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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RIVER FOREST**

AND

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RIVER FOREST TOWNHOMES**

MARSHALL COUNTY, TENNESSEE

Declarant: RIVER FOREST, LLC

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FOR RIVER FOREST**

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FOR RIVER FOREST TOWNHOMES**

This Declaration of Covenants, Conditions and Restrictions (the "**Declaration**") is made by RIVER FOREST LLC, a Tennessee limited liability company (the "**Declarant**"), and is as follows:

RECITALS:

A. This Declaration is filed with respect to the property more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property"). Declarant is the owner of the Property.

B. Declarant desires to create and carry out a uniform plan for the development, improvement, and sale of the Property.

C. Declarant desires to develop that portion of the Property more particularly described in Exhibit B attached hereto and incorporated herein by reference (the "Townhome Property") for use as residential townhomes.

D. By the Recording of this Declaration, Declarant serves notice that the Property is subject to the terms and provisions of this Declaration.

NOW, THEREFORE, it is hereby declared: (i) that the Property will be held sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with the Property and will be binding upon all parties having right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each owner thereof; and (ii) that each contract or deed conveying any portion of the Property will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions.

This Declaration uses notes (text set apart in boxes) to illustrate concepts and assist the reader. If there is a conflict between any note and the text of the Declaration, the text will control.

ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration will have the meanings hereinafter specified:

"Applicable Law" means the statutes and public laws and ordinances in effect at the time a provision of the Restrictions is applied and pertaining to the subject matter of the Restriction provision. Statutes and ordinances specifically referenced in the Restrictions are "Applicable Law" on the date of the Restrictions, and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

"Architectural Control Committee" or "ACC" means the committee created pursuant to this Declaration to review and approve or deny plans for the construction, placement, modification, alteration, or remodeling of any Improvements on a Lot. As provided in Article 8 below, the Declarant appoints all members of the ACC and the ACC is not a committee of the Association until the Declarant has assigned its right to appoint and remove all ACC members to the Association in a Recorded written instrument.

"Assessment" or "Assessments" means assessments imposed by the Association or the Townhome Association, as applicable, under this Declaration.

"Association" means River Forest Homeowners Association, Inc., a Tennessee non-profit corporation, which has been or will be created by Declarant to exercise the authority and assume the powers specified in Article 4 and elsewhere in this Declaration.

"Board" means the Board of Directors of the Association.

"Bulk Rate Contract" or "Bulk Rate Contracts" means one or more contracts which are entered into by the Association or the Townhome Association, as applicable, for the provision of utility services or other services of any kind or nature to the Lots. The services provided under Bulk Rate Contracts may include, without limitation, cable television services, telecommunications services, internet access services, "broadband" services, security services, trash pick-up services, propane service, natural gas service, lawn maintenance services, wastewater services, and any other services of any kind or nature which are considered by the Board or Townhome Board, as applicable, to be beneficial to all or a portion of the Property.

"Bylaws" means the Bylaws of the Association as adopted and as amended from time to time. A copy of the initial Bylaws is attached hereto as Exhibit D-1 incorporated herein by reference, as they may be amended from time to time.

"Charter" means the Charter of the Association, filed or to be filed in the Office of the Secretary of State of Tennessee, as the same may be amended from time to time. A copy of the Charter of the Association is attached hereto as Exhibit C-1 and incorporated herein by

reference, as the same may be amended from time to time.

"Common Area" means all real and personal property, including the Property but excluding the Lots and Townhome Property, components thereof, and easements appurtenant thereto, now or hereafter owned by the Association for common use and enjoyment of the Owners, including, but not limited to, all lawns, any and all private streets, roads, bridges, parking areas, drainage facilities, open spaces, community swimming pool(s), clubhouses, walking trails, or other common amenities (if any) and all related facilities, ponds, waterways, fences, structures, sidewalks, curbs, signs, lights, common utilities, and other improvements and elements (other than the Lots and Townhome Property) desirable or rationally of common use or necessary to the existence, upkeep, and safety of the Property.

"Community Manual" means the community manual, which may be initially adopted and recorded by the Declarant as part of the initial project documentation for the benefit of the Association and the Townhome Association. The Community Manual may include the Bylaws, Rules and Regulations and other policies governing the Association and the Townhome Association. The Community Manual may be amended, from time to time, by the Declarant during the Development Period. Upon expiration or termination of the Development Period, documents within the Community Manual pertaining to the Association may be amended by a Majority of the Board, and documents pertaining solely to the Townhome Association may be amended by a Majority of the Townhome Board.

"Community Systems" means any and all cable television, telecommunications, alarm/monitoring, internet, telephone or other lines, conduits, wires, amplifiers, towers, antennae, satellite dishes, equipment, materials, and installations and fixtures (including those based on, containing, and serving future technological advances not now known), if installed by Declarant pursuant to any grant of easement or authority by Declarant within the Property.

"Declarant" means River Forest LLC, a Tennessee limited liability company, its successors and assigns; provided that any assignment(s) of the rights of River Forest LLC as Declarant must be expressly set forth in writing and Recorded.

Declarant enjoys special rights and privileges to help protect its investment in the Property. These special rights are described in this Declaration. Many of these rights do not terminate until either Declarant: (i) has conveyed all Lots which may be created out of the Property and Horton no longer owns any Lots either; or (ii) voluntarily terminates these rights by a Recorded written instrument.

"Design Guidelines" means the standards for design, construction, landscaping, and exterior items placed on any Lot adopted pursuant to Section 8.02(c), as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Property. At Declarant's option, Declarant may adopt Design Guidelines for the Property or any portion thereof. Notwithstanding anything in this Declaration to the contrary, the Declarant will have no obligation to

establish Design Guidelines for the Property or any portion thereof.

"Detached Lot" means any portion of the Property, excluding the Townhome Property, shown on a Plat as a subdivided lot intended for residential use.

"Development Period" means the period of time beginning on the date when this Declaration has been Recorded and ending eighteen (18) months after all portions of the Property have been conveyed to Owners other than Declarant and Horton, unless earlier terminated by a Recorded written instrument executed by the Declarant and Recorded; provided, however, that any such early termination shall be void unless Horton gives it written consent to same.

"Homebuilder" means an Owner (other than the Declarant) who acquires an unimproved Lot from Declarant for the construction of either a single-family detached or townhome residence for resale to a third party. Horton shall be deemed a Homebuilder for all purposes hereunder.

"Horton" means D.R. Horton, Inc., a Delaware corporation.

"Improvement" means every structure and all additions to or on, or enhancements to or on, any portion of the Property, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, sport courts, recreational facilities, swimming pools, putting greens, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, poles, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

"Lot" means either a Detached Lot or a Townhome Lot. The **"Lots"** means all Detached Lots and Townhome Lots, collectively.

"Majority" means more than half.

"Manager" has the meaning set forth in Section 4.05(h).

"Member" means every person or entity that holds membership privileges in the Association.

"Mortgage" means any mortgage or deed of trust securing indebtedness and covering any Lot.

"Mortgagee" means the holder of any Mortgage.

"Owner" means the person(s), entity or entities, including Declarant, holding all

or a portion of the fee simple interest in any Lot, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot pursuant to foreclosure of the lien of its Mortgage.

"Plat" means that FINAL SUBDIVISION PLAT entitled RIVER FOREST SUBDIVISION PHASE 1 AND A RESUBDIVISION OF LOT 92, of record in Plat Cabinet G, Slide 71A, Register's Office for Marshall County, Tennessee, together with any subsequently recorded subdivision plat(s) of any portion of the Property, and any amendments thereto.

"Property" shall mean and refer to the real property described in Exhibit A attached hereto and incorporated herein, together with such additional property as is hereafter subjected to this Declaration by supplemental declaration.

"Record, Recording, Recordation and Recorded" means recorded in the Register's Office of Marshall County, Tennessee.

"Resident" means an occupant or tenant of a Lot, regardless of whether the person owns the Lot.

"Restrictions" means the restrictions, covenants, and conditions contained in this Declaration, the Design Guidelines, Bylaws, Community Manual, Rules and Regulations, or in any other rules and regulations promulgated by the Association or the Townhome Association, as applicable, pursuant to this Declaration, as adopted and amended from time to time. See Table 1 for a summary of the Restrictions.

"Rules and Regulations" means any instrument, however denominated, which is adopted by the Board or the Townhome Board for the regulation and management of the Property and/or the Townhome Property, as applicable, including any amendments to those instruments.

"Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

"Townhome Assessments" shall mean and refer to Assessments levied on Townhome Lots or their Owners in accordance with Article 7 of this Declaration.

"Townhome Association" shall mean and refer to River Forest Townhome Owners Association, Inc., a Tennessee non-profit corporation, which has been or will be created by Declarant to exercise the authority and assume the powers specified in Article 4 and elsewhere in this Declaration.

"Townhome Board" shall be the Board of Directors of the Townhome Association.

"Townhome Building" shall mean and refer to a single freestanding building constructed upon multiple Townhome Lots comprised of individual, attached townhouses located on those Townhome Lots.

"Townhome Bylaws" means the Bylaws of the Townhome Association as adopted and as amended from time to time. A copy of the Townhome Bylaws is attached hereto as Exhibit D-2 and are incorporated herein by reference, as they may be amended from time to time.

"Townhome Charter" means the Charter of the Townhome Association, as filed with the Secretary of State of Tennessee. A copy of the Charter of the Townhome Association is attached hereto as Exhibit C-2 and incorporated herein by reference, as it may be amended from time to time.

"Townhome Common Area(s)" means all real and personal property within the Townhome Property other than the Townhome Lots which is now or hereafter owned by the Townhome Association. The Townhome Common Area shall be held by the Townhome Association for the common use and enjoyment of the Townhome Lot Owners. The Townhome Common Area shall include, but shall not be limited to, lawns (other than those within the individual Townhome Lots), streets, roadways, bridges, culverts, parking areas, drainage structures and facilities, private sanitary sewers, ponds, waterways, fences, sidewalks, curbs, gutters, signs, lights, utilities, and other improvements.

"Townhome Lot" means any portion of the Townhome Property shown on a Plat as a subdivided lot or unit intended for residential use.

"Townhome Property" shall mean and refer to each and every tract of real property located within the Property that is described on Exhibit B attached hereto and incorporated herein, or described and depicted by any similar exhibits to any Recorded supplement to this Declaration.

TABLE 1: RESTRICTIONS	
Declaration (Recorded)	Creates obligations that are binding upon the Association and Townhome Association and all present and future owners of Property.
Charter and Townhome Charter	Establishes the Association and Townhome Association as Tennessee nonprofit corporations.
Bylaws and Townhome Bylaws	Governs the internal affairs of the Association and Townhome Association, respectively, such as elections, meetings, etc.
Design Guidelines (if adopted)	Governs the design and architectural standards for the construction of Improvements and modification thereto. The decision to adopt Design Guidelines is entirely discretionary to the Declarant.

Rules and Regulations (if adopted)	Regulates the use of property, activities, and conduct within the Property.
Board and Townhome Board Resolutions (adopted by the Board or Townhome Board)	Establishes rules, policies, and procedures for the Property, Owners, Association, and Townhome Association.

**ARTICLE 2
GENERAL AND USE RESTRICTIONS**

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

2.01 General.

(a) **Conditions and Restrictions.** All Lots within the Property will be owned, held, encumbered, leased, used, occupied and enjoyed subject to the Restrictions.

NOTICE

The Restrictions are subject to change from time to time. By owning or occupying a Lot, you agree to remain in compliance with the Restrictions, as they may change from time to time.

(b) **Ordinances.** Ordinances and requirements imposed by local governmental authorities are applicable to all Lots within the Property. Compliance with the Restrictions is not a substitute for compliance with Applicable Law. Please be advised that the Restrictions do not purport to list or describe each restriction which may be applicable to a Lot located within the Property. Each Owner is advised to review all ordinances, requirements, regulations and encumbrances affecting the use and improvement of their Lot prior to submitting plans to the ACC for approval. Furthermore, approval by the ACC should not be construed by the Owner that any Improvement complies with the terms and provisions of any ordinances, requirements, regulations or encumbrances which may affect the Owner's Lot. Certain encumbrances may benefit parties whose interests are not addressed by the ACC.

2.02 Conceptual Plans. All master plans, site plans, brochures, illustrations, information and marketing materials relating to the Property (collectively, the "**Conceptual Plans**") are conceptual in nature and are intended to be used for illustrative purposes only. The land uses and Improvements, including but not limited to any amenity centers, reflected on the Conceptual Plans are subject to change at any time and from time to time, and it is expressly agreed and understood that land uses within the Property may include uses which are not shown on the Conceptual Plans. Neither Declarant nor any Homebuilder makes any representation or warranty concerning such land uses and Improvements shown on the Conceptual Plans or otherwise planned for the Property, and it is expressly agreed and understood that no Owner will be entitled to rely upon the Conceptual Plans or any statements made by the Declarant or any of Declarant's

representatives regarding the proposed land uses, or proposed or planned Improvements in making the decision to purchase any land or Improvements within the Property. Each Owner who acquires a Lot within the Property acknowledges that development of the Property will likely extend over many years, and agrees that the Association and Townhome Association will not engage in, or use Association or Townhome Association funds to support, protest, challenge, or make any other form of objection to development of the Property or changes in the Conceptual Plans as they may be amended or modified from time to time.

2.03 Single-Family Residential Use. The Lots shall be used solely for private single-family residential purposes, whether detached homes on Detached Lots or townhomes on Townhome Lots. No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot, except an Owner or Resident may conduct business activities within a residence so long as: (a) such activity complies with Applicable Law; (b) the business activity is conducted without the employment of persons other than the residents of the home constructed on the Lot; (c) the business activity does not involve customers, contractors, clients, or the general public visiting the residence to conduct activities related to the business; (d) the existence or operation of the business activity is not apparent or detectable by sight, i.e., no sign may be erected advertising the business on any Lot, and no sound or smell associated with the business activity may be detectable from outside the residence; (e) the business activity does not involve door-to-door solicitation of residents within the Property; (f) the business does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Property which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (g) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property as may be determined in the sole discretion of the Board; and (h) the business does not require the installation of any machinery other than that customary to normal household operations. In addition, for the purpose of obtaining any business or commercial license, neither the residence nor Lot will be considered open to the public. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (ii) a license is required.

Leasing of a residence shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Homebuilder.

Notwithstanding any provision in this Declaration to the contrary, until the earlier to occur of expiration or termination of the Development Period, or twenty-five (25) years from the date this Declaration is Recorded:

A. Declarant and/or its licensees may construct and maintain upon portions of the Common Area or the Townhome Common Area, as applicable, and any Lot owned by the Declarant, such facilities and may conduct such activities which, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of single family residences constructed upon the Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and its licensees shall have an easement over and across the Common Area and Townhome Common Area for access and use of such facilities at no charge; and

B. Declarant and its licensees will have an access easement over and across the Common Area and Townhome Common Area for the purpose of making, constructing and installing Improvements upon the Common Area and Townhome Common Area.

2.04 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the ACC; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the ACC.

2.05 Hazardous Activities. No activities may be conducted on or within the Property and no Improvements may be constructed on or within the Property which, in the opinion of the Board, are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Property unless discharged in conjunction with an event approved in advance by the Board and no open fires may be lighted or permitted except within safe and well-designed fireplaces or in contained barbecue units while attended and in use for cooking purposes. No portion of the Property may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies. The use of outdoor grills within the Townhome Lots, underneath any portion of an Improvement located on a Townhome Lot, or within ten (10) feet of any combustible Improvement is strictly prohibited. The Townhome Board may adopt reasonable Rules and Regulations governing the use of outdoor grills on portions of the Townhome Common Area. The use of an outdoor grill shall at all times comply with all applicable governmental fire safety codes, ordinances, and rules.

2.06 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area or the Townhome Common Area, or the Improvements located thereon, without the prior written approval of the Board or Townhome Board, as applicable.

2.07 Mining and Drilling. No portion of the Property may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This provision will not be construed to prevent the excavation of rocks, stones, sand,

gravel, aggregate, or earth or the storage of such material for use as fill provided that such activities are conducted in conjunction with the construction of Improvements or the development of the Property by the Declarant. Furthermore, this provision will not be interpreted to prevent the drilling of water wells by the Declarant, or otherwise as approved in advance by the ACC which are required to provide water to all or any portion of the Property. All water wells must also be approved in advance by any applicable regulatory authority.

2.08 Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its Residents.

2.09 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on or within the Property (as used in this paragraph, the term "domestic household pet" shall not mean or include non-traditional pets such as pot-bellied pigs, miniature horses, exotic snakes or lizards, monkeys, chickens or other exotic animals). The Board may determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words. No Owner may keep on such Owner's Lot more than three (3) cats and dogs, in the aggregate. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than within the Owner's residence, or the fenced yard space associated therewith, unless confined to a leash. The Association may restrict pets to certain areas on the Property, and the Townhome Association may restrict pets residing on Townhome Lots to certain areas on the Townhome Property. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches or other outside area. All pet waste will be removed and appropriately disposed of by the owner of the pet. All pets must be registered, licensed and inoculated as required by Applicable Law. If the Board determines, in its sole discretion, that a pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner, upon written notice, may be required to remove the pet from the Property.

2.10 Rubbish and Debris. As determined by the Board, no rubbish or debris of any kind may be placed or permitted to accumulate on or within the Property, and no odors will be permitted to arise therefrom so as to render all or any portion of the Property unsanitary, unsightly, offensive, or detrimental to any other property or Residents. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes if such service is not provided by a governmental entity, the Association, or

the Townhome Association, as applicable.

2.11 Detached Lot Maintenance. The Owners of each Detached Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep their Detached Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following, which shall be performed in a timely manner, as determined by the Board, in its sole discretion:

- (a) Prompt removal of all litter, trash, refuse, and wastes.
- (b) Lawn mowing.
- (c) Tree and shrub pruning.
- (d) Watering.
- (e) Keeping exterior lighting and mechanical facilities in working order.
- (f) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (g) Keeping planting beds free of turf grass.
- (h) Keeping sidewalks and driveways in good repair.
- (i) Complying with Applicable Law.
- (j) Repainting of Improvements.
- (k) Repair of exterior damage, and wear and tear to Improvements.

2.12 Townhome Lot and Townhome Common Area Maintenance.

(a) **Obligations of Townhome Lot Owners.** Each Townhome Lot Owner, at their own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within the interior of the townhouse located on such Townhome Lot, including plumbing, pipes, wiring, HVAC, appliances, and structural components (including slabs) belonging to and exclusively serving the Townhome Lot whether or not located within the interior of the townhouse. In addition, each Townhome Lot Owner shall be responsible for all exterior glass, changing light bulbs in exterior lighting on the townhouse (bulbs to be of a type and color acceptable to the Townhome Board), windows, including storm windows, screens, and doors, including storm doors, and all portions of the townhouse for which the Townhome Association is not responsible.

(b) **Obligations of Townhome Association.**

(1) The Townhome Association shall be responsible for maintenance of, repairs to, and replacements within the Townhome Common Area; for landscaping and yard maintenance on the Townhome Lots, including watering of lawns; and for maintenance and repair of the exteriors of the Townhome Buildings. Except as provided in subsection (2) below, the Townhome Association shall be responsible for exterior landscaping to the extent such landscaping was installed by the Declarant, a Homebuilder, the Association or the Townhome Association; for maintenance and repair of driveways, walkways, porches, decks, and patios located on the Townhome Property; and for painting and maintenance and repair of roofs, exterior walls, gutters, downspouts, exterior trim, exterior caulking and other exterior repairs located on the

Townhome Property; provided that such exterior maintenance responsibilities shall not include glass, windows, including storm windows, screens, doors and storm doors, which shall be the responsibility of the Townhome Lot Owner. The costs incurred by the Townhome Association in meeting its obligations and responsibilities described in this subsection shall be part of the common expenses, subject to the terms of this Declaration, the Townhome Bylaws, and Rules and Regulations of the Townhome Association.

(2) The Townhome Association shall not provide maintenance, care, repair and replacement for interior courtyards, elevated decks and/or balconies, and porches. Interior courtyards, elevated decks and/or balconies, and porches shall be maintained by the Townhome Lot Owner of the particular Townhome Lot involved. The Townhome Association shall have the right at any time to plant, replace, maintain and cultivate shrubs, trees, grass, plantings and other landscaping upon the Townhome Common Area. The Townhome Lot Owners shall obtain prior written approval from the Townhome Association before modifying any plantings or landscaping improvements located upon the Townhome Common Area which are the responsibility of the Townhome Association.

(c) Notwithstanding the foregoing, if the need for exterior maintenance and repair by the Townhome Association as required by this paragraph is caused by the willful or negligent conduct or act a Townhome Lot Owner, his/her family, guest, invitees, or other Persons using or occupying his/her Townhome Lot with his/her express or implied permission, the cost of such repair or maintenance shall be assessed against such Townhome Lot Owner 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 Section 7 of this Declaration. Such Assessment shall not require the approval of any of the Members. For the sole purpose of performing the exterior maintenance upon each Townhome Lot required by this Section 2.12, the duly authorized employees or agents of the Townhome Association shall have the right, after reasonable notice to the Townhome Lot Owner, to enter upon any Townhome Lot at reasonable hours of any day, except Sunday. Moreover, if, during the course of performing the maintenance of a Townhome Lot, the Townhome Association discovers that maintenance, repair or replacement is required of an item which is the Townhome Lot Owner's responsibility, and such maintenance, repair or replacement must be performed for the Townhome Association to properly complete its maintenance project, then the Townhome Association may perform such work on behalf of the Townhome Lot Owner and at the Townhome Lot Owner's expense without prior notice to the Townhome Lot Owner.

