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**BK: 6789 PG: 125-196**

**16026213**



72 PGS:AL-RESTRICTIONS

440553

**06/29/2016 - 09:49 AM**

BATCH	440553
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	360.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	362.00

STATE OF TENNESSEE, WILLIAMSON COUNTY

**SADIE WADE**  
REGISTER OF DEEDS

**Pick Up**

**DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR SIMMONS RIDGE**

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR SIMMONS RIDGE**

This **DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS** (this "Declaration") is made effective the 29 day of June, 2016, by **SIMMONS RIDGE JOINT VENTURE** (the "Declarant"), a Tennessee joint venture composed of Coastal Development Corporation, a Tennessee corporation, and Simmons Ridge Partners, LLC, a Tennessee limited liability company, their respective successors and assigns.

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of the real property located in the City of Franklin, Williamson County, Tennessee described in **Exhibit A** attached hereto and incorporated herein by reference (the "Property"). The Property is a portion of an area to be developed pursuant to a master plan and encompassing all or portions of the property shown at **Exhibit A-1** (the "Development"), which Declarant desires to develop as a residential community consisting of single family attached and detached residences of varying types and sizes to be known as Simmons Ridge, with various open spaces, common facilities, and common areas for the benefit of said community;

**WHEREAS**, Declarant desires to provide a flexible and ordered procedure for the overall development of the Property and the Development and to establish a method for the administration, maintenance, preservation, use and enjoyment of such portions of the Development as are now or may hereafter be submitted to this Declaration;

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

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

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

**NOW, THEREFORE**, Declarant hereby declares that all of the Property and any additional property as may by Supplemental Declaration be added to the Property and subjected to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions. Such easements, restrictions, covenants and conditions are for the purpose of protecting the value and desirability of the Property, and shall run with the real property submitted to this Declaration, and they shall be binding on all parties having any right, title, or interest in the Property, or any part thereof, their heirs, successors, successors in title, and assigns, and shall inure to the benefit of each owner thereof.



## ARTICLE I DEFINITIONS

Section 1.     “Assessments” shall mean assessments for Common Expenses provided for herein or by any amendment hereto, which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of all or any portion of the Development and of maintaining the Development, all as may be specifically authorized from time to time by the Board of Directors and as more specifically authorized below, and also any other assessment or other amounts due from a Lot Owner. The term “Assessments” shall include, without limitation, General Assessments, Common Maintenance Assessments, Special Assessments, and Special Use Assessments.

Section 2.     “Association” shall mean and refer to the Simmons Ridge Homeowners Association, Inc., a Tennessee nonprofit corporation, its successors and assigns.

Section 3.     “Board of Directors” or “Board” shall be the elected body responsible for managing the affairs of the Association. Actions required of or permitted by the Board herein may be taken or fulfilled by a committee or other designee as may be established or appointed by the Board in accordance with the Bylaws of the Association.

Section 4.     “Builder” or “Builders” means any Person, or Persons, who purchases a Lot or Lots, or who is engaged by Declarant, for the purpose of constructing a residence on a Lot or Lots, and the sale of such residence to a third party.

Section 5.     “Bylaws” shall mean the Bylaws of the Association attached hereto as **Exhibit C** and made a part hereof, as may be amended from time to time.

Section 6.     “Capital Budget” shall have the meaning given in Article IX, Section 6 of this Declaration.

Section 7.     “Charter” shall mean the Charter of the Association attached hereto as **Exhibit B** and incorporated herein by this reference, as may be amended from time to time.

Section 8.     “Common Area” shall mean the Property and any improvements thereto, but excluding Residential Units and components thereof and easements appurtenant thereto, and further excluding any Special Use Parcel, now or hereafter owned by the Association for the common use and enjoyment of the Owners, including, but not limited to, the common areas shown on any recorded plat of the Property and any and all pedestrian bridges, parking areas, lakes, waterways, landscaping and irrigation systems, fences, structures, sidewalks, community signage, walls, monuments, illumination of common areas, common utilities, storm water system, wells, fountains, swimming pools and swimming pool changing areas and restroom facilities, and other improvements located on such common areas. Declarant may hereafter convey the Common Area or portions thereof to the Association.

Section 9. “Common Expenses” shall mean and include the actual and estimated expenses of operating the Association and maintaining the Common Area and such other areas and expenses specifically set forth elsewhere in this Declaration whether or not the associated with the Common Area, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the Bylaws of the Association.

Section 10. “Common Maintenance Lot” shall mean Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18 and 19 and as set forth on that certain plat of Simmons Ridge PUD Subdivision Section 1, of record at Plat Book P63, Pages 123a and 123b, Register’s Office for Williamson County, Tennessee, to which plat reference is made for a more complete description, and any Lot so designated by any Supplemental Declaration as a Common Maintenance Lot.

Section 11. “Community-Wide Standard” shall mean the standard of conduct, maintenance, or other activity generally prevailing in the subdivision developed on the Property as established in the reasonable discretion of Declarant or the Board of Directors.

Section 12. “Declarant” means **Simmons Ridge Joint Venture**, a Tennessee joint venture composed of Coastal Development Corporation, a Tennessee corporation, and Simmons Ridge Partners, LLC, a Tennessee limited liability company, their respective successors and assigns.

Section 13. “Declarant Control Period” means the period ending on the earlier of (i) one hundred twenty (120) days after conveyance of **one hundred percent (100%)** of the Units that may be created within the Development to Unit Owners other than Declarant; or (ii) the date that the Declarant voluntarily relinquishes control of the Association.

Section 14. “Development” means the residential community to be developed on the Property to be known as Simmons Ridge, and shall be deemed to include the real property described in **Exhibit A** attached hereto as well as all other property that has been identified in the concept plan for development of approximately 88.67 acres, including the Property, as approved by the City of Franklin, and as may be modified, amended, expanded or contracted from time to time.

Section 15. “Final Plat” means, collectively, all plats of a portion of the Property from time to time recorded in the real estate records of the Register’s Office for Williamson County, Tennessee, as such may be amended from time to time as the Property is developed.

Section 16. “Design Code” shall mean the aesthetic and functional plan for the Development, to be implemented through the regulation of land use, landscaping, architecture and such other matters as may be included in the Design Code. The Design Code is originally adopted by the Declarant and may be amended by the Declarant from time to time. The Design Code does not need to be recorded to be effective, but shall be available from the Design Review Committee.

Section 17. "Exempt Antenna" shall mean any antenna that is:

- (a) used to receive direct broadcast satellite ("DBS") service, including direct-to-home satellite service, or to receive or transmit Fixed Wireless Signals ("FWS") via satellite, and 24 inches or less in diameter;
- (b) used to receive video programming services via multipoint distribution services ("MDS"), including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite, and that is 24 inches or less in diameter or diagonal measurement;
- (c) an antenna that is used to receive television broadcast signals; or
- (d) a mast supporting an antenna described above, and
- (e) any other antenna now or hereafter within the definition of the applicable regulations of the Federal Communication Commission, as may be hereafter modified.

Section 18. "Fixed Wireless Signals" shall mean any commercial non-broadcast communications signals transmitted by wireless technology to and/or from a fixed customer location. Examples include wireless signals used to provide telephone service or high-speed internet access to a fixed location. The term "Fixed Wireless Signals" does not include, among other things, AM/FM radio, amateur ("HAM") radio, Citizens Band ("CB") radio, and Digital Audio Radio Services ("DARS") signals.

Section 19. "Loans" shall have the meaning given in Article IX, Section 2 of this Declaration.

Section 20. "Lot" or "Lots" shall mean a separate parcel of the Property now or hereafter set forth as a Lot on any Final Plat.

Section 21. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

Section 22. "Mortgage" shall include a deed of trust or mortgage encumbering any Residential Unit.

Section 23. "Mortgagee" shall include a beneficiary under or holder of a note secured by a Mortgage who has provided actual, written notice to the Association of such interest.

Section 24. "Mortgagor" shall include the trustor or grantor of a Mortgage.

Section 25. "Operating Budget" shall have the meaning given in Article IX, Section 3 of this Declaration.

Section 26. "Owner" shall mean and refer to one or more Persons or entities, including Declarant, who holds or hold the record title to any Residential Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. For the purpose of this Declaration, the Owner of a Residential Unit, which is under lease shall be as follows: for the purpose of membership, including matters related to voting and assessments and the obligations of Member, the record owner or owners of the Residential Unit; for the purpose of use and enjoyment of common facilities and amenities, which are part of the Common Area, the tenant or tenants residing in the Residential Unit. The Board of Directors may promulgate reasonable regulations conditioning such use upon registration of the names of tenants with the Association. In addition to any other restriction, the regulations may limit the number of guests entitled to use of the Common Area.

Section 27. "Person" shall mean a natural person, a corporation, a partnership, a limited liability company, a trust, a trustee, or any other legal entity.

Section 28. "Property" shall mean and refer to the real property described in Exhibit A attached hereto, and any additional real property submitted to this Declaration from time to time pursuant to a Supplemental Declaration.

Section 29. "Residential Unit" or "Unit" shall mean a portion of the Property intended for any type of independent ownership for use and occupancy as a residence by a single family, whether a residence is constructed thereon or not, and whether or not the Unit is detached or an attached townhome. All Residential Units shall be shown and identified as numbered Lots on the Final Plat.

Section 30. "Special Use Parcel" shall mean a Lot of unconventional size, shape, location or use that calls for special design and assessment considerations. Typically, a Special Use Parcel will be used for commercial purposes, multi-family residential or community or recreational facilities.

Section 31. "Special Use Assessment" shall mean the Assessment applied to a Special Use Parcel by Supplemental Declaration, which may be in lieu of all other Assessments.

Section 32. "Supplemental Declaration" shall mean an amendment to this Declaration, including the addition of additional property lots or Common Areas subjected to this Declaration. Such Supplemental Declaration may, but is not required to, impose, expressly or by reference, additional restrictions and obligations to the provisions of this Declaration. The term "Declaration" as used herein shall include this Declaration, together with any and all Subsequent Amendments.

## **ARTICLE II PROPERTY RIGHTS**

Section 1. Common Area. Every Owner shall have a right and easement of enjoyment in and to the Common Area that is appurtenant to the title to such Owner's Residential Unit, subject to any restrictions or limitations contained in this Declaration or in any Deed or

amendment thereto conveying the Common Area to the Association or subjecting the Common Area to this Declaration. Any Owner may delegate his or her other right of enjoyment to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board and in accordance with procedures the Board may adopt from time to time.

Section 2. Sidewalks and Street Trees. Every Owner shall have a right and easement of enjoyment in and to the sidewalks located on each Residential Unit, subject to any restrictions or limitations contained in this Declaration or subjecting such Residential Unit to this Declaration. Any Owner may delegate their right of enjoyment to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board and in accordance with procedures the Board may adopt from time to time. Unless sidewalks are located in public rights of way and are the maintenance responsibility of the City of Franklin, each Owner shall be responsible for constructing and maintaining the sidewalk on such Residential Unit in a safe condition and in accordance with the Community-Wide Standard and other rules and regulations which may be established by the Board from time to time. Each Owner shall install on their Lot street trees, as shown on the Simmons Ridge Master Landscape Plan having been approved by the City, as may be amended from time to time, if such trees are not already installed on their Lot, and shall maintain such street trees in a healthy condition, including trimming and pruning as may be necessary, and when determined by the Board replace the same with similar trees. If an Owner fails to maintain the sidewalk or street trees on his or her Residential Unit as required by this Section, and fails or refuses to perform such maintenance upon request by the Board, the Board shall have the right to perform or have performed such maintenance and levy a Special Assessment against such Owner and such Owner's Residential Unit equal to the cost and expenses incurred by the Association in performing such maintenance or having such maintenance performed. Without limiting the foregoing and notwithstanding any other provisions of this Declaration, the Association shall have the right to trim, remove limbs, prune or otherwise modify trees on Lots that overhang or otherwise interfere with any sidewalk. Owners shall not install trees on their Lot that are not shown on the Simmons Ridge Master Landscape Plan.

### **ARTICLE III MEMBERSHIP AND VOTING RIGHTS**

Section 1. Membership in the Association. Every Person who is the record owner of a joint or undivided fee interest in any Residential Unit shall be deemed to be a member of the Association (each such person or entity, a "Member"). Membership shall be appurtenant to and may not be separated from such fee interest ownership, and any transfer of a Residential Unit shall operate automatically to transfer to the new record owner thereof the membership in the Association appurtenant thereto. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate that Member's membership.

Notwithstanding the foregoing, Declarant may at any time assign, pledge, hypothecate or alienate its membership in the Association and/or Declarant's rights as Declarant herein, but any transfer by Declarant of title to a Residential Unit shall automatically transfer the membership in the Association appurtenant thereto, free and clear from any such assignment, pledge, hypothecation or alienation.

## ARTICLE IV MAINTENANCE

Section 1. Association's Responsibility. The Association shall be responsible for the following maintenance obligations:

(a) The Association shall maintain and keep in good repair the Common Area. Such maintenance shall include, without limitation, maintaining, repairing, and replacing, subject to any insurance then in effect, all trees, landscaping and other flora, structures, irrigation system, storm water control and any other improvements situated upon the Common Area. In addition to the above responsibility, the Association shall mow and maintain the lawn areas of each Lot not enclosed by fencing or other improvements, and, subject to the obligations of each Owner set forth in Article II, Section 2, shall also plant, maintain and replace when necessary all trees located between the street and the sidewalk on each Residential Unit, though such lawn areas and trees may not be a part of the Common Area.

(b) The Association shall maintain any landscape easement area that serves as a buffer to adjacent properties, even if such landscape or buffer area is located wholly or partially on a Lot, and each such affected Lot owner grants to the Association an easement for such maintenance.

(c) The Association shall maintain those portions of Common Maintenance Lots as this Declaration or any Supplemental Declaration establishes as an Association responsibility, and may charge to the Owners of such Common Maintenance Lots a Common Maintenance Assessment, as appropriate.

(d) With respect to Residential Units that are Common Maintenance Lots, the Association shall provide for the maintenance, care, repair, and replacement of the following portions of such Residential Units: the exterior landscaping (except such landscaping installed by, or on behalf of, the Owner and such landscaping enclosed by a fence), walkways, porches, located upon or about each Residential Unit, with the exception of elevated decks, and/or balconies, which shall be maintained by the Owner. The Association shall have the right, however, to contract with the respective Owner for the maintenance of such elevated decks, balconies, and for the maintenance of such other areas and items as the Board may deem appropriate. The Association also shall maintain the exterior of each Residential Unit that is designated as a Common Maintenance Lot as follows: painting, maintenance, and nonstructural repair of exterior building surfaces as the Board shall deem necessary and proper, including roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, replacement of trim, caulking and other repairs to roof covers (to include the repair and replacement of all non-structural components of the roof of each Residential Unit), and other miscellaneous repairs of a nonstructural nature. Such exterior maintenance shall not include glass surfaces (weather windows or sliding glass doors), HVAC equipment, storm doors, front or rear entry doors,

garage doors, fences, screens, or patio covers. The balance of the Residential Units and other improvements located on the respective Lots shall be maintained by the Owner of the particular Lot involved.

