lakes, ponds, and streams within the Property, if any, shall be storm water retention facilities or aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing, or use of personal flotation devices, shall be permitted unless otherwise permitted by Declarant or the Board of Directors. Neither the Declarant nor the Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams or shoreline within the Property. No docks, piers, or other structures shall be constructed on or over any body of water within the Property, except such as may be constructed by Declarant, the Association, or as approved pursuant to Article VI of this Declaration. The elevation of the land shall not be altered and fill shall not be used to extend the boundaries of a Lot or to change the bulkhead line on any Lot bounded by a wetland, lake, or other body of water unless approved in accordance with Article VI of this Declaration.

(ii) Window Coverings. All windows on any structure which are visible from the street or dwellings on other Units shall have window coverings which have a white or off-white backing. Reflective and tinted window coverings are prohibited.

(ij) Garage Sales. Garage, estate, moving, and yard sales are prohibited, unless otherwise approved by the Board of Directors.

2. Leasing of Units

(a) Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) Leasing Provisions.

(1) In General. Units may be rented only in their entirety; not fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Association. All leases shall be in writing in a form approved by the Association and shall be for a minimum term of six (6) months. The Leasing of a Unit may not occur more than two (2) times per year. The Association may charge each Owner an administrative fee for reviewing and approving proposed leases. The Owner must make available to the lessee copies of this Declaration, the Bylaws, the Articles and the Rules and Regulations. This paragraph shall not apply to leasing by Declarant or its successors, assigns or affiliates.

(2) Compliance with Declaration, Bylaws, Articles and Rules and Regulations. Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner and each lessee, by occupancy of a Lot, covenants and agrees that any lease of a Unit 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 on the Lot:

i) Compliance With Master Deed, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Master Deed, 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 compliance with the foregoing. The Owner shall cause all occupants of his or her Lot to comply with the Declaration, Master Deed, 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 violation of the Declaration, Master Deed, Bylaws, and rules and regulations adopted pursuant thereto. In the event that the lessee, or a person living with the lessee, violates the Declaration, Master Deed, Bylaws, or a rule or regulations for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine shall be assessed against the lessee in accordance with Declaration, Master Deed, Bylaws, and the rules and regulations adopted pursuant thereto. If the fine is not paid by the lessee within the time period set by the Board, the Board may assess the fine against the Owner and 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 the Declaration, Master Deed, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any occupant, or any person living with the 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 the Master Deed, 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. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment and lien against the Lot.

(ii) Use of Common Areas. Except where the Owner also occupies the Lot, 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 Areas, including, but not limited to, the use of any and all recreational facilities.

(iii) Liability for Assessments. When a Lot Owner who is leasing his or her Lot fails to pay any annual, special, or specific 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, special, and specific 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.

(3) Restriction on Number of Lots that may be Leased. At any one time, no more than Twenty percent (20%) of the total number of constructed Lots within each Neighborhood may be leased or available for lease.

3. Exculpations and Approvals

Declarant, the Association, the ARC, and any of their agents may grant, withhold or deny their consent, permission or approval in any instance when their consent, permission or approval is permitted or required at their sole discretion and without any liability of any nature or kind to any Owner or any other Person for any reason whatsoever and shall be indemnified and held harmless by such Owner or other Person from any and all damages resulting there from, including, but not limited to, court costs and reasonable attorneys' fees. Every consent, permission or approval by Declarant, the Association, the ARC, or any of their agents under this Declaration shall be in writing and binding upon all Persons.

4. Community-Wide Standards, Rules and Regulations

The Association, through the Board, shall have the right to promulgate and impose further Community-Wide Standards or any rules and regulations of the Association and thereafter to modify, alter, amend, rescind and augment any of the same with respect to the use, operation and enjoyment of all or a portion of the Property, the Common Area, the Exclusive Common Area and any improvements located thereon including, but not limited to, establishing reasonable fees for the use of facilities and establishing hours and manner of operation.

ARTICLE VI: ARCHITECTURAL STANDARDS AND REVIEW

1. In General

All construction improvements and modifications shall comply with the Master Plan, the Design Code, the applicable building regulations and standards established by the applicable governmental authority from time to time, as well as the terms and conditions set forth in this Declaration. EACH OWNER AND BUILDER ACKNOWLEDGES THAT PRIOR TO SUBMITTING AN APPLICATION FOR A BUILDING PERMIT FOR ANY CONSTRUCTION OR IMPROVEMENT, THE PLANS FOR SUCH CONSTRUCTION OR IMPROVEMENT SHALL BE SUBJECT TO THE REVIEW AND WRITTEN APPROVAL OF THE DECLARANT AND THE ARC.