In addition, the duly-authorized agents or employees of the Townhome Association shall have the right to enter in or upon any Townhome Lot, without notice to the Owner thereof, when, in the judgment of the Townhome Association, acting through the Townhome Board, such entrance is necessary to prevent damage to such Townhome Lot, surrounding Townhome Lots or Townhome Common Area by fire, criminal act, natural disaster, or other similar emergency.

2.13 Street Landscape Area; Owner's Obligation to Maintain Landscaping. Each

Owner of a Lot will be responsible, at such Owner's sole cost and expense, for maintaining mowing, replacing, pruning, and irrigating the landscaping between the boundary of such Owner's Lot and the curb of any adjacent right-of-way, street or alley (the "**ST Landscape Area**") unless the responsibility for maintaining the ST Landscape Area is performed by the Association.

2.14 Antennas. Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc, shall be erected, maintained or placed on a Lot without the prior written approval of the ACC; provided, however, that:

- (a) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or
- (b) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or
- (c) an antenna that is designed to receive television or radio broadcast signals;

(collectively, (a) through (c) are referred to herein as the "**Permitted Antennas**") will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the ACC, consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant, the Association, and the Townhome Association will have the right, but not the obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Property or Townhome Property, as applicable.

2.15 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot and shall not encroach upon any street, Common Area, Townhome Common Area, or any other portion of the Property. A Permitted Antenna shall be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Property, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the ACC are as follows:

- (a) Attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the roof fascia, soffit, or bargeboard and screened from view of adjacent Lots and the street; then
- (b) Attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the roof fascia, soffit, or bargeboard and screened from view of adjacent Lots and the street.

The ACC may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas. To the extent that any of the foregoing provisions of this Declaration or provisions of the rules and regulations adopted by the Board and Townhome Board, as applicable, with respect to satellite dishes and antennas is not permitted under the Federal Communications Commission ("FCC") rules and regulations, the remaining portion of this Section 2.15 shall survive independently to the extent permissible under the FCC rules and regulations.

Satellite dishes one meter or less in diameter, e.g., DirecTV or Dish satellite dishes, are permitted, HOWEVER, you are required to comply with the rules regarding installation and placement. These rules may be modified by the ACC from time to time. Please contact the ACC for the current rules regarding installation and placement.

2.16 Signs. Except as otherwise provided by Applicable Law, no sign of any kind may be displayed to the public view on any Lot without the prior written approval of the ACC, except for:

(a) signs which are expressly permitted pursuant to the Design Guidelines or Rules and Regulations;

(b) signs which are part of Declarant or Homebuilder's overall marketing, sale, or construction plans or activities for the Property;

(c) one (1) temporary "For Sale" sign placed on the Lot. The sign must be professionally made and shall be limited to a maximum face area of five (5) squarefeet on each visible side and, if free standing, be mounted on a single or frame post. The overall height of the sign from the finished grade of the Lot at the spot where the sign is located may not exceed four (4) feet. The sign must be removed within two (2) business days following the sale of the Lot;

(d) political signs may be erected provided the sign: (a) is erected no earlier than the ninetieth (90th) day before the date of the election to which the sign relates; (b) is removed no later than the 10th day after the date of the election to which the sign relates; and (c) is ground-mounted. Only one sign may be erected for each candidate or ballot item; provided, however, that notwithstanding any contrary restriction contained in this subsection (d), political signs erected in compliance with the "Tennessee Freedom of Speech Act," Tenn. Code Ann. § 2-7-143 (as it may be amended from time to time) shall be deemed to comply with the Declaration;

(e) a religious item on the entry door or door frame of a residence (which may not extend beyond the outer edge of the door frame), provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty-five (25) square inches;

(f) permits as may be required by legal proceedings; and

- (g) permits as may be required by any governmental entity.

An Owner or Resident will be permitted to post a "no soliciting" and "security warning" sign near or on the front door to their residence, provided, that the sign may not exceed twenty-five (25) square inches.

For Lease and For Rent signs are expressly prohibited.

2.17 Flags: Approval Requirements. An Owner is permitted to display the flag of the United States of America, the flag of the State of Tennessee, an official or replica flag of any branch of the United States Military, or one (1) flag with official insignia of a college or university ("**Permitted Flag**") and is permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence ("**Permitted Flagpole**"). Only two (2) Permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the ACC. Approval by the ACC is required prior to installing vertical freestanding flagpoles in the front or backyard area of any Lot ("**Freestanding Flagpole**").

2.18 Flags: Installation and Display. Unless otherwise approved in advance and in writing by the ACC, Permitted Flags, Permitted Flagpoles, and Freestanding Flagpoles that have been installed in accordance with the foregoing provision must also comply with the following:

(a) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;

(b) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height;

(c) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3'x5');

(d) With the exception of flags displayed on Common Area, Townhome Common Area, or any Lot which is being used for marketing purposes by the Declarant or a Homebuilder, the flag of the United States of America, if displayed, must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Tennessee, if displayed, must be displayed in accordance with Tennessee law;

(e) The display of a Permitted Flag, or the location and construction of a Permitted Flagpole or Freestanding Flagpole, must comply with all Applicable Law;

(f) Each Permitted Flagpole and Freestanding Flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction thereof and harmonious with the residence;

(g) Each Permitted Flag, Permitted Flagpole, and Freestanding Flagpole must be maintained in good condition. Any deteriorated Permitted Flag, or deteriorated or structurally unsafe Permitted Flagpole or Freestanding Flagpole, must be repaired, replaced or removed;

(h) A Permitted Flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any other Lot; and

(i) Any external halyard of a Permitted Flagpole or Freestanding Flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the Permitted Flagpole or Freestanding Flagpole.

2.19 Tanks. No tank may be installed, placed, or used on the Property, including tanks for storage of fuel, water, oil, or liquid petroleum gas (LPG), and including swimming pool filter tanks, without the prior written approval of the ACC. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the ACC. This provision will not apply to a tank used to operate a standard residential gas grill.

2.20 Temporary Structures. No tent, shack, or other temporary building, Improvement, or structure shall be placed upon the Property without the prior written approval of the ACC; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Declarant, Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of Declarant, approval to include the nature, size, duration, and location of such structure.

2.21 Outside Storage Buildings. Outside storage buildings located in a fenced rear yard on a Detached Lot are allowed with the prior written approval of the ACC. One (1) permanent storage building will be permitted if: (a) the surface area of the pad on which the storage building is constructed is no more than one hundred (100) square feet; (b) the height of the storage building, measured from the surface of the Detached Lot, is no more than eight (8) feet; (c) the exterior of the storage building is constructed of the same or substantially similar materials and of the same color as the principal residential structure constructed on the Detached Lot; (d) the roof of the storage building is the same material and color as the roof of the principal residential structure constructed on the Detached Lot; and (e) the storage building is constructed within all applicable building setbacks. No storage building may be used for habitation. Consistent with Section 3.04 below, under no circumstance may any storage building be installed or maintained within the area of a drainage easement, nor may a storage building be installed or maintained in a location which interferes with established drainage patterns over the Property.

2.22 Unightly Articles; Vehicles. No article deemed to be unsightly by the Board or Townhome Board, as applicable, will be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without

limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles, and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, compost piles, and facilities for hanging, and facilities for drying or airing clothing or other household items, shall be appropriately screened from view, and no lumber, grass, plant waste, shrub, or tree clippings, metals, bulk materials, scrap, refuse, or trash shall be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view. No racing vehicles or other vehicles (including, without limitation, motorcycles or motor scooters) which are inoperable or do not have a current license tag shall be permitted to remain visible on any Lot or to be parked on any roadway within the Property, on any Common Area, or on any Townhome Common Area.

No Owner or occupant shall keep more than two (2) vehicles parked in said Owner's driveway at any time; provided, however, that if a Lot only has a one-car garage, then said Owner or occupant shall not park more than one vehicle in said driveway. All other vehicles must be parked in garages, designated parking spaces, or other areas authorized in writing by the Board or Townhome Board, as applicable. Vehicles shall not be parked on any lawn, yard, private street, or alley.

Unless approved in writing by the Townhome Board, residents of Townhome Lots with garages or driveways shall park only in the garage or driveway appurtenant to the Townhome Lot. There shall also be parking spaces located upon the Townhome Common Area which shall be utilized for parking by residents of Townhome Lots which do not have a garage or driveway. The Townhome Board has the authority to assign one or more parking spaces for the exclusive use of a Townhome Lot and to designate guest parking spaces or guest parking areas within the Townhome Common Area parking area.

Parking upon any public streets or dedicated rights-of-way of the Property shall be in compliance with applicable laws, ordinances, codes, and regulations of the Town of Chapel Hill, Tennessee. The Board and the Townhome Board may also adopt reasonable rules and regulations regarding parking within the Property and Townhome Property, respectively, which shall be in compliance with this section.

Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. Each garage should be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible. Notwithstanding the foregoing, the Declarant or any Homebuilder may convert a garage for temporary use as a sales center.

No vehicle may be parked upon or within any portion of the Property for a period of thirty (30) consecutive days or more without being driven during said period, unless prior written permission has been obtained from the Board or the Townhome Board.

Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "cars' or "passenger vehicle" classification by the Tennessee Department of Motor Vehicles), recreational vehicles (including, without limitation, RVs, campers, and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked upon any portion of the Property, except in areas, if any, that may be designated by the Board or Townhome Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles, and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Area and Townhome Common Area during normal business hours for the purpose of serving any Lot, Townhome Lot, the Common Area, or Townhome Common Area; provided, however, no such vehicle shall remain on the Common Area or Townhome Common Area overnight or for any purpose unless prior written consent of the Board or Townhome Board, as applicable, is first obtained. Notwithstanding any provision to the contrary above, all emergency response and local, state, and federal law enforcement vehicles may be parked on the Property so long as they are either owned by an Owner or occupant or they are parked on the Property in furtherance of emergency response or law enforcement purposes.

If any vehicle is parked on any portion of the Property in violation of this subsection or in violation of Rules or Regulations adopted by the Board or Townhome Board, a member of the Board or Townhome Board, or other agent of the Association or the Townhome Association, as applicable, may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the person or entity that will do the towing or booting and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues, or thereafter occurs again within six (6) months of such notice, the Board or other agent of the Association or the Townhome Association, as applicable, may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle. If a vehicle is parked in a fire lane or a space designated for handicapped parking, is blocking another vehicle or access to another parking space, is obstructing the flow of traffic, is parked in a parking space which has been assigned as exclusively serving another Lot, or otherwise creates a hazardous condition or is an obstruction to the safety or health of other persons on the Property, no notice shall be required, and the Board, Townhome Board or agent(s) thereof may have the vehicle towed immediately. If a vehicle is towed or booted in accordance with this subsection or if a vehicle is seized or towed by any other Person that is not an employee or agent of the Association or the Townhome Association, as applicable, then the Association, the Townhome Association, as applicable, and their respective officer or agent shall not be liable to any person for any claim of damage as a result of the seizure or towing activity. Also, the Association or the Townhome Association, as applicable, and their respective officers and agents, shall not be liable for any vehicle that is stolen or otherwise unlawfully removed from the Property by a third party. Notwithstanding anything to the contrary herein, the Board and Townhome Board, as applicable, may elect to impose fines

or use other available sanctions under the rules and regulations or remedies at law or in equity rather than exercise its authority to tow or boot.

2.23 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes, travel trailers, or recreational vehicles shall be used as a residence on the Property, either temporary or permanent, at any time. No mobile homes, travel trailers, or recreational vehicles shall be parked or placed on any street right of way or Lot, except that such vehicles may be so parked temporarily for a period not to exceed seventy-two (72) consecutive hours during any two (2)-month period.

2.24 Basketball Goals; Permanent and Portable. Permanent basketball goals are permitted in the front of the residence on a Detached Lot provided the basketball goal is located approximately twenty feet (20') from the street curb. Permanent basketball goals are not permitted in any street right-of-way. The basketball goal backboard must be perpendicular to the street and mounted on a black metal pole permanently installed in the ground. Portable basketball goals are permitted but must be stored to the rear of the Detached Lot or inside garage from sundown to sunrise. Basketball goals must be properly maintained and painted, with the net in good repair. All basketball goals, whether permanent or portable, must be approved by the ACC prior to being placed on any Lot.

2.25 Compliance with Restrictions. Each Owner, his or her family, Residents of a Lot, tenants, and the guests, invitees, and licensees of the preceding shall comply strictly with the provisions of the Restrictions as the same may be amended from time to time. Failure to comply with any of the Restrictions shall constitute a violation of the Restrictions and may result in a fine against the Owner in accordance with Section 7.07 of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Association, the Townhome Association, the ACC, or by an aggrieved Owner. Without limiting any rights or powers of the Association or the Townhome Association, the Board or Townhome Board may (but shall not be obligated to) remedy or attempt to remedy any violation of any of the provisions of Restrictions, and the Owner whose violation has been so remedied shall be personally liable to the Association or the Townhome Association, as applicable, for all costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Association or the Townhome Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) shall be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot shall be secured by the liens reserved in this Declaration for Assessments and may be collected by any means provided in this Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). **Each such Owner shall release and hold harmless the Association and Townhome Association and their officers, directors, employees, and agents from any cost, loss, damage, expense, liability, claim, or cause of action incurred, or that may arise by reason of the acts of the Association or Townhome Association, or activities under this Section (including any cost, loss, damage, expense, liability, claim or cause of action arising out of negligence by the Association or Townhome Association in connection therewith),**

except for such cost, loss, damage, expense, liability, claim, or cause of action arising by reason of the gross negligence or willful misconduct of the Association or Townhome Association. "Gross negligence" as used herein does not include simple negligence, contributory negligence, or similar negligence short of actual gross negligence.

2.26 Liability of Owners for Damage to Common Area or Townhome Common Area. No Owner shall in any way alter, modify, add to, or otherwise perform any work upon the Common Area or Townhome Common Area without the prior written approval of the Board or Townhome Board (and the Declarant during the Development Period). Each Owner shall be liable to the Association or Townhome Association, as applicable, for any and all damages to: (a) the Common Area or Townhome Common Area and any Improvements constructed thereon; or (b) any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association or the Townhome Association, as applicable, which damages were caused by the neglect, misuse, or negligence of such Owner or Owner's family, or by any tenant or other Resident of such Owner's Lot, or any guest or invitee of such Owner or Resident. The full cost of all repairs of such damage shall be an Individual Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectable in the same manner as provided in Article 7 of this Declaration.

2.27 No Warranty of Enforceability. Neither Declarant nor and Homebuilder makes any warranty or representation as to the present or future validity or enforceability of the Restrictions. Any Owner acquiring a Lot in reliance on one or more of the Restrictions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant, each Homebuilder, and their respective officers, directors, employees, and agents harmless therefrom.

2.28 Party Walls. A fence or wall located on or near the dividing line between two (2) Lots and intended to benefit both Lots constitutes a "Party Wall" and, to the extent not inconsistent with the provisions of this Section 2.28, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

(a) **Encroachments & Easement.** If the Party Wall is on one Lot due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section 2.28. Each Lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

(b) **Right to Repair.** If the Party Wall is damaged or destroyed from any cause, the Owner of either Lot may repair or rebuild the Party Wall to its previous condition, and the Owners of both Lots, their successors and assigns, shall have the right to the full use of the repaired or rebuilt Party Wall. No Party Wall may be constructed,

repaired, or rebuilt without the advance written approval of the ACC in accordance with Article 8 of this Declaration.

(c) **Maintenance Costs.** The Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is solely responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Register's Office for Marshall County, Tennessee, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to require contribution from another Owner under this Section 2.28 is appurtenant to the Lot and passes to the Owner's successors in title.

(d) **Alterations.** The Owner of a Lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, condition, or appearance of the Party Wall to the adjoining Lot. The Party Wall will always remain in the same location as when erected unless otherwise approved by the Owner of each Lot sharing the Party Wall and the ACC.

2.29 Playscapes and Sports Courts. Playscapes and Sport Courts are permissible at the sole discretion of the ACC. If allowed, these facilities must be properly sited and screened so as to minimize the visual and audio impact of the facility on adjacent properties. Sport Courts may not be lighted or enclosed with netting. Tennis courts are not permitted.

2.30 Decorations and Lighting. Unless otherwise permitted by Section 2.16, no decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or on any other portion of a Lot which is visible from any street, unless such specific items have been approved in writing by the ACC. Customary seasonal decorations for holidays are permitted without approval by the ACC but shall be removed within thirty (30) days of the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding residences or yards. No mercury vapor, sodium or halogen light shall be installed on any Lot which is visible from any street unless otherwise approved by the ACC.

2.31 Leasing. Nothing in this Declaration shall prevent the leasing of any Lot and the Improvements thereon by the Owner thereof for residential purposes; provided that all leases must be in writing and for terms of at least six (6) months. The Owner must provide to its lessee copies of the Restrictions. Notice of any lease, together with such additional information as may be required by the Board or Townhome Board, as applicable,, will be provided to the Association or the Townhome Association, as applicable, by the Owner no later than ten (10) days after the effective date of the lease. The Association and the Townhome Association, as applicable, may charge an Owner leasing a Lot a reasonable fee for costs incurred by the Association or the Townhome

Association, as applicable, in connection with administering leased Lots. This Section shall not apply with respect to any Lot subject to a mortgage or deed of trust which is insured or guaranteed by the Federal Housing Administration or the Veterans Administration, or where the provisions of this Section are otherwise prohibited by law.

ARTICLE 3 CONSTRUCTION RESTRICTIONS

3.01 Approval for Construction. Unless prosecuted by the Declarant, no Improvements shall be constructed upon any Lot without the prior written approval of the ACC in accordance with Article 8 of this Declaration.

3.02 Fences; Sidewalks. Except for fences installed by the Declarant or a Homebuilder during original construction on a Townhome Lot, fences, walls and hedges of any size or composition are strictly prohibited on Townhome Lots or the Townhome Common Area. Otherwise, all fences and walls installed or constructed on a Lot shall comply with all Applicable Law and the rules and regulations promulgated by the ACC. Unless otherwise approved by the ACC, no fence, wall, or hedge will be erected or maintained on any Lot nearer to the street than the front elevation of the residence constructed on the Lot, except for fences erected in conjunction with the model homes or sales offices, and shall only use materials approved by the ACC. The ACC will have the sole discretion to determine the front elevation of the residence for the purpose of this Section 3.02. No chain-link, metal cloth, or agricultural fences may be installed or maintained on a Lot.

3.03 Trash Containers. Trash containers and recycling bins must be stored in one of the following locations:

(a) Inside the garage of the single-family residence constructed on the Lot; or

(b) Behind the single-family residence, retaining wall, or fence constructed on the Lot, or concealed by landscaping, in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent Lot.

The Board and Townhome Board, as applicable, shall have the right to specify additional locations on each Owner's Lot in which trash containers or recycling bins must be stored.

3.04 Drainage. There shall be no interference with the established drainage patterns over any of the Property, including the Lots, except by Declarant, unless adequate provision is made for proper drainage and such provision is approved in advance by the ACC. Specifically, and not by way of limitation, no Improvement, including landscaping, may be installed which impedes the proper drainage of water between Lots.

3.05 Construction Activities. The Restrictions will not be construed or applied so

as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by the Declarant or a Homebuilder upon or within the Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of the Restrictions by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. If during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the ACC may contract for or cause such debris to be removed, and the Owner of the Lot will be liable for all reasonable expenses incurred in connection therewith.

3.06 Roofing. The roofs of all Improvements shall consist of materials that have been approved by the ACC. In addition, roofs of buildings may be constructed with "**Energy Efficiency Roofing**" with the advance written approval of the ACC. For the purpose of this Section 3.06, "Energy Efficiency Roofing" means shingles that are designed primarily to: (a) be wind and hail resistant; (b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (c) provide solar generation capabilities. The ACC will not prohibit the Owner of a Detached Lot from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (i) resemble the shingles used or otherwise authorized for use within the community; (ii) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (iii) match the aesthetics of adjacent property. An Owner of a Detached Lot who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth the Restrictions. In conjunction with any such approval process, the Owner of the Detached Lot should submit information which will enable the ACC to confirm the criteria set forth in this Section 3.06. Any other type of roofing material shall be permitted only with the advance written approval of the ACC.

3.07 Swimming Pools. Any swimming pool constructed on a Detached Lot must be enclosed with a fence or other enclosure device completely surrounding the swimming pool which, at a minimum, satisfies all Applicable Law and is approved in advance by the ACC. Nothing in this Section 3.07 is intended or shall be construed to limit or affect an Owner's obligation to comply with any Applicable Law concerning swimming pool enclosure requirements. Above-ground or temporary swimming pools are strictly prohibited on any Lot. Any type of swimming pool is strictly prohibited on all Townhome Lots.

3.08 Compliance with Setbacks. No residence may be constructed on any Lot nearer to a street than the minimum building setback lines shown on the Plat and no building shall be located on any utility easements.