(i) Notwithstanding the foregoing, if the need for exterior maintenance and repair by the Association as required by this section is caused by the willful or negligent conduct or act an Owner, his/her family, guest, invitees, or other Persons using or occupying his/her Residential Unit with his/her express or implied permission, the cost of such repair or maintenance shall be assessed against such Owner as a Special Assessment under the provisions of Article IX, Section 4 of the Declaration and any Supplemental Declaration, and shall be due and payable thirty (30) days from the date of notice thereof, such Assessment to be collected and enforced as provided in the Declaration. Such Special Assessment shall not require the approval of any of the Members, provided, however, that any Owner against which any such Assessment is levied shall be entitled to notice, a hearing at a time and place set by the Board in its sole discretion, and an opportunity to do the corrective work required (provided that the work is performed by a competent contractor mutually agreeable to both parties and in a manner and quality agreed to by the Design Review Committee), prior to a Special Assessment being levied against such Owner in accordance with the provisions of this subsection. For the sole purpose of performing the exterior maintenance upon each Residential Unit required by this Section 1.i, the duly authorized employees or agents of the Association shall have the right, after reasonable notice to the Owner, to enter upon any Lot and into any Residential Unit at reasonable hours of any day, subject to the provisions of Subsection (ii) below.

(ii) Notwithstanding any provision to the contrary in subsection (a) above, the duly authorized agents or employees of the Association shall have the right to enter in or upon any Residential Unit or into any structure or located on a respective Lot, without notice to the Owner thereof, when, in the judgment of the Association, acting through its Board of Directors, such entrance is necessary to prevent damage to such Residential Unit or surrounding Residential Units or Common Areas by fire, criminal act, natural disaster, or other similar emergency.

Section 2. Owner's Responsibility. Except as provided in Article IV, Section 1 above, the Owner of each Residential Unit shall have the sole responsibility for maintenance of all exterior and interior portions of the Residential Unit; land, flora and landscaping within the boundaries of the Lot; those areas within enclosed fencing, patios or courtyards; all inside and outside walls, roofs and structural components of the Residential Unit; all patios, decks, balconies, and driveways serving only one Residential Unit; and other improvements not maintained by the Association. Each Owner shall maintain said portions of his/their Residential Unit in a manner consistent with the Community Wide Standard, the applicable covenants set forth in this Declaration, and such rules and regulations as may be established by the Board from time to time.

Section 3. Association Responsibilities Exclusion. Notwithstanding the obligations of the Association with respect to maintenance of certain portions of the exterior of such Residential Units, the Association shall have no obligation to repair interior or structural portions of any

Residential Unit that is lost or damaged as a result of construction defects, damage or maintenance issues of exterior portions of any Residential Unit, including without limitation damage resulting from water leaks, foundational issues, or settling or structural matters. Each Owner shall bear full responsibility for obtaining and maintaining such insurance as may be desired for protection against such losses.

Section 4. Declarant Exclusion. Neither the Declarant nor the Association has constructed the Residential Units on the Common Maintenance Lots, and neither Declarant nor the Association shall be liable for any claims or causes of action of any kind whatsoever in law or in equity arising from or in any way relating to the construction of improvements upon the Common Maintenance Lots that was performed by parties other than Declarant, its agents, employees, subsidiaries or other affiliated entities.

## ARTICLE V INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Board of Directors for the Association, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement costs of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board shall also obtain a public liability policy covering the Common Area, Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million Dollar (\$1,000,000.00) single person limit as respects bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, and a Five Hundred Thousand Dollar (\$500,000.00) minimum property damage limit.

Premiums for all insurance required by this Article V to be maintained by the Association shall be Common Expenses of the Association and shall be included in the General Assessment, as defined in Article IX, Section 1. The policy or policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

The Association shall, as a Common Expense applicable only to Residential Units that are Common Maintenance Lots, obtain and continue in effect adequate blanket all-risk casualty insurance, if reasonably available, and if not reasonably available, fire and extended coverage, in such form as the Board deems appropriate for one hundred (100%) percent of the replacement cost of the Units that are Common Maintenance Lots, excluding the replacement of any finishes, fixtures, cabinets, appliances, flooring, or other improvements installed or supplied by the Owners, or their tenants, or personal property of the Owners, or their tenants, guests, and invitees located within such Residential Units.



Each Owner of a Residential Unit that is NOT a Common Maintenance Lot shall obtain and continue in effect at such Owner's expense blanket all-risk casualty insurance, if reasonably available, and if not reasonably available, fire and extended coverage for one hundred (100%) percent of the replacement cost of the Unit that is NOT a Common Maintenance Lots. Such insurance (a) shall be written with a company licensed to do business in Tennessee and holding a rating of BBB+ or better in the Financial Category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the more nearly equivalent rating, (b) shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Franklin, Williamson County, Tennessee area and (c) may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Owner and the Association. Immediately after the damage or destruction by fire or other casualty to all or any part of the Unit, the damaged Unit shall be immediately repaired or reconstructed to substantially the same condition in which it existed prior to the fire or other casualty. If the damage or destruction to the Unit for which the insurance proceeds are paid to repair or reconstruct the Unit are not sufficient to defray the cost thereof, the Owner of the Unit shall personally advance those monies required to complete the repair or reconstruction of the Unit. The Owner of each Unit being the subject of this paragraph shall deliver to and maintain with the Association a true and complete copy of the current insurance required by this paragraph to be maintained by the Owner.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Tennessee and holding a rating of BBB+ or better in the Financial Category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the more nearly equivalent rating.

(b) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(c) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Franklin, Williamson County, Tennessee area.

(d) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, the Owners, and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(iii) that no policy may be canceled, invalidated or suspended on account of the conduct of any one or more individual Owners;

(iv) that no policy may be canceled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized agent without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner, or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment, but may not be less than three months' Assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association. The Board shall also obtain, as a Common Expense, a reasonably available amount of Directors and Officers Errors and Omissions insurance.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies with respect to Common Areas shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or construction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagees shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Residential Unit and may be enforced by such Mortgagee.

(b) If it is determined, as provided for in Section 3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 2(a)(i) hereof.

Section 3. Damage or Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the costs of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at a Special Meeting (as described in Article I, Section 5 of the Bylaws) called in accordance with the Bylaws at least seventy-five percent (75%) of the total eligible vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within the sixty (60) day period referenced above, then the period shall be extended until such information shall be made available; provided, however, such extension period shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then the damaged portions of the Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition, including appropriate landscaping, and the remaining insurance proceeds shall be delivered pro rata to the Owners of each Residential Unit.

Section 4. Repair and Reconstruction. If the damage or destruction to the Common Area for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, use reserve or capital improvements account funds, or may levy a Special Assessment against all Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Section 5. Annual Review of Policies. At least annually, the Board shall review all insurance policies that are required by this Article V to be maintained by the Association in order to ascertain whether the coverage contained in the policies is sufficient. If the Board deems such coverage to be insufficient, the Board may expand the coverage to the extent it reasonably deems necessary.

**ARTICLE VI  
NO PARTITION**

There shall be no physical partition of the Common Area or any part thereof. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property, which may or may not be subject to this Declaration, or to prohibit the Board from granting easements over the Common Area, or to prohibit the Declarant or Board from adjusting plat or other boundary lines for any Lot adjacent to Common Area.

**ARTICLE VII  
CONDEMNATION**

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least sixty-seven percent (67%) of the total eligible vote of the Association) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to participate in the proceedings incident thereto, unless otherwise prohibited by law. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows: If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the total eligible vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board and the Design Review Committee. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

**ARTICLE VIII  
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

In addition to the powers delegated to the Association by its Charter, the Association shall be empowered to perform each of the following duties related to the Property and Common Area:

Section 1. Operation and Maintenance of Common Area. To operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area, together with all easements for operation and maintenance purposes and for the benefit of the Association or its Members over and within the Common Area and/or the Residential Units; to keep all improvements, if any, of whatever purpose from time to time located on the Common Area in good order, condition, and repair. Said maintenance shall include, but not be limited to, the maintenance obligations set forth in Article IV, Section 1. Any other provision of this Declaration or the Bylaws notwithstanding, the Association always shall maintain lien free title to

the Common Area, excepting only a lien for current year taxes, provided, however, that the Association may mortgage or convey the Common Area with an affirmative vote of at least sixty-seven percent (67%) of the Directors; and provided, further, that the Association may accept a conveyance of the Common Area subject to a lien or other encumbrance.

Section 2. Water and Other Utilities. To acquire, provide, and/or pay for, water, sewerage, garbage disposal, electrical, telephone, gas, and other necessary utility services for the Common Area.

Section 3. Taxes and Assessments. To pay all real and personal property taxes and assessments separately levied upon or assessed against the Association and/or the property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond in an amount at least equal to such taxes and assessments is posted prior to the sale or other disposition of any property to satisfy the payment of such taxes or assessments.

Section 4. Insurance. To obtain from reputable insurance companies qualified to do business in the State of Tennessee the insurance set forth in Article V of this Declaration, and to maintain in force at all times such insurance as is required by this Declaration.

Section 5. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within Williamson County conveyed to it by the Declarant as permitted herein.

Section 6. Rules and Regulations. The Association, through its Board of Directors or otherwise, may make and enforce reasonable rules and regulations governing the use of the Property, including without limitation the Common Area, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions for violations of the rules and regulations may include reasonable monetary Fines (as hereinafter defined), suspension of the right to vote and suspension of the right to use the Common Area. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. In addition, the Association, through the Board or otherwise, may, by contract or other agreement, enforce city or county ordinances or permit the City of Franklin or Williamson County to enforce ordinances on the Property for the benefit of the Association and its Members.

Section 7. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 8. Traffic Control. The Board may make rules and regulations concerning driving and parking within the Property, subject to applicable governmental requirements and restrictions. To the extent permitted by local governmental authority, the Association may construct traffic calming devices and post speed limits or other traffic signs and take other

measures deemed necessary to discourage excessive speed and to promote a safe environment. The Association may enforce such rules and regulations with penalties, Fines or towing, and shall have all remedies set forth in this Declaration.

## **ARTICLE IX ASSESSMENTS**

Section 1. Creation of Assessments. There shall be created annual Assessments as may be from time to time specifically authorized by the Board of Directors as follows (collectively, the "Annual Assessments"):

(a) The Board may levy general assessments for expenses determined by the Board to benefit the Association and/or the Residential Units as a whole, including without limitation, expenses incurred by the Association in fulfilling its maintenance obligations set forth in Article IV, Section 1 ("General Assessments"). General Assessments shall be allocated equally among all Residential Units; provided, however, that Assessments for Special Use Parcels may include the responsibility for specific areas or maintenance or landscaping within the Development that shall not be considered in setting the General Assessments.

(b) In addition to the General Assessment levied against all Residential Units, the Board shall levy additional Common Maintenance Assessments against all Common Maintenance Lots to cover expenses incurred and/or determined by the Association and/or the Board to benefit only such Common Maintenance Lots, including without limitation, expenses incurred by the Association and/or the Board in fulfilling its maintenance or service obligations with respect to such Common Maintenance Lots, as set forth in Article IV herein. Common Maintenance Lots may be established with different levels of services and maintenance obligations for the Association, and the Common Maintenance Assessment applicable to Common Maintenance Lots may reflect such differences.

(c) The Board may levy a Special Use Assessment to the extent established by a Supplemental Declaration for any Special Use Parcel. In the event a Special Use Assessment is established, the General Assessments shall not apply to such Special Use Parcels. If no Special Use Assessment is established in a Supplemental Declaration by oversight or error, then the Declarant or the Board may at any time thereafter establish a Special Use Assessment in the Declarant's or the Board's discretion, to be applied to such Special Use Assessment from after the date of such establishment. The Special Use Assessment may include maintenance or landscaping responsibilities for areas within the Development but not located within the Special Use Parcel.

Section 2. Assessment Obligation. Subject to the exemptions of the Declarant herein after set forth in this Article and elsewhere in this Declaration, each Owner, by acceptance of his or her Deed, is deemed to covenant and agree to pay all Assessments levied by the Association pursuant to this Declaration, whether or not such obligation is so expressed in such Deed. A budget for the first year of the Association, including contemplated General Assessments, Common Maintenance Assessments and Special Assessments (as defined below) and a

breakdown thereof shall be developed prior to the first sale of a Lot to a person other than a Builder (the "Base Budget"). Each Lot and Residential Unit shall be subject to the Assessments set forth in the Base Budget or subsequently adopted Operating Budget when conveyed to a party other than Declarant, with Assessments being prorated as of the date of closing of the sale of the Lot. The Declarant or Association may, but are not required to, establish Assessments for Lots or Units owned by Builders that are less than the General Assessment, Common Maintenance Assessments or Special Assessment for other Lots or Units that may be applicable, as evidenced by a certificate of occupancy, or the Unit is transferred to a third party other than a Builder; provided, however, that such reduction shall be an accommodation to Builders, and the Declarant or the Association may increase such Assessments to the normal General Assessment, Common Maintenance Assessments or Special Assessment at any time. Notwithstanding any other provision of this Declaration, no Assessments shall be levied against Lots owned by the Declarant, its successors or assigns.

During the Declarant Control Period, the Declarant shall from time to time loan to the Association any amounts required to make up any shortfall in the Base Budget for each year, and any subsequent Budget (as defined below), to the extent that such shortfall arises from (a) actual operating costs (including amounts allocated to or drawn from reserve funds) exceeding budgeted operating costs, or (b) budgeted operating costs (including amounts allocated to or drawn from reserve funds) exceeding actual income. To the extent a shortfall arises from subsection (b) of this paragraph and the lack of income results from the failure of any Owner to pay Assessments that are payable hereunder, the Declarant shall not be obligated to make up such shortfall. As long as the Declarant continues its commitment to make up the shortfall in the Budget as set forth in this paragraph, notwithstanding any provision to the contrary in this Declaration, the Declarant shall not be obligated to pay any Assessments or fees, of any type, nature or kind, imposed on any Residential Units owned by the Declarant. All amounts loaned to the Association by the Declarant pursuant to the provisions of this paragraph (collectively, the "Loans") shall bear interest at the Wall Street prime interest rate plus three hundred basis points from the time contributed until repaid and shall be repaid no later than three (3) years after end of the Declarant Control Period.

All Assessments, together with interest at the highest rate allowable under the laws of Tennessee from time to time relating to usury for residential real estate loans (or if no such rate is established, sixteen percent (16%) per annum) ("Interest"), costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Residential Unit against which each Assessment is made. Each Assessment, together with Interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Residential Unit at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Residential Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments which accrued prior to such acquisition of title in excess of six (6) months accrued Assessments.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. The manner of payment fixed by the Board may include, without limitation, acceleration of the Assessment levied on a particular Unit on account of delinquent payment of such Assessment or monthly installment thereof. Unless the Board otherwise provides, Annual Assessments shall be paid in quarterly installments.

Section 3. Computation of Annual Assessment. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year (the "Operating Budget"). The Operating Budget shall include a capital contribution establishing a reserve fund in accordance with a Capital Budget separately prepared, as more particularly described in Article IX, Section 6 below. The Board shall set Assessments based on the Operating Budget and the Capital Budget. The Board shall cause a copy of the Operating Budget, and the amount of each General Assessment to be levied against each Residential Unit for the following year, to be delivered to each Owner at least ten (10) days prior to the annual meeting of the Association. The Operating Budget, together with the Capital Budget and the Annual Assessments (collectively, the "Budget"), shall be adopted by the Board at a duly called meeting of the Board.

Notwithstanding the foregoing, however, in the event a Budget is not established for any reason for any year, then and until such time as a Budget shall have been determined as provided herein, the Budget in effect for the then current year shall continue for the succeeding year. No failure to provide the Operating Budget or Assessments as required hereunder shall relieve any Owner from payment of such Assessments once established.