2. Architectural Standards

No construction (which term shall include, without limitation, staking, clearing, excavating, grading, and other site work), no exterior alteration, improvement or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Declarant and the ARC has been obtained pursuant to this Section. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for review of an application for approval hereunder, which fees, if established, shall be paid in full prior to review of any application hereunder. All structures constructed on any portion of the Property shall be designed by and built in accordance with the approved plans and specifications.

This Article shall not apply to any construction or improvements or modifications to the Common Area made by or on behalf of the Association or to the activities of Declarant. The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of

competent jurisdiction decisions of the Architectural Review Committee established in this Article VI. This Article may not be amended without the Declarant's prior written consent so long as the Declarant owns any portion of the Property or the Additional Property.

The Declarant and ARC shall have exclusive jurisdiction to review and approve all original construction on any portion of the Property. Declarant retains the right, so long as Declarant owns any portion of the Property or the Additional Property, to appoint all members of the ARC, which shall consist of not less than three, nor more than five, persons. Upon the expiration of such right, the Board of Directors shall annually appoint the members of the ARC.

The ARC shall prepare and promulgate on behalf of the Board of Directors design and development guidelines and application and review procedures (the Design Code). Copies of the Design Code shall be available from the ARC for review. The ARC shall have sole and full authority to prepare and to amend the Design Code. The Design Code shall be available to Owners and Builders who seek to engage in development of or construction upon all or any portion of the Property, and such Owners and Builders shall conduct their operations strictly in accordance therewith. In the event that the Declarant and ARC fail to approve or disapprove plans submitted to it, or to request additional information reasonably required within forty-five days after submission thereof, the plans shall be deemed approved.

3. No Waiver of Future Approvals

The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committee, 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 other matters whatever subsequently or additionally submitted for approval or consent.

4. Variance

The ARC may authorize variances from compliance with the Design Code when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall be effective unless it is reduced to writing. No variance shall estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

5. No Liability

No review or approval by the ARC shall imply or be deemed to constitute an opinion by the ARC, nor impose upon the ARC, the Association, Declarant or any other party, any liability for the design or construction of building elements, including, but not limited to, structural integrity or life and safety requirements. The scope of any such review and approval by the ARC is limited solely to whether the respective plans or work meet certain requirements, standards, and guidelines of the Design Code relating to aesthetics and the harmony and compatibility of proposed improvements in the Community. No review or approval will be for any other Person or purpose, and no Person other than the ARC shall have any right to rely thereon, and any review or approval by the ARC will create no liability whatsoever of the ARC, Declarant or the Association to any other Person or party whatsoever.

6. Compliance

Any Owner, Builder, or contractor, subcontractor, agent or employee of an Owner or Builder who fails to comply with the terms and provisions of the Design Code may be fined and/or excluded by the Board of Directors from the Property without liability to any Person, subject to the notice and hearing procedures contained in the Bylaws, and any improvements constructed in violation of this Section may be razed by the Association without payment or liability to any Person.

ARTICLE VII: NEIGHBORHOODS; NEIGHBORHOOD ASSOCIATIONS

1. Neighborhoods

A parcel of land intended for development as residential area may constitute a Neighborhood, subject to further division into more than one Neighborhood upon further development. Declarant may designate Neighborhoods by Supplemental Declarations. The Lots within a particular Neighborhood may be subject to additional covenants and/or the Owners may be members of a Neighborhood Association in addition to the Association, but no such Neighborhood Association shall be required. Each Neighborhood, upon the affirmative vote, or written consent, or a combination thereof, of a majority of Owners within the Neighborhood, may request that the Association provide a higher level of service or special services for the benefit of Lots in such Neighborhood, the cost of which shall be assessed against the benefited Lots as a Neighborhood Assessment. The Association may, but is not required to, provide such higher level of services. The Board of Directors of the Association may consult on an advisory basis with the Board of Directors of a Neighborhood Association on maintenance of Exclusive Common Area and other issues affecting the Neighborhood.

2. Exclusive Common Area

(a) Neighborhood Expense. The cost and expense of the Exclusive Common Area shall be borne by the Owners of Lots located in the Neighborhood benefited by such Exclusive Common Area, as set forth in a Supplemental Declaration, a Neighborhood Declaration, or otherwise.

(b) Operation of Neighborhood Association. A Neighborhood Association shall have the right, subject to Declarant's prior consent, to contract with the Association to provide for the operation and maintenance of its Exclusive Common Area.

3. Certain Rights of Declarant Regarding Neighborhood Associations

Declarant hereby reserves the right, and the power, but neither the duty nor the obligation, without the consent of any other Person:

(a) to determine consistency of any Neighborhood Documents with this Declaration, and approve and consent to any Neighborhood Documents and any amendments thereto prior to their recordation in the public records of Hamilton County, Tennessee. Neighborhood Documents shall not be effective until Declarant approves and consents to them in writing;

(b) to require that specific provisions be included in Neighborhood Documents as Declarant reasonably deems appropriate, including, without limitation, any provisions required to render such Neighborhood Documents consistent with this Declaration;

- (c) to require that the fiscal year of any Neighborhood Association be the same as that of the Association;
- (d) to require that the Association approve the budget of any Neighborhood Association prior to the approval by the Neighborhood Association;
- (e) to create additional Neighborhood Associations for the operation, administration and maintenance of any Neighborhood, or groups of Neighborhoods; and to approve the merger of any two or more Neighborhood Associations.