3.09 Solar Energy Device. Solar Energy Devices may be installed on Improvements located on the Detached Lots, but not the Townhome Lots, with the advance written approval of the ACC in accordance with the procedures set forth below.

(a) Application. To obtain ACC approval of a Solar Energy Device, the Owner of a cshall provide the ACC with the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the "**Solar Application**"). A Solar Application may only be submitted by an Owner of a Detached Lot unless the Detached Lot Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Solar Application. The Solar Application shall be submitted in accordance with the provisions of Article 8 of the Declaration.

(b) Approval Process. The ACC will review the Solar Application in accordance with the terms and provisions of Article 8 of the Declaration. The ACC will approve a Solar Energy Device if the Solar Application complies with Section 3.09(c) below **UNLESS** the ACC makes a written determination that placement of the Solar Energy Device, despite compliance with Section 3.09(c), will create a condition that substantially interferes with the use and enjoyment of the Property by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The ACC's right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Lots immediately adjacent to the Owner/Applicant provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on Common Area, Townhome Common Area, or other property maintained by the Association or Townhome Association, must be approved in advance and in writing by the Board or Townhome Board, as applicable, and the Board or Townhome Board need not adhere to this Section 3.09 when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the ACC, each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

(i) The Solar Energy Device must be located on the roof of the residence located on the Owner's Detached Lot, entirely within a fenced area of the Owner's Detached Lot, or entirely within a fenced patio located on the Owner's Detached Lot. If the Solar Energy Device will be located on the roof of the residence, the ACC may designate the location for placement unless the location proposed by the Detached Lot Owner increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the Solar Energy Device if installed in the location designated by the ACC. If the Detached Lot Owner desires to contest the alternate location proposed by the ACC, the Owner should submit information to the ACC which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device will be located in the fenced area of the Owner's Detached Lot, no portion of the Solar Energy Device may extend above the fence line.

(ii) If the Solar Energy Device is mounted on the roof of the principal residence located on the Owner's Detached Lot, then: (A) the Solar Energy Device may not

extend higher than or beyond the roofline; (B) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Device must be parallel to the roofline; and (C) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

3.10 Utility Lines. No sewer, drainage or water lines shall be constructed, placed, or maintained anywhere in or upon any portion of the Property other than within buildings or structures unless the same shall be constructed, placed, or maintained underground. No wires or other devices for the communication or transmission of electric current, power, or signals including telephone, television, microwave, or radio signals, shall be constructed, placed, or maintained anywhere in or upon any portion of the Property other than within buildings or structures unless the same shall be contained in conduits or cables constructed, placed, or maintained underground or concealed in or under buildings or other structures.

3.11 Water Quality Facilities, Drainage Facilities and Drainage Ponds. The Property may include, now or in the future, one or more water quality facilities, sedimentation, drainage and detention facilities, or ponds which serve all or a portion of the Property and are inspected, maintained and administered by the Association or the Townhome Association, as applicable, in accordance with all Applicable Law. Access to these facilities and ponds is limited to persons engaged by the Association or the Townhome Association, as applicable, or their agents to periodically maintain such facilities. Each Owner is advised that the water quality facilities, sedimentation, drainage and detention facilities and ponds are an active utility feature integral to the proper operation of the Property and may periodically hold standing water. Each Owner is advised that entry into the water quality facilities, sedimentation, drainage and detention facilities or ponds may result in injury and is a violation of the Rules and Regulations.

ARTICLE 4

RIVER FOREST HOMEOWNERS ASSOCIATION, INC. AND RIVER FOREST TOWNHOME OWNERS ASSOCIATION, INC.

4.01 Organization. The Association and Townhome Association are nonprofit corporations, each of which having been created for the purposes, charged with the duties, and vested with the powers of a Tennessee non-profit corporation. The Bylaws, Townhome Bylaws, Charter, and Townhome Charter may not be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

4.02 Membership.

(a) **Mandatory Membership.** Any person or entity, upon becoming an Owner of a Lot, will automatically become a Member of the Association. Any person or entity, upon becoming an Owner of a Townhome Lot, will automatically become a Member of both the Association and Townhome Association. Membership will be appurtenant to and will run with the ownership of the Lot that qualifies the Owner thereof

for membership; membership may not be severed from the ownership of the Lot, or in any way transferred, pledged, mortgaged, or alienated, except together with the title to such Lot.

If you acquire a Lot or Townhome Lot you automatically become a member of the Association and/or Townhome Association. Membership is Mandatory!

(b) Easement of Enjoyment- Common Area and Townhome Common Area. Every Lot Owner shall have a right and easement of enjoyment in and to all of the Common Area, and an access easement by and through the Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot. Each Townhome Lot Owner shall also have a right and easement of enjoyment in and to all of the Townhome Common Area, and an access easement by and through any Townhome Common Area, which easements will be appurtenant to and will pass with the title to such Owner's Townhome Lot. All such rights and easements are subject to the following restrictions and reservations:

(i) The right of the Declarant, or the Declarant's designee, to cause such Improvements and features to be constructed upon the Common Area or Townhome Common Area, as determined from time to time by the Declarant, in the Declarant's sole and absolute discretion;

(ii) The right of the Association or Townhome Association to suspend the Member's right to use the Common Area or the Townhome Common Area for any period during which any Assessment against such Member's Lot remains past due and for any period during which such Member is in violation of any provision of this Declaration;

(iii) The right of the Declarant during the Development Period, and the Board or Townhome Board, as applicable, thereafter, to dedicate or transfer all or any part of the Common Area or Townhome Common Area to any public agency, authority or utility for any purpose;

(iv) The right of the Declarant during the Development Period, and the Board or Townhome Board, as applicable, thereafter, to grant easements or licenses over and across the Common Area or Townhome Common Area;

(v) With the advance written approval of the Declarant during the Development Period, the right of the Board or Townhome Board (as applicable) to borrow money for the purpose of improving the Common Area or Townhome Common Area and, in furtherance thereof, mortgage the Common Area or Townhome Common Area;

(vi) The right of the Declarant during the Development Period, and the Board or the Townhome Board, as applicable, thereafter or with the advance written approval of the Declarant during the Development Period, to promulgate Rules and Regulations regarding the use of the Common Area or Townhome Common Area and

any Improvements thereon; and

(vii) The right of the Association or Townhome Association to contract for services with any third parties on such terms as the Board or Townhome Board may determine, except that during the Development Period all such contracts must be approved in advance and in writing by the Declarant.

4.03 Governance. The Boards of Directors of the Association and the Townhome Association shall be constituted and governed as stated in their respective Bylaws.

4.04 Voting Rights. The right to cast votes and the number of votes which may be cast for election of members to the Board and Townhome Board, as applicable, and on all other matters to be voted on by the Members will be calculated as set forth below.

(a) The Owner of each Lot (as applicable) will have one (1) vote for each Lot so owned.

(b) In addition to the votes to which Declarant is entitled by reason of Section 4.04(a), for each vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period.

(c) When more than one person or entity owns a portion of the fee simple interest in any Lot, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Lot will be exercised by the person so designated in writing to the Secretary of the Association or Townhome Association by the Owners of such Lot, and in no event will the vote for such Lot exceed the total votes to which such Lot is otherwise entitled under this Section 4.04.

4.05 Powers. The Association and Townhome Association, as applicable herein, will each have the powers of a Tennessee nonprofit corporation. They will further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to them by Applicable Law or this Declaration. Without in any way limiting the generality of the two preceding sentences, the Board and the Townhome Board, acting on behalf of the Association or the Townhome Association, will have the following powers at all times:

(a) **Rules and Regulations; Bylaws.** To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such rules, regulations and Bylaws which do not conflict with this Declaration, as it deems proper, covering any and all aspects of the Property or Townhome Property, as applicable (including the operation, maintenance and preservation thereof), or the Association or Townhome Association, as the case may be. Any Rules and Regulations, and any modifications to existing Rules and Regulations, or the Bylaws proposed by the Board or Townhome Board, as applicable, must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

(b) Insurance. To obtain and maintain in effect policies of insurance that, in the opinion of the Board or Townhome Board, as applicable, are reasonably necessary or appropriate to carry out the functions of the Association or Townhome Association.

(c) Records. To keep books and records of the Association's affairs or Townhome Association's affairs, as applicable, and to make such books and records, together with current copies of the Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(d) Assessments. To levy and collect assessments as provided in Article 7 below.

(e) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner or Resident, upon any Lot and into any Improvement thereon for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Restrictions. The expense incurred by the Association or Townhome Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot so entered, will be deemed an Individual Assessment against such Lot, will be secured by a lien upon such Lot, and will be enforced in the same manner and to the same extent as provided in Article 7 hereof for Assessments. The Association or Townhome Association will have the power and authority from time to time, in their own name and on their own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Restrictions. The Association and Townhome Association are also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board or Townhome Board will never be authorized to expend any Association or Townhome Association funds for the purpose of bringing suit against Declarant, or its successors or assigns. The Association or Townhome Association may not demolish any Improvements on any Lot in enforcing these Restrictions before a judicial order authorizing such action has been obtained by the Association or Townhome Association, or before the written consent of the Owner(s) of the affected Lot(s) has been obtained. **EACH SUCH OWNER AND RESIDENT WILL RELEASE AND HOLD HARMLESS THE ASSOCIATION AND TOWNHOME ASSOCIATION, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION OR TOWNHOME ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 4.05(e) (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM, OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S OR TOWNHOME ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE,**

EXPENSE, LIABILITY, CLAIM, OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S OR TOWNHOME ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association or Townhome Association.

(g) Conveyances. To grant and convey to any person or entity the real property and other interest, including fee title, leasehold estates, easements, rights-of-way, or mortgages, out of, in, on, over, or under any Common Area or Townhome Common Area, as applicable, for the purpose of constructing, erecting, operating, or maintaining the following:

- (i) Parks, parkways, or other recreational facilities or structures;
- (ii) Roads, streets, sidewalks, signs, streetlights, walks, driveways, trails, and paths;
- (iii) Lines, cables, wires, conduits, pipelines, or other devices for utility purposes;
- (iv) Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; and
- (v) Any similar Improvements or facilities.

Nothing set forth above, however, will be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed by the Restrictions or by Applicable Law. In addition, until expiration or termination of the Development Period, any grant or conveyance under this Section 4.05(g) must be approved in advance and in writing by the Declarant.

(h) Manager. To retain and pay for the services of a person or firm (the "**Manager**"), which may include Declarant or any affiliate of Declarant, to manage and operate the Association or Townhome Association, including its property, to the extent deemed advisable by the Board or Townhome Board. Personnel may be employed directly by the Association or Townhome Association or may be furnished by the Manager. To the extent permitted by Applicable Law, the Board or Townhome Board may delegate any other duties, powers, and functions to the Manager. In addition, the Board or Townhome Board may adopt transfer fees, resale certificate fees, or any other fees associated with the provision of management services to the Association, the Townhome Association, or its Members. **THE MEMBERS HEREBY RELEASE THE ASSOCIATION, TOWNHOME ASSOCIATION, AND THEIR RESPECTIVE**

BOARD AND COMMITTEE MEMBERS FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.

(i) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, gardening, and all other utilities, services, repair, real and personal property taxes, and maintenance for any portion of the Property, Common Area, or Townhome Common Area, as applicable, private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, and lakes.

(j) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments that the Association or Townhome Association, or the Board or Townhome Board, as applicable, is required or permitted to secure or to pay for pursuant to Applicable Law or under the terms of the Restrictions or as determined by the Board or Townhome Board, as applicable.

(k) Construction on Common Area and Townhome Common Area. To construct new Improvements or additions to any property owned, leased, or licensed by the Association or Townhome Association, subject to the approval of the Board or Townhome Board, as applicable, and, until expiration or termination of the Development Period, the Declarant.

(l) Contracts. To enter into Bulk Rate Contracts in accordance with Section 4.09 or other contracts or licenses with Declarant or any third party on such terms and provisions as the Board or Townhome Board, as applicable, will determine, to operate and maintain any Common Area or Townhome Common Area or other property, or to provide any service, including but not limited to cable, utility, or telecommunication services, or perform any function on behalf of Declarant, the Board, Townhome Board, Association, Townhome Association, or the Members, as applicable. During the Development Period, all Bulk Rate Contracts shall not be effective unless approved in advance and in writing by the Declarant.

(m) Property Ownership. To acquire, own, and dispose of all manner of real and personal property, whether by grant, lease, easement, gift, or otherwise. During the Development Period, no such acquisition or disposition by the Association or Townhome Association shall occur unless approved in advance and in writing by the Declarant.

(n) Allocation of Votes. To determine votes when permitted pursuant to Section 4.04 above.

(o) Membership Privileges. To establish Rules and Regulations governing and limiting the use of the Common Area, Townhome Common Area, and any Improvements thereon, as applicable.

4.06 Conveyance of Common Area and/or Townhome Common Area to the Association or Townhome Association. The Association and the Townhome Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. Declarant, and its assignees, reserve the right, from time to time and at any time, to designate by written and Recorded instrument portions of the Property being held by the Declarant for the benefit of the Association or the Townhome Association. Upon the Recording of such designation, the portion of the Property identified therein will be considered Common Area (or Townhome Common Area if for the benefit of the Townhome Association) for the purpose of this Declaration. Declarant and its assignees may also assign, transfer, or convey to the Association or the Townhome Association, as applicable, interests in real or personal property within or for the benefit of the Property, for the Property and the general public, or otherwise, as determined in the sole and absolute discretion of the Declarant. All or any real or personal property assigned, transferred, or conveyed by the Declarant to the Association or Townhome Association shall be deemed accepted upon Recordation, and without further action by the Association or Townhome Association, and shall be considered Common Area (or Townhome Common Area if conveyed to the Townhome Association) without regard to whether such real or personal property is designated by the Declarant as Common Area or Townhome Common Area. If requested by the Declarant, the Association or the Townhome Association, as applicable, will execute a written instrument, in a form requested by the Declarant, evidencing acceptance of such real or personal property; provided, however, execution of a written consent by the Association or the Townhome Association, as applicable, shall in no event be a precondition to acceptance by the Association or the Townhome Association, as applicable. The assignment, transfer, or conveyance of real or personal property to the Association or the Townhome Association, as applicable, may be by deed without warranty, may reserve easements in favor of the Declarant or a third party designated by Declarant over and across such property, and may include such other provisions, including restrictions on use as determined by the Declarant, in the Declarant's sole and absolute discretion. Property assigned, transferred, or conveyed to the Association or the Townhome Association, as applicable, may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Upon completion of the Common Area or Townhome Common Area but no later than the end of the Development Period, Declarant shall convey to the Association or the Townhome Association all land within the Property which is not part of a Lot.

4.07 Indemnification. To the fullest extent permitted by Applicable Law but without duplication of and subject to any rights or benefits arising under the Charter, Townhome Charter, Bylaws, or Townhome Bylaws, the Association and Townhome Association will indemnify any person who was, or is, a party, or is threatened to be made a party to any threatened pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is, or was, a director, officer, committee member, employee, servant or agent of the Association or Townhome Association against expenses, including attorneys' fees, reasonably incurred by him or her in connection with such action, suit or proceeding if it is found and determined by the Board or Townhome Board or a court of competent jurisdiction that he or she: (a) acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best

interests of the Association or Townhome Association; or (b) with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of nolo contendere or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or the Townhome Association, as applicable, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

4.08 Insurance. The Board or Townhome Board may purchase and cause to be maintained, at the expense of the Association or Townhome Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant, or agent of the Association or Townhome Association against any liability asserted against or incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Association or Townhome Association would have the power to indemnify such person against such liability or otherwise.

4.09 Bulk Rate Contracts. Without limitation on the generality of the Association and Townhome Association powers set out in Section 4.05 hereinabove (except that during the Development Period, Bulk Rate Contracts shall not be effective unless approved in advance and in writing by the Declarant), the Association and Townhome Association will have the power to enter into Bulk Rate Contracts at any time and from time to time. The Association and Townhome Association may enter into Bulk Rate Contracts with any service providers chosen by the Board or Townhome Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant, are owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Board or Townhome Board may determine in its sole and absolute discretion. The Association and Townhome Association may, at its option and election, add the charges payable by an Owner under such Bulk Rate Contract to the Assessments against such Owner's Lot. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Association or Townhome Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Declaration with respect to the failure by such Owner to pay Assessments, including without limitation the right to foreclose the lien against such Owner's Lot which is reserved under the terms and provisions of this Declaration. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association or Townhome Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such 12-day period), in addition to all other rights and remedies available pursuant to Applicable Law, terminate, in such manner as the Board or Townhome Board, as applicable, deems appropriate, any utility service or other service provided at the cost of the Association or Townhome Association and not paid for by such Owner (or the Resident of such Owner's Lot) directly to the applicable service or utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title

"termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or the Resident of such Owner's Lot) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

4.10 Protection of Declarant's Interests. Despite any assumption of control of the Board or Townhome Board by Owners other than Declarant, until the expiration or termination of the Development Period, the Board and Townhome Board are prohibited from taking any action which would discriminate against Declarant, or which would be detrimental to the sale of Lots owned by Declarant. Declarant shall be entitled to determine, in its sole and absolute discretion, whether any such action discriminates or is detrimental to Declarant. The Board or Townhome Board will be required to continue the same level and quality of maintenance, operations, and services as that provided immediately prior to assumption of control of the Board or Townhome Board by Owners other than Declarant until the expiration or termination of the Development Period.

4.11 Administration and Maintenance of Common Area. The administration and maintenance of the Common Area by the Association shall be in accordance with the provisions of Applicable Law and the Restrictions, and of any other agreements, documents, amendments, or supplements to the foregoing which may be duly adopted or subsequently required by any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (including, for example, the Federal Home Loan Mortgage Corporation) designated by Declarant or by any governmental or quasi-governmental agency having regulatory jurisdiction over the Common Area or by any title insurance company selected by Declarant to insure title to any portion of the Common Area.

(a) The Association shall maintain and keep in good condition, order and repair the Common Area which includes, but need not be limited to:

(i) all perimeter fencing, landscaping and other flora, parks, ponds, structures, and improvements, including any entry features and irrigation systems within the Common Area, parking areas, bike and pedestrian pathways or trails, if any, and recreation facilities, if any, situated upon the Common Area;

(ii) all furnishings, equipment and other personal property of the Association;

(iii) all street lighting located within the Property, excluding the Townhome Property, that is not the responsibility of Marshall County or other local governmental entity;

(iv) any landscaping and other flora, buffers, entry features, structures and improvements included within public rights-of-way located within or abutting the Property, excluding the Townhome Property;

(v) such additional portions of the Detached Lots which are designated as Association responsibility by this Declaration, any supplemental declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(vi) all ponds, streams, detention ponds, and wetlands located within the Property, excluding the Townhome Property, which serve as part of the drainage and storm water retention system for the Property, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith; and

(vii) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

(b) The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except during periods when such facilities and equipment are being maintained or repaired.

(c) The Association may be relieved of all or any portion of their maintenance responsibilities herein to the extent that such property is dedicated to any local state, or federal government or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable.

(d) Except as provided above, the Common Area shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of Declarant.

(e) Except as otherwise specifically provided herein, all costs associated with maintenance, repair, and replacement of the Common Area shall be a common expense to be allocated among all Lots as part of the Regular Assessments, without prejudice to the right of the Association to seek reimbursement from the owner(s) of or other persons or entities who by law or this Declaration or otherwise are responsible for the maintenance, repair, or replacement of a portion of the Common Area.

4.12 Administration and Maintenance of Townhome Common Area. The administration and maintenance of the Townhome Common Area by the Townhome Association shall be in accordance with the provisions of Applicable Law and the Restrictions, and of any other agreements, documents, amendments, or supplements to the

foregoing which may be duly adopted or subsequently required by any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (including, for example, the Federal Home Loan Mortgage Corporation) designated by Declarant or by any governmental or quasi-governmental agency having regulatory jurisdiction over the Townhome Common Area or by any title insurance company selected by Declarant to insure title to any portion of the Townhome Common Area.

(a) The Townhome Association shall maintain and keep in good condition, order and repair the Townhome Common Area which includes, but need not be limited to:

(i) all perimeter fencing, landscaping and other flora, parks, ponds, structures, and improvements, including any entry features and irrigation systems within the Townhome Common Area, parking areas, bike and pedestrian pathways or trails, if any, and recreation facilities, if any, situated upon the Common Area;

(ii) all furnishings, equipment and other personal property of the Townhome Association;

(iii) all street lighting located within the Townhome Property that is not the responsibility of Marshall County or other local governmental entity;

(iv) any landscaping and other flora, buffers, entry features, structures and improvements included within public rights-of-way located within or abutting the Townhome Property;

(v) such additional portions of the Townhome Lots which are designated as Townhome Association responsibility by this Declaration, any supplemental declaration, or any contract or agreement for maintenance thereof entered into by the Townhome Association;

(vi) all ponds, streams, detention ponds, and wetlands located within the Townhome Property which serve as part of the drainage and storm water retention system for the Townhome Property, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith; and

(vii) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Townhome Association and its Members, such property and facilities to be identified by written notice from Declarant to the Townhome Association and to be maintained by the Townhome Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Townhome Association.