Section 4. Special Assessments. In addition to the Annual Assessments authorized above, the Board may levy, during any calendar year, but in no event prior to the first annual meeting of the Members, special assessments, applicable only to that year, to be used solely to defray, in whole or in part, the cost of any construction, reconstruction, or unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto ("Special Assessments"). The Board may levy a Special Assessment against all Residential Units for such expenses determined by the Board to benefit the Association and/or the Residential Units as a whole, and may levy a Special Assessment against particular portions of the Property for such expenses as may be determined by the Board to benefit less than the Association as a whole. The Board may also levy a Special Assessment against particular Residential Units to reimburse the Association for costs incurred in maintaining such Units upon failure of the Owner to do so, as set forth in this Declaration. Except for Special Assessments imposed upon particular Residential Units to reimburse the Association for costs incurred in maintaining such Units upon failure of the Owner to do so and except for Special Assessments imposed under Article V, Section 4 and Article XII, Section 6 (j) hereof, a Special Assessment must be approved by vote or written consent of (a) a simple majority of the Members in the Association present and voting, either in person or by proxy, and entitled to vote at a meeting of the Members of the Association called for such purpose at which a quorum is present; or (b) a simple majority of the Unit Owners directly affected or benefited by the Special Assessment, in the opinion of the Board, if less than all of the Owners are benefited.



Section 5. Lien for Assessments. To secure the payment of any Assessment and/or fine imposed by the Association pursuant to Article X, Section 6 of this Declaration (each such fine, a "Fine"), a lien is expressly retained in favor of the Association on each and every Residential Unit or Special Use Parcel in the Association. Such lien shall be prior and superior to all other liens, except all taxes, bonds, assessments, first mortgage liens, and other levies which by law would be superior thereto.

For the purposes of rendering unnecessary court proceedings for the enforcement of said lien in the event of the nonpayment of Assessments and/or Fines, and for the consideration of one dollar paid in cash, receipt of which is acknowledged, the Owners, their heirs, successors, administrators, and assigns, hereinafter referred to as Trustors, hereby transfer and convey unto Douglas S. Hale, Trustee, his successors and assigns, their respective Residential Units with the appurtenances, estate, title and interest thereto belonging upon the use and trusts set forth in this paragraph.

If each Trustor shall pay his Assessments and Fines when due, then this trust conveyance shall be of no further force or effect with respect to such Trustor's Residential Unit. If the Assessments and Fines with respect to any Residential Unit are not paid promptly when due, this trust conveyance shall remain in full force and effect, and the said Trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty (20) days' notice by three (3) publications in any newspaper, daily or weekly, published in Williamson County, Tennessee to sell said Residential Unit at the front door of the Court house in said County to the highest bidder for cash, at public outcry, free from all statutory, equitable and other rights of redemption, homestead, dower and all exemptions of every kind, which are hereby expressly waived; and the said Trustee, or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Association may bid at any sale under this trust conveyance. The Association may, at any time after default in the payment of any Assessment or any installment payment thereof or any Fine, enter and take possession of said Residential Unit, and shall only account for the net rents actually received by it. It is further agreed that, in the event the Association fails, before instructing Trustee to sell said Residential Unit, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said Residential Unit. In the case of sale hereunder, the proceeds will be applied by the Trustee as follows:

(a) First, to the payment of all costs, charges and expenses of executing this conveyance and enforcing said lien as herein provided, including reasonable attorneys' fees and expenses incurred for instituting or defending any litigation which may arise on account of the execution of this conveyance, or the enforcement of said lien;

(b) Second, to the payment of all taxes, which may be unpaid with respect to such Residential Unit;

(c) Third, to the payment of all unpaid Assessments and Fines with respect to such Residential Unit; and

(d) Fourth, the residue, if any, will be paid to the Owner of such Residential Unit, to his/her order, representatives, heirs or assigns or to any other person legally entitled thereto.

In the case of the death, absence, inability, or refusal to act of said Trustee at any time when action under the foregoing power and trusts may be required or for any other reason, the Association is hereby authorized and empowered to name and appoint a successor to the Trustee by an instrument in writing to be recorded in the Register's Office for Williamson County, Tennessee, and the title herein conveyed to the above named Trustee shall be vested in said successor.

The Association, acting on behalf of the Owners, shall have the power to bid for the Residential Unit at foreclosure sale, and to credit bid any amounts owed by the Owner of such Residential Unit, and to acquire and hold, lease, mortgage, and convey the same. Any funds required for purchase of a Unit at foreclosure shall be assessed as a Special Assessment, subject to all of the requirements in Article IX, Section 4 hereof. With respect to any Residential Unit owned by the Association following foreclosure: (1) no right to vote shall be exercised on behalf of the foreclosed Residential Unit; (2) no Assessment shall be assessed or levied on the foreclosed Residential Unit; and (3) each other Residential Unit shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Residential Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may temporarily suspend the voting rights and rights to use all or portions of the Common Areas of a Member who is in default of payment of any Assessment or any installment payment thereof after notice and hearing.

Nothing in this Section shall preclude the Association from recording and enforcing its lien without exercising its rights arising from the foregoing trust conveyance.

Section 6. Capital Budget and Contribution. As noted in Article IX, Section 3, above, the Board of Directors shall annually prepare a Capital Budget that shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost (the "Capital Budget"). The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the Capital Budget, with respect both to amount and timing by Assessments over the period of the Budget. The capital contribution required shall be fixed by the Board and included within the Operating Budget and Assessment, as provided in Section 3 of this Article. The Capital Budget shall also provide for the establishment of separate reserve accounts to hold the proceeds of the Assessments imposed for capital expenditures such as those set forth in Article IV, Section 1(c). A copy of the Capital Budget shall be distributed to each member in the same manner as the Operating Budget.

Section 7. Certificate of Payment. The Board shall, upon request and for a reasonable charge not to exceed \$25.00, furnish to any Person a certificate, signed by an officer of the Association, setting forth whether or not all Assessments, whether General or Special, on a

specified Residential Unit or Special Use Parcel have been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 8. Start-up Assessment. Each Unit Owner who takes title to a Residential Unit shall pay to the Association at closing a start-up assessment fee equal to the lesser of (a) six (6) month's General Assessment or (b) an amount established by the Board from time to time (the "Start-up Assessment"). This one time Start-up Assessment shall be in addition to and not a prepayment of the regular Assessments provided for above, and shall be paid each time a Residential Unit is transferred. All receipts for Start-up Assessments shall first be applied to repayment of any Loans, and thereafter may be applied to the Budget, capital expenditures or to reserves.

Section 9. Transfer Assessment. The Board may establish an assessment to be paid by the purchaser of any Residential Unit within the Property on transfer or conveyance of such Lot from time to time (the "Transfer Assessment"). The amount of such Transfer Assessment shall be established by the Board from time to time, but may not exceed the amount of the then applicable Start-Up Assessment, or if no Start-Up Assessment has been established, the amount that could be imposed under Section 8 above. The Transfer Assessment shall not be due on any closing of a Lot in which the Start-Up Assessment is paid. All receipts for Transfer Assessments shall first be applied to repayment of any Loans, and thereafter may be applied to the Budget or to reserves.

Section 10. Administrative Fee. In addition to the Transfer Assessment, the Board may establish an administrative fee that the purchaser of any Lot within the Property shall be obligated to pay. The purpose of the Administrative Fee is to pay for the administrative actions of the Association or its agent resulting from the change in Lot ownership.

## ARTICLE X CONSTRUCTION AND ARCHITECTURAL STANDARDS

Section 1. Construction Standards. Owners, including Builders, shall construct all Residential Units and improvements in accordance with plans and specifications approved by the City of Franklin, Tennessee (the "City"). Further, no Person shall construct any Residential Unit or other improvements upon a Unit, or after completion of such Residential Unit or other improvements, make any modifications, additions or alterations to the exterior of such Residential Unit or any structure thereon or improvement thereto, without the prior written approval of the Design Review Committee (as defined below). In the event the Design Review Committee fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after proper and complete submission, the plans shall be deemed approved. In no event shall the Design Review Committee approve or be deemed to have approved, by affirmative action or by failure to act within the 45-day period set forth above, any plans violating the use restrictions set forth in Article XI below or the architectural covenants that have been submitted to and approved by the City as set forth below (the "City Requirements").

Section 2. Design Review Committee. The Declarant or Board, as applicable, shall designate a site and architectural review board (the "Design Review Committee") consisting of at least three (3), but not more than five (5), persons, one of which may be an architect selected by Declarant who has demonstrated a sound understanding of traditional, residential forms of design (a "Qualified Architect"), to exercise the Board's authority under this Article. The Design Review Committee may promulgate from time to time detailed standards and procedures in implementing the requirements of this Article, which would be in addition to and not in lieu of the procedures and standards set forth in this Article and the Design Code. So long as Declarant owns any land within the Development or subject to this Declaration, the Declarant may select the membership of the Design Review Committee. Thereafter, the Board shall select the membership of the Design Review Committee. This Article shall be effective, and may not be amended without the prior written consent of Declarant, so long as Declarant owns any land subject to this Declaration or subject to annexation by this Declaration.

Section 3. Construction Subject to Review.

(a) Review of Plans. Prior to commencement of any type of construction, except for the initial construction of a Unit on a Lot having been approved by the Declarant, the Design Review Committee must review and approve in writing construction plans and specifications for all improvements on any Lot within the Property. No construction on any Lot shall begin and no improvements on any Lot shall be modified except in accordance with an approved plan. Once a plan is approved, any modification to that plan, or any modification to the finished improvement, must also be reviewed and approved.

(b) Common Area. Construction of any improvement upon the Common Area (other than initial construction by the Declarant), or modification of any existing structure, as well as any material alteration of the landscaping or topography of any Common Area, must be approved in advance by the Design Review Committee.

(c) Scope. The Design Code shall set standards for all aspects or improvement on any Lot visible from the outside, including without limitation the size and shape of the building, its roof, windows, doors, porches and other components, placement on the Lot, fences, drainage, paving and landscaping and all finish materials. The Design Code may also regulate the type, placement and number of Residential Units that may be constructed on a Lot and the uses to which those Units may be put. Review shall include materials and color selection and selection and placement of any ornamentation or functional accessories, including, but not limited to, the following:

- (i) Materials and color selection for the Unit (including roof, doors, windows and trim);
- (ii) Driveways, walks, patios and other ground surface materials;
- (iii) Antennas, satellite dishes or receivers or other devices that are visible from outside the Lot;

- (iv) Privacy walls or other fences and gates;
- (v) Awnings, flower boxes, shelves, statues, or other outdoor ornamentations, and window coverings visible through the window;
- (vi) Signage of any type;
- (vii) Grills or fire pits; and
- (viii) Permanent or semi-permanent play equipment, whether or not secured, such as tree houses, trampolines, basketball hoops, skateboard ramps and swing sets.

The listing of an above category does not imply that such construction is permitted.

(d) Exception. Interior construction and modifications not affecting the external structure or appearance of any Unit and not visible from the exterior are not subject to review. However, construction drawings are required as part of the review process to assist in interpreting the design and must be submitted to the Design Review Committee for its preconstruction and written confirmation of compliance with this subsection (d).

(e) Trees and Hedges. An Owner(s) may be required to plant street trees and hedges on their Lot or within Common Areas or public rights-of-way adjacent to their Lot, in accordance with the direction and specifications of the Design Review Committee, which direction and specifications shall be binding upon the subject Owner(s) without the right of appeal, to maintain street trees and hedges, and to replace street trees or hedge plants that die or that become damaged or diseased, or the Association may take such actions for the benefit of Owners, the cost of which will be part of the Assessments. The cutting, removal or intentional damage of new or existing trees or hedges (including neglect, excessive pruning or failure to use due care with equipment or when removing other trees permitted to be removed) shall be strictly regulated. The Design Review Committee may require the relocation and replanting of trees or hedges that must be removed for construction. If particularly significant trees are found within the building setback lines, the Design Review Committee shall determine whether the placement of any improvement or building on a Lot should be altered to accommodate the trees, or whether the trees may be removed. If trees, hedges or other growth block sidewalks or other areas, the Owner may be required by the Design Review Committee to prune, trim or remove such growth. The Association may also take action to keep sidewalks and other areas clear, including pruning, trimming and removal of limbs on trees within a Lot, and may enter any Lot for such purpose, the cost of which will be part of the Assessments.

(f) Drainage. All plans shall comply with and Owners shall be solely responsible for strict compliance with all applicable drainage, water conservation, erosion control and stormwater detention requirements. No alteration of existing grade or any

planting, fences or other improvements that alter the flow of water shall be permitted without the prior written and express consent of the Design Review Committee, which approval shall be for the exclusive benefit of the Declarant or Association, as applicable, and shall not remove or alter the responsibility of any Owner or any builder for compliance with such requirements. Notwithstanding any other provision of this Declaration, neither the Declarant nor the Association shall have the responsibility to ensure that drainage or grading of Lots is properly accomplished. Each Owner shall be solely responsible to ensure that grading and drainage of his/her Lot are in compliance with all applicable laws, codes, regulations and other requirements, including without limitation any easements for drainage, whether or not shown on any recorded plat.

(g) Modifications. Modifications of any improvement after completion of construction, or additions or changes to the approved plans during construction, must be reviewed and approved in advance and in writing by the Design Review Committee. However, review is not required to paint with originally approved materials and colors, or to replace the roof or other components with duplicates of the original material. Significant new landscaping, grading and any removal of trees or plants must be similarly approved in advance by the Design Review Committee.

#### Section 4. Review Procedure.

(a) Application. The plans and specifications to be submitted for approval shall be to scale and shall include (i) the construction plans and specifications, including all materials and colors, (ii) elevations of all proposed improvements (iii) proposed clearing, grading and landscaping, and (iv) all other items required by the Design Review Committee in its sole and absolute discretion. Plans and specifications for review shall be submitted in the form and content required by the Design Review Committee and at the discretion of the Design Review Committee be prepared and sealed, at the expense of the Owner, by an architect having acceptable experience in the judgment of the Design Review Committee with such design and specifications.

(b) Uniform Procedures. The Design Review Committee may establish forms and procedures for the review of applications, including review costs and fees, if any, to be paid by the applicant, which may include costs for the Qualified Architect. The Design Review Committee may provide lists of approved materials and may allow for staff review and approval of routine or minor matters.

(c) Basis for Decision. Applications shall be approved or denied based upon overall quality of design, including purely aesthetic considerations, at the sole discretion of the Design Review Committee. If the Design Review Committee rejects an application due to overall design quality or aesthetic considerations, despite compliance with the Design Code, the Design Review Committee may make suggestions for improving the design.

(d) Variances. The Design Review Committee in its sole discretion may grant approval notwithstanding normal guidelines based on existing topographical or landscape conditions, existing trees, or architectural merit. Any such variance must be in writing. Approval of a variance does not constitute a precedent for other applications, and such requests may be arbitrarily denied.

(e) Notification; Construction; Inspection. The Design Review Committee shall make best efforts to notify the applicant of its decision within the time allowances set out in this Article or in its design approval process guidelines. However, a delay in reviewing an application shall not be deemed consent to commence construction. Only in the event of actual written approval by the Design Review Committee having been given may construction of the improvements begin. All construction must strictly comply with the submitted plans and specifications. The Design Review Committee or its agent may inspect the Lot and the improvements prior to and during construction, but has no obligation to make any such inspection. Any inspection made by the Design Review Committee or its agent is made for the benefit of the Design Review Committee or Declarant, and is not made for the benefit of or to be relied upon by any third party or Owner for any purpose whatsoever.

