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**FILE** THIS INSTRUMENT PREPARED BY:  
 DuBOIS, DuBOIS & BATES, P.C.  
 810 South Garden Street  
 Columbia, TN 38401

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**COBBLESTONE COVE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, is made and entered into by McBroom Family Partnership, A Tennessee General Partnership and Parrish Lumber & Building Supply Co., Inc., A Tennessee Corporation;

**WITNESSETH:**

**WHEREAS**, Declarant and Builder (as hereinafter defined) are the legal title holders of the Parcel (as hereinafter defined); and

**WHEREAS**, Declarant intends to and does hereby submit the Parcel, altogether with all of the rest of the Property (as hereinafter defined), to the provisions of the Act (as hereinafter defined) subject to and upon the terms and conditions hereinafter set forth; and

**WHEREAS**, Declarant further desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the Property or any part thereof, and intends that all future owners, occupants, mortgagees and other Persons hereafter having any interest in the Property shall hold said interest subject to, certain rights, easements and privileges in, over and upon the Property and certain mutually beneficial covenants, conditions, restrictions and obligations with respect to the proper use, conduct and maintenance thereof, all as more particularly hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of ownership and use of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property;

**NOW, THEREFORE**, for the purposes above set forth, Declarant declares as follows:

**1. Definitions.** As used herein, unless the context requires otherwise:

**"Act"** means the Tennessee Horizontal Property Act, TCA § 66-27-101 - §66-27-123. as amended.

**"Board"** means the Board of Directors of the Corporation.

TRANSFER TAX	0.00
RECORDING FEE	249.00
DP FEE	1.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	250.00

STATE OF TENNESSEE, HANCOCK COUNTY

**JOHN FLEMING**  
 REGISTER OF DEEDS

"**Builder**" means Parrish Lumber & Building Supply Co., Inc. and its permitted successors and assigns in the capacity of Builder pursuant to this Declaration, including any successor Builder designated by Developer as provided in Paragraph 29.

"**Buildings**" mean the buildings located on the Parcel and forming part of the Property and containing the Units. The Buildings are delineated on the Plat.

"**By-Laws**" means the By-Laws of the Corporation attached hereto as Exhibit B and by this reference made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Declaration dealing with the administration and maintenance of the Property shall be deemed to be part of the By-Laws.

"**Common Elements**" means all of the Property except for the Units and the Private Elements and, without limiting the generality of the foregoing, shall include those items defined as "general common elements" in the Act, including the following:

- (1) The Parcel;
- (2) All drives, streets, access roads, parking areas, recreation areas and open spaces on the Parcel as shown on the Plat;
- (3) All foundations, crawl spaces, attics, mailboxes, main walls and columns, roofs, gates, entrances and exits or communication ways;
- (4) All fences, yards and gardens, except as otherwise herein provided or stipulated;
- (5) All compartments or installations of central services such as power, light, and gas;
- (6) Pipes, ducts, sewer, drainage and electrical wiring and conduits (except pipes, ducts, sewer, drainage, and electrical wiring and conduits situated entirely within a Unit and serving only such Unit); and
- (7) In general, all devices or installations existing for common use and all other elements of the Property necessary for the existence, upkeep, and safety of the regime established by this Declaration;

*provided, however, that notwithstanding anything herein to the contrary, Private Elements shall not be considered to be Common Elements.*

"**Corporation**" means Cobblestone Cove Homeowners' Association, Inc., a Tennessee nonprofit corporation. It is intended that the term "Corporation" as used in this Declaration shall have the same meaning as the term "townhouse corporation" as used in the Act.

**"Declarant"** means Developer and its successors, successors-in-title and assigns as Declarant hereunder, provided that any such successor or assign is designated in writing by Developer or a successor Declarant as a successor or assign of the rights of Declarant set forth provided in Paragraph 29.

**"Declaration"** means this Declaration of Covenants, Conditions and Restrictions for Cobblestone Cove, as the same may be amended, modified or supplemented from time to time.