(b) The Townhome Association shall maintain the facilities and equipment

within the Townhome Common Area in continuous operation, except during periods when such facilities and equipment are being maintained or repaired.

(c) The Townhome Association may be relieved of all or any portion of their maintenance responsibilities herein to the extent that such property is dedicated to any local state, or federal government or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, the Townhome Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Townhome Board determines that such maintenance is necessary or desirable.

(d) Except as provided above, the Townhome Common Area shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of Declarant.

(e) Except as otherwise specifically provided herein, all costs associated with maintenance, repair, and replacement of the Townhome Common Area shall be a common expense to be allocated among all Townhome Lots as part of the Regular Assessments levied by the Townhome Association, without prejudice to the right of the Townhome Association to seek reimbursement from the owner(s) of or other persons or entities who by law or this Declaration or otherwise are responsible for the maintenance, repair, or replacement of a portion of the Townhome Common Area.

4.13 Right of Action by Association and Townhome Association. The Association and Townhome Association shall not have the power to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings: (a) in the name of or on behalf of any Owner (whether one or more); or (b) pertaining to a claim, as described in Section 14.01 below, relating to the design or construction of Improvements on a Lot. This Section 4.13 may not be amended or modified without (i) Declarant's written and acknowledged consent and (ii) the vote of Members entitled to cast at least one hundred percent (100%) of the total number of votes of the Association, which must be part of the Recorded amendment instrument.

ARTICLE 5 INSURANCE

5.01 Detached Insurance. Each Detached Lot Owner will be required to purchase and maintain commercially standard insurance on the Improvements located upon such Owner's Lot. The Association will not be required to maintain insurance on the Improvements constructed upon any Detached Lot.

5.02 Association Insurance. The Association may, however, obtain such insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board, in its discretion, may deem necessary. Insurance premiums for such policies will be a common expense to be included in the assessments levied by the Association. The acquisition of insurance by the Association will

be without prejudice to the right and obligation of any Owner to obtain additional individual insurance. During the Development Period, Declarant reserves the right to satisfy the insurance obligations of the Association with a master insurance program controlled by Declarant.

5.03 Townhome Owner's Insurance. Each Townhome Lot Owner shall carry fire and casualty insurance covering all aspects of the Townhome Lot, improvements thereon and contents thereof, which are not covered by the Townhome Insurance, which shall include the replacement of any fixtures, cabinets, appliances, flooring, or finishes within the interior of the townhouse located on the Townhome Lot, and that Townhome Lot Owner's or their guests' personal property and contents. Each Townhome Lot Owner shall be responsible for obtaining his own insurance insuring said Owner personally from liability in connection with the ownership, possession, use, and occupancy of his Townhome Lot. In addition, each Townhome Lot Owner shall carry liability insurance covering the Owner's Townhome Lot for all damage or injury, including bodily injury, death, and property damage, arising from any condition or occurrence on the Owner's Townhome Lot. Such insurance shall not be the responsibility of the Association nor the Townhome Association, and by acceptance of a deed to a Townhome Lot, each Townhome Lot Owner acknowledges that such insurance is and shall be the sole responsibility of said Townhome Lot Owner. Upon request by the Board or the Townhome Board, a Townhome Lot Owner shall within ten (10) days deliver a copy of the Certificate of Insurance covering such Owner's Townhome Lot to the requesting entity. Each Homebuilder (other than the Declarant) shall, in addition to the other insurance requirements set forth herein, carry liability insurance with coverage limits reasonably satisfactory to Declarant and the Townhome Association for all damage or injury, including bodily injury, death and property damage, arising from the exercise of the Homebuilder construction easement granted by Declarant in Section 12.02 herein. Each Homebuilder shall deliver to the Declarant and the Townhome Association a certificate of liability insurance: (i) evidencing that the aforementioned insurance coverage has been obtained; and (ii) naming the Declarant and the Townhome Association as additional insureds.

5.04 Townhome Association Insurance.

(a) Notwithstanding the foregoing or any other provision of this Declaration, the Townhome Association shall maintain casualty, fire, and extended coverage insurance for one hundred percent (100%) of the replacement cost of the Townhome Buildings and all other improvements located on the Townhome Property ("Townhome Insurance"), but excluding the replacement of any fixtures, cabinets, appliances, flooring, or other interior finishes inside of the sheetrock and subflooring of the Townhome Lot and an Owner's or their guests' personal property and contents. The Townhome Association shall maintain adequate reserves to pay any deductible for such coverage. In the event of an insured loss covered by Townhome Insurance, the deductible shall be apportioned among the Townhome Lot Owners in accordance with the percentage of the total proceeds which benefitted each Townhome Lot. However, if the Townhome Board reasonably determines that the loss is the result of the negligence or willful misconduct of one (1) or more Owners,

their family members, guests, invitees, pets or lessees, then the Townhome Board may assess the full amount of such deductible against such Owner(s) which shall be collectable in the same manner as assessments under this Declaration.

(b) Notwithstanding the foregoing, if the insurance policy provides that the deductible will apply to each Townhome Lot separately or to each occurrence, each Townhome Lot Owner shall be responsible for paying any deductible pertaining to his or her Townhome Lot. If any Townhome Lot Owner fails to pay the deductible when required hereunder, then the Townhome Association may pay the deductible and assess the cost to such Owner. Notwithstanding anything to the contrary herein, in the event of an insured loss under the Townhome Association's policy for which the Townhome Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of any Assessment or charge owed to the Townhome Association, then the Townhome Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Townhome Association to the affected Owner.

(c) In the event of any insured loss to any portion of a Townhome Building, only the Townhome Board or its duly authorized agent may file and adjust Townhome Insurance claims. In doing so, the Townhome Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the Townhome Building to substantially the same condition which such property and improvements existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(d) Any damage to or destruction of the Townhome Building shall be repaired or reconstructed unless at least eighty percent (80%) of the Owners of the damaged Townhome Lot(s) and, during the Development Period, the Declarant shall decide within sixty (60) days after the loss not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Townhome Building shall be repaired or reconstructed.

(e) Any Townhome Insurance proceeds remaining after paying the costs of repair or reconstruction shall be used to pay the deductible or retained by the Townhome Association in a capital reserve account for the benefit of the Townhome Property and improvements thereon. If Townhome Insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Townhome Board may, without a vote or approval of Townhome Lot Owners or the Townhome Association's general membership, levy a special Townhome Assessment against affected Townhome Lot Owners in proportion to their benefit (such proportionate benefit to be determined by the Townhome Board in its sole discretion). Such special Townhome Assessments shall be used to cover the costs of repair or reconstruction not covered by the proceeds of Townhome Insurance.

ARE YOU COVERED?

Except with respect to Townhome Lots, the Association will not provide insurance which covers an Owner's Lot. Townhome Lots shall be covered by the Townhome Insurance; however, Townhome Lot Owners will still need coverage for all fixtures, cabinets, appliances, flooring and other finishes within the interior of the townhouse located on that Townhome Lot, as well as for all personal property located on that Townhome Lot.

5.05 Restoration.

(a) Except as otherwise provided in Section 5.04(d) above, in the event of any fire or other casualty to a Townhome Building, the Townhome Association will promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such repair, restoration or replacement will be commenced and completed in a good and workmanlike manner using exterior materials substantially similar to those originally used in the structures damaged or destroyed.

(b) In the event of any fire or other casualty to a Detached Lot, unless otherwise approved by the ACC, the Owner of the Detached Lot will promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such repair, restoration or replacement will be commenced and completed in a good and workmanlike manner using exterior materials substantially similar to those originally used in the structures damaged or destroyed. To the extent that the Detached Lot Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within one hundred and twenty (120) days after the occurrence of such damage or destruction, and thereafter prosecute the same to completion, or if the Detached Lot Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and such Lot Owner will be personally liable to the Association for the cost of such work; provided, however, that if the Lot Owner is prohibited or delayed by Applicable Law from commencing such repair, restoration, replacement or clean-up, the rights of the Association under this provision will not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, then at the rate of one and one-half percent (1½%) per month) will be added to the Assessment chargeable to the Owner's Lot. Any such amounts added to the Assessments chargeable against a Lot will be secured by the liens reserved in the Declaration for Assessments and may be collected by any means provided in this Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot.

(c) EACH SUCH LOT OWNER OR TOWNHOME LOT OWNER WILL RELEASE AND HOLD HARMLESS THE ASSOCIATION, THE TOWNHOME ASSOCIATION, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S OR TOWNHOME ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 5.05, EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM, OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S OR TOWNHOME ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.

5.06 Mechanics' and Materialmen's Lien. Each Owner whose structure is repaired, restored, replaced or cleaned up by the Association or Townhome Association pursuant to the rights granted under this Article 5, hereby grants to the Association or Townhome Association, as applicable, an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement and delivered to the Association or Townhome Association. Upon request by the Board or Townhome Board, and before the commencement of any reconstruction, repair, restoration or replacement, such Owner will execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association or Townhome Association.

ARTICLE 6 ENFORCING THE RESTRICTIONS

6.01 Remedies. The remedies provided in this Article for breach of the Restrictions are cumulative and not exclusive. In addition to other rights and remedies provided by the Restrictions and by Applicable Law, the Association or the Townhome Association, as applicable, has the following rights to enforce the Restrictions:

(a) **Nuisance.** The result of every act or omission that violates any provision of the Restrictions is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

(b) **Fine.** The Association or the Townhome Association, as applicable, may levy reasonable charges, as an Individual Assessment, against an Owner and the Owner's Lot if the Owner or Resident, or the Owner or Resident's family, guests, employees, agents, or contractors violate a provision of the Restrictions. Fines may be levied for each act of violation or for each day a violation continues, and do not constitute a waiver or discharge of the Owner's obligations under the Restrictions.

(c) **Suspension.** The Association or Townhome Association, as applicable, may suspend the right of Owners and Residents to use Common Area or Townhome Common Area (except rights of ingress and egress) for any period during which the Owner or Resident, or the Owner or Resident's family, guests, employees, agents, or contractors violate the Restrictions. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Restrictions.

(d) **Self-Help.** The Association or the Townhome Association, as applicable, has the right to enter a Lot, or Improvement located thereon, to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Restrictions. In exercising this right, the Board or Townhome Board is not trespassing and is not liable for damages related to the abatement. The Board or Townhome Board may levy its costs of abatement against the Owner of the Townhome Lot or Lot as an Individual Assessment. Unless an emergency situation exists in the good faith opinion of the Board or Townhome Board, the Board or Townhome Board will give the violating Owner fifteen (15) days' notice of its intent to exercise self-help.

(e) **Suit.** Failure to comply with the Restrictions will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association or the Townhome Association, as applicable, will give the defaulting party reasonable notice and an opportunity to cure the violation.

6.02 Board Discretion. The Board and Townhome Board, as applicable, may use their sole discretion in determining whether to pursue a violation of the Restrictions, provided the Board or Townhome Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board or Townhome Board may determine that under the particular circumstances: (a) if the position of the Association or the Townhome Association, as applicable, is not sufficiently strong to justify taking any or further action; (b) the provision being enforced is or may be construed as inconsistent with Applicable Law; (c) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending resources of the Association or Townhome Association; or (d) that enforcement is not in the best interests of the Association or Townhome Association, based on hardship, expense, or other reasonable criteria.

6.03 No Waiver. The Association, Townhome Association, and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Restrictions. Failure by the Association, the Townhome Association, or any Owner to enforce a provision of the Restrictions is not a waiver of the right to do so thereafter.

6.04 Recovery of Costs. The costs of curing or abating a violation shall be at the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Restrictions, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Restrictions or the restraint

of violations of the Restrictions, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

ARTICLE 7 COVENANT FOR ASSESSMENTS

7.01 Creation of Assessments.

(a) Types. There are hereby created, and the Association and Townhome Association are each authorized to levy on Lots and Townhome Lots, respectively, three types of Assessments: (a) Regular Assessments as described in Section 7.03; (b) Special Assessments as described in Section 7.05; and (c) Individual Assessments as described in Section 7.06. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Property, is deemed to covenant and agree to pay these Assessments.

(b) Personal Obligation and Lien. All Assessments, together with interest (computed from the due date of such Assessment at a rate of ten percent (10%) per annum), late charges (in an amount equal to the greater of Ten Dollars (\$10.00) or ten percent (10%) of the Assessment or installment not paid when due), costs of collection, and reasonable attorneys' fees actually incurred, shall be a charge and continuing lien upon each Lot and also shall be the personal obligation of the Owner of such Lot at the time the Assessment arose. Upon the transfer or conveyance of title to a Lot, the grantee shall be jointly and severally liable for any Assessments and other charges due at the time of the transfer or conveyance. However, no Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage or any other purchaser of a Lot who obtains title to a Lot pursuant to the foreclosure of the Mortgage shall be liable for unpaid Assessments which accrued prior to the date of acquisition of title. The Recording of this Declaration shall constitute Record notice of the existence of a lien and no further Recordation of any lien shall be required.

Assessments shall be paid in such manner and on such dates as the Board and Townhome Board may establish. The Board or Townhome Board may require advance payment of assessments at the closing of the transfer of title to a Lot. The Regular Assessment shall be an annual assessment due and payable in advance on the first day of each fiscal year; provided, the Board and Townhome Board may by resolution permit payment in two or more installments or change the due date of their respective Regular Assessments. If any Owner is delinquent in paying any Assessment or installment thereof or any other charge levied on his Lot, the Board or Townhome Board, as applicable, may, upon ten (10) days written notice, accelerate the installments and require their Regular Assessment to be paid in full immediately. All payments shall be applied first to costs, then to late charges, then to interest, and then to delinquent Assessments. The obligation for the payment of Assessments and fees arising hereunder shall include costs of collection, which shall include without limitation, reasonable attorneys' fees actually incurred.

Except for those Lots which are not subject to assessment pursuant to Section 7.10

hereof, no Owner may be exempt from liability for Assessments for any reason, including, without limitation: (a) non-use of Common Area or Townhome Common Area, including, without limitation, non-use of the community recreational facilities; (b) abandonment of the Lot; or (c) any other means. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board, or Townhome Association or Townhome Board, as applicable, to take some action or perform some function required of it, for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner.

7.02 Declarant's Obligation for Assessments; Budget Deficit During Declarant Control. Declarant shall not be liable for the payment of Assessments on its unsold Lots. However, Declarant shall be obligated to contribute to the Association and Townhome Association the difference between the amount of Assessments levied on all other Lots or Townhome Lots, as applicable, subject to assessment and the amount of the Association's or Townhome Association's actual expenditures during the fiscal year, as applicable (each, a "Subsidy"). Any Subsidy may be treated, in Declarant's discretion, as either (a) a voluntary contribution; (b) an advance against future Assessments (if any); or (c) a loan by Declarant to the Association or Townhome Association, as applicable. A Subsidy may be evidenced by one or more promissory notes from the Association or Townhome Association, as applicable, in favor of Declarant or Declarant may cause the Association or Townhome Association, as applicable, to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Property; provided, however, no Mortgage secured by the Common Area or Townhome Common Area shall be given in connection with such loan unless the loan has been approved by Owners of at least two-thirds (2/3) of the Lots or Townhome Lots, respectively. Any Subsidy shall be disclosed as a line item in the annual budget of the Association or Townhome Association, as applicable. The payment of a Subsidy in any year shall under no circumstances obligate Declarant to continue payment of such Subsidy in future years.

7.03 Computation of Budget and Regular Assessments. At least thirty (30) days before the beginning of each fiscal year, the Board and Townhome Board shall prepare their respective budgets covering their estimated common expenses during the coming year. Regular Assessments shall be fixed at a uniform rate across all Lots or Townhome Lots, as applicable, subject to assessment under Section 7.08. In determining the total funds to be generated through the levy of Regular Assessments, the Board and Townhome Board, in their discretion, may consider other sources of funds available to the Association or Townhome Association, as applicable, including the surplus from prior years and any assessment income expected to be generated from any additional Lots or Townhome Lots, if any.

The budget and notice of the amount of the Regular Assessment of the Association and Townhome Association for the year shall be available to each Owner and Townhome Lot Owner, respectively, at least thirty (30) days prior to the due date of such Regular Assessment or any installment thereof. The budgets and Regular Assessments of the Association and Townhome Association shall become effective unless disapproved at a meeting by at least sixty-seven percent (67%) of the total vote of the Association or Townhome Association, respectively, and during the Development Period, the Declarant. There shall be no obligation to call such a meeting

unless a petition for a special meeting is presented to the Board or Townhome Board within ten (10) days of the delivery of the notice of the Regular Assessment.

If an Association or Townhome Association budget is not adopted for any year or such a budget is disapproved by the Association or Townhome Association and Declarant as provided herein, then until such time as a budget is adopted, the budget in effect for the immediately preceding year shall continue for the current year.

7.04 Reserve Budget and Working Capital Assessment.

(a) Reserve Budget. The Board and Townhome Board may each prepare a reserve budget which takes into account the number and nature of replaceable assets each is responsible for, the expected life of each asset, and the expected repair or replacement cost. If established, the Board or Townhome Board shall include as a line item in the annual budget a capital contribution in an amount sufficient to meet the Association's or Townhome Association's, as applicable, projected needs over the budget period. There shall be no obligation to establish a reserve budget and make such assessments. If reserves are not established or are insufficient for the repair or replacement of any capital asset, Special Assessments may be levied as provided in Section 7.05 hereof.

(b) Working Capital Assessment. Upon each and every conveyance of title for every Lot in the Property after a certificate of occupancy has been issued for the residential dwelling located thereon, an initiation fee in an amount determined by the Board in its sole discretion, and upon each and every conveyance of title for every Townhome Lot in the Property after a certificate of occupancy has been issued for the residential dwelling located thereon, an initiation fee in an amount determined by the Townhome Board in its sole discretion (each a "Working Capital Assessment"), shall be made by or on behalf of the new Owner to the Association or Townhome Association, respectively, as set forth below. Each Working Capital Assessment shall be an Individual Assessment against the Lot and shall be in addition to, not in lieu of, any Regular or Special Assessments. Each Working Capital Assessment shall be payable at closing, or if not paid at closing, paid immediately upon demand by the Association or Townhome Association, as applicable, shall not be prorated, and the Association and Townhome Association shall have all rights under the Declaration to collect such Individual Assessments if they are not paid. The Working Capital Assessments may be used by the Association and Townhome Association for any purpose which provides a direct benefit to the community, including, without limitation, for the payment of operating expenses of the Association or Townhome Association, as applicable, and other expenses incurred by the Association or Townhome Association pursuant to the provisions of this Declaration. The Working Capital Assessments shall not apply to any Mortgagee who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage, but shall apply to the Owner acquiring title to the Lot from the foreclosing Mortgagee.

7.05 Special Assessments. In addition to other authorized assessments, the Association and Townhome Association may each levy Special Assessments against all Owners and all Owners of Townhome Lots, respectively, from time to time to cover unbudgeted or unanticipated expenses or expenses in excess of those budgeted. Any Special Assessment levied by the Association which

would exceed the amount of the Association's Regular Assessment attributable to a Lot in any fiscal year shall require the affirmative vote or written consent of a majority of the total member votes in the Association and, during the Development Period, the written consent of Declarant in order to be effective. Any Special Assessment levied by the Townhome Association which would exceed the amount of the Townhome Association's Regular Assessment attributable to a Townhome Lot in any fiscal year shall require the affirmative vote or written consent of a majority of the total member votes in the Townhome Association and, during the Development Period, the written consent of Declarant in order to be effective. Special Assessments shall be payable in such manner and at such times as determined by the Board and Townhome Board, as applicable, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Special Assessments shall be levied equally on all Lots or Townhome Lots, as applicable, subject to assessment under Section 7.08.

7.06 Individual Assessments. The Association and Townhome Association shall each have the power to levy Individual Assessments against a particular Lot(s) or Townhome Lot(s), as applicable, as follows:

(a) to cover the costs, including overhead and/or administrative costs, of providing benefits, items, or services to the Lot(s) or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board or Townhome Board may from time to time authorize to be offered to Owners and occupants in the Property or Townhome Property, respectively (which might include, without limitation, pest control), which Assessments may be levied in advance of the provision of the requested benefit, item, or service or as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Lot(s) into compliance with the terms of this Declaration, any applicable supplemental declaration, the Bylaws, the Townhome Bylaws, Rules and Regulations, or other Restrictions; provided, however, prior to the imposition of any monetary fines, the Board or Townhome Board, as applicable, shall provide the Owner with prior written notice and an opportunity for a hearing in accordance with Section 7.12 below.

By way of explanation and not limitation, the following shall constitute Individual Assessments: (a) fines; (b) Working Capital Assessments; and (c) the cost of maintenance performed by the Association or Townhome Association which is the responsibility of an Owner.

In addition to the foregoing, the Board or Townhome Board may also specifically assess Owners for Association or Townhome Association expenses, respectively, as follows: (a) expenses which benefit less than all of the Lots or Townhome Lots, as applicable, may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; (b) expenses which benefit all Lots or all Townhome Lots, as applicable, but do not provide an equal benefit to all Lots or all Townhome Lots, respectively, may be specifically assessed equitably among all Lots or all Townhome Lots according to the benefit received; and (c) expenses which are attributable to or caused by a particular Owner or the occupants, guests, licensees, or invitees of such Owner may be specifically assessed against the Lot of such Owner.