(f) Completion. When the improvements having been approved by the Design Review Committee, including any landscaping are completed in substantial compliance with the approved plans and specifications, the Design Review Committee shall issue a Certificate of Substantial Conformance. The Certificate shall describe any areas of deficiency that need to be corrected and a timetable for correcting the same. All Fines and other enforcement shall be waived so long as the deficiencies are corrected within sixty (60) days. Upon correction of all deficiencies, the Design Review Committee shall issue a Certificate of Completion and Release in recordable form.

(g) Governmental Compliance. Owners are responsible for making sure that construction conforms to governmental regulations and all local building codes. If the Design Review Committee notes noncompliance, the Owner will be required to make the necessary changes. However, the Design Review Committee is not responsible for compliance with governmental requirements.

#### Section 5. Approval of Architects, Builders.

(a) Architects. Architects, including landscape architects, must be approved by Declarant and the Design Review Committee before submitting plans and specifications. Approval shall be based on quality of past work, client satisfaction and understanding of and willingness to work within the guidance provided herein.

(b) Builders. Builders must be approved by the Declarant or by the Design Review Committee before the commencement of construction of any building or improvement on a Lot or in the Development. Approval shall be based on experience and willingness to build in accordance with approved plans and specifications, quality of past work, client satisfaction, financial history and the execution of a Master Builder Contract

or other agreement prepared by Declarant or the Design Review Committee. Builders must agree to comply with construction regulations, to dispose of construction debris properly and to build in accordance with the approved plans and specifications. Builders may be required to post a deposit for compliance and damages. Failure to comply may result in Fines upon the Owner of the Lot and/or Unit, forfeiture of the deposit and revocation of the right to build in the Development.

Section 6. Enforcement.

(a) Fines. The Design Review Committee may impose monetary fines upon either the Owner or the Builder for failing to strictly comply and perform in accordance with the approvals having been granted pursuant to the provisions of this Article or failing to strictly comply with the terms and conditions set forth in this Article. In this regard, the Design Review Committee may in its sole discretion require the Builder or Owner to post a deposit with the Design Review Committee prior to the commencement of any construction permitted by this Article from which the Design Review Committee may deduct Fines for failure to comply with the approved plans and specifications, tree regulations and rules for Builder conduct. The collection of a Fine shall not in any way diminish or restrict any other remedies available at law or equity.

(b) Suit Permitted. If any construction is begun that has not been approved or that deviates from approved plans and specifications, the Design Review Committee, the Declarant or the Association may require the Owner to resolve the dispute through binding arbitration or may bring suit seeking damages, specific performance, declaratory decree and/or injunction, or any other remedy at law or in equity. The Board shall be empowered to bring suits on behalf of the Association. If suit is brought and the court finds that the construction was not approved or that the construction deviated from the approved plans or specifications, then the party bringing suit shall also be awarded reasonable attorney's fees, even if the relief requested is not granted.

(c) Trees and Hedges. Improper cutting, removal, lack of care or intentional damage to existing trees and hedges may be subject to the imposition of Fines, plus a requirement that the tree be replaced with an approved species of comparable caliper, or, if approved by the Design Review Committee, a combination of trees totaling the caliper of the removed tree, or that hedges be replaced with an approved hedge plant. Fines shall be set by the Design Review Committee.

(d) Drainage. After reasonable notice (except in an emergency), the Declarant or the Association shall have the right but not the obligation to enter onto a Lot and correct changes in grading, improper grading or other modification to the Lot, which causes or is anticipated to cause drainage problems. Such corrections shall be made at the cost and expense of the Owner of the Lot, who shall promptly reimburse the Declarant or the Association, as applicable. The Lot shall be subject to a lien for the cost if not paid. The Declarant or the Association, as applicable, shall not be required to repair or replace landscaping or other improvements after such action.



(e) No Waiver. Failure to enforce any provision of this Declaration shall not be deemed a waiver of the right to do so at any time thereafter.

Section 7. Liability. The Design Review Committee and its representatives, agents and inspectors are concerned primarily with aesthetic considerations, and are not responsible for compliance with governmental requirements or design or construction defects or use of materials affecting the safety or structural integrity of the building or improvement. Approval by the Design Review Committee of an application shall not constitute a basis for any liability of the Qualified Architect, Declarant or members of the Design Review Committee, the Directors or the Association for failure of the plans to conform to any applicable building codes or inadequacy or deficiency in the plans resulting in defects in the improvements, or for the performance or quality of work of any builder or architect approved by it, or for non-compatible or unstable soil conditions or soil erosion, or any other condition of the property.

Section 8. Satellite Dish and Antenna Installation. Satellite Dishes and Antennas are specifically and expressly prohibited from being installed or maintained upon a Lot, in or upon a Residential Unit or within the Common Area. In the event the Association shall elect by proper vote of its Members to permit the installation and maintenance of a satellite dish or an antenna upon a Lot, in or upon a Residential Unit or within the Common Area, or in the event any part or provision of this Article X, Section 8 shall be judged unlawful or unenforceable under Tennessee law or the rule adopted by The Federal Communications Commission (the "FCC") at Title 47 of the Code of Federal Regulations, Section 1.4000 (the "FCC Rule") limiting or preempting certain association restrictions on the installation, maintenance and use of certain antennas for direct broadcast satellite service, local television broadcast, multipoint distribution service and fixed wireless signals via satellite, as may be amended or replaced from time to time, the provisions of this Article X, Section 8 shall govern the installation of satellite dishes and antennas within the Development:

(a) Antenna Size and Type.

(i) Prohibited Antennas. All antennas that are not specifically included within the definition of Exempt Antenna set forth above in Article I are prohibited, including without limitation any antenna that receives or transmits signals not included in the definition of DBS, FWS or DMS or television broadcast signals.

(ii) Antennas. Subject to the guidelines and restrictions set forth in the Design Code and elsewhere in this Declaration and this Article X, as may be amended from time to time, an Exempt Antenna may be installed on or within Residential Units.

(iii) Antennas that Transmit Signals. All antennas that are capable of transmitting signals, including FWS antennas, must be labeled to provide notice of radio frequency (RF) safety hazards and reference the applicable FCC-adopted limits on RF exposure; in addition, all such antennas must be professionally installed.

(b) Location.

(i) Notification. Before or upon installation of an Exempt Antenna, Owners are required to notify the Design Review Committee in writing of the type of Exempt Antenna, the manner of installation and the placement on the Residential Unit, provided, however, that no notification shall be required for installation of any antenna or Exempt Antenna located within the interior of a Residential Unit. Notification shall include provision of the brochure referenced in Article X, Section 8(c)(v) of this Declaration.

(ii) Compliance by Owner. Owners are required to comply with this Declaration and the direction of the Design Review Committee as to the placement of the Exempt Antenna unless such placement unreasonably delays the Exempt Antenna's installation, unreasonably increases the cost of its installation, maintenance or use, or prevents the Owner from obtaining an acceptable quality signal.

(iii) Preferred Locations. Any Exempt Antenna shall be installed in locations in the following order of preference:

(1) If acceptable quality signals can be received by placing Exempt Antennas inside a Residential Unit without unreasonable delay or unreasonable cost increase, then outdoor installation is prohibited.

(2) Exempt Antennas must be installed solely within the boundaries of the Residential Unit, not including any Common Area or other area of non-exclusive control, including without limitation any area subject to a Use Easement or other restrictions for the benefit of an adjacent Residential Unit or the Association as designated on the recorded deed, recorded plat or any applicable declaration.

(3) Exempt Antennas shall be located in a place shielded from view from other Residential Units to the maximum extent possible; provided, however, that nothing in this rule would require installation in an area where an acceptable quality signal cannot be received. This section does not permit installation on Common Areas or on a Lot not owned by the Owner via easement, agreement or otherwise, even if an acceptable quality signal cannot be received from an individually-owned Lot.

(c) Safety Requirements.

(i) Mast Height. The installation of any Exempt Antenna on a mast greater than twelve (12) feet in height shall require the prior written approval of the Design Review Committee.

(ii) Manufacturer Instructions. Exempt Antennas shall be installed and secured in a manner that complies with all applicable manufacturer's instructions.

(iii) Distances from Hazards. Exempt Antennas shall not be placed within twenty-five (25) feet, or such greater distance as may be required by applicable law, statute, ordinance or easement requirement, of power lines (above-ground or buried) and in no event shall Exempt Antennas be placed where they may come into contact with electrical power lines. The purpose of this requirement is to prevent injury or damage resulting from contact with power lines.

(iv) Grounding. In order to prevent electrical and fire damage, Exempt Antennas shall be permanently and effectively grounded.

(v) Windloading. Exempt Antennas and masts are required to withstand winds of at least fifty (50) mph as established by the manufacturer's installation and specification brochure, to be provided with the notification given pursuant to Article X, Section 8(b)(i) above.

(vi) Visibility. Exempt Antennas may not obstruct a driver's view of an intersection or street.

(d) Special Provisions Concerning Masts.

(i) Height. Mast height may be no higher than absolutely necessary to receive acceptable quality signals.

(ii) Tall Masts. Masts extending twelve (12) feet or less beyond the roofline may be installed, subject to the regular notification process. Masts extending more than twelve (12) feet above the roofline ("Tall Masts") must be pre-approved by the Association due to safety concerns posed by wind loads and the risk of falling antennas and masts. Applications for a Tall Mast must include a detailed description of the structure and anchorage of the Exempt Antenna and the mast, as well as an explanation of the need for a Tall Mast. If this installation will pose a safety hazard to Association residents, personnel and or property, then the Association may prohibit such installation. The notice of rejection shall specify these safety risks.

(iii) Professional Installation. All masts must be installed by licensed and insured contractors.

(iv) Painting. Masts must be painted the appropriate color to match the surroundings.

(v) Location on Roof. Masts installed on a roof shall not be installed nearer to the Lot line than the total height of the mast and antenna structure.

(vi) Electric Lines. Masts shall not be installed nearer to electric power lines than the total height of the mast and antenna structure above the roof. The purpose of this regulation is to avoid damage to electric power lines if the mast should fall in a storm.

(vii) Other Property. Masts shall not encroach upon another Owner's Lot, a Use Easement, or any Common Area.

(e) Aesthetic Requirements.

(i) Extension Beyond Structures. Exempt Antennas or masts may not extend above a roof line or beyond a railing or fence unless no acceptable quality signal may be received from this location.

(ii) Ground Locations. Exempt Antennas situated on the ground and visible from the street or from other Lots must be camouflaged by existing landscaping or fencing, if an acceptable quality signal may be received from such placement. If no such existing landscaping or screening exists, the Association may require Exempt Antennas to be screened by new landscaping or screening of reasonable cost.

(iii) Painting. Antennas, masts, and any visible wiring must be painted to match the color of the structure on which it is installed.

(f) Enforcement. In addition to any other right of enforcement set forth in the Declaration or By-Laws, the Association shall have the right to file a petition with the Federal Communications Commission. If the Association believes these rules are violated, the Association may bring an action for declaratory relief with the FCC or any court of competent jurisdiction after notice and an opportunity to be heard. If the court or FCC determines that the Association rule is enforceable, a Fine may be imposed pursuant to the Declaration. To the extent permitted by law, the Association shall be entitled to reasonable attorney fees, costs, and expenses incurred in the enforcement of this policy. Pending the final and non-appealable resolution of any proceeding or action filed by the Association, the installation of any Exempt Antenna or related improvement shall not commence or shall be suspended.

(g) Separateness. In the event that any part of provision of this Article X, Section 8 shall be judged unlawful or unenforceable under Tennessee law or the FCC Rule, the remainder of this Resolution shall nonetheless survive and remain in full force and effect.

**ARTICLE XI  
USE RESTRICTIONS**

Section 1. Use Restrictions. In addition to all other covenants contained herein, the use of the Property is subject to the following:

(a) Residential Use. Except as otherwise provided in this Declaration, including Section 1 (p) of this Article, each Residential Unit shall be used as a residence and for no other purposes, and there shall not be constructed or maintained upon any Residential Unit more than one single-family residence. Except as otherwise provided in this Declaration, the Common Area shall be used for recreational, social and other purposes directly related to the single-family use of the Residential Units authorized hereunder.

(b) Maintenance of Exterior and Interior. Except as provided in Article IV, Section 1, each Owner shall be responsible for the maintenance of, and shall maintain, the exterior and interior of his/her Residential Unit, including interior walls, exterior and interior windows, glass, ceilings, floors, doors, windows, and permanent fixtures and appurtenances thereto, in a clean, sanitary, and attractive condition.

(c) Maintenance of Residential Unit. Except as provided in Article IV, Section 1, each Owner shall (1) keep his/her Residential Unit and Lot free from rubbish, litter, and noxious weeds; (2) maintain, cultivate, and keep in good condition and repair shrubs, trees, grass, lawns, plantings, and other landscaping located, or from time to time placed, within the bounds of its Residential Unit; and (3) replace dead plants, shrubs, trees, grass, or landscaping of the same or similar type. If any irrigation system is in place on any Residential Unit or Lot, the Association may require that the Owner maintain such irrigation system and keep such system in use to the extent required to keep, maintain and preserve a healthy lawn and landscaping.

(d) Association to Landscape Common Area. Except as otherwise provided herein, the Association shall have the right and the obligation at any time to plant, replace, maintain, and cultivate shrubs, trees, grass, plantings, and other landscaping upon the Common Area located on the Property, and, subject to the conditions stated below, on all or any portion of a Residential Unit or Lot maintained by the Association under Article IV, Section 1. No Owner shall remove, alter, or injure in any way any shrubs, trees, grass, plants or other landscaping placed upon or about a Residential Unit or Lot by Declarant or the Association, without first obtaining the written consent of the Board.

(e) Signs and Billboards; Exterior Lights. No sign or billboard of any kind shall be displayed to the public view on any Residential Unit, Lot or portion of the Common Area, except for (1) directional or informational signs, established by Declarant or the Association, (2) signs used by Declarant, or by its successors or assigns, to advertise the Property, provided such signs are located on the Common Area or on Residential Units or Lots owned by Declarant, and (3) signs erected by an Owner upon that Owner's Lot to advertise the sale of the Unit on such Lot, provided that the Board may establish or require

a common signage system and verbiage for such purposes and such system and verbiage shall prevail over the general provisions of this subsection, and in this regard, all such signs shall be purchased from a vendor designated at the sole discretion of the Design Review Committee. Except for Units owned by the Declarant and serving as a model home, no floodlights, directional lights or lights that cast illumination on the exterior of the Owner's Lot shall be permitted on any Lot or Residential Unit.

(f) Holiday Decorations. Holiday decorations within and on the exterior of Residential Units and on Lots are permitted, subject to the following: (i) no decoration that includes lights or sound may constitute a nuisance or undue interference with the quiet enjoyment of neighbors, as determined by the Board or the managing agent on behalf of the Board, in their respective sole discretion. In making such determination, the Board may reasonably consider such factors as sound level, flashing or strobe lighting effects, and the offensive nature of decorations to a reasonable person (by way of example, particularly graphic Halloween decorations); (ii) no display with illumination or sound may remain on past 9:00 p.m. or such other time limit as may be established by the Board from time to time; and (iii) no decoration shall remain on display or be visible from the exterior of the Residential Unit, whether illuminated or not, for more than five (5) days after the holiday being celebrated. The Board shall have the authority in its sole discretion to modify such times and dates.