4. Certain Rights of Association Regarding Neighborhood Associations

- (a) Enforcement. If any Neighborhood Association fails to comply with this Declaration or any of the other Documents or any Neighborhood Documents, the Association shall have the right and power, but neither the duty nor the obligation, to enforce the provisions of this Declaration or the Neighborhood Documents, or to perform the Neighborhood Association's duties and responsibilities, or to seek judicial relief or remedy to require compliance with same, and to obtain payment of the cost of such performance or enforcement, plus a reasonable administrative charge equal to ten percent (10%) of such amount.
- (b) Special Assessments. The Association shall have the right, in addition to any other rights of the Association, to assess specially the members of a Neighborhood Association and such Neighborhood Association for expenses incurred by the Association for such Neighborhood Association.
- (c) Collection of Assessments. Upon request by the Association, each separate Neighborhood Association shall collect from each Owner (other than the Declarant) the Common Assessments for the Association for each Lot within the Neighborhood and shall promptly remit such amounts to the Association. In the event that any Owner shall fail to pay to the Neighborhood Association his or her Common Assessments as levied by the Association, the Association shall have the right to collect such Assessments directly from such Owner.
- (d) Entry Rights. The Association shall have the right, for itself, its designee, or any agent or employee, to enter upon any property administered by a Neighborhood Association to carry out the provisions of the Documents or the applicable Neighborhood Documents, and the same shall not constitute a trespass.
- (e) Delegation. The Association shall have the right and power, but neither the duty nor the obligation, to delegate in whole or in part, exclusively or non-exclusively, and on a permanent or temporary basis, to any Neighborhood Association any obligation of maintenance or repair created under this Declaration or by delegation from Declarant. If a Neighborhood Association does not accept such rights and obligations in a manner consistent with the standards established by the Association, then the Association shall have the right, but not the obligation, by its sole act, to terminate such assignment, and again fulfill such rights and obligations.
- (f) Right to Maintain Exclusive Common Area. The Association shall have the right to maintain the Exclusive Common Area of a Neighborhood, including in particular, all landscaping within the Neighborhood, and may assess the cost of such maintenance as a Neighborhood Expense.

(g) Priority. When Neighborhood Documents are in conflict with this declaration, the Charter or any of the other Documents, the latter shall prevail.

ARTICLE VIII: MEMBERSHIP AND VOTING RIGHTS

1. Membership and Voting Rights

Each Owner of a Lot, shall be a Member of the Association and shall be entitled to one (1) vote for each Lot owned by the Member.

2. Joint Ownership

Voting rights may be exercised by a Member or the Member's spouse. In any situation where more than one Person holds an interest in a Lot, the vote for that Lot shall be exercised by any such Person, provided, however, the Persons holding the interest in the Lot can notify the Secretary of the Association, in writing, prior to or during any meeting of the manner in which the vote for the Lot is to be exercised and, in the absence of such notice, the Lot's vote shall be suspended if more than one Person seeks to exercise it. The voting rights of a Member that is a company or other form or entity ownership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary.

3. Turnover Date

The Turnover Date shall occur within sixty (60) days of the occurrence of the earliest of the following conditions:

- (a) the sale to Persons other than Declarant or Builders of all of the Lots intended to be developed within the Property and the Additional Property; or
- (b) such earlier date, as determined by the Declarant, in its sole and absolute discretion.

ARTICLE IX: ASSESSMENTS

1. Affirmative Covenant to Pay Assessments

There is hereby imposed upon each Owner and each Lot, the affirmative covenant and obligation to pay to the Association all Assessments in respect of the Lot. Each Owner, by acceptance of a deed or other instrument of conveying title to a Lot, whether or not it is so expressed in such deed or instrument, shall be obligated and agrees to pay all Assessments, regardless of their nature, including, but not limited to, any then past due Assessments in accordance with the provisions of this Declaration, and consents and agrees to the lien rights hereunder against the Lot. The liability for Assessments is personal to the Owner and may not be avoided by waiver of the use or enjoyment of Common Area or Exclusive Common Area, or by abandonment of the Lot for which the Assessments are made. Neither the liability for Assessments, nor the amount of Assessments, shall be reduced or avoided due to the fact that all or any portions of the Common Area, Exclusive Common Area or other portions of the Property are not completed. No diminution or abatement of assessment or setoff shall be claimed or allowed by reason of any alleged failure of the Association or the Board of Directors to take some action or perform some function required to be taken or performed by the Association or the Board of Directors under this Declaration, the Bylaws or the Articles, or for inconvenience or discomfort arising from the making of repairs or improvements, or

from any action taken to comply with any law or with any order or directive of any municipal or other governmental authority.