7.07 Nonpayment of Assessments; Lien for Assessments. The Association and

Townhome Association shall each have a lien against each Lot and Townhome Lot, respectively, to secure payment of delinquent Assessments, as well as interest, late charges, costs of collection, and reasonable attorneys' fees actually incurred as provided in this Article 7. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; and (b) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Tennessee law.

Any Assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge (in an amount equal to the greater of Ten Dollars (\$10.00) or ten percent (10%) of the Assessment or installment not paid when due) and interest (computed from the due date of such assessment at a rate of ten percent (10%) per annum). The obligation for the payment of Assessments and fees arising hereunder shall include costs of collection, which shall include without limitation, reasonable attorneys' fees actually incurred.

The Association or Townhome Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date of any Association Assessment or Townhome Assessment, respectively. In the event that the Assessment remains unpaid after sixty (60) days, the Association or Townhome Association, as applicable, may institute proceedings to collect such amounts and/or to foreclose its lien. The Association or Townhome Association, as applicable, may file a claim of lien, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. The Association or Townhome Association, as applicable, may also (a) suspend the membership rights of an Owner, including the right to vote; (b) suspend the right of a delinquent Owner to use and enjoy the Common Area or Townhome Common Area, respectively, including, without limitation, the right to use and enjoy the community recreational facilities; and (c) suspend the right of an Owner to receive any services or benefits provided to such Lot by the Association or Townhome Association, as applicable, if any. Any suspension shall not affect an Owner's obligation to pay Assessments coming due during the period of such suspension and shall not affect the permanent liens on such Lot in favor of the Association and Townhome Association, as applicable.

The Association or Townhome Association, as applicable, may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey such Lot. While the Association or Townhome Association, as applicable, owns a Lot following foreclosure, (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the Regular Assessment(s) that would have been charged to the foreclosed Lot had it not been acquired by the Association or Townhome Association, as applicable. The Association or Townhome Association, as applicable, may sue for unpaid Assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien(s) or relieve such Lot from the lien(s) for any subsequent Assessments. However, the sale or transfer of any Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien as to any installments of such Assessments arising prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who

obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for Assessments on such Lot arising prior to the date of acquisition of title. Such unpaid Assessments shall be deemed to be common expenses collectible from Owners of all other Lots subject to such assessment.

7.08 Date of Commencement of Assessments. The obligation to pay Assessments shall commence as to each Lot on the first day of the month after such Lot has been issued a certificate of occupancy for the residential dwelling located thereon by the appropriate governmental agency and conveyed to a person intending to occupy said Lot for residential use or use such Lot for residential purposes. The first annual Regular Assessment(s) levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on the Lot. Any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other person, so long as such Lot is approved for use as a model home.

7.09 Failure to Assess. The failure of the Board or Townhome Board to fix Assessment amounts or rates or to deliver or mail each Owner or Townhome Lot Owner, respectively, an Assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Regular Assessments to the Association and, if applicable, the Townhome Association, on the same basis as the last year for which such Assessments were made, if any, until new Assessments are levied, at which time the Association and Townhome Association may retroactively assess any shortfalls in collections.

7.10 Exempt Property. The following property shall be exempt from the payment of assessments:

- (a) All Common Area and Townhome Common Area;
- (b) Any property dedicated to and accepted by any governmental authority or public utility;
- (c) Any property acquired by the Association or Townhome Association at a foreclosure sale as set forth in Section 7.07 hereof; and
- (d) Any Lot which is not subject to assessment pursuant to Section 7.08 hereof.

7.11 Estoppel Letter. Any person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association and the Townhome Association, as applicable, or their respective managing agents setting forth the amount of Assessments past due and unpaid, including any late charges, interest, fines, or other charges levied against that Lot. Such request shall be delivered to the registered office of the Association and the Townhome Association, as applicable, and shall state an address to which the statement is to be directed. The Association and the Townhome Association, as applicable, shall, within five (5) business days after receiving a written request

therefor, certify to the amount of any unpaid assessments constituting a lien on a specified Lot. The Association and the Townhome Association, as applicable, may each charge a reasonable fee as may be permitted by law as a prerequisite to the issuance of such statement. A certification letter signed by an officer of the Association, the Townhome Association, or their respective managing agent, if any, as to the amount of assessments due with respect to a Lot shall be binding upon the Association or the Townhome Association, as applicable.

7.12 Fines; Notice and Hearing

(a) Notice. Prior to imposition of a fine, the Board or the Townhome Board, as applicable, shall serve the alleged violator with written notice describing: (i) the nature of the alleged violation and the time period in which to correct it; (ii) the proposed fine to be imposed; (iii) a period of not less than ten (10) days or, in the event of a sign in violation of the rules described in this Declaration, twenty-four (24) hours, within which the alleged violator may present a written request for a hearing to the Board or Townhome Board, as applicable; (iv) the name, address and telephone number of the person to contact to challenge the fine; (v) that statements, evidence, and witnesses may be produced by the violator at the hearing; and (vi) a statement that the proposed fine shall be imposed as contained in the notice unless a challenge is made within ten (10) days, or twenty-four (24) hours in the event of a sign in violation of the rules described in this Declaration, of the notice. If a timely challenge is not made, the fine stated in the notice shall be imposed. The issuance of a fine shall not constitute a waiver of the right to issue future violations of the same or other provisions and rules by any person.

(b) Hearing. If a hearing is requested within the allotted ten (10) day or twenty-four (24) hour period, as applicable, the hearing shall be held before the Board or Townhome Board, as applicable. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any fine hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed.

Yes, the Association or Townhome Association *can* foreclose on your Lot or Townhome Lot!

If you fail to pay assessments when due, you may lose title to your Lot or Townhome Lot if the Association or Townhome Association forecloses its assessment lien.

ARTICLE 8 ARCHITECTURAL CONTROL COMMITTEE

Declarant has a substantial interest in ensuring that Improvements within the Property maintain and enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market and sell all or any portion of the Property. Until

Declarant has delegated its right to appoint and remove all members of the ACC to the Board as provided in Section 8.02(a) below, the ACC will be acting solely in Declarant's interest and will owe no duty to any other Owner or the Association. Notwithstanding any provision in this Declaration to the contrary, Declarant may appoint a single person to exercise the rights of the ACC.

8.01 Construction of Improvements. No Improvement may be erected, placed, constructed, painted, altered, modified, or remodeled on any Lot, and no Lot may be re-subdivided or consolidated with other Lots or other property, by anyone other than Declarant without the prior written approval of the ACC, except as expressly provided for in Section 8.02(h) herein.

8.02 Architectural Control Committee.

(a) **Composition.** The ACC will be composed of not more than three (3) persons (who need not be Members or Owners) appointed as provided below, who will review Improvements proposed to be made by any Owner other than Declarant. Declarant will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant may assign its right to appoint all members of the ACC to the Association by Recorded written instrument, and thereafter, the Board will have the right to appoint and remove (with or without cause) all members of the ACC. Any assignment by Declarant of the right to appoint and remove all members of the ACC may be withdrawn until expiration of twenty-four (24) months after the expiration of the Development Period. If Declarant withdraws its assignment of the right to appoint and remove all members of the ACC, then on the date of such withdrawal, Declarant will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant's right to appoint all members of the ACC will automatically be assigned to the Association upon the expiration of twenty-four (24) months after the expiration of the Development Period. Declarant, at its option, may create and assign specific duties and responsibilities to one or more sub-committees consisting of members and/or nonmembers of the ACC. In the event responsibilities and duties are assigned to a sub-committee, those responsibilities and duties will no longer be discharged by the ACC unless the sub-committee exercising such duties and responsibilities is dissolved by Declarant. The right to create, dissolve, and appoint members of such sub-committees will reside exclusively with Declarant until such time as Declarant has assigned its right to appoint members of the ACC to the Association. The ACC will have the right to employ consultants and advisors as it deems necessary or appropriate.

(b) **Submission and Approval of Plans and Specifications.** Construction plans and specifications or, when an Owner desires solely to re-subdivide or consolidate Lots, a proposal for such re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines, if any, or any additional rules adopted by the ACC together with any review fee which is imposed by the ACC in accordance with Section 8.02(c) to the ACC at the offices of Declarant, at such address as may hereafter be designated in writing from time to time. No re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot, until the plans and specifications and the Homebuilder which the Owner intends to use to construct the proposed structure or

Improvement have been approved in writing by a Majority of the members of the ACC. The ACC may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements, or percolation tests that may be required by the ACC or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The ACC may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the ACC, in its sole discretion, may require. Site plans must be approved by the ACC prior to the clearing of any Lot, or the construction of any Improvements. The ACC may refuse to approve plans and specifications for proposed Improvements, or for the re-subdivision or consolidation of any Lot, on any grounds that, in the sole and absolute discretion of the ACC, are deemed sufficient, including, but not limited to, purely aesthetic grounds.

(c) Design Guidelines. During the Development Period, Declarant shall have the right, but shall have no obligation, to adopt Design Guidelines and will have the power to amend, modify, or supplement the Design Guidelines, if any, from time to time. Upon expiration or termination of the Development Period, the ACC, or any sub-committee thereof created pursuant to Section 8.02(c), will have the power from time to time, to amend, modify, or supplement the Design Guidelines, if any; provided, however, that any amendment to the Design Guidelines made by a sub-committee will only apply to the Improvements under the jurisdiction of such sub-committee, and during the Development Period, any such amendment, modification or supplement must be approved in advance and in writing by the Declarant. In the event of any conflict between the terms and provisions of the Design Guidelines, if any, and the terms and provisions of this Declaration, the terms and provisions of this Declaration will control. In addition, the ACC will have the power and authority to impose a fee for the review of plans, specifications, and other documents and information submitted to it pursuant to the terms of this Declaration. Such charges will be held by the ACC and used to defray the administrative expenses incurred by the ACC in performing its duties hereunder; provided, however, that any excess funds held by the ACC will be distributed to the Association at the end of each calendar year. The ACC will not be required to review any plans until a complete submittal package, as required by this Declaration and the Design Guidelines, is assembled and submitted to the ACC. The ACC will have the authority to adopt such additional procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for certificates of compliance or completion relating to any Improvement and the right to approve in advance any contractor selected for the construction of Improvements), not in conflict with this Declaration, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(d) Actions of the Architectural Control Committee. The ACC may, by resolution unanimously adopted in writing, designate one or more of its members, or an agent acting on its behalf, to take any action or perform any duties for and on behalf of the ACC, except the granting of variances. In the absence of such designation, the vote of a Majority of all of the members of the ACC taken at a duly constituted meeting will constitute an act of the ACC.

(e) Failure to Act. In the event that any plans and specifications are submitted to the ACC as provided herein, and the ACC fails either to approve or reject such plans and specifications for a period of sixty (60) days following such submission, rejection of such plans and specifications by the ACC will be presumed. In furtherance, and not in limitation, of the foregoing, any failure of the ACC to act upon a request for a variance will not be deemed a consent to such variance, and the ACC's written approval of all requests for variances will be expressly required.

(f) Variances. The ACC may grant variances, in its sole and absolute discretion, from compliance with any of the provisions of the Design Guidelines, if any, or this Declaration. All variances must be evidenced in writing and must be signed by at least a Majority of the members of the ACC. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or the Design Guidelines, if any, will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Declaration or the Design Guidelines, if any, for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Declaration or the Design Guidelines, if any.

(g) Duration of Approval. The approval of the ACC of any plans and specifications, and any variances granted by the ACC, will be valid for a period of one hundred twenty (120) days only. If construction in accordance with such plans and specifications or variance is not commenced within such one hundred twenty (120)-day period and diligently prosecuted to completion within either: (i) one year after issuance of approval of such plans and specifications; or (ii) such other period thereafter as determined by the ACC, in its sole and absolute discretion, the Owner will be required to resubmit such plans and specifications or request for a variance to the ACC, and the ACC will have the authority to re-evaluate such plans and specifications in accordance with this Section 8.02(g) and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(h) Notwithstanding the foregoing, a Homebuilder shall not be required to seek ACC approval for Improvements and materials that have previously been approved by the ACC. In the event that a Homebuilder desires to construct Improvements which contain material modifications to the previously approved plans, including but not limited to any changes in the kind, shape, color, size, materials, and location of any structure, building, fence, wall, driveway, path, or landscaping, then the Homebuilder must obtain ACC approval. In such event, ACC shall respond to Homebuilder within fourteen (14) days following receipt of such plans from Homebuilder. Any new plans submitted by Homebuilder must be in compliance with the Design Guidelines in existence as of the date of this Declaration and all applicable government, state, or local regulations.

(i) No Waiver of Future Approvals. Except for approvals granted to Homebuilders, the approval of the ACC to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the ACC will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different person, nor will such approval or consent be deemed to establish a precedent for future approvals by the ACC.

(j) Non-Liability of Committee Members. **NONE OF DECLARANT (EXCEPT AS EXPRESSLY PROVIDED FOR IN CONTRACTS WITH A HOMEBUILDER), THE BOARD, THE ARCHITECTURAL CONTROL COMMITTEE, OR ANY MEMBER WILL BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE, OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL CONTROL COMMITTEE'S DUTIES UNDER THIS DECLARATION.**

ARTICLE 9 OVERLAPPING ASSOCIATIONS

9.01 Townhome Property Subject to Two Associations. The Townhome Property is a part of the Property. Townhome Lot Owners are members of both the Association and the Townhome Association, and are subject to Assessment by both the Association and the Townhome Association. The Townhome Property and all Townhome Lot Owners and occupants are subject to all provisions of this Declaration, the Bylaws, the Charter, Rules and Regulations (collectively, the "**Governing Documents**"), as well as the provisions of the Townhome Charter and Townhome Bylaws (collectively, the "**Townhome Governing Documents**"). Any conflict between the provisions of Governing Documents and the Townhome Governing Documents shall be resolved in favor of the Governing Documents.

ARTICLE 10 MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots within the Property. The provisions of this Article apply to the Declaration, the Bylaws, and the Townhome Bylaws.

10.01 Notice of Action. An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association or the Townhome Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "**Eligible Mortgage Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which there is an eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(b) Any delinquency in the payment of assessments or charges owed for a Lot subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Restrictions relating to such Lot or the Owner or Resident which is not cured within sixty (60) days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association or Townhome Association.

10.02 Examination of Books. The Association and Townhome Association will permit Mortgagees to examine the books and records of the Association and Townhome Association during normal business hours.

10.03 Taxes, Assessments, and Charges. All taxes, assessments and charges that may become liens prior to first lien mortgages under Applicable Law will relate only to the individual Lots or Townhome Lots and not to any other portion of the Property.

ARTICLE 11 GENERAL PROVISIONS

11.01 Term. The covenants and restrictions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of Declarant, the Association, the Townhome Association, and all Owners, and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect until the tenth (10th) anniversary of the date of the recording of this Declaration, whereupon this Declaration shall be automatically renewed for successive terms of five (5) years unless Owners holding at least sixty-seven percent (67%) of all votes in the Association elect to terminate the Declaration by vote taken at least six (6) months prior to the end of the current term and unless such termination is approved by the applicable governing authority. Notwithstanding the foregoing, any easements granted pursuant hereto or in any supplemental declaration are and shall be perpetual, except to the extent, if any, otherwise provided in the creation of any such easement, and except that any dedication to and acceptance by an appropriate governmental authority or any conveyance or grant to any appropriate public utility of the facilities that are the subject of any such easements shall terminate those easements if such dedication, conveyance, or grant so provides.

11.02 Eminent Domain. In the event it becomes necessary for any public authority to acquire all or any part of the Common Area or Townhome Common Area for any public purpose during the period this Declaration is in effect, the Board or Townhome Board, as applicable, is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Board or Townhome Board, as applicable, need be made a party, and in any event the proceeds received will be held by the

Association or Townhome Association for the benefit of the Owners or Townhome Lot Owners, as applicable. In the event any proceeds attributable to acquisition of Common Area or Townhome Common Area are paid to Detached Lot Owners or Townhome Lot Owners, such payments shall be allocated equally among such Lots and paid jointly to the Owners and their Mortgagees.

11.03 Amendment. This Declaration may be amended or terminated by the Recording of an instrument executed and acknowledged by: (a) During the Development Period, Declarant acting alone; or (b) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period) or Members entitled to cast at least sixty-seven percent (67%) of the number of votes entitled to be cast by members of the Association. No amendment will be effective without the written consent of Declarant, its successors or assigns, during the Development Period.

11.04 Roadway and Utility Easements. Declarant reserves the right to create, locate, relocate, construct, erect, and maintain or cause to be created, located, relocated, constructed, erected, and maintained in and on any portion of the Property then owned by Declarant or any streets maintained by the Association or Townhome Association, or areas conveyed to the Association or Townhome Association, or areas reserved or held as Common Area or Townhome Common Area, roadways, sewer lines, water lines, electrical lines and conduits, and other pipelines, conduits, wires, and any public utility function beneath or above the surface of the ground with the right of access to the same at any time for the purposes of repair and maintenance.

11.05 Enforcement. The Association, Townhome Association, and the Declarant will have the right to enforce, by a proceeding at law or in equity, the Restrictions. Failure to enforce any right, provision, covenant, or condition set forth in the Restrictions will not constitute a waiver of the right to enforce such right, provision, covenants, or condition in the future.

11.06 Higher Authority. The terms and provisions of this Declaration are subordinate to Applicable Law. The terms and provisions of this Declaration are enforceable to the extent they do not violate or conflict with Applicable Law.

11.07 Severability. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Declaration or, to the extent permitted by Applicable Law, the validity of such provision as applied to any other person or entity.

11.08 Conflicts. If there is any conflict between the provisions of this Declaration, the Charter, Townhome Charter, Bylaws, Townhome Bylaws, or any Rules and Regulations adopted pursuant to the terms of such documents, the provisions of this Declaration, Charter, Bylaws, Townhome Charter, Townhome Bylaws and the Rules and Regulations, in such order, will govern.

11.09 Gender. Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

11.10 Acceptance by Owners. Each Owner of a Lot or other real property interest in the Property, by the acceptance of a deed of conveyance, or each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens, and charges, and the jurisdiction rights and powers created or reserved by this Declaration or to whom this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved, or declared. Furthermore, each Owner agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Property, and will bind any person having at any time any interest or estate in the Property, and will inure to the benefit of each Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

11.11 Damage and Destruction of Common Area and Townhome Common Area.

(a) **Damage.** Promptly after damage or destruction by fire or other casualty to all or any part of the Common Area or Townhome Common Area covered by insurance, the Board or Townhome Board, as applicable, or its duly authorized agent, will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair of the damage. Repair, as used in this Section 11.11(a), means repairing or restoring the Common Area or Townhome Common Area to substantially the same condition as existed prior to the fire or other casualty.

(b) **Repair Obligations.** Any damage to or destruction of the Common Area or Townhome Common Area will be repaired unless a Majority of the Board or Townhome Board, as applicable, decides within sixty (60) days after the casualty not to repair. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair, or both, are not made available to the Association or Townhome Association within said period, then the period will be extended until such information will be made available.

(c) **Restoration.** In the event that it should be determined by the Board or Townhome Board that the damage or destruction of the Common Area or Townhome Common Area, as applicable, will not be repaired and no alternative Improvements are authorized, then the affected portion of the Common Area or Townhome Common Area will be restored to its natural state and maintained as an undeveloped portion of the Common Area or Townhome Common Area by the Association, or Townhome Association, as applicable, in a neat and attractive condition.

(d) **Special Assessment.** If insurance proceeds are paid to restore or repair

any damaged or destroyed Common Area or Townhome Common Area, as applicable, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board or Townhome Board, as applicable, will levy a Special Assessment, as provided in Article 7, against all Owners or Townhome Lot Owners, as applicable. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(e) **Proceeds Payable to Owners.** In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to any Common Area, such payments such payments shall be allocated equally among such Lots and paid jointly to the Owners and their Mortgagees.

11.12 No Partition. Except as may be permitted in this Declaration or amendments thereto, no physical partition of the Common Area, Townhome Common Area, or any part thereof will be permitted, nor will any person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the portion of the Property, Common Area or Townhome Common Area in question has been removed from the provisions of this Declaration pursuant to Section 13.04 below. This Section 11.12 will not be construed to prohibit the Board or Townhome Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Declaration.

11.13 Notices. Except as otherwise specifically provided in such document(s), as the case may be, notices provided for in this Declaration, the Bylaws, Townhome Bylaws, or any other Restrictions shall be in writing and shall be addressed to an Owner at the address of their Lot and to the Declarant, Association, and Townhome Association at the address of their respective registered agent on file with the Secretary of State of the State of Tennessee. Any Owner may designate a different address, including an electronic mail address, for notices to such Owner by giving written notice to the Association or Townhome Association. Owners shall keep the Association, and as applicable the Townhome Association, advised of their current address and phone number(s) where they can be reached. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by Federal Express or other reputable commercial courier service, or issued electronically in accordance with the Tennessee Uniform Electronic Transactions Act (T.C.A. § 47-10-101, *et seq.*). The time period in which a response to any such notice must be given or any action taken with respect thereto shall commence to run from the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

11.14 View Impairment. None of Declarant, the Association, or the Townhome Association guarantee or represent that any view over and across the Lots, or any open space, Common Area, or Townhome Common Area within the Property will be preserved without impairment. Declarant, the ACC, the Association, and the Townhome Association shall have no obligation to relocate, prune, or thin trees or other landscaping. The Association with respect to any Common Area, and the Townhome Association with

respect to the Townhome Common Area, will have the right to add trees and other landscaping from time to time, subject to Applicable Law. There shall be no express or implied easements for view purposes or for the passage of light and air.