(g) Quiet Enjoyment. No noxious, offensive or illegal activity shall be carried on, in or upon any Residential Unit, Lot or any part of the Property, nor shall anything be done thereon that may be or may become an annoyance or nuisance to the neighborhood, that shall interfere in any way with any Owner's quiet enjoyment of his/her respective Residential Unit and Lot, or that shall increase the rate of insurance in any way.

(h) Temporary Structures. No structure of a temporary character or other out-building shall be used on any Residential Unit, Lot or the Common Area at any time as a residence or otherwise, either temporarily or permanently. Notwithstanding the foregoing, Declarant or its agents shall have the right to conduct any business or activity necessary for the construction or sale of Residential Units, including maintaining and showing model Units and maintaining a sales and/or construction office on the Common Area or in any Residential Unit or Lot owned by Declarant. In furtherance thereof, Declarant shall have an easement over all of the Common Area for ingress, egress and parking for itself, its agents, employees, and prospective buyers of Residential Units for so long as Declarant or any subsidiary or affiliated company owns any interest in the Property, and Declarant may block or restrict access over and across Common Areas and roadways, so long as access to a particular Unit owned by a Person other than Declarant is not prohibited.

(i) Animals. No animals, reptiles, rodents, livestock, birds, or poultry of any kind shall be raised, bred or kept in or on any Residential Units or Lot, except that a maximum total of two dogs, cats or such other household pets approved by the Association (or a combination thereof not to exceed a total of two pets) may be kept in a Residential Unit or on a Lot, provided such pets are not kept, bred or maintained for any commercial purposes. Notwithstanding the foregoing, no household animal may be kept in

or about any Residential Unit or Lot if such keeping results in an annoyance, which term shall include, but not be limited to, consistent loud barking that disturbs or interrupts the quality of life of others, or is obnoxious or threatening to residents in the vicinity, as determined by the Board in its sole and absolute discretion. In any event, each Owner shall be absolutely liable to all remaining Owners, their families, guests, invitees and tenants and to the Association for any and all damage to person or property caused by any pets brought or kept in or upon any Residential Unit, Lot or on the Common Area by any Owner or by members of its family, guests or invitees. Each Owner shall be responsible for cleaning up after his/her pet. Under no circumstance or situation shall a pet may be off-leash when not within the Owner's Lot, except to the extent that the Association maintains designated off-leash areas, if any. The Board shall determine conclusively, in its sole and absolute discretion, whether, for the purpose of this subparagraph (i), an animal is appropriately considered as a household pet or not, and whether any household pet is a nuisance or threatening and therefore to be removed, at the expense of the violating Owner, from the Property. The Board may permit variances to the restrictions set forth in this subsection in the Board's sole discretion; provided only that the Board treat similarly situated Owners in a similar manner. The Board may further establish rules and regulations for control of animals and household pets, and may impose Fines for violations in addition to requiring removal of animals from the Development.

(j) Garage and Driveways. Every Unit constructed on a Lot shall contain a garage of sufficient size to hold at least one (1) standard size automobile. Every garage door shall be equipped with a remote-controlled garage door opener, and every garage door shall be kept closed, except when the garage is being entered or exited. All driveways shall be paved with a hard-surfaced material in accordance with the Design Code.

(k) Vehicles. No truck, trailer, camper, boat, van or similar equipment or disabled car shall be permitted to remain upon or within the Common Area unless on a space designated for such use by the Association. Likewise, no truck, trailer, camper, boat, van or similar equipment or disabled car may be stored or permitted to remain upon a Lot or any portion of the Common Area for more than forty-eight (48) hours unless stored in an enclosed garage.

(l) Exterior Structures. No fences, ornamental screens, awnings, screen doors, sunshades, walls, or hedges shall be erected or permitted upon the Property, any Lot or upon a Unit, except such as are installed in accordance with the initial construction of the improvements or approved by the Association as provided in Article X. No building, including out-buildings, patios, fences, and porches, shall be removed from, erected on, placed or altered on any Residential Unit, on any Lot or any portion of the Common Area, until the construction plans and specifications and a plan showing the exact location of the structure or improvements have been approved in writing by the Design Review Committee with respect to quality of workmanship and materials, harmony of external design with existing structure or structures, and location as provided in Article X. Any alteration in the exterior color of any structural improvement shall likewise be subject to the prior approval of the Design Review Committee or the Association. The prohibitions set forth herein shall not apply to Declarant.

(m) Garbage Collection. All rubbish, trash, and garbage shall be removed from the Unit, the Lot and the Property regularly and shall not be allowed to accumulate thereon. All refuse containers, clothes lines, woodpiles, storage areas, machinery, or equipment shall be kept in such a manner as not to be visible from neighboring property, the Common Area or contiguous streets. No incinerators shall be kept or maintained on any Residential Unit or Lot. Refuse containers placed outside for trash pickup shall be returned to non-visible areas no later than the end of the day on which pickup is made.

(n) Taxes and Utilities. Each Owner shall pay any real and personal property taxes or charges assessed against his/her respective Residential Unit and the utility charges for said Residential Unit.

(o) Infections, Plant Diseases or Insects. No Owner shall permit anything or condition to exist upon any portion of his/her Residential Unit or Lot that shall induce, breed, or harbor infections, plant diseases, vermin or noxious insects. The Association may, but shall not be required to, as it deems appropriate from time to time, as a Common Expense, and even though not a part of the Commons Area, cause the exterior of a Unit to be inspected and/or treated for termites and other invasive insects.

(p) Reasonable Inspection and Entry. The Board shall have the right of inspection and entry onto Lots in order to perform the duties and obligations of the Board under this Declaration and under the Bylaws. In addition, the Declarant, the Association, and their designees shall have the right to enter upon a Unit and a Lot for the purpose of cutting grass, hedges and shrubbery and providing maintenance required and/or permitted by this Declaration, as may be amended, or as otherwise agreed upon with the Owner thereof.

(q) Trade or Business. Subject to more restrictive provisions of all governing zoning ordinances and regulations of the City of Franklin, no gainful profession, occupation, trade or other nonresidential use shall be conducted in any Residential Unit or upon a Lot or the Common Area or any portion thereof without the prior approval of the Board. The Board may disapprove any such trade or business in the event that it determines that the trade or business would have a negative impact on the Property, including, without limitation, creating problems related to traffic, parking or security. In determining whether to approve any such trade or business, the Board shall be provided with detailed information on (i) the type of trade or business, (ii) the activities related thereto that could potentially affect the Property and (iii) any other matter deemed relevant by the Board in its sole discretion. In the event that the Board approves a certain trade or business (the "Approved Use"), then so long as the activities related to that Approved Use do not in the Board's sole judgment, materially change from the activities having been previously described to and approved by the Board, the Board (whether or not the composition of the Board changes) shall not have the right to disapprove the Approved Use after the date of the original approval.



(r) Compliance with Law. The Association and each Owner shall comply promptly with all laws, statutes, ordinances, rules and regulations of federal, state or municipal governments or authorities applicable to use, occupancy, construction and maintenance of any improvements upon the Residential Units and Lots.

(s) Damage from Plants. No Owner shall permit any plant, tree, shrubbery or other similar item to exist upon any portion of such Owner's Residential Unit or Lot that shall damage or create a nuisance on another Residential Unit or Lot or that has not been approved by the Design Review Committee. The Board shall determine conclusively, in its sole and absolute discretion, whether, for the purpose of this paragraph, a particular plant, tree, shrubbery, or other similar item is a nuisance and therefore shall be removed at the expense of the Owner from a Unit or Lot.

(t) Drapes. Any drapes, blinds or window treatments in any Residential Unit, which can be seen from the exterior of a Residential Unit, shall be lined or backed with material which is white, off-white or neutral so that no other color other than these can be seen on the window treatment from the exterior, except as may be approved by the Design Review Committee.

(u) Wells. No private wells may be drilled or maintained on any Lot without the prior written consent of the Design Review Committee.

(v) Laundry. Without the express permission of the Design Review Committee, no Owner, guest, or tenant, shall hang or display laundry from any area within or outside a Residential Unit or Lot if such laundry is within the view of the public, another Unit, another Lot, a contiguous street or parking area or the Common Area.

(w) Firearms. Discharge of firearms is prohibited; provided, the Board shall have no obligation to take action to prevent or stop such discharge.

(x) Leases. Recognizing that the purposes of this Declaration may be frustrated by the presence of non-Owner occupied Residential Units, the Association expressly reserves the right, from time to time, to regulate the term of leases, require an Owner to occupy a Residential Unit for a set period or percentage of time or establish other rules and regulations that encourage Owner occupancy of Residential Units. Notwithstanding the above or any rules and regulations established by the Association, no Unit shall be leased for a lease term of less of one (1) year.

(y) Partial Leasing of a Unit. The leasing of less than the entire Unit to a single user is prohibited.

(z) Miscellaneous Prohibited Uses. Notwithstanding anything stated elsewhere in this Declaration to the contrary, the following are prohibited on any Lot and Unit:

(i) Permanent or semi-permanent play equipment, whether or not secured, such as tree houses, trampolines, basketball hoops, skateboard ramps and swing sets;

(ii) Solar panels;

(iii) Antennas, satellite dishes or receivers or other related devices on the front of the Lot or Unit;

(iv) Construction trailers or other trailers, temporary structures, tents, shacks and sheds; or

(v) Permanent or semi-permanent play equipment, whether or not secured, such as tree houses, trampolines, basketball goals, skateboard ramps and swing sets.

Section 2. Restrictions on Unit Resale.

(a) Restriction; Purpose. To allow for community development and to discourage speculation that results in empty lots, the Owner of a Lot must substantially complete construction of a primary building on the Lot, in accordance with plans and specifications approved by the Design Review Committee, within a limited period of time (the "Construction Period") as described in Section 3, unless the deed or other recorded instrument from the Declarant releases or modifies the restriction as to that Lot. Notwithstanding the foregoing, each contract for sale of a Lot may provide specific periods for required completion of architectural review and construction. Such provisions, if included in any contract, shall be controlling as set forth therein.

(b) Completion. A primary building shall be considered substantially complete when it has received a Certificate of Substantial Conformance as described in Article X, Section 4(f), and receives either a temporary or permanent certificate of occupancy from the City of Franklin.

(c) Holder of Rights. The right to enforce the provisions set forth in this Section 2 is held originally by the Declarant, who may assign these rights on a non-exclusive basis at any time to the Design Review Committee or to the applicable Association or management entity, each of whom may thereafter reassign such rights to such persons. The time limit for construction does not apply to any Lots held by the Declarant or any entity related to or affiliated with Declarant. At the end of the Declarant Control Period all of the Declarant's rights under this Section shall be automatically assigned to the Association.

Section 3. Architectural Review; Time Limit. Unless otherwise specified in the purchase contract, deed or other recorded instrument from the Declarant, each Owner shall:

- (a) Submit initial plans and begin the architectural review process within three (3) months from the closing date of the purchase of the Lot;
- (b) Begin construction of a primary building on the Lot, in accordance with approved plans and specifications, within twelve (12) months from the sale closing date (the "Construction Start Date");
- (c) Diligently pursue construction once construction has begun; and
- (d) Substantially complete the building, including landscaping, within nine (9) months from the Construction Start Date (the "Required Completion Date").

Failure to make significant progress during any thirty-day period shall be considered a failure to diligently pursue construction under (c). The time periods in (b) and (d) shall be extended for casualty, extreme material shortages, extreme weather conditions or other significant matters beyond the builder's control.

Section 4. Enforcement. If Owner fails to comply with the requirements of Section 3 above or if Owner deviates from the approved plans and specifications and fails, after reasonable notice, to correct the deviation, then, in addition to any contractual remedy, Declarant shall have the following options:

(a) The right, but not the obligation, to repurchase the Lot for a total purchase price equal to the amount paid by Owner to Declarant or any related entity for the purchase of the Lot or the current fair market value of the Lot, whichever is less, plus the cost or fair market value, whichever is less, of any improvements made in accordance with plans approved by the Design Review Committee. Any mortgage or lien on the Lot, all closing costs for the repurchase and a resale fee of ten percent (10%) shall be deducted from the amount required to be paid to Owner by Declarant.

(b) The right to receive the difference between the amount paid by Owner to Declarant (increased by the cost or fair market value, whichever is less, of any improvements made in accordance with plans approved by the Design Review Committee) and the resale price of the Lot. Such amount will be both the personal obligation of the Owner under this agreement and a lien on the Lot.

Unless Owner has obtained a Certificate of Completion and Release, and except as provided in Section 5 below, Declarant may exercise its rights against Owner at any time before the Required Completion Date or within two (2) years after the Required Completion Date. Declarant may preserve its enforcement rights by recording, within two (2) years after the Required Completion Date, a lien or other notice of its intent to exercise its rights. Declarant may assign any or all of its rights under this Article XI, Section 4, and may exercise any of its rights through an assignee or other designee.

Section 5.     Subordination to Mortgage.

(a)     Effect. Declarant and any designee or assignee of Declarant's rights under Section 4 agrees to subordinate its right of repurchase to the first mortgage or deed of trust liens of an institutional Mortgagee (specifically including, but without limitation, Fannie Mae and any bank, savings and loan association or insurance company) under the terms of this section, which shall be effective whether or not noted in the deed. Any other Mortgagee in granting a mortgage or other lien will be subject to this right of repurchase and agrees to these terms. Except as described in this section, the right of repurchase by Declarant or its applicable designee or assignee shall not be subordinate to any other encumbrances.

(b)     Subject To Mortgage. Notwithstanding the foregoing subordination provisions, if Declarant exercises its right of repurchase while Mortgagee's mortgage or other lien encumbers the Lot, Declarant shall take the Lot subject to the mortgage or other lien, and Mortgagee in granting a mortgage or other lien subject to this right of repurchase agrees to allow Declarant or its applicable designee or assignee to repurchase the Lot subject to the mortgage or such other lien, and such conveyance shall not constitute an event of default under such mortgage or deed of trust.

(c)     Mortgage Foreclosure. If Mortgagee seeks to foreclose the lien of its mortgage or other lien or accepts a deed in lieu of foreclosure before the Required Completion Date or within two (2) years thereafter and Declarant has not provided a release and satisfaction of its rights as provided in Section 4, Declarant shall be notified of the foreclosure action or conveyance and Declarant shall be deemed one of the "parties interested" pursuant to T.C.A. § 35-5-104. Declarant's rights of enforcement under Section 5 shall not be extinguished by foreclosure or deed in lieu of foreclosure but shall continue as a restriction on the Lot.

(d)     Extension. If Mortgagee has acquired title through a foreclosure or a deed in lieu, then Mortgagee may give notice to Declarant that it wishes to extend the Required Completion Date. Declarant shall be given thirty (30) days after such notice from Mortgagee in which to exercise a repurchase right by payment to Mortgagee of the amount obtained or bid by the Mortgagee in such foreclosure (or amount owed, for deed in lieu), plus interest at the stated rate of the note (not default rate) provided by the mortgage or deed of trust at the time of foreclosure or deed in lieu. Declarant may exercise such rights whether or not the conditions for default under Section 4 above are met at the time the notice is given. If Declarant does not exercise its repurchase right, then Declarant shall grant, in recordable form, an extension of the construction period provided in Section 3 above as follows:

(i)     If construction of the primary building has not begun, the date of the foreclosure or deed in lieu shall be considered the new closing date.

(ii) If construction of the primary building has begun, Mortgagee shall have a new Construction Start Date of six (6) months from the date of the foreclosure or deed in lieu, to allow Mortgagee to contract with a builder and to complete the architectural review process for any modifications to the approved plans and specifications. Mortgagee or Mortgagee's assignee must then diligently pursue construction and substantially complete the building, including landscaping, within a reasonable time, based on the amount of completion. The amount of time to complete construction shall not exceed the time which would have been allowed under Section 3(d) above, beginning from the new Construction Start Date.