2. Creation of Assessments

There are hereby created Assessments for expenses of the Association as the Board of Directors may authorize from time to time to be commenced at the time and in the manner set forth in Article IX, Section 3, hereof. There shall be three (3) types of Assessments:

- (a) Common Assessments. Common Assessments shall be levied equally on all Lots.
- (b) Neighborhood Assessments. Neighborhood Assessments shall be levied equally on all Lots within the Neighborhood for whose benefit Neighborhood Expenses are incurred as provided in Article IX, Section 5, below; and
- (c) Special Assessments. Special Assessments shall be levied as provided in Article IX, Section 6, below.

3. Payment of Assessments

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, an acceleration of the annual Common Assessment and any Neighborhood Assessment for delinquents. Unless the Board of Directors provides otherwise, the Common Assessment and any Neighborhood Assessment shall be paid in advance on a monthly basis. The Association shall, upon demand at any time, furnish to any Owner liable for any type of Assessment a certificate, in writing, signed by an officer of the Association, setting forth whether such Assessment has been paid in respect of any particular Lot. Such certificate shall be conclusive evidence that the Assessment stated therein has been paid to the Association. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

4. Computation of Common Assessment

It shall be the duty of the Board of Directors to prepare a budget annually covering the estimated Common Expenses of the Association for the ensuing fiscal year (including the capital replacement reserve provided for in Article IX, Section 8 hereof). The Common Assessment levied against each Lot which is subject to the Common Assessment shall be computed by dividing the budgeted Common Expenses by the total number of Lots which are subject to Common Assessments plus the total number of Lots reasonably anticipated to become subject to Common Assessments during the fiscal year. The budget and the amount of the Common Assessment shall be determined by the Board of Directors in their sole and absolute discretion. The Board of Directors shall cause a copy of the Common Expense budget and notice of the amount of the Common Assessment to be levied for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Notwithstanding the foregoing, in the event the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue, provided, however, that upon the adoption of a new budget, the same shall be deemed retroactive to the beginning of the then current budget year and each Owner shall pay the increase, if any, in the Common Assessment for the beginning of such year at the time the next installment is due.

5. Computation of Neighborhood Assessments

It shall be the duty of the Board of Directors annually to prepare a separate budget covering the estimated Neighborhood Expenses to be incurred by the Association for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred for the ensuing fiscal year. The Board of Directors shall be entitled to set such budget only to the extent that this Declaration or a Supplemental Declaration specifically authorizes the Board of Directors to assess certain costs as a Neighborhood Assessment. Any Neighborhood may request that, additional services or a higher level of services be provided by the Association, and in such case, any additional costs shall be added to the Neighborhood's budget. This budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Neighborhood, as appropriate. The Neighborhood Assessment levied against each Lot in that Neighborhood which is subject to the Neighborhood Assessment shall be computed by dividing the budgeted Neighborhood Expenses for that Neighborhood by the total number of Lots within such Neighborhood which are subject to the Neighborhood Assessments plus the total number of Lots in that Neighborhood reasonably anticipated to become subject to the Neighborhood Assessments during the fiscal year. The Board of Directors shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment to be levied on each Lot for the coming year to be delivered to each Owner of a Lot in the benefited Neighborhood at least thirty (30) days prior to the beginning of the fiscal year. In the event the Board of Directors fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue.

6. Special Assessments

(a) As To All Members. The Board of Directors, upon the affirmative vote of a majority of votes cast by the Members of the Association and the consent of the Declarant, until the Turnover Date, may levy Special Assessments for capital improvements and repairs from time to time. No membership vote shall be required for Special Assessments due to budget shortfalls in any year, as a result of an emergency to protect, preserve or repair the Common Area from any casualty or threat thereof or as otherwise provided in subsection (b) hereof. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board of Directors, and may, if the Board of Directors so determines, be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

(b) Less Than All Members. Without a membership vote, the Association may levy a Special Assessment against any Member individually and against such Member's Lot to reimburse the Association for costs incurred in bringing a Member and the Lot or Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, the Community-Wide Standards or the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board of Directors after notice to the Member and an opportunity for a hearing. The Association may also levy, without a membership vote, a Special Assessment against the Lots in any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of this Declaration, any amendments thereto, any Supplemental Declaration, if applicable, and the Articles, the By-Laws, the Community-Wide Standards or the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board of Directors after notice to the Members from such Neighborhood and an opportunity for a hearing. For any Special Assessment levied for failure to comply with the Documents, the Association may add an administration charge equal to ten percent of such amount.