11.15 Safety and Security. Each Owner and Resident of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property within the Property, Common Area, or Townhome Common Area. The Association or Townhome Association may, but shall not be obligated to, maintain, or support certain activities within the Property, Common Area, or Townhome Common Area designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. The Association, Townhome Association, and Declarant shall in no way be considered insurers or guarantors of safety or security within the Property, Common Area, or Townhome Common Area, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

ARTICLE 12 EASEMENTS

12.01 Right of Ingress and Egress. Declarant, its agents, employees, and designees will have a right of ingress and egress over and the right of access to the Common Area and Townhome Common Area to the extent necessary to use the Common Area or Townhome Common Area and the right to such other temporary uses of the Common Area or Townhome Common Area as may be required or reasonably desirable (as determined by Declarant in its sole discretion) in connection with the construction and development of the Property.

12.02 Reserved Easements. All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way, dedications, limitations, reservations and grants for the purpose of most efficiently and economically developing the Property. Declarant hereby grants and conveys to each Homebuilder an easement for ingress and egress generally across the Property reasonably required to allow completion, repair and maintenance of any and all utility areas or improvements upon any Lots owned by Homebuilder. In addition, Declarant hereby grants and conveys to each Homebuilder a temporary construction easement, 5 feet in width along the side yard boundary lines of any Lot, for the purpose of facilitating home construction on an adjacent Lot owned by such Homebuilder (the "**Builder Construction Easement**"), which temporary construction easement shall automatically terminate upon the issuance of a certificate of occupancy for the residence constructed on the adjacent Lot by Homebuilder.

Homebuilder shall indemnify, defend, and hold harmless the Declarant, the Association, the Townhome Association, and the Owner upon whose Lot the Builder Construction Easement is located from and against any and all claims, damages, demands, penalties, costs, liabilities, losses, and expenses (including reasonable attorneys' fees and expenses at the trial and appellate levels) that may result from Homebuilder's use of the Builder Construction Easement.

12.03 Utility Easements. Declarant hereby establishes and reserves unto itself and Declarant's successors and assigns: (a) a perpetual non-exclusive easement over and across each open space, landscape or recreational lot within the Property for public and private utilities necessary or required to serve the Property or the Lots or Townhome Lots; (b) a non-exclusive utility easement over and across each Lot to the extent necessary or required to provide utility service to each Lot; provided, however, that such easement will not unreasonably interfere with the use of any Lot for residential purposes; and (c) an easement on the exterior elevation of each residence (including necessary penetrations into the residence) for the purpose of installation, operation, maintenance, and repair of meters, panels, lines and related facilities or appurtenances necessary or required to utilities to each Lot and the residences located therein. In addition, Declarant, during the Development Period, and the Board thereafter, may grant further easements over and across the Lots, residences, Common Area, and Townhome Common Area to the extent necessary or required to provide utilities to the Lots; provided, however, that such easements do not unreasonably interfere with the use of any residence for residential purposes. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property, including the residences and Lots, for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, electronic communications and internet, master or cable television and security. Declarant will be entitled to unilaterally assign the easements reserved hereunder to any third party who owns, operates or maintains the facilities and Improvements described in (a) through (c) of this Section 12.03.

12.04 Subdivision Entry and Fencing Easement. Declarant reserves for itself, the Association, and the Townhome Association, an easement over and across the Property for the installation, maintenance, repair or replacement of certain subdivision entry facilities, walls, and/or fencing which serves the Property. Declarant will have the right, from time to time, to Record a written notice which identifies the subdivision entry facilities fencing to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision entry facilities, walls, and/or fencing as Common Area or Townhome Common Area by Recorded written notice. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or residence or Improvement constructed thereon.

12.05 Landscape and Monument Sign Easement. Declarant hereby reserves for itself, the Association, and the Townhome Association, an easement over and across the

Property and the Common Area and Townhome Common Area for the installation, maintenance, repair, or replacement of signs, landscaping, and/or monument signs which serve the Property, Common Area or Townhome Common Area and any other property owned by the Declarant. Declarant will have the right, from time to time, to Record a written notice which identifies those portions of the Property to which the easement reserved hereunder applies. Declarant designates the easement areas reserved hereunder as Common Area or Townhome Common Area. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Improvement constructed thereon.

12.06 Townhome Maintenance Easement. The Townhome Association shall have a permanent access easement onto, over, across, through and under the Townhome Lots for the purpose of performing its repair and maintenance obligations on the Townhome Lots or improvements as required under this Declaration.

12.07 Declarant as Attorney in Fact. To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to the terms and provisions of this Declaration, each Owner, by accepting a deed to a Lot and each Mortgagee, by accepting the benefits of a Mortgage against a Lot, and any other third party by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and third party's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to the terms of this Declaration. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or third party, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or third party and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party. The aforesaid power shall be vested in Declarant, its successors and assigns, for a period of ten (10) years after expiration of the Development Period. Declarant hereby reserves for itself, its successors and assigns the right to execute on behalf of each Owner, Mortgagee, and third party claiming a legal or equitable interest in the Common Area or Townhome Common Area, any such agreements, documents, amendments or supplements to the Restrictions which may be required by any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (including, for example, the Federal Home Loan Mortgage Corporation) designated by Declarant or by any governmental or quasi- governmental agency having regulatory jurisdiction over the Common Area or Townhome Common Area or by any title insurance company selected by Declarant to insure title to any portion of the Common Area or Townhome Common Area.

ARTICLE 13 DEVELOPMENT RIGHTS

13.01 Development by Declarant. It is contemplated that the Property will be

developed pursuant to a plan, which may, from time to time, be amended or modified. Declarant reserves the right, but will not be obligated, to create and designate Detached Lots, Townhome Property, Townhome Lots, Townhome Common Area, and Common Areas and to subdivide the Property pursuant to the terms of this Section 13.01, subject to any limitations imposed on portions of the Property by any applicable Plat. These rights may be exercised with respect to any portions of the Property. As each area is developed or dedicated, Declarant may designate the use, classification, and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area.

13.02 Special Declarant Rights. Notwithstanding any provision of this Declaration to the contrary, at all times, Declarant and each Homebuilder will have the right and privilege: (a) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots in the Property; (b) to maintain Improvements upon Lots as sales, model, management, business and construction offices; and (c) to maintain and locate construction trailers and construction tools and equipment within the Property. The construction, placement, or maintenance of Improvements by Declarant will not be considered a nuisance, and Declarant hereby reserves the right and privilege for itself to conduct the activities enumerated in this Section 13.02 until twenty-four (24) months after expiration or termination of the Development Period.

13.03 Addition of Land. Declarant may, at any time and from time to time during the Development Period, add additional lands owned by Declarant to the Property, and, if applicable, designate any portion of that additional land to be added to the Townhome Property. Upon the filing of a notice of addition of land, such land will be considered part of the Property and, if applicable, the Townhome Property, subject to the terms, covenants, conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties and liabilities of the persons subject to this Declaration will be the same with respect to such added land as with respect to the lands originally covered by this Declaration. To add lands to the Property and, if applicable, the Townhome Property, Declarant will be required only to Record a supplemental declaration annexing such additional land containing the following provisions:

(a) A reference to this Declaration, which reference will state the document number or volume and initial page number wherein this Declaration is Recorded;

(b) A statement that such land will be considered Property and, if applicable, the Townhome Property, for purposes of this Declaration, and that all of the terms, covenants, conditions, restrictions and obligations of this Declaration will apply to the added land; and

(c) A legal description of the added land.

13.04 Withdrawal of Land. Declarant may, from time to time during the Development Period, reduce or withdraw from the Property, and remove and exclude

from the burden of this Declaration and the jurisdiction of the Association or Townhome Association, any portion of the Property Declarant owns. Upon any such withdrawal and removal, this Declaration and the covenants conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Property withdrawn. To withdraw lands from the Property hereunder, Declarant will be required only to Record a notice of withdrawal of land containing the following provisions:

(a) A reference to this Declaration, which reference will state the document number or volume and initial page number wherein this Declaration is Recorded;

(b) A statement that the provisions of this Declaration will no longer apply to the withdrawn land; and

(c) A legal description of the withdrawn land.

13.05 Assignment of Declarant's Rights. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by written instrument, and properly Recorded, assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

ARTICLE 14 NON-LIABILITY OF DECLARANT; LITIGATION

14.01 Non-liability of Declarant. The Declarant is the developer of the Property with respect to the residential project contemplated herein. However, Declarant may sell all or portions of the Property to other parties for purposes of constructing individual residences to be located on the Lots. Consequently, all Owners acknowledge and affirm that the Declarant shall not 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 Lots that was performed by parties other than Declarant, its agents, employees, subsidiaries or other affiliated entities.

To the extent that a claim(s) may be asserted against the Declarant or its affiliates by the Association, Townhome Association, or by Owners with respect to the design, construction, sale, maintenance, habitability or, condition of any Lots, the Common Areas or Townhome Common Area within the Property, said claim(s) shall be resolved by a final and binding arbitration hearing conducted in Nashville, Tennessee by a panel of no more than three (3) arbiters with a company actively involved in the dispute resolution business and mutually agreeable to all parties, but if no agreement can be reached, then the hearing will be conducted by a company chosen by the Declarant. The Association or Townhome Association, as applicable, are hereby authorized to act as the exclusive representative of all Owners in asserting any such claims and causes of action relating to the Common Areas and Townhome Common Area within the Property. Each Owner does

hereby appoint the Association and Townhome Association to exclusively act as its power of attorney (which power shall be irrevocable) with respect to the above-referenced claims and causes of action including the right to compromise and settle the same. No Owner shall assert a claim or cause of action relating to the Common Area or Townhome Common Area except through the Association or the Townhome Association. Any arbitration award may be confirmed and enforced in any court of competent jurisdiction, and the legal principles of res judicata and collateral estoppel shall be applicable to any arbitration award. Any attempt by any such person or entity to enforce this arbitration provision shall constitute conclusive evidence of its intent to be bound hereby. Any portion of this provision that may be held to be unenforceable shall be severable from the balance of this provision so that the remainder of this provision shall remain in full force and effect. Notwithstanding anything to the contrary, the limitations, appointments, and remedies contained in this section 14.01 shall not apply to a Homebuilder, or in any manner limit the rights, obligations and remedies contained in any agreement between a Homebuilder and Declarant.

14.02 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association or the Townhome Association unless approved by a vote of seventy-five (75%) percent of its respective membership. This Section shall not apply, however, to (a) actions brought by the Association or Townhome Association to enforce the provisions of the Governing Documents (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments or Townhome Assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association or Townhome Association in proceedings instituted against them. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

[Remainder of page intentionally left blank; signatures follow.]

INDEX OF EXHIBITS

Exhibit A	Legal Description for Property
Exhibit B	Legal Description for Townhome Property
Exhibit C-1	Charter of River Forest Homeowners Association, Inc.
Exhibit C-2	Charter of River Forest Townhome Homeowners Association, Inc.
Exhibit D-1	Bylaws of River Forest Homeowners Association, Inc.
Exhibit D-2	Bylaws of River Forest Townhome Homeowners Association, Inc.

EXHIBIT A

LEGAL DESCRIPTION FOR PROPERTY

Being a certain tract or parcel of land lying and being in the First (1st) Civil District of Marshall County, Town of Chapel Hill, Tennessee. Being Lot 92 as shown on the final plat entitled "River Forest Subdivision, Lot 92" of record in Plat Cabinet F, page 86C, Register's Office for Marshall County, Tennessee (R.O.M.C.T.) and the River Forest, LLC property of record in Record Book 791, page 847, R.O.M.C.T. Being bounded on the north by the Dennis Gregory Harris and wife, Pamela T. Harris property of record in Record Book 263, page 578, R.O.M.C.T., on the east by the Robert D. Breckenridge and wife, Rachel A. Breckenridge property of record in Record Book 858, page 2416, R.O.M.C.T., on the south by Lots 41-48 as shown on the final plat entitled "Stoney Brook Subdivision, Section 3" of record in Plat Book D, page 177A, R.O.M.C.T.; Lot 49 as shown on the final plat entitled "Stoney Brook Subdivision, Section 3, Revision of Lot 40 and 49" of record in Plat Book E, page 29A, R.O.M.C.T.; Lot 50 as shown on the final plat entitled "Stoney Brook Subdivision, Section 3" of record in Plat Book D, page 177A, R.O.M.C.T. and Lot 4 as shown on the final plat entitled "Horton Highway Subdivision, Section 1" of record in Plat Book D, page 109A, R.O.M.C.T. and on the west by Lots 1-4 as shown on the final plat entitled "Horton Highway Subdivision, Section 1" of record in Plat Book D, page 109A, R.O.M.C.T. and North Horton Parkway/Highway 31 (66-foot public right-of-way) and being more particularly described as follows:

Beginning at a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc" in the easterly right-of-way of said North Horton Parkway, said iron rod being the northwest corner of said Lot 4, Horton Highway Subdivision, Section 1 and the southwest corner of said Lot 92, River Forest Subdivision;

Thence, with the easterly right-of-way of said North Horton Parkway, North 06 degrees 35 minutes 41 seconds East, 437.73 feet to an iron rod (old) with cap stamped "RLS 1488", the southwest corner of said Dennis Gregory Harris and wife, Pamela T. Harris, the northwest corner of said Lot 92 and the northwest corner of the herein described tract;

Thence, leaving the easterly right-of-way of said North Horton Parkway, with the southerly line of said Harris the following five (5) calls:

1. South 84 degrees 54 minutes 26 seconds East, 558.84 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc";
2. South 84 degrees 43 minutes 53 seconds East, 204.69 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc";
3. South 84 degrees 43 minutes 21 seconds East, 387.17 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc";
4. South 85 degrees 08 minutes 13 seconds East, 783.61 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc";
5. South 84 degrees 50 minutes 33 seconds East, 51.61 feet to a point in the westerly line of said Robert D. Breckenridge and wife, Rachel A. Breckenridge, said point being in the center of a creek and being further described as the southeast corner of said Harris and the northeast corner of the herein described tract;

Thence, with the westerly line of said Breckenridge, generally with the center of the creek, the following seven (7) calls:

1. South 15 degrees 24 minutes 04 seconds East, 110.68 feet;
2. South 21 degrees 53 minutes 35 seconds West, 188.87 feet;
3. South 08 degrees 33 minutes 35 seconds West, 210.51 feet;
4. South 89 degrees 23 minutes 35 seconds West, 169.07 feet;
5. South 37 degrees 09 minutes 35 seconds West, 200.28 feet;
6. South 10 degrees 09 minutes 35 seconds West, 59.74 feet;
7. South 04 degrees 24 minutes 52 seconds East, 54.17 feet to a point in the creek, the northeast corner of said Lot 50, Stoney Brook Subdivision, Section 3 and the southeast corner of the herein described tract;

Thence, leaving the creek and the westerly line of said Breckenridge, with the northerly line of said Lot 50 the following two (2) calls:

1. North 84 degrees 24 minutes 00 seconds West, 41.85 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc";
2. North 84 degrees 02 minutes 55 seconds West, 233.35 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc" in the easterly line of said Lot 49, Stoney Brook Subdivision, Section 3, said iron rod being the northwest corner of said Lot 50;

Thence, with said Lot 49 the following three (3) calls:

1. North 18 degrees 48 minutes 59 seconds East, 45.87 feet to an iron rod (old), the northeast corner of said Lot 49;
2. North 84 degrees 03 minutes 03 seconds West, 129.14 feet to an iron rod (old), the northwest corner of said Lot 49;
3. South 06 degrees 02 minutes 06 seconds West, 44.93 feet to an iron rod (old), the northeast corner of said Lot 48, Stoney Brook Subdivision, Section 3;

Thence, leaving the westerly line of said Lot 49, with the northerly line of said Lot 48, North 83 degrees 56 minutes 22 seconds West, 105.05 feet to an iron rod (old), the northwest corner of said Lot 48 and the northeast corner of said Lot 47, Stoney Brook Subdivision, Section 3;

Thence, with the northerly line of said Lot 47, North 84 degrees 07 minutes 08 seconds West, 104.99 feet to an iron rod (old), the northwest corner of said Lot 47 and the northeast corner of said Lot 46, Stoney Brook Subdivision, Section 3;

Thence, with the northerly line of said Lot 46, North 84 degrees 01 minutes 20 seconds West, 104.81 feet to an iron rod (old), the northwest corner of said Lot 46 and the northeast corner of said Lot 45, Stoney Brook Subdivision, Section 3;

Thence, with the northerly line of said Lot 45, North 84 degrees 03 minutes 02 seconds West, 105.15 feet to an iron rod (old) with cap stamped "RLS 1251", the northwest corner of said Lot 45 and the northeast corner of said Lot 44, Stoney Brook Subdivision, Section 3;

Thence, with the northerly line of said Lot 44, North 83 degrees 56 minutes 47 seconds West, 100.04 feet to an iron rod (old) with cap stamped "RLS 1251", the northwest corner of said Lot 44 and the northeast corner of said Lot 43, Stoney Brook Subdivision, Section 3;

Thence, with the northerly line of said Lot 43, North 83 degrees 37 minutes 46 seconds West, 100.68 feet to an iron rod (old) with cap stamped "RLS 1251", the northwest corner of said Lot 43 and the northeast corner of said Lot 42, Stoney Brook Subdivision, Section 3;

Thence, with the northerly line of said lot 42, North 83 degrees 55 minutes 58 seconds West, 100.39 feet to an iron rod (old) with cap stamped "RLS 1434", the northwest corner of said Lot 42 and the northeast corner of said Lot 41, Stoney Brook Subdivision, Section 3;

Thence, with the northerly line of said Lot 41, North 84 degrees 19 minutes 50 seconds West, 192.61 feet to an iron rod (old) with cap stamped "RLS 1251" in the easterly line of said Lot 1, Horton Highway Subdivision, Section 1, said iron rod being the northwest corner of said Lot 41, the northernmost corner of Lot 40 as shown on the final plat entitled "Stoney Brook Subdivision, Section 3, Revision of Lot 40 and 49" of record in Plat Book E, page 29A, R.O.M.C.T. and the southwest corner of the herein described tract;

Thence, with the easterly line of said Lot 1, North 10 degrees 06 minutes 07 seconds East, 30.06 feet to an iron rod (old) with cap stamped "RLS 1251", the northeast corner of said Lot 1 and the southeast corner of said Lot 2, Horton Highway Subdivision, Section 1;

Thence, with the easterly lines of said Lots 2, 3 and 4, Horton Highway Subdivision, Section 1, North 06 degrees 29 minutes 34 seconds East, 300.01 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc", the northeast corner of said Lot 1 and the southeast corner of said Lot 92, River Forest Subdivision;

Thence, with the northerly line of said Lot 1, North 84 degrees 02 minutes 56 seconds West, 400.16 feet to the **Point of Beginning**, containing **1,343,420 square feet** or **30.84 acres**, more or less.

Being the same property conveyed to River Forest, LLC from Douglas L. Schenkel and Kevin Petersen by Quitclaim Deed of record in Record Book 791, page 847, Register's Office for Marshall County, Tennessee and the same property conveyed to River Forest, LLC from SHTN, LLC by Warranty Deed of record in record Book 799, page 779, Register's Office for Marshall County, Tennessee.

A portion of the foregoing Property being further described as:

Being known and designated as all of River Forest Subdivision Phase 1 and Lot 92 as shown on FINAL SUBDIVISION PLAT entitled RIVER FOREST SUBDIVISION PHASE 1 AND A RESUBDIVISION OF LOT 92, of record in Plat Cabinet G, Slide 71A, in the Register's Office for Marshall County, Tennessee, to which plat specific reference is hereby made for a more particular description.