(iii) During any period of extension, the Mortgagee shall comply with all the provisions of this Declaration and restrictions on the Lot, including without limitation keeping the Lot free of debris, mowed and otherwise in a neat condition.

Subject to the extended dates, Declarant's rights of enforcement under Section 5 shall continue as a restriction an encumbrance on the Lot.

Section 6. Resale Restriction. If Owner (including a lender who acquires title) has not constructed the primary building on the Lot in accordance with approved plans and specifications prior to reselling the Lot, the Lot shall remain subject to all restrictions and the foregoing right of repurchase. Except as modified under Section 5, the Plan Submittal Date, Construction Start Date and Completion Date shall continue to run from the closing date from Declarant or other grantor to the original Owner, not the resale.

Section 7. Additional Restrictions. The Board of Directors shall be entitled to invoke additional rules and regulations from time to time for the operation, use and maintenance of the Property, including the Units and the Common Area, provided such rules and regulations are not inconsistent with this Declaration.

## ARTICLE XII GENERAL PROVISIONS

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the owner of any of the Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded. After the initial thirty (30) year term has expired, the term of this Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by sixty-seven percent (67%) of the then Owners, has been recorded within the year preceding the beginning of each successive ten-year period, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 2. Amendment. Subject to the rights of the Declarant hereinafter set forth, this Declaration may be amended by a sixty-seven percent (67%) affirmative vote of the Members present at any duly called meeting, and the written approval of the Declarant during the Declarant Control Period. Any amendment shall not become effective until recorded in the Register's Office

of Williamson County, Tennessee. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. Prior to the conveyance of the first Lot, Declarant may unilaterally amend this Declaration for any purpose. After the conveyance of the first Lot, the Declarant may unilaterally amend this Declaration to correct typographical errors and to correct, contradictory and conflicting terms, conditions and provisions, and otherwise so long as such amendment does not conflict with any law, regulation or provision of the Federal Home Loan Mortgage Corporation or Federal National Mortgage Association.

Section 3. Indemnification. The Association shall indemnify its officers, directors, members and appointed/elected non-members against any and all expenses and liabilities, including attorney fees, reasonably incurred by or imposed upon any officer, director, member and appointed/elected non-member in connection with any action, suit, or other controversy or proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party, or may become involved, by reason of being or having been an officer or director of the Association or serving on the Design Review Committee or any other committee created by the Board. The officers, directors, members and appointed/elected non-members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors, members and appointed/elected non-members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer, director, member and appointed/elected non-member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, member and appointed/elected non-member or former officer, director, member and appointed/elected non-member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants and social invitees, subject to such rules and regulations as the Board of Directors may adopt.

Section 5. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Residential Unit, each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Residential Units and Lots, due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Declaration) to a distance of not more three (3) feet, as measured from any point on the common boundary between each Residential Unit or Lot and the adjacent portion of the Common Area or as between said adjacent Residential Units or Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant or the Association.

There also shall be reciprocal appurtenant easements of encroachment as between each Residential Unit and each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Residential Units or Lots, due to the placement or settling or shifting of roof overhangs, downspouts, gutters, eaves, foundations or fireplaces/chimneys constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than three (3) feet, as measured from any point on the common boundary between each Residential Unit or Lot and the adjacent portion of the Common Area or as between said adjacent Residential Units or Lots, as the case may be, along a line perpendicular to such boundary at such point.

In the event that any streets or roadways granting ingress or egress to a Residential Unit or Lot are included in the Common Area, all Owners of such Residential Units and Lots shall have a permanent easement for ingress and egress over such streets or roadways. Any conveyance or encumbrance of such streets or roadways shall be subject to such easement.

Section 6. Easements for Utilities. Etc.

(a) There is hereby reserved unto Declarant, so long as the Declarant owns any property intended for inclusion in the Development, the Association and the designees of each (which may include, without limitation, The City of Franklin and/or Williamson County, Tennessee, Milcrofton Utility District and any other utility), blanket easements upon, across, over, and under all of the Common Area and, to the extent shown on any plat, over the Units and Lots for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity.

(b) Declarant hereby reserves unto itself and the Association, or their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as set forth in this Declaration, Bylaws and Association rules, including, but not limited to, the right to enter upon a Lot or into a Residential Unit to access the public water provided to such Lot and Residential Unit in order to water and maintain the lawn, shrubbery and landscaping on such Lot and adjacent common area, such access and water usage shall be at the expense of the Lot/Unit Owner.

(c) Notwithstanding anything herein to the contrary, this Declaration and the conveyance of each Residential Unit and Lot shall be subject to all easements heretofore or hereafter granted by Declarant or by the Board for the installation and maintenance of utilities, roadways, Common Area improvements and landscaping and drainage facilities necessary for the development, maintenance and preservation of the Property.

(d) Whenever sanitary sewer connections, water connections, or electricity connections, data, television, gas or telephone lines are installed within the Property, which connections or any portion thereof lie in or upon the Common Area, the Residential Units or the Lots owned by Owners other than the Owners of the Residential Units served

by said connections, the Owner of each Residential Unit and Lot served by said connections shall have the right, and hereby is granted an easement to the full extent necessary therefor, to enter upon or have the utility companies enter upon the Residential Unit, Lot or Common Area upon which said connections, or any portion thereof, lie for the purpose of repairing, replacing and generally maintaining said connections as and when the same may be necessary.

(e) Whenever sanitary sewer connections, water connections, or electricity, data, television, gas, telephone lines and other utilities are installed within the Property, which connections serve more than one Residential Unit, the owner of each Residential Unit served by said connections shall be entitled to full use and enjoyment of such portions of said connections as serve his/her Residential Unit.

(f) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then upon the written request to the Association of any one of such Owners, the matter shall be submitted to the Board, which shall decide the dispute in its absolute and sole judgment, which decision shall not be appealable, and make a Special Assessment against any or all of the Owners involved, which Special Assessment shall be collected and enforced in the manner provided by Article IX of this Declaration.

(g) Each of the easements provided for in this Declaration shall be deemed established upon the recordation of this Declaration and thenceforth shall be deemed covenants running with the land for the use and benefit of the Residential Units, the Lots and the Common Area, as the case may be, superior to all other encumbrances applied against or in favor of any portion of the Property. In furtherance of the easements provided for in this Declaration, the individual deeds to Residential Units and Lots may, but shall not be required to, set forth said easements.

Section 7. Yard Easements. To allow for the most efficient use of a Lot, while complying with governmental setback requirements, and subject to the prior approval of the Board, a portion of a Lot along a Lot line may be subject to an easement for use by the adjoining Lot Owners. Such easements may be designated on the Final Plan, a Supplemental Declaration, the Design Code, on the deed from the Declarant to an Owner or within a separate document executed by the Association.

Section 8. Easements for Milcrofton Utility District and other Utility Providers. Water utility lines for the Milcrofton Water Utility District and other utility providers are, or may be, installed within easements beginning on each street right of way (each a "Utility Line Easement"), and will encroach into Lots as shown on each Plat. Neither the Association nor any Owner shall install sidewalks, plants, fences, structures or landscaping other than grasses within the Utility Line Easements. The Association shall repair any damages to any sidewalks that result from the repairing, maintaining or replacing utility lines located within a Utility Line Easement. The Association further agrees to indemnify the utility provider for any costs it might incur in repairing any sidewalks disturbed or damaged in the event the providing utility is required to make the sidewalk repair. Each Owner of any Lot shall be responsible for repairing or replacing,



at the Owner's expense, any sidewalk, fences, structures or landscaping other than grasses that may be disturbed or damaged by the providing utility in repairing, maintaining or replacing its utility lines located within the Utility Line Easement, and if the Owner fails to do so, the Association may, after notice to such Owner, perform such repair or replacement and make a Special Assessment on such Owner relative to the costs of such repair or replacement.

Section 9. Construction and Sale by Declarant. Notwithstanding any provisions contained in the Declaration or any amendment thereto to the contrary, so long as construction and initial sale of Residential Units shall continue or be foreseeable, it shall be expressly permissible for Declarant to construct, maintain and carry on upon portions of the Property, other than Residential Units owned by persons other than Declarant, such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Residential Units, including, but not limited to, business offices, signs, Residential Units, utilities, model units, and sales offices, and the Declarant and its invitees shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Residential Units owned by the Declarant as models and sales offices. Declarant may further delegate all of the privileges set forth in this Section 8 to any Builder or other party in the discretion of Declarant. This Section may not be amended without the express written consent of the Declarant.

Section 10. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. Each covenant and restriction shall be enforced to the fullest extent permitted by law.

Section 11. Right of Entry. The Association shall have the right to enter into any Residential Unit or upon any Lot or the Common Areas for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance, personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. It is intended that this right of entry shall include the right of the Association to enter a Residential Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board. The Board may levy a Special Assessment against such Owner equal to the cost and expense incurred by the Association in curing such condition.

Section 12. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 13. Use of the Words "Simmons Ridge." No Person shall use the words "Simmons Ridge," or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant.

Section 14. Right of Action. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or the Common Area, or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or served by such Common Area or allegedly sustaining such damage. Notwithstanding the above, once Declarant no longer has the right to appoint and remove directors and officers, as set forth in the Bylaws, the Board of Directors may negotiate the resolution of any alleged defect(s) in the Common Area on behalf of the Owners and shall have the right and authority to settle and release on behalf of any and all of the Owner's claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Owners and their successors and assigns.

Section 15. Disclosures. Each Owner acknowledges the following:

(a) The Project is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

(b) The views from an Owner's Unit may change over time due to, among other circumstances, additional development and the removal or addition of landscaping.

(c) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.

(d) No representations are made regarding the schools that currently or may in the future serve the Development or any Unit.

(e) Since in every neighborhood, there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Property that an Owner may find objectionable and that it shall be the sole responsibility of the Owners to become acquainted with neighborhood conditions that could affect the Unit.

(f) All Owners acknowledge and understand that Declarant and/or Builders, together with their respective agents, representatives and assigns, will be constructing/renovating portions of the Development and engaging in other construction activities related to the construction of Common Areas and improvement of Units. Such construction activities may, from time to time, produce certain conditions on the Development, including, without limitation, noise or sound that is objectionable because of its volume, duration, frequency or shrillness; smoke; noxious, toxic, or corrosive fumes or gases; obnoxious odors; dust, dirt or flying ash; unusual fire or explosion hazards; temporary interruption of utilities; and/or other conditions that may threaten the security or safety of persons on the Development. Notwithstanding the foregoing, all Owners agree that such conditions on the Development resulting from renovation and construction activities shall not be deemed a nuisance and shall not cause Declarant or any Builders, together with their respective agents, representatives and assigns, to be deemed in Violation of any provision of the Declaration.

### ARTICLE XIII DECLARANT'S RIGHTS

Section 1. Withdrawal or Addition of Property. Declarant reserves the right to amend this Declaration, for the purpose of removing any portion of the Property that has not yet been improved with the construction of a Unit from the coverage of this Declaration and to add at any time additional property to be subject to this Declaration by Supplemental Declaration. If a portion of the Property is to be removed, such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Board shall approve and the Association shall consent to such withdrawal and the amendments of any recorded documentations deemed appropriate by Declarant. The inclusion of real property in the term "Development" or on Exhibit A-1 to this Declaration, as may be amended from time to time, shall not be deemed to obligate Declarant to acquire such real property or to include such property within the Property or the Development, which inclusion shall be in the absolute and sole discretion of Declarant.

Section 2. Marketing and Sales Activities. Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Development and the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Lots and Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge.

Section 3. Right to Develop. Declarant and its employees, agents, designees, representatives and assigns shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Section 4. Right to Approve Changes in Design Standards, Etc. So long as Declarant shall own any of the Property, it may amend, delete, add to or modify the Design Standards, and any restriction, rule or architectural guideline created or established by this Declaration, as it shall desire in its sole and absolute discretion. No amendment to or modification of the Design Standards, or any restrictions, rules or architectural guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with this Article.

Section 5. Right to Transfer or Assign Declarant Rights. Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument Declarant signs and records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise any right reserved to Declarant in this Declaration as an agent, employee or contractor of Declarant where Declarant does not intend to transfer such right in its entirety, and in such case it shall not

be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise. In the event Declarant ceases to act as Declarant and abandons its role as Declarant after the end of the Declarant Control Period, then the Association shall have and may exercise all rights of Declarant without the necessity of a written assignment by the Declarant that fulfilled Declarant's obligations prior to such transfer.

Section 6. Easement to Inspect and Right to Correct. Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition, which may exist on any portion of the Property, including Lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall only occur after reasonable notice to the Owner, and no entry into a Unit shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

Section 7. Termination of Rights. The rights contained in this Article shall not terminate until the earlier of (a) forty (40) years from the date this Declaration is recorded; or (b) recording by Declarant of a written statement relinquishing all such rights.

#### **ARTICLE XIV SPECIAL FNMA/FHLMC PROVISION**

Section 1. Restrictions on Certain Acts. So long as required by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or Members representing at least two-thirds (2/3) of the total Association vote entitled to be cast thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner of a Unit (A decision, including contracts, by the Board shall not be subject to this provision where such decision is otherwise authorized by this Declaration.);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);

- (d) fail to maintain insurance, as required by this Declaration; or
- (e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

Section 2. Rights of First Mortgagees. First Mortgagees may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 4. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Section 5. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 6. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, By-Laws, or Tennessee law for any of the acts set out in this Article.

Section 7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

## **ARTICLE XV**

### **SPECIAL PROVISIONS FOR THE CITY OF FRANKLIN, TENNESSEE**

Section 1. Regulation By The City of Franklin. Each Owner hereby agrees that the City of Franklin (the "City") is authorized and empowered to require the Association and each Owner, jointly and/or severally, to provide for the orderly maintenance and upkeep of the Common Areas. In the event the City, or any agent thereof, determines that the Common Areas are being maintained in a manner that is dangerous or detrimental to the health, safety and welfare of the community, pursuant to the provisions of the Franklin Municipal Charter and Code, the City and

its agents, may upon ten (10) days' notice to the Association enter upon the Common Areas and make any repairs or improvements to the Common Areas that the City and its agents deem necessary to remedy such conditions. Thereafter, the Association and each Owner shall be obligated to pay to the City its costs for all improvements, work and/or labor, supplied or furnished to the Common Areas. The obligation to pay said costs shall be a personal obligation of the Association and each Owner, jointly and severally. All such costs shall be paid to the City within five (5) days of receipt from the City of a statement for such costs, which receipt shall be required to be served upon the President of the Association only. All Owners hereby waive notice of receipt of said statement for such costs. In order to secure payment at and after the due date, there shall arise a continuing lien and charge against each lot in favor of the City, the amount of which shall include costs and reasonable attorneys' fees to the extent permissible by law. The City may bring an action at law against the Association and/or any Owner, or foreclose the lien against any property owned by any Owner. However, it is understood that any such lien in favor of the City shall be subordinate to the lien of any deed of trust placed upon the property for the purpose of securing indebtedness incurred to purchase or improve such property. Neither the Association nor any Owner may waive or otherwise escape liability for the cost incurred by the City as described herein.

**(SIGNATURES AND ACKNOWLEDGMENTS**


**APPEAR ON THE FOLLOWING PAGES)**

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration effective as of the date first set forth above.

**DECLARANT:**

SIMMONS RIDGE JOINT VENTURE, a Tennessee joint venture

By: Coastal Development Corporation, a Tennessee corporation

By:   
Douglas S. Hale, President

AND

By: Simmons Ridge Partners, LLC, a Tennessee limited liability company

By:   
John Y. Franks, Managing Member

**[ACKNOWLEDGMENTS APPEAR ON THE FOLLOWING PAGE]**

STATE OF TENNESSEE )  
COUNTY OF WILLIAMSON )

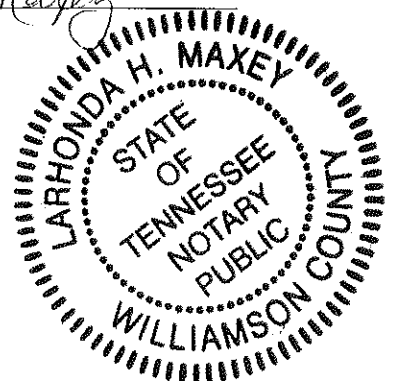
Personally appeared before me Larhonda H. Maxey, of the state and county aforesaid, personally appeared Douglas S. Hale, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of Coastal Development Corporation, a joint venturer in Simmons Ridge Joint Venture, the within named bargainer, and that he as such President, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation as President.

WITNESS my hand, at office, this 29<sup>th</sup> day of June, 2016.

Larhonda H. Maxey  
NOTARY PUBLIC

My Commission Expires:

12-6-2016



STATE OF TENNESSEE )  
COUNTY OF WILLIAMSON )

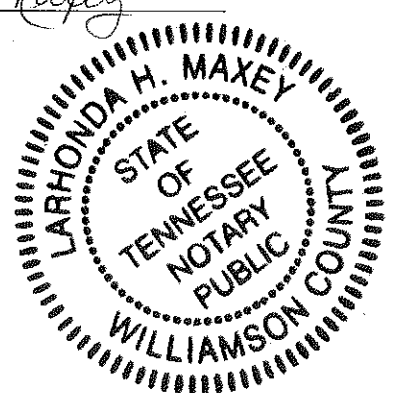
Personally appeared before me Larhonda H. Maxey, of the state and county aforesaid, personally appeared John Y. Franks, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Managing Member of Simmons Ridge Partners, LLC, a joint venturer in Simmons Ridge Joint Venture, the within named bargainer, and that he as such Managing Member, executed the foregoing instrument for the purposes therein contained, by signing the name of the company as Managing Member.

WITNESS my hand, at office, this 10<sup>th</sup> day of June, 2016.

Larhonda H. Maxey  
NOTARY PUBLIC

My Commission Expires:

12-6-2016





## SUBORDINATION OF DEED OF TRUST

Franklin Synergy Bank ("Lender"), hereby subordinates that certain Deed of Trust, Assignment of Rents And Leases, Security Agreement and Financing Statement dated as of May 13, 2016, and recorded at Book 6747, page 180, Register's Office for Williamson County, Tennessee (the "Deed of Trust"), to the foregoing Declaration, and all future amendments, modifications or supplemental declarations to the Declaration, including without limitation any Supplemental Declaration pursuant to which additional real property within the Development may be submitted to the Declaration (collectively, the "Declaration").

The Deed of Trust shall be considered a first deed of trust lien on the Property, as defined in the Deed of Trust, but subordinate to the Declaration, as fully as if the Declaration had been recorded prior to the Deed of Trust. The lien of the Deed of Trust is junior and inferior to that of the Declaration, and notwithstanding any foreclosure of the Deed of Trust the Declaration shall continue to encumber the Property.

The priorities specified herein are applicable irrespective of the time or order of the attachment or perfection of any liens described herein or the time or order of recording the deeds of trust or declarations described herein, or the granting of or failure to give notice hereof.

Lender hereby warrants and represents to Declarant defined in the Declaration that Lender has not assigned, sold or transferred the Deed of Trust, or any interest therein, to any person or entity.

The subordination granted herein shall be continuing, irrevocable and binding on Lender and its successors and assigns.

FRANKLIN SYNERGY BANK:

By: 

Print Name: Ashley P. Hill, III

Title: EVP/CBO

[ACKNOWLEDGMENT PAGE TO FOLLOW]

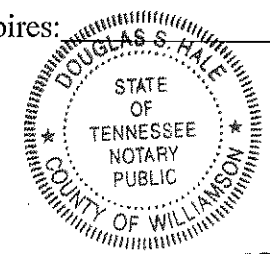
STATE OF TENNESSEE )  
COUNTY OF WILLIAMSON )

Before me, Douglas S. Hill a Notary Public of said County and State, personally appeared Ashley R. Hill, III, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged him/herself to be the Exec. V.P. of Franklin Synergy Bank and as such Exec. V.P. of Franklin Synergy Bank the within named bargainer, executed the foregoing instrument for the purposes therein contained, by personally signing the name of Franklin Synergy Bank by him/herself as Exec. V.P.

Witness my hand and seal, at Office in Franklin, Tennessee, this 29<sup>th</sup> day of Jan, 2016.

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

My Commission Expires: \_\_\_\_\_



MY COMMISSION EXPIRES:  
JANUARY 21, 2018

**EXHIBIT A**

**PROPERTY DESCRIPTION**

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 and as set forth on that certain plat of Simmons Ridge PUD Subdivision Section 1, of record at Plat Book P63, Pages 123a and 123b, Register's Office for Williamson County, Tennessee, to which plat reference is made for a more complete description.

Being part of the property conveyed to Simmons Ridge Joint Venture by deed of record at Book 6605, Page 620, said Register's Office.

## EXHIBIT A-1

### DESCRIPTION OF DEVELOPMENT

Land situated in the 14th Civil District of Williamson County, Tennessee, being more particularly described as follows:

#### TRACT I:

Beginning at a black walnut, the inner corner in Garner's South line and running thence with same (1) S 2W, 5.28 poles to a black walnut; thence with same (2) S 88 E 34.8 poles to a stake (3) N 2 E, 13.24 poles to a stake in Garner's line Criswell's S. W. C.: thence with Criswell's S. line (4) S 88.84 poles to a stake in center of road opposite an oak, the N. E. C. of the tract surveyed; thence with the center of the road (5) X, 7W, 104.80 poles to a stake in the same at the base of a hollow oak on the turn thereof; thence with the center of the road (6) N, 87 ½ W 130 poles to a stake near the center of its junction with the main road at Smith's S. E. C., the same being the S.W.C. of the tract surveyed; thence with the center of the main road; (7) N. 2 E. 34.64 poles, (8) N 64 ¾ W. 18.36 poles to a stake on North side of the branch and continuing with center of main road, (9) N. 2 E. 52.32 poles to a stake in same in Garner's South line near Smith N.E.C., the same being the N.W.C. of the tract surveyed; thence with Garner's South line (10) S. 88 E. 34.40 poles to the beginning, containing Eighty-nine and 12/100 (89.12) acres, more or less.

EXCEPTION: Included in the above description, but expressly EXCLUDED therefrom is the following, to-wit:

A small parcel lying between the center-line of the Old abandoned Carothers Road and the new Carothers Road and lies wholly within the Fourteenth Civil District, Williamson County, Tennessee.

BEGINNING at the northern end of the parcel at the point of interception of the center-lines of the new Carothers and the old abandoned road, thence with the center-line of the new road, South 12 degrees East 100 feet, South 27 degrees East 127 feet and South 27 degrees 25 min. East 190 feet to the center-line of the old road, thence with the center-line of the old road, North 67 degrees 30 min. West 87 feet, North 40 degrees 30 min. West 83 feet, North 17 degrees 45 Min. West 75 feet and North 1 degree 20 min. West 226 feet to the point of beginning and contains 0.46 acres, more or less.

THIS EXCEPTION BEING the same property conveyed to Vester Edwards and wife, Betty Edwards, by deed dated November 20, 1967 from Howard Simmons and wife, Ethel Simmons, of record in Book 152, page 316, Register's Office for Williamson County, Tennessee.

#### TRACT II:

A small parcel lying wholly between the center-line of the old abandoned Carothers Road the new Carothers Road and lies wholly within the Fourteenth Civil District, Williamson County, Tennessee.

BEGINNING at the north end of the parcel at the point of interception of the center-line of the old abandoned Carothers Road the new Carothers Road, thence with the center-line of the old road, South 67 degrees 30 min East 91 feet, South 37 degrees East 44 feet and South 1 degree 15 min. West 194 feet to the center-line of the new road, thence with the center-line of the new Carothers Road, North 11 degrees 15 min. West 160 feet, North 22 degrees 30 min. West 85 feet and North 27 degrees 25 min. West 160 feet to the point of beginning and contains 0.22 acres, more or less.

BEING the same property conveyed to Simmons Ridge Joint Venture, a Tennessee joint venture, by Special Warranty Deed dated July 9, 2015, from Coastal Development Corporation, a Tennessee corporation, of record in Book 6605, page 620, Register's Office for Williamson County, Tennessee.

**EXHIBIT B**

**ASSOCIATION CHARTER**



**STATE OF TENNESSEE**  
**Tre Hargett, Secretary of State**  
Division of Business Services  
William R. Snodgrass Tower  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

SIMMONS RIDGE SUBDIVISION HOMEOWNERS' ASSOCIATION, INC  
STE 230  
144 SE PARKWAY  
FRANKLIN, TN 37064-3936

June 24, 2016

Pick Up

**Filing Acknowledgment**

Please review the filing information below and notify our office immediately of any discrepancies.

<b>SOS Control # :</b>	000854524	<b>Formation Locale:</b>	TENNESSEE
<b>Filing Type:</b>	Nonprofit Corporation - Domestic	<b>Date Formed:</b>	06/24/2016
<b>Filing Date:</b>	06/24/2016 9:55 AM	<b>Fiscal Year Close:</b>	12
<b>Status:</b>	Active	<b>Annual Report Due:</b>	04/01/2017
<b>Duration Term:</b>	Perpetual	<b>Image # :</b>	B0244-6887
<b>Public/Mutual Benefit:</b>	Mutual		
<b>Business County:</b>	WILLIAMSON COUNTY		

**Document Receipt**

<b>Receipt # :</b>	002766991	<b>Filing Fee:</b>	\$100.00
<b>Payment-Check/MO -</b>	HALE AND HALE, PLC, FRANKLIN, TN		\$100.00

**Registered Agent Address:**  
DOUGLAS S. HALE  
STE 200  
198 E MAIN ST  
FRANKLIN, TN 37064-2569

**Principal Address:**  
STE 230  
144 SE PARKWAY  
FRANKLIN, TN 37064-3936

Congratulations on the successful filing of your Charter for **SIMMONS RIDGE SUBDIVISION HOMEOWNERS' ASSOCIATION, INC.** in the State of Tennessee which is effective on the date shown above. You must also file this document in the office of the Register of Deeds in the county where the entity has its principal office if such principal office is in Tennessee. Please visit the Tennessee Department of Revenue website ([apps.tn.gov/bizreg](http://apps.tn.gov/bizreg)) to determine your online tax registration requirements. If you need to obtain a Certificate of Existence for this entity, you can request, pay for, and receive it from our website.

You must file an Annual Report with this office on or before the Annual Report Due Date noted above and maintain a Registered Office and Registered Agent. Failure to do so will subject the business to Administrative Dissolution/Revocation.

  
Tre Hargett  
Secretary of State

Processed By: Alex Maxfield

CHARTER

OF

**FILED**

SIMMONS RIDGE SUBDIVISION HOMEOWNERS' ASSOCIATION, INC.

The undersigned natural person, having capacity to contract and acting as the incorporator of a corporation under the Tennessee Nonprofit Corporation Act, adopts the following Charter for such corporation:

1. The name of the corporation is SIMMONS RIDGE SUBDIVISION HOMEOWNERS' ASSOCIATION, INC.
2. The name of the initial registered agent of the corporation is Douglas S. Hale.
3. The address of the initial registered office of the corporation 198 East Main Street, Suite 200, Franklin, Tennessee 37064.
4. The address of the principal office of the corporation in the State of Tennessee shall be 144 Southeast Parkway, Suite 230, Franklin, Tennessee 37064.
5. The name and address of the incorporator is Douglas S. Hale, Esq., Hale and Hale, PLC, 198 East Main Street, Suite 200, Franklin, Tennessee 37064.
6. The corporation is a mutual benefit corporation.
7. The corporation is not for profit.
8. This corporation is organized for the purpose of providing for the ownership, operation, maintenance, preservation, development, and control of all common area property deeded to it in the residential development known as Simmons Ridge Subdivision, Franklin, Williamson County, Tennessee, as established by a Declaration of Covenants, Conditions and Restrictions and Bylaws for such subdivision, as may be amended from time to time, for the benefit and use of the owners of Lots and Units therein and to perform such other activities and duties as set forth in said Declaration of Covenants, Conditions and Restrictions and Bylaws, as may be amended from time to time, including, but not limited to, the following:
  - a. Acquire, by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in accordance with the law and in connection with the purposes of this corporation;
  - b. Fix, levy, collect and enforce payment by any lawful means of all charges and assessments levied or assessed against members of the corporation and to pay all

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expenses incident to the conduct of the business of the corporation including all licenses, taxes, or other charges levied against the property of the corporation;

c. Borrow money and mortgage, pledge, or deed in trust any or all of its real or personal property as security for money borrowed for debts incurred;

d. Contract or otherwise provide for necessary or desired maintenance, or improvement, repair, restoration or alteration of its real and personal property, and to purchase, if necessary, equipment, and employ personnel to achieve these purposes;

e. Represent and promote the welfare of the owners and residents of the Units and Lots located within Simmons Ridge Subdivision and to have and exercise any and all rights, powers, and privileges which a corporation not for profit organized under the Tennessee General Corporation Act may now or hereafter have or exercise; and

f. Generally engage in any other lawful endeavor or activity in furtherance of the foregoing, so long as such endeavor or activity does not prevent the corporation from being, or maintaining its status as, a homeowners association as defined by Section 528(c)(1) of the Internal Revenue Code of 1986 or corresponding section of any future income tax code.

9. This corporation is to have members. Every person or entity who is a record owner of a fee interest in any Lot located within Simmons Ridge Subdivision shall be a member of the corporation. Nothing herein is intended to include persons or entities holding any interest intended merely as security for the performance of an obligation. Ownership of a Lot shall be the sole qualification for members, and a membership shall not be transferable other than as it is appurtenant to ownership of a Lot. When more than one (1) person holds an interest in a Lot, only one (1) certificate of membership shall issue and the rights and privileges accruing to such membership shall be assigned among the owners as they may agree. The affairs of the corporation shall be managed by a board of directors, which shall be elected in accordance with the Bylaws of the Corporation and in this regard, the Interim Board is composed of J. N. Franks, III, John Y. Franks and Douglas S. Hale.

10. To the extent allowed by the laws of the State of Tennessee, no present or future directors of the corporation (or his or her estate, heirs and personal representatives) shall be liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director shall be further limited to the fullest extent allowed by the laws of the State of Tennessee, as may hereafter be adopted or amended.

11. With respect to claims or liabilities arising out of service as a director or officer of the corporation, the corporation shall indemnify and advance expenses to each present and future director and officer to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

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12. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its directors, officers, members or other private individuals or persons, except that the corporation shall be authorized and empowered to (a) pay reasonable compensation for goods and services rendered, (b) rebate excess membership dues, fees or assessments, and (c) make payments in furtherance of the purposes set forth herein.