EXHIBIT B

LEGAL DESCRIPTION FOR TOWNHOME PROPERTY

Being a certain tract or parcel of land lying and being in the First (1st) Civil District of Marshall County, Town of Chapel Hill, Tennessee. Being a portion of Lot 92 as shown on the final plat entitled "River Forest Subdivision, Lot 92" of record in Plat Cabinet F, page 86C, Register's Office for Marshall County, Tennessee (R.O.M.C.T.). Being bounded on the north by the Dennis Gregory Harris and wife, Pamela T. Harris property of record in Record Book 263, page 578, R.O.M.C.T., on the east by the River Forest, LLC property of record in Record Book 791, page 847, R.O.M.C.T., on the south by the remainder of said Lot 92 and on the west by North Horton Parkway/Highway 31 (66-foot public right-of-way) and being more particularly described as follows:

Commencing at a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc" in the easterly right-of-way of said North Horton Parkway, said iron rod being the northwest corner of said Lot 4, Horton Highway Subdivision, Section 1 and the southwest corner of said Lot 92, River Forest Subdivision;

Thence, with the easterly right-of-way of said North Horton Parkway, North 06 degrees 35 minutes 41 seconds East, 90.34 feet to a concrete monument (new), the southwest corner and **Point of Beginning** of the herein described tract;

Thence, continuing with the easterly right-of-way of said North Horton Parkway, North 06 degrees 35 minutes 41 seconds East, 347.39 feet to an iron rod (old) with cap stamped "RLS 1488", the southwest corner of said Harris and the northwest corner of the herein described tract;

Thence, leaving the easterly right-of-way of said North Horton Parkway, with the southerly line of said Harris, in part, South 84 degrees 54 minutes 26 seconds East, 399.48 feet to an iron rod (old) with cap stamped "RLS 1434", the northwest corner of said River Forest, LLC and the northeast corner of the herein described tract;

Thence, leaving the southerly line of said Harris, with the westerly line of said River Forest, LLC, in part, South 06 degrees 29 minutes 34 seconds West, 390.06 feet to a 1/2-inch iron rod (new) with cap stamped "Ragan Smith Assoc", the southeast corner of the herein described tract;

Thence, leaving the westerly line of said River Forest, LLC, with a new line severing said Lot 92 the following seven (7) calls:

1. With a non-tangent curve to the right having a radius of 475.00 feet, an arc length of 58.87 feet, a delta angle of 07 degrees 06 minutes 04 seconds, a tangent of 29.47 feet and a chord bearing and distance of North 87 degrees 35 minutes 58 seconds West, 58.83 feet to a concrete monument (new);
2. North 84 degrees 02 minutes 56 seconds West, 214.97 feet to a concrete monument (new);
3. With a curve to the right having a radius of 17.00 feet, an arc length of 3.36 feet, a delta angle of 11 degrees 18 minutes 36 seconds, a tangent of 1.68 feet and a chord bearing and

distance of North 78 degrees 23 minutes 38 seconds West, 3.35 feet to a concrete monument (new);

4. North 72 degrees 45 minutes 53 seconds West, 45.27 feet to a concrete monument (new);
5. With a curve to the left having a radius of 42.00 feet, an arc length of 8.27 feet, a delta angle of 11 degrees 17 minutes 02 seconds, a tangent of 4.15 feet and a chord bearing and distance of North 78 degrees 24 minutes 24 seconds West, 8.26 feet to a concrete monument (new);
6. North 84 degrees 02 minutes 56 seconds West, 40.01 feet to a concrete monument (new);
7. With a curve to the right having a radius of 30.00 feet, an arc length of 47.46 feet, a delta angle of 90 degrees 38 minutes 36 seconds, a tangent of 30.34 feet and a chord bearing and distance of North 38 degrees 43 minutes 37 seconds West, 42.66 feet to the **Point of Beginning**, containing **154,905 square feet** or **3.56 acres**, more or less.

Being a portion of the same property conveyed to River Forest, LLC from SHTN, LLC by Warranty Deed of record in record Book 799, page 779, Register's Office for Marshall County, Tennessee.

The foregoing Townhome Property being further described as:

Being known and designated as Lot 92 as shown on FINAL SUBDIVISION PLAT entitled RIVER FOREST SUBDIVISION PHASE 1 AND A RESUBDIVISION OF LOT 92, of record in Plat Cabinet G, Slide 71A, in the Register's Office for Marshall County, Tennessee, to which plat specific reference is hereby made for a more particular description.

EXHIBIT C-1
CHARTER OF THE ASSOCIATION

[See Attached]

BK/PG:8567/934-938
21031430

5 PGS : CHARTER	
CHERYL MARTIN 783067 - 21031430	
05/21/2021 - 02:32:31 PM	
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

SHERRY ANDERSON

REGISTER OF DEEDS

FILED

21033-0041 05/10/2021 11:11 AM Received by Tennessee Secretary of State Records

**CHARTER OF
RIVER FOREST HOMEOWNERS ASSOCIATION, INC.**

In compliance with the requirements of the Tennessee Nonprofit Corporation Act (the "Act"), the undersigned, having the capacity to contract and acting as the incorporator of a non-profit property homeowners association under the Act, adopts the following Charter for such association:

**ARTICLE I
NAME**

The name of the corporation is River Forest Homeowners Association, Inc., hereunder called the "Association."

**ARTICLE II
MUTUAL BENEFIT CORPORATION**

The Association is a mutual benefit corporation.

**ARTICLE III
PERIOD OF DURATION**

The Association's period of duration shall be perpetual.

**ARTICLE IV
INITIAL REGISTERED OFFICE**

The street address, county, and zip code of the Association's initial registered office is: 7175 Nolensville Road, Suite 202, Nolensville, Williamson County, TN 37135, as may be relocated from time to time. The name of the initial registered agent of the Association is Desiree Simonetti, who may be located at the registered office and contacted by email at DSimonetti@drhorton.com.

**ARTICLE V
INCORPORATOR**

The name, address, and zip code of each incorporator is: Walter Partain, Young, Williams & Ward, PC, 300 Montvue Road, Knoxville, Knox County, TN 37919.

**ARTICLE VI
PRINCIPAL OFFICE**

The street address and zip code of the principal office of the Association is: 7175 Nolensville Road, Suite 202, Nolensville, TN 37135.

21033-0042 05/10/2021 11:11 AM Received by Tennessee Secretary of State The Hartford

ARTICLE VII
NON-PROFIT CORPORATION

The Association is non-profit.

ARTICLE VIII
PURPOSE AND POWERS

This Association does not contemplate pecuniary gain or profit to the members thereof. The purpose for which the Association is organized is to operate, manage, maintain, and administer the affairs of River Forest subdivision in Marshall County, Tennessee and perform all duties and functions of River Forest Homeowners Association, Inc., as described in the Declaration of Covenants, Conditions, and Restrictions for River Forest and Declaration of Covenants, Conditions, and Restrictions for River Forest Townhomes recorded or to be recorded in the Register's Office for Marshall County, Tennessee, hereinafter called the "Declaration" and any additions and amendments thereto as may hereafter be brought within the jurisdiction of the Association, and for this purpose to:

8.1 Exercise all of the powers, rights, and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, as the same may be amended from time to time as therein provided.

8.2 Fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Association.

8.3 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 connection with the affairs of the Association.

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

8.5 Have and exercise any and all powers, rights, and privileges which a corporation organized under the Act by law may now or hereafter have or exercise.

ARTICLE IX
MEMBERSHIP

The Association will have members. Every person or entity who is a record owner of a fee or undivided fee interest in any "Lot," as defined in the Declaration, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest

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merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

**ARTICLE X
BOARD OF DIRECTORS**

The affairs of this Association shall be managed by a Board of Directors. The number of directors and the method of electing the same shall be provided in the Bylaws of the Association.

As provided in Tennessee Code Annotated Section 48-58-501 *et seq.*, all directors and officers of the Association shall be immune from suit and no present or former director or officer of the Association shall have any personal liability to the Association or its members for monetary damages arising from the conduct of the affairs of the Association, except when such conduct amounts to willful, wanton, or gross negligence. The Association shall indemnify all current and former directors and officers of the Association to the maximum extent allowed by law, including, without limitation, advancing expenses pursuant to Tennessee Code Annotated Section 48-58-504, for any and all claims brought against such persons in connection with their actions or inactions in their official capacity as directors and officers of the Association.

**ARTICLE XI
AMENDMENT**


Unless a greater vote is required in the Declaration or in accordance with the Act, any amendment to this Charter may be adopted by the lesser of: (i) the affirmative vote of two-thirds (2/3) of the votes cast in person or by proxy by members entitled to vote at a duly called meeting; or (ii) the affirmative vote of more than fifty percent (50%) of the votes of all members entitled to vote. Notwithstanding the foregoing, any such change, modification, or amendment that would change or delete any right, remedy, benefit, or privilege afforded to the Declarant (as defined in the Declaration) under this Charter, the Bylaws of the Association, or the Declaration shall require the verified written consent of the Declarant upon such instrument in order to be effective.

**ARTICLE XII
DISSOLUTION**

Unless a greater vote is required in the Declaration or in accordance with the Act, the Association may be dissolved with the assent given in writing and signed by not less than sixty-seven (67%) of all the members of the Association entitled to vote. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be distributed to the members. Notwithstanding the foregoing, any such dissolution that would change or delete any right, remedy, benefit, or privilege afforded to the Declarant under this Charter, the Bylaws of the Association, or the Declaration shall require the verified written consent of the Declarant upon such instrument in order to be effective.

IN WITNESS WHEREOF, for the purpose of forming the Association under the laws of the State of Tennessee, the undersigned, constituting the incorporator, has adopted this Charter as of May 6, 2021.

INCORPORATOR:



Walter Partain

B1033-0004 05/10/2021 11:11 AM RECEIVED BY TENNESSEE SECRETARY OF STATE THE HANCOCK

EXHIBIT C-2

CHARTER OF THE TOWNHOME ASSOCIATION

[See Attached]

BK/PG: 8567/939-943
21031431

5 PGS : CHARTER	
CHERYL MARTIN 783067 - 21031431	
05/21/2021 - 02:32:31 PM	
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

SHERRY ANDERSON

REGISTER OF DEEDS

FILED

B1033-1737

**CHARTER OF
RIVER FOREST TOWNHOME OWNERS ASSOCIATION, INC.**

In compliance with the requirements of the Tennessee Nonprofit Corporation Act (the "Act"), the undersigned, having the capacity to contract and acting as the incorporator of a non-profit property homeowners association under the Act, adopts the following Charter for such association:

**ARTICLE I
NAME**

The name of the corporation is River Forest Townhome Owners Association, Inc., hereunder called the "Townhome Association."

**ARTICLE II
MUTUAL BENEFIT CORPORATION**

The Townhome Association is a mutual benefit corporation.

**ARTICLE III
PERIOD OF DURATION**

The Townhome Association's period of duration shall be perpetual.

**ARTICLE IV
INITIAL REGISTERED OFFICE**

The street address, county, and zip code of the Townhome Association's initial registered office is: 7175 Nolensville Road, Suite 202, Nolensville, Williamson County, TN 37135, as may be relocated from time to time. The name of the initial registered agent of the Townhome Association is Desiree Simonetti, who may be located at the registered office and contacted by email at DSimonetti@drhorton.com.

**ARTICLE V
INCORPORATOR**

The name, address, and zip code of each incorporator is: Walter Partain, Young, Williams & Ward, PC, 300 Montvue Road, Knoxville, Knox County, TN 37919.

**ARTICLE VI
PRINCIPAL OFFICE**

The street address and zip code of the principal office of the Townhome Association is: 7175 Nolensville Road, Suite 202, Nolensville, TN 37135.

ARTICLE VII
NON-PROFIT CORPORATION

The Townhome Association is non-profit.

ARTICLE VIII
PURPOSE AND POWERS

This Townhome Association does not contemplate pecuniary gain or profit to the members thereof. The purpose for which the Townhome Association is organized is to operate, manage, maintain, and administer the affairs of that certain townhome development known as River Forest Townhomes in Marshall County, Tennessee and perform all duties and functions of River Forest Townhome Owners Association, Inc., as described in the Declaration of Covenants, Conditions, and Restrictions for River Forest and Declaration of Covenants, Conditions, and Restrictions for River Forest Townhomes recorded or to be recorded in the Register's Office for Marshall County, Tennessee, hereinafter called the "Declaration" and any additions and amendments thereto as may hereafter be brought within the jurisdiction of the Townhome Association, and for this purpose to:

8.1 Exercise all of the powers, rights, and privileges and to perform all of the duties and obligations of the Townhome Association as set forth in the Declaration, as the same may be amended from time to time as therein provided.

8.2 Fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Townhome Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Townhome Association.

8.3 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 connection with the affairs of the Townhome Association.

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

8.5 Have and exercise any and all powers, rights, and privileges which a corporation organized under the Act by law may now or hereafter have or exercise.

ARTICLE IX
MEMBERSHIP

The Townhome Association will have members. Every person or entity who is a record owner of a fee or undivided fee interest in any "Townhome Lot," as defined in the Declaration, shall be a member of the Townhome Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation.

Membership shall be appurtenant to and may not be separated from ownership of any Townhome Lot.

ARTICLE X
BOARD OF DIRECTORS

The affairs of this Townhome Association shall be managed by a Board of Directors. The number of directors and the method of electing the same shall be provided in the Bylaws of the Townhome Association.

As provided in Tennessee Code Annotated Section 48-58-501 *et seq.*, all directors and officers of the Townhome Association shall be immune from suit and no present or former director or officer of the Townhome Association shall have any personal liability to the Townhome Association or its members for monetary damages arising from the conduct of the affairs of the Townhome Association, except when such conduct amounts to willful, wanton, or gross negligence. The Townhome Association shall indemnify all current and former directors and officers of the Townhome Association to the maximum extent allowed by law, including, without limitation, advancing expenses pursuant to Tennessee Code Annotated Section 48-58-504, for any and all claims brought against such persons in connection with their actions or inactions in their official capacity as directors and officers of the Townhome Association.

ARTICLE XI
AMENDMENT

Unless a greater vote is required in the Declaration or in accordance with the Act, any amendment to this Charter may be adopted by the lesser of: (i) the affirmative vote of two-thirds ($\frac{2}{3}$) of the votes cast in person or by proxy by members entitled to vote at a duly called meeting; or (ii) the affirmative vote of more than fifty percent (50%) of the votes of all members entitled to vote. Notwithstanding the foregoing, any such change, modification, or amendment that would change or delete any right, remedy, benefit, or privilege afforded to the Declarant (as defined in the Declaration) under this Charter, the Bylaws of the Townhome Association, or the Declaration shall require the verified written consent of the Declarant upon such instrument in order to be effective.


ARTICLE XII
DISSOLUTION

Unless a greater vote is required in the Declaration or in accordance with the Act, the Townhome Association may be dissolved with the assent given in writing and signed by not less than sixty-seven (67%) of all the members of the Townhome Association entitled to vote. Upon dissolution of the Townhome Association, other than incident to a merger or consolidation, the assets of the Townhome Association shall be distributed to the members. Notwithstanding the foregoing, any such dissolution that would change or delete any right, remedy, benefit, or privilege afforded to the Declarant under this Charter, the Bylaws of the Townhome Association, or the

Declaration shall require the verified written consent of the Declarant upon such instrument in order to be effective.

IN WITNESS WHEREOF, for the purpose of forming the Townhome Association under the laws of the State of Tennessee, the undersigned, constituting the incorporator, has adopted this Charter as of May 6, 2021.

INCORPORATOR:



Walter Partain

EXHIBIT D-1
BYLAWS OF THE ASSOCIATION

[See Attached]

**BYLAWS
OF
RIVER FOREST HOMEOWNERS ASSOCIATION, INC.**

ARTICLE 1: DEFINITIONS

The words defined in the Declaration of Covenants, Conditions and Restrictions for River Forest and Declaration of Covenants, Conditions and Restrictions for River Forest Townhomes recorded in the Register's Office for Marshall County, Tennessee (hereinafter referred to as the "Declaration"), shall have the same meaning in these Bylaws.

ARTICLE 2: OFFICES

2.01. Initial Registered Office and Agent. The initial registered office of the corporation shall be at RIVER FOREST OWNERS ASSOCIATION, INC. 7175 Nolensville Road, Suite 202, Nolensville, Williamson County, TN 37135, and the name of the initial registered agent of the corporation is Desiree Simonetti.

2.02. Other Offices. The corporation may also have offices at such other places both within and without the State of Tennessee as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE 3: MEMBERS AND MEMBERSHIP PRIVILEGES

3.01. Membership. Each Owner of a Lot shall be a Member of the corporation and no other person or entity shall automatically be entitled to membership. No person entitled to membership privileges shall be entitled to vote in the corporation and shall not be considered a "Member" for any other purpose. No Member shall be required to pay any consideration whatsoever solely for his membership in the corporation.

ARTICLE 4: MEETINGS OF MEMBERS

4.01. Place of Meetings. Meetings of the Members of the corporation may be held at a place to be determined by the Board of Directors within Marshall County, Tennessee or a contiguous county.

4.02. Annual Meeting. The first regular annual meeting of the Members may be held, subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, if necessary to comply with federal regulations, the first meeting shall be held no later than the earlier of the following events: (a) four months after all of the Lots have been sold by the Declarant; or (b) three years following conveyance of the first Lot by the Declarant. Thereafter, an annual meeting of the Members shall be held on a date and at a time

and place to be determined by the Board of Directors. At the annual meeting, the Members shall elect a Board of Directors, and shall transact such other business as may properly be brought before the meeting.

4.03. Special Meeting. Special meetings of the Members, for any purpose or purposes, maybe called by the president, the Board of Directors, or by Members having not less than ten percent (10%) of the total percentage values of those votes entitled to be cast at such meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of such meeting.

4.04. Notice. The Board shall deliver written notice stating the place, day and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. All meeting notices shall be delivered not less than fifteen (15) nor more than sixty (60) days before the date of the meeting, to each Member of the corporation entitled to vote at such meeting. Meeting notices may be delivered in person, by U.S. mail, email or by any other reasonable means as determined by the Board and not prohibited by Tennessee law.

4.05. Quorum. The presence in person or by proxy of more than ten (10%) percent of the percentage values of those votes entitled to be cast at a meeting of the Members shall constitute a quorum at all meetings of the Members for the transaction of business. If a quorum is not present, the Members entitled to vote shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

4.06. Majority Vote; Withdrawal of Quorum. When a quorum is present at any meeting, the vote of the holders of more than fifty per cent (50%) of the percentage values of those votes present in person or by proxy and entitled to be cast by Members qualified to vote, shall decide any question brought before such meeting, unless the question is one upon which by express provision of the Declaration, the Charter, or these Bylaws, a different vote is required, in which case such express provision shall govern and control. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum.

4.07. Method of Voting; Proxies.

(a) The Owner of each Lot (as applicable) will have one (1) vote for each Lot so owned.

(b) In addition to the votes to which Declarant is entitled by reason of Section (a) above, for each vote outstanding in favor of any other person or entity, Declarant shall have four (4) additional votes until the expiration or termination of the Development Period.

(c) When more than one person or entity owns a portion of the fee simple interest in any Lot, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Lot will be exercised by the person so designated in writing to the secretary of the corporation by the Owner of such Lot, and in no event will the vote for such Lot exceed the total votes to which such Lot is otherwise entitled under this Section 4.07.

No Member, other than the Declarant, shall be entitled to vote at any meeting of the corporation until such Member has presented evidence of ownership of a Lot in River Forest to the corporation, if such evidence is demanded, the sufficiency of which shall be determined by the members of the Board present at the meeting. The vote of each Member may only be cast by such Member or by a proxy given by such Member to his duly authorized representative bearing a date not more than eleven months prior to such meeting. Such proxy shall be filed with the secretary of the corporation prior to or at the time of the meeting. If title to a Lot shall be in the name of two or more persons as Co-owners, all of such persons shall be Members of the corporation and are referred to herein as "Joint Co-owners". Any one of such Joint Co-owners may vote at any meeting of the Members of the corporation and such vote shall be binding upon such other Joint Co-owners who are not present at such meeting until written notice to the contrary has been received by the Board of Directors in which case the unanimous vote of all such Joint Co-owners (in person or by proxy) shall be required to cast their vote as Members. If two or more of such Joint Co-owners are present at any meeting, their unanimous action shall also be required to cast their vote as Members of the corporation.

4.08. Cumulative Voting Not Permitted. Cumulative voting for Directors shall not be permitted.

4.09. Written Ballots. Any action which may be taken by the Members at a meeting may be taken by written ballot without a meeting in accordance with Tenn. Code Ann. § 48-57-108.

ARTICLE 5: DIRECTORS

5.01. Management. The business and affairs of the corporation shall be managed by its Board of Directors who may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute, the Declaration, the Charter, or these Bylaws, directed or required to be exercised or done by the Members. Such Board powers include all powers promulgated pursuant to the Declaration.

5.02. Number; Qualifications; Election; Term. The initial Board of Directors shall consist of three (3) Directors, each of whom shall be a person appointed by the Declarant, and shall serve terms of two (2) years or until his successor shall be elected and qualify. During the Development Period, the Directors shall be appointed by the Declarant. After the Development Period, there shall be five (5) Directors elected by the Members who shall serve the following terms: the Director receiving the most votes shall serve a term of three (3) years; the two (2) Directors receiving the second most votes and third most votes shall each serve a

term of two (2) years; and the remaining two (2) Directors shall each serve a term of one (1) year. After the expiration of the term of each Director on the initial slate elected following the end of the Development Period, all Directors shall be elected for terms of two (2) years.

5.03. Removal; Change in Number; Vacancies. Any Director may be removed either for or without cause, at any special meeting of the Members of the corporation by the affirmative vote of a majority of the Members present in person or by proxy at such meeting and entitled to vote, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting. If any vacancy occurs in the Board of Directors, caused by death, resignation, retirement, disqualification or removal from office of any Director or otherwise, the remaining Board members may appoint a successor who shall serve until the next annual meeting of the Members at which time, a successor shall be elected to serve the remaining unexpired term of his predecessor in office, if any. Any Directorship to be filled by reason of an increase in the number of Directors after the Development Period expires or terminates shall be filled by election at an annual meeting of Members or at a special meeting of Members called for that purpose.

5.04. Place of Meetings. The Directors of the corporation shall hold their meetings, both regular and special within Marshall County, Tennessee or a contiguous county.

5.05. Annual Meetings. The annual meeting of each newly elected Board shall be held without further notice immediately following the annual meeting of Members of the corporation, and at the same place, unless by unanimous consent of the Directors then elected and serving such time or place shall be changed.

5.06. Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by the Board.

5.07. Special Meetings. Special meetings of the Board of Directors may be called by the president on a three (3) days notice to each Director, either personally or by mail; special meetings shall be called by the president or secretary in like manner and on like notice on the written request of two (2) Directors. Except as may be otherwise expressly provided by statute, the Charter or these Bylaws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in a notice or waiver of notice.

5.08. Quorum. At all meetings of the Board of Directors the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

5.09. Committees Having Board Authority. The Board of Directors may, by resolution approved by vote or written consent by a majority of the whole Board, designate an Architectural Control Committee, a Nominating Committee for members of the Board of Directors and such other committees as deemed necessary to consist of two (2) or more of the Directors of the corporation. Any such committee, to the extent provided in said resolution, shall and may

exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by statute or the Charter.

5.10. Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by the president if he is authorized by a like resolution of the Board of Directors. Membership on such committees may, but need not be, limited to Directors or Members of the corporation.

5.11. Procedure. All committees shall keep regular minutes of their proceedings and shall report the same to the Board when required.

5.12. Managing Agents. The Board of Directors may employ for the corporation a management agent at a compensation established by the Board of Directors and such management agent shall perform such duties and services with respect to River Forest development as the Board of Directors shall authorize, and the Board of Directors may delegate to such management agent such duties of Officers and such duties with respect to management, repair and maintenance of River Forest development which are not by statute, the Declaration, the Charter or these Corporate Bylaws, required to be performed by or have the approval of the Board of Directors or the Members of the corporation.

5.13. Communication Outside of Meetings. The Board of Directors may communicate with each other in person, by e-mail or other electronic form of communication. If any decision is reached or resolution adopted by the Board outside of a face-to-face meeting of the Board, such decision or resolution shall be reduced to writing and ratified by the Board at the next face-to-face meeting of the Board.

ARTICLE 6: NOTICES

6.01. Method. Whenever notice is required to be given to any Director or Member, and no provision is made as to how such notice shall be given, any such notice may be given in writing, and delivered in person, by regular mail postage prepaid, electronic mail, or any other reasonable means not prohibited by Tennessee law, to such Director or Member at such address as appears on the records of the corporation. Any notice required or permitted to be given by mail shall be deemed to be given at the time when the same is deposited in the United States mail. If sent by electronic mail, the notice of a meeting shall be deemed to be delivered upon receipt of a delivery receipt notice by the sender.

6.02. Waiver. Whenever any notice is required to be given to any Member or Director of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be deemed equivalent to the giving of such notice.

ARTICLE 7: OFFICERS

7.01. Number; Titles. The officers of the corporation shall be elected by the Directors from among the members of the Board of Directors and shall be a president, a secretary and a treasurer. Any two (2) or more offices may be held by the same person except the offices of president and secretary shall not be held by the same person.

7.02. Election. The Board of Directors at its first meeting after each annual meeting of Members shall choose a president, a secretary, and a treasurer, all of whom shall be members of the Board.

7.03. Other Officers and Agents. The Board of Directors may appoint such other officers and may delegate responsibilities and authority to such agents as it shall deem necessary, who shall be appointed or designated for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

7.04. Salaries. The salaries of all officers of the corporation, if any, shall be fixed by the Board of Directors.

7.05. Term of Office; Removal. Each officer of the corporation shall hold office until the annual meeting of the Board of Directors next following his election and thereafter until his successor is chosen and qualified in his stead or until his death or until his resignation or removal from office. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

7.06. President. The president shall be the chief executive officer of the corporation; he shall preside at all meetings of the Members and the Board of Directors, shall have general and active management of the affairs of the corporation, shall see that all orders and resolutions of the Board are carried into effect, and shall perform such other duties as the Board of Directors shall prescribe.

7.07. Secretary. The secretary (or an agent to whom the Board has delegated some or all responsibility of the Secretary) shall attend all sessions of the Board of Directors and all meetings of the Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for any committees when required. He shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or president, under whose supervision he shall be.

7.08. Treasurer. The treasurer (or an agent to whom the Board has delegated some or all responsibility of the Treasurer) shall have the custody of the corporate funds and securities, shall keep full and accurate accounts of receipts and disbursements of the corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in

such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, shall render to the president and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the corporation, and shall perform such other duties as the Board of Directors may prescribe. If required by the Board of Directors, he shall give the corporation a bond in such form, in such sum, and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his office and for the restoration to the corporation, in case of his death, resignation, retirement, or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.01. Reserves. The Board of Directors shall create such reserve or reserves as the Directors from time to time, in their discretion, think proper to provide for contingencies, and to repair or maintain any portion of River Forest or for such other purposes as the Directors shall think beneficial to the corporation.

8.02. Checks. All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

8.03. Fiscal Year. The fiscal year of the corporation shall be the calendar year unless otherwise fixed by resolution of the Board of Directors.

8.04. Seal. There shall be no corporate seal.

8.05. Indemnification. The corporation shall indemnify any Director, officer, or employee, or former Director, officer, or employee of the corporation, against expenses actually and necessarily incurred by him, and any amount paid in satisfaction of judgments, in connection with any action, suit or proceeding, whether civil or criminal in nature, in which he is made a party by reason of being or having been such a Director, officer, or employee (whether or not a Director, officer or employee at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters as to which he shall be adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. The corporation may also reimburse to any Directors, officer or employee the reasonable costs of settlement of any such action, suit or proceedings, if it shall be found by a majority of a committee of the Directors not involved in the matter of controversy, whether or not a quorum, that it was to the interests of the corporation that such settlement be made and that such Director, officer or employee was not guilty of gross negligence or willful misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, officer, or employee may be entitled by law or under bylaw, agreement, vote of Members or otherwise.

8.06. Inconsistencies. In the event these Bylaws shall be inconsistent with the

Declaration, then the Declaration shall be controlling.

8.07. Amendment. Except for those amendments which the Tennessee Nonprofit Corporation Act reserves exclusively to the Members, and unless a greater vote is required in the Declaration, the Charter, elsewhere in these Bylaws, or in accordance with the Tennessee Nonprofit Corporation Act, these Bylaws may be changed, modified, or amended upon the affirmative vote of a majority of the Board. Unless a greater vote is required in the Declaration, the Charter, elsewhere in these Bylaws, or in accordance with the Tennessee Nonprofit Corporation Act, these Bylaws may also be changed, modified, or amended by the lesser of: (i) the affirmative vote of two-thirds ($\frac{2}{3}$) of the votes cast in person or by proxy by Members entitled to vote at a duly called meeting; or (ii) the affirmative vote of more than fifty percent (50%) of the votes of all Members entitled to vote. Notwithstanding the foregoing, any such change, modification, or amendment that would change or delete any right, remedy, benefit, or privilege afforded to the Declarant under these Bylaws, the Charter, or the Declaration shall require the consent of the Declarant in order to be effective.

8.08. Headings. The headings used in these bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

EXHIBIT D-2
BYLAWS OF THE TOWNHOME ASSOCIATION

[See Attached]

**BYLAWS
OF
RIVER FOREST TOWNHOME OWNERS ASSOCIATION, INC.**

ARTICLE 1: DEFINITIONS

The words "Development Period," "Townhome Charter," and "Townhome Lot" shall have the same meanings in these Bylaws as is given them in the Declaration of Covenants, Conditions and Restrictions for River Forest and Declaration of Covenants, Conditions and Restrictions for River Forest Townhomes recorded in the Register's Office for Marshall County, Tennessee (hereinafter referred to as the "Declaration").

ARTICLE 2: OFFICES

2.01. Initial Registered Office and Agent. The initial registered office of the corporation shall be at RIVER FOREST TOWNHOME OWNERS ASSOCIATION, INC. 7175 Nolensville Road, Suite 202, Nolensville, Williamson County, TN 37135, and the name of the initial registered agent of the corporation is Desiree Simonetti.

2.02. Other Offices. The corporation may also have offices at such other places both within and without the State of Tennessee as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE 3: MEMBERS AND MEMBERSHIP PRIVILEGES

3.01. Membership. Each Owner of a Townhome Lot shall be a Member of the corporation and no other person or entity shall automatically be entitled to membership. No person entitled to membership privileges shall be entitled to vote in the Association and shall not be considered a "Member" for any other purpose. No Member shall be required to pay any consideration whatsoever solely for his membership in the corporation.

ARTICLE 4: MEETINGS OF MEMBERS

4.01. Place of Meetings. Meetings of the Members of the corporation may be held at a place to be determined by the Board of Directors within Marshall County, Tennessee or a contiguous county.

4.02. Annual Meeting. The first regular annual meeting of the Members may be held, subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, if necessary to comply with federal regulations, the first meeting shall be held no later than the earlier of the following events: (a) four months after all of the Townhome Lots have been

sold by the Declarant; or (b) three years following conveyance of the first Townhome Lot by the Declarant. Thereafter, an annual meeting of the Members shall be held on a date and at a time and place to be determined by the Board of Directors. At the annual meeting, the Members shall elect a Board of Directors, and shall transact such other business as may properly be brought before the meeting.

4.03. Special Meeting. Special meetings of the Members, for any purpose or purposes, may be called by the president, the Board of Directors, or by Members having not less than ten percent (10%) of the total percentage values of those votes entitled to be cast at such meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of such meeting.

4.04. Notice. The Board shall deliver written notice stating the place, day and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. All meeting notices shall be delivered not less than fifteen (15) nor more than sixty (60) days before the date of the meeting, to each Member of the corporation entitled to vote at such meeting. Meeting notices may be delivered in person, by U.S. mail, email or by any other reasonable means as determined by the Board and not prohibited by Tennessee law.

4.05. Quorum. The presence in person or by proxy of more than ten (10%) percent of the percentage values of those votes entitled to be cast at a meeting of the Members and at least ten percent (10%) of the percentage values of each class of Members shall constitute a quorum at all meetings of the Members for the transaction of business. If a quorum is not present, the Members entitled to vote shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

4.06. Majority Vote; Withdrawal of Quorum. When a quorum is present at any meeting, the vote of the holders of more than fifty per cent (50%) of the percentage values of those votes entitled to be cast of Members qualified to vote and present in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which by express provision of the Declaration, the Townhome Charter, or these Bylaws, a different vote is required, in which case such express provision shall govern and control. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum.

4.07. Method of Voting; Proxies.

(a) The Owner of each Townhome Lot will have one (1) vote for each Townhome Lot so owned.

(b) In addition to the votes to which Declarant is entitled by reason of Section (a) above, for each vote outstanding in favor of any other person or entity, Declarant shall have four (4) additional votes until the expiration or termination of the Development Period.

(c) When more than one person or entity owns a portion of the fee simple interest in any Townhome Lot, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Townhome Lot will be exercised by the person so designated in writing to the Secretary of the Townhome Association by the Owner of such Townhome Lot, and in no event will the vote for such Townhome Lot exceed the total votes to which such Townhome Lot is otherwise entitled under this Section 4.07.

No Member, other than the Declarant, shall be entitled to vote at any meeting of the corporation until such Member has presented evidence of ownership of a Townhome Lot in River Forest Townhomes to the corporation, if such evidence is demanded, the sufficiency of which shall be determined by the members of the Board present at the meeting. The vote of each Member may only be cast by such Member or by a proxy given by such Member to his duly authorized representative bearing a date not more than eleven months prior to such meeting. Such proxy shall be filed with the secretary of the corporation prior to or at the time of the meeting. If title to a Townhome Lot shall be in the name of two or more persons as Co-owners, all of such persons shall be Members of the corporation and are referred to herein as "Joint Co-owners". Any one of such Joint Co-owners may vote at any meeting of the Members of the corporation and such vote shall be binding upon such other Joint Co-owners who are not present at such meeting until written notice to the contrary has been received by the Board of Directors in which case the unanimous vote of all such Joint Co-owners (in person or by proxy) shall be required to cast their vote as Members. If two or more of such Joint Co-owners are present at any meeting, their unanimous action shall also be required to cast their vote as Members of the corporation.

4.08. Cumulative Voting Not Permitted. Cumulative voting for Directors shall not be permitted.

4.09. Written Ballots. Any action which may be taken by the Members at a meeting may be taken by written ballot without a meeting in accordance with Tenn. Code Ann. § 48-57-108.

ARTICLE 5: DIRECTORS

5.01. Management. The business and affairs of the corporation shall be managed by its Board of Directors who may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute, the Declaration, the Townhome Charter, or these Bylaws, directed or required to be exercised or done by the Members. Such Board powers include all powers promulgated pursuant to the Declaration.

5.02. Number; Qualifications; Election; Term. The initial Board of Directors shall consist of three (3) Directors, each of whom shall be a person appointed by the Declarant, and shall serve terms of two (2) years or until his successor shall be elected and qualify. During the Development Period, the Directors shall be appointed by the Declarant. After the Development Period, there shall be five (5) Directors elected by the Members who shall serve the following terms: the Director receiving the most votes shall serve a term of three (3) years; the

two (2) Directors receiving the second most votes and third most votes shall each serve a term of two (2) years; and the remaining two (2) Directors shall each serve a term of one (1) year. After the expiration of the term of each Director on the initial slate elected following the end of the Development Period, all Directors shall be elected for terms of two (2) years.

5.03. Removal; Change in Number; Vacancies. Any Director may be removed either for or without cause, at any special meeting of the Members of the corporation by the affirmative vote of a majority of the Members present in person or by proxy at such meeting and entitled to vote, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting. If any vacancy occurs in the Board of Directors, caused by death, resignation, retirement, disqualification or removal from office of any Director or otherwise, the remaining Board members may appoint a successor who shall serve until the next annual meeting of the Members in which a quorum is present, at which time, a successor shall be elected to serve the remaining unexpired term of his predecessor in office, if any. Any Directorship to be filled by reason of an increase in the number of Directors after the Development Period expires or terminates shall be filled by election at an annual meeting of Members or at a special meeting of Members called for that purpose.

5.04. Place of Meetings. The Directors of the corporation shall hold their meetings, both regular and special, within Marshall County, Tennessee or a contiguous county.

5.05. Annual Meetings. The annual meeting of each newly elected Board shall be held without further notice immediately following the annual meeting of Members of the corporation, and at the same place, unless by unanimous consent of the Directors then elected and serving such time or place shall be changed.

5.06. Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by the Board.

5.07. Special Meetings. Special meetings of the Board of Directors may be called by the president on a three (3) days notice to each Director, either personally or by regular mail or electronic mail; special meetings shall be called by the president or secretary in like manner and on like notice on the written request of two (2) Directors. Except as may be otherwise expressly provided by statute, the Townhome Charter or these Bylaws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in a notice or waiver of notice.

5.08. Quorum. At all meetings of the Board of Directors the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

5.09. Committees Having Board Authority. The Board of Directors may, by resolution approved by vote or written consent by a majority of the whole Board, designate a Nominating Committee for members of the Board of Directors and such other committees as deemed necessary

to consist of two (2) or more of the Directors of the corporation. Any such committee, to the extent provided in said resolution, shall and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by statute or the Townhome Charter.

5.10. Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by the president if he is authorized by a like resolution of the Board of Directors. Membership on such committees may, but need not be, limited to Directors or Members of the corporation.

5.11. Procedure. All committees shall keep regular minutes of their proceedings and shall report the same to the Board when required.

5.12. Managing Agents. The Board of Directors may employ for the corporation a management agent at a compensation established by the Board of Directors and such management agent shall perform such duties and services with respect to River Forest Townhomes development as the Board of Directors shall authorize, and the Board of Directors may delegate to such management agent such duties of Officers and such duties with respect to management, repair and maintenance of River Forest Townhomes development which are not by statute, the Declaration, the Townhome Charter, or these Bylaws, required to be performed by or have the approval of the Board of Directors or the Members of the corporation.

5.13. Communication Outside of Meetings. The Board of Directors may communicate with each other in person, by e-mail or other electronic form of communication. If any decision is reached or resolution adopted by the Board outside of a face-to-face meeting of the Board, such decision or resolution shall be reduced to writing and ratified by the Board at the next face-to-face meeting of the Board.

ARTICLE 6: NOTICES

6.01. Method. Whenever notice is required to be given to any Director or Member, and no provision is made as to how such notice shall be given, any such notice may be given in writing, and delivered in person, by regular mail postage prepaid, electronic mail, or any other reasonable means not prohibited by Tennessee law, to such Director or Member at such address as appears on the records of the corporation. Any notice required or permitted to be given by mail shall be deemed to be given at the time when the same is deposited in the United States mail. If sent by electronic mail, the notice of a meeting shall be deemed to be delivered upon receipt of a delivery receipt notice by the sender.

6.02. Waiver. Whenever any notice is required to be given to any Member or Director of the corporation a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be deemed equivalent to the giving of such notice.

ARTICLE 7: OFFICERS

7.01. Number; Titles. The officers of the corporation shall be elected by the Directors from among the members of the Board of Directors and shall be a president, a secretary and a treasurer. Any two (2) or more offices may be held by the same person except the offices of president and secretary shall not be held by the same person.

7.02. Election. The Board of Directors at its first meeting after each annual meeting of Members shall choose a president, a secretary, and a treasurer, all of whom shall be members of the Board.

7.03. Other Officers and Agents. The Board of Directors may appoint such other officers and may delegate responsibilities and authority to such agents as it shall deem necessary, who shall be appointed or designated for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

7.04. Salaries. The salaries of all officers of the corporation, if any, shall be fixed by the Board of Directors.

7.05. Term of Office; Removal. Each officer of the corporation shall hold office until the annual meeting of the Board of Directors next following his election and thereafter until his successor is chosen and qualified in his stead or until his death or until his resignation or removal from office. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

7.06. President. The president shall be the chief executive officer of the corporation; he shall preside at all meetings of the Members and the Board of Directors, shall have general and active management of the affairs of the corporation, shall see that all orders and resolutions of the Board are carried into effect, and shall perform such other duties as the Board of Directors shall prescribe.

7.07. Secretary. The secretary (or an agent to whom the Board has delegated some or all responsibility of the Secretary) shall attend all sessions of the Board of Directors and all meetings of the Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for any committees when required. He shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or president, under whose supervision he shall be.

7.08. Treasurer. The treasurer (or an agent to whom the Board has delegated some or all responsibility of the Treasurer) shall have the custody of the corporate funds and securities, shall keep full and accurate accounts of receipts and disbursements of the corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in

such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, shall render to the president and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the corporation, and shall perform such other duties as the Board of Directors may prescribe. If required by the Board of Directors, he shall give the corporation a bond in such form, in such sum, and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his office and for the restoration to the corporation, in case of his death, resignation, retirement, or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.01. Reserves. The Board of Directors shall create such reserve or reserves as the Directors from time to time, in their discretion, think proper to provide for contingencies, and to repair or maintain any portion of River Forest Townhomes or for such other purposes as the Directors shall think beneficial to the corporation.

8.02. Checks. All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

8.03. Fiscal Year. The fiscal year of the corporation shall be the calendar year unless otherwise fixed by resolution of the Board of Directors.

8.04. Seal. There shall be no corporate seal.

8.05. Indemnification. The corporation shall indemnify any Director, officer, or employee, or former Director, officer, or employee of the corporation, against expenses actually and necessarily incurred by him, and any amount paid in satisfaction of judgments, in connection with any action, suit or proceeding, whether civil or criminal in nature, in which he is made a party by reason of being or having been such a Director, officer, or employee (whether or not a Director, officer or employee at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters as to which he shall be adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. The corporation may also reimburse to any Directors, officer or employee the reasonable costs of settlement of any such action, suit or proceedings, if it shall be found by a majority of a committee of the Directors not involved in the matter of controversy, whether or not a quorum, that it was to the interests of the corporation that such settlement be made and that such Director, officer or employee was not guilty of gross negligence or willful misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, officer, or employee may be entitled bylaw or under bylaw, agreement, vote of Members or otherwise.

8.06. Inconsistencies. In the event these Bylaws shall be inconsistent with the Declaration, then the Declaration shall be controlling.

8.07. Amendment. Except for those amendments which the Tennessee Nonprofit Corporation Act reserves exclusively to the Members, and unless a greater vote is required in the Declaration, the Townhome Charter, elsewhere in these Bylaws, or in accordance with the Tennessee Nonprofit Corporation Act, these Bylaws may be changed, modified, or amended upon the affirmative vote of a majority of the Board. Unless a greater vote is required in the Declaration, the Townhome Charter, elsewhere in these Bylaws, or in accordance with the Tennessee Nonprofit Corporation Act, these Bylaws may also be changed, modified, or amended by the lesser of: (i) the affirmative vote of two-thirds ($\frac{2}{3}$) of the votes cast in person or by proxy by Members entitled to vote at a duly called meeting; or (ii) the affirmative vote of more than fifty percent (50%) of the votes of all Members entitled to vote. Notwithstanding the foregoing, any such change, modification, or amendment that would change or delete any right, remedy, benefit, or privilege afforded to the Declarant under these Bylaws, the Townhome Charter, or the Declaration shall require the consent of the Declarant in order to be effective.

8.08. Headings. The headings used in these Bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.