13. This Corporation shall not be dissolved, nor shall it dispose of any realty or facilities owned by it, by sale or otherwise, except to a similar and like organization conceived and established to own and maintain such realty and facilities, and the conditions of any transfer shall conform to the Declaration of Covenants, Conditions and Restrictions for Simmons Ridge Subdivision, as may be amended from time to time, and, if required, approved by the governmental authority having jurisdiction over the same.

14. This Charter may be amended upon the approval of at least sixty-seven percent (67%) affirmative vote of the Members present at any duly called meeting, and the written approval of the Declarant during the Declarant Control Period, however, this Charter may be amended unilaterally: (1) by the incorporator up to the date the first Lot is conveyed to an owner other than Declarant or builders holding title solely for purposes of development and sale; (2) by the Declarant during the Declarant Control Period, or (3) by the Board of Directors at any time as permitted under Tenn. Code Ann. §48-51-101 et seq.

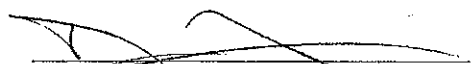
15. Words and phrases not specifically defined in this Charter shall have the meaning ascribed to such words and phrases in and by the Declaration of Covenants, Conditions and Restrictions for Simmons Ridge Subdivision, as may be amended from time to time. Additionally, in the event there shall exist any conflict between the words, phrases, terms, conditions and provisions set forth in Declaration of Covenants, Conditions and Restrictions for Simmons Ridge Subdivision, as may be amended from time to time, or should a contradiction or ambiguity exist or arise between the words, phrases, terms, conditions and provisions set forth in this Charter and those set forth in the Declaration of Covenants, Conditions and Restrictions for Simmons Ridge Subdivision, as may be amended from time to time, the words, phases, terms, conditions and provisions set forth in the Declaration of Covenants, Conditions and Restrictions for Simmons Ridge Subdivision, as may be amended from time to time, shall control and govern.

DATED this 23<sup>rd</sup> day of June, 2016.

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**16025816**

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06/27/2016 - 12:57 PM	
BATCH	440335
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	5.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	7.00

STATE OF TENNESSEE, WILLIAMSON COUNTY  
**SADIE WADE**  
 REGISTER OF DEEDS

  
Douglas S. Hale, Esq., Incorporator



## **EXHIBIT C**

### **ASSOCIATION BYLAWS**

#### **BY-LAWS OF SIMMONS RIDGE HOMEOWNERS' ASSOCIATION, INC.**

#### **ARTICLE I MEMBERS**

##### **Section 1. Identity.**

(a) These are the Bylaws of SIMMONS RIDGE HOMEOWNERS' ASSOCIATION, INC. (the "Association"), a not for profit corporation, incorporated under the laws of the Tennessee Nonprofit Corporation Act.

(b) The Association has been organized for the purpose of serving as the property owners' association for the residential development known as SIMMONS RIDGE, in accordance with the Declaration of Covenants, Conditions, and Restrictions for Simmons Ridge dated June 29, 2016, and filed of record in the Register's Office for Williamson County, Tennessee (as the same may be modified, amended or restated, the "Declaration"). All capitalized terms not otherwise defined herein shall have the meanings set forth in the Declaration.

Section 2. Members. Every Owner shall be deemed to have a membership in the Association. "Owner" shall mean and refer to the Person or entity, including Declarant, who holds the record title to any Unit which is part of the Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale and the contract specifically so provides, then the purchaser (rather than the fee owner) will be the Owner. For purposes of these Bylaws, "Member" shall mean the individual Owner or, if there are multiple persons or entities who are Owners of a Unit, the representative of such Owners.

Section 3. Succession. The membership of each Member shall terminate when such Member ceases to be an Owner, and upon the sale, transfer or other disposition of such Member's ownership interest in a Unit, membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest.

Section 4. Regular Meetings. The first regular annual meeting of Members (the "First Meeting"), subject to the terms hereof, shall be held on a date to be established by Declarant in the calendar year following the year in which the first Unit has been sold. Subsequent to the First Meeting, there shall be a regular annual meeting of Members within fifteen (15) days before or after each anniversary of the First Meeting. All such meetings of Members shall be held at a

location in Williamson County, Tennessee, and at such time as specified in the written notice of such meeting which shall be sent to all Members at least ten (10) days prior to the date of such meeting.

Section 5. Special Meetings. Special meetings of all Members may be called by the President or by a majority of the Members of the Board, or by Members having at least fifteen percent (15%) of the votes entitled to be cast at such meeting. Said special meetings shall be called by sending written notice to all Members not less than ten (10) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

Section 6. Voting. No Owner, whether one (1) or more Persons, shall have more than one (1) membership vote per Unit owned, except that the Declarant shall have ten (10) votes for each Lot owned by Declarant, whether such Lot has been platted or is set forth on a Concept or Development Plan, as the same may be amended from time to time, of the Development. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. A Member or the Member's spouse, subject to the provisions of the Declaration and the Bylaws, may exercise the rights and privileges of membership. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated by the Owner in a written instrument provided to the Secretary, subject to the provisions of the Declaration and the Bylaws. In any situation in which more than one (1) Person holds the interest in a Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it. Voting by proxy is allowed on any matter.

Section 7. Quorum. Except as otherwise expressly provided in the Declaration or these Bylaws, a quorum of Members for any meeting shall be constituted by Members represented in person or by proxy and holding at least ten percent (10%) of the votes entitled to be cast at such meeting.

Section 8. Notice, Voting and Attendance by Electronic Means. Any notice to the Members required to be sent or given by the Bylaws shall be deemed to have been sent if such notice is in writing and is delivered to each Member by hand delivery, overnight courier or other form of wire or wireless communication, or if sent by U.S. Mail, postage prepaid or by e-mail, to the address provided in writing from time to time by such Member to the Association. If no address is provided, notice to the address of the Unit owned by such Member shall suffice. Unless limited by applicable law, and notwithstanding the foregoing, the Board of Directors may establish rules and procedures from time to time that permit notices of meetings and other matters, the delivery of proxies, and voting by electronic means; provided, however, that such rules and procedures shall in each case (a) provide reasonable safeguards to authenticate electronic means of communication; (b) permit a Member to opt out of electronic procedures by an affirmative choice, in which case the foregoing rules for delivery of notices, proxies and voting shall control with regard to such Member; (c) provide that matters on which electronic votes have been cast may not be amended, unless such amendment is also submitted for vote by electronic and other means; and (d) provide that in the event a Member is physically present at a meeting called for the

purpose of voting on an item, the Member may override or withdraw any electronic vote previously cast for the item.

## **ARTICLE II BOARD OF DIRECTORS**

Section 1. Number, Election and Term of Office. The Association shall be governed by a Board of Directors (the "Board") composed of no less than three (3) and no more than five (5) individuals (the "Directors" and each a "Director") appointed or elected as provided in these Bylaws, except that the Interim Board (as defined below) shall be composed of three (3) individuals. Prior to the First Meeting, the Board shall be an interim board composed of those individuals named in the Charter of this Association (the "Interim Board"). The Interim Board shall have and shall exercise all powers and obligations given to the Board by these Bylaws. At the First Meeting and at each annual meeting thereafter, Directors shall be appointed or elected as follows:

(a) Until the earlier of (i) one hundred twenty (120) days after conveyance of one hundred percent (100%) of the Units that may be created in the Development to Unit Owners other than Declarant; or (ii) the date that the Declarant voluntarily relinquishes control of the Association (the "Declarant Control Period"), the Declarant may appoint and remove the officers and members of the Board.

(b) Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Declarant Control Period, but in that event the Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(c) Not later than one hundred twenty (120) days after conveyance of twenty-five percent (25%) of the Units that may be created in the Development to Unit Owners other than Declarant, at least one (1) member of the Board must be elected by Unit Owners other than Declarant.

(d) Upon the termination of the Declarant Control Period, the Unit Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom must be Unit Owners. The Board shall elect the officers. The Board and officers shall take office upon election. At the initial election of Directors by Unit Owners, the terms of such Directors shall be set so that the terms of all Directors do not end on the same year.

(e) Notwithstanding any provision of the Declaration or Bylaws to the contrary, the Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the Unit Owners at which a quorum is present, may remove any of the Directors with or without cause, other than a member appointed by the Declarant.

Section 2. Term. Other than a Director appointed by the Declarant, each Director shall be elected by majority vote by the Membership to serve a one year term, except at the initial

election two-year terms may be used in order to have staggered terms of Directors. Voting by proxy is allowed. Any Director so appointed or elected may be appointed or elected to subsequent terms as a Director; provided, however, and other than a Director appointed by the Declarant, that no Director may serve more than four (4) consecutive terms.

Section 3. Qualification. Except for a Director appointed by the Declarant, if a Director who is a Member shall cease to be a Member during that Director's term, he or she shall thereupon cease to be a Director and the position on the Board shall be deemed vacant.

Section 4. Vacancies. A vacancy occurring in the Board shall be filled by majority vote of the remaining Directors; except that the Members shall elect a Director whose position has been vacated as the result of a removal by the Members of a sitting Director and any vacancy of a Director appointed by the Declarant shall be filled by another Director appointed by Declarant. Any Director so elected or appointed to fill a vacancy shall hold office for the remainder of the unexpired term.

Section 5. Meetings. A regular annual meeting of the Board shall be held not less than ten (10) days following the regular annual meeting of Members. Other meetings of the Board shall be held upon a call by the President or by a majority of the Board, or by request of not less than ten percent (10%) of the Members, on not less than forty-eight (48) hours' notice in writing to each Director, delivered by hand delivery, overnight courier, mail, e-mail, telegram or facsimile transmission or another form of wire or wireless communication. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his or her waiver of notice of said meeting.

Section 6. Compensation. Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted separately by the Members.

Section 7. Quorum. Three (3) Directors shall constitute a quorum.

Section 8. Powers and Duties. The Board shall have the following powers and duties:

- (a) to elect and remove the Officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Common area, including the purchasing of casualty and liability insurance authorized by the Declaration;
- (c) to formulate policies for the administration, management and operation of the Common area;
- (d) to adopt rules and regulations, with written notice thereof to all Owners, governing the administration, management, operation and use of the Common area;

(e) to provide for the maintenance, repair, and replacement of the Common Area, and other expenses authorized by the Declaration and payments therefor, to approve payment vouchers or to delegate such approval to the Officers;

(f) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common area and other expenses authorized by the Declaration;

(g) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(h) to make architectural and other decisions as provided in the Declaration;

(i) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(j) to estimate the amount of the annual budget, operating budget and capital budget and to provide the manner of assessing and collecting from the Members their respective shares of such estimated expenses, as hereinafter provided;

(k) to exercise any other powers and duties ascribed to the Board or the Association in the Declaration;

(l) to borrow money on behalf of the Association, to enter into agreements related to such borrowing, and to pledge funds, property or Common Area as security for such indebtedness; and

(m) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Members, as expressed in a resolution duly adopted at any annual or special meeting of the Members.

Section 9. Delegation.

(a) Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the Officers of the Association any powers or duties which, by law, have been delegated to the Members.

(b) The powers of the Board may be delegated to any person or entity or to a managing agent of the Association by written delegation or authority.

Section 10. Nature of Board Meetings. Members do not have a right to speak or to present matters at any Board meeting; provided, however, that the Board may establish an agenda item consisting of a period for Members to present matters for the Board (an "Open Period"). Matters submitted to the Board during the Open Period shall not be discussed or acted upon by the

Board at that meeting unless the Board by majority vote adds the item to the agenda for the meeting. Members shall have a right to attend Board meetings, subject to capacity and occupancy levels of the meeting venue; provided, however, that the Board shall have the right to close the meeting to the Members if the Board desires to discuss matters involving specific Members, including without limitation enforcement actions; matters potentially involving litigation; or other matters on approval of a majority of the Directors present.

### **ARTICLE III OFFICERS**

Section 1. Designation. At each regular annual meeting, the Directors present at said meeting shall elect the following Officers of the Association by a majority vote:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Members, and who shall be the chief executive officer of the Association;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Members, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional Officers as the Board shall see fit to elect.

Section 2. Powers. The respective Officers shall have the general powers usually vested in such Officers; provided that the Board may delegate any specific powers to any other Officer or impose such limitations or restrictions upon the powers of any Officer as the Board may see fit.

Section 3. Term of Office. Each Officer shall hold office for the term of one (1) year and until the successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of Board at a regular or special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for the remaining unexpired term. Any Officer may be removed for cause at any time by vote of three-fifths (3/5) of the total Directors at a special meeting thereof. Any officer may resign at any time given written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Compensation. The Officers shall receive no compensation for their services as Officers.

## ARTICLE IV ASSESSMENTS

Section 1. Annual Budget. The Board shall cause to be prepared, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Members, a budget covering the estimated costs of operating the Association during the coming fiscal year (the "Operating Budget"), together with a budget that shall take into account the number and nature of replaceable assets of the Association, the expected life of each asset, and the expected repair or replacement cost of each asset for the coming fiscal year (the "Capital Budget"), said fiscal year to be determined by the Board. The Operating Budget and the Capital Budget shall be collectively referenced as the "Budget." The Operating Budget shall include a capital contribution establishing a reserve fund in accordance with the Capital Budget. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association as shown on the Capital Budget, with respect both to the amount and timing of Assessments over the period of the Budget. To the extent that the assessments and other cash income collected from the Members during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account in preparing the new Budget.

Section 2. The Board shall cause a copy of the Budget, and the amount of each General Assessment and Special Assessment to be levied against each Unit for the following year, to be delivered to each Member at least ten (10) days prior to each annual meeting. The Board shall set Assessments based on the Operating Budget and the Capital Budget. The Budget shall become effective unless disapproved at the meeting by a majority vote of the total Association membership. In the event the Members disapprove the proposed Budget or the Board fails for any reason to determine the Budget for the succeeding year, then and until such time as a Budget shall have been determined as provided herein, the Budget in effect for the then current year shall continue for the succeeding year(s). Each Owner shall pay the assessment relating to such Owner's Units on or before the first day of each applicable period as established by the Board from time to time. Payments shall be made to the Association or as may be otherwise directed by the Board.

Section 3. Assessments. The Board may impose and collect Assessments as set forth in the Declaration

Section 4. Partial Year or Month. For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly or quarterly or annual assessments for each Member shall be proportionate to the number of months and days in such period covered by such budget.

Section 5. Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Member a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 6. Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the Assessments, determined in accordance with the Budget for such year, are insufficient or inadequate to cover the estimated expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Member, and thereupon a supplemental assessment shall be made to each Member for his/her proportionate share of such supplemental budget.

Section 7. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures of the Association, specifying and itemizing the Common Expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

## **ARTICLE V AMENDMENTS**

During the Declarant Control Period, these Bylaws may be unilaterally amended by the Declarant without the vote or approval of any Member, and thereafter by an affirmative vote of at least sixty-seven percent (67%) of the Members, subject to the limitations on amendments without the consent of the Mortgagees or Declarant under the Declaration. Any amendment shall not become effective until recorded in the Register's Office of Williamson County, Tennessee.

## **ARTICLE VI DEFINITIONS AND CONFLICTS**

Words and phrases not specifically defined in these Bylaws shall have the meaning ascribed to such words and phrases in and by the Declaration. Additionally, in the event there shall exist any conflict between the words, phrases, terms, conditions and provisions set forth in these Bylaws, or should a contradiction or ambiguity exist or arise between the words, phrases, terms, conditions and provisions set forth in these Bylaws, and those set forth in the Declaration, the words, phrases, terms, conditions and provisions set forth in the Declaration shall control and govern.