**"Delinquency Interest Rate"** means an annual percentage rate equal to two percentage points (2%) in excess of the "Prime Rate" from time to time published in the Money Rates section of The Wall Street Journal which rate published on the last publication day in any month shall be deemed to be the appropriate reference rate for the entire next succeeding calendar month; provided, however, that in no event shall the Delinquency Interest Rate exceed the maximum contract rate of interest from time to time allowed to be charged under applicable law. Should The Wall Street Journal cease the publication of its Prime Rate, the Board shall designate a comparable reference rate.

**"Developer"** means McBroom Family Partnership, a Tennessee General Partnership, and its successors, successors-in-title and assigns, provided that any such successor or assign (1) a successor in title to Developer's title to all of the remaining Property not transferred to Builder to the provisions of this Declaration, and (2) designated in writing by Developer as a successor or assign of the rights of Developer set forth herein.

**"Development Period"** means the period of time commencing on the date of the Recording of this Declaration and ending on the day that is the earlier to occur of (a) the day that is four (4) months after the date on which at least seventy-five percent (75%) of the Units have been conveyed to the initial purchasers thereof by Declarant or Builder, or (b) the day that is seven (7) years after the first conveyance of a Unit to the initial purchaser thereof by Declarant or Builder, or (c) any day prior to the days specified in clauses (a) or (b) of this sentence on which Declarant in its sole discretion elects to terminate the Development Period by calling the First Annual Meeting (as defined in the By-Laws). For purposes of the foregoing, "Unit" at any time shall be deemed to include not only completed Units owned by Declarant or Builder, but also shall include any incomplete or unconstructed Units as to which Declarant or Builder is the owner of the corresponding Private Elements at such time. No transfer of a Unit or any interest therein between Declarant and Builder shall be regarded as a conveyance of a Unit to the initial purchaser thereof as contemplated by this definition.

**"Eligible Mortgagee(s)"** means any holder of a first deed of trust or mortgage encumbering a Unit who has submitted to the Corporation a written request to notify such holder of any proposed action requiring the consent of a specified percentage of all such holders who have submitted such a request, and who has received from the Corporation a written acknowledgment of receipt of the request

"Limited Common Elements" means all Common Elements exclusively serving only a single Unit or adjoining Units as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit(s) either in this Declaration, on the Plat or by the Board, including (1) roofs, foundations, crawl spaces, floors, walls and ceilings, and all associated fixtures and structures that may be located therein, (2) heating and air conditioning equipment, water heaters, pipes, plumbing, ducts, electrical wiring and conduits, and (3) drives, garages, patios, decks, gardens and fencing around patios or gardens.

"Major Decisions" has the meaning set forth in Paragraph 21.

"Majority" or "Majority of the Unit Owners" means Unit Owners owning more than fifty percent (50%) of the Units. For purposes of applying this definition at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time. The maximum number of Units that maybe constructed on the entire Parcel is fifty-four (54).

"Managing Agent" has the meaning set forth in Paragraph 5.

"Municipality" means the City of Columbia, Tennessee.

"Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

"Parcel" means the real estate in Maury County, Tennessee, more particularly described on attached Exhibit A.

"Parrish" means Parrish Lumber & Building Supply Co., Inc., a Tennessee Corporation.

"Person" means a natural person, corporation, partnership, limited liability company, trustee or other entity capable of holding title to real property.

"Plat" means the plat of survey of the Parcel showing the number of each Unit expressing the Parcel's and each Unit's general and approximate size, area, location and other data necessary for identification, of Record in Plat Book 17, Page 1, as the same may be amended, superseded and replaced pursuant to the provisions of Paragraph 30 or otherwise from time to time hereafter supplemented, revised or amended in accordance with the provisions of this Declaration.

"Private Elements" means and includes the lot area upon which a Unit is located and the improvements located thereon, together with other property and interests in property constituting "private elements" for such Unit pursuant to the Act or this Declaration, for which fee simple ownership and exclusive use is reserved only to that Unit as provided in this Declaration. Limited Common Elements located upon Private Elements shall be deemed to be Private Elements.

**"Property"** means all the land, property space comprising the Parcel and all buildings, structures and other improvements now or hereafter erected, constructed or contained therein or thereon, including the Buildings and all easements, rights, privileges and appurtenances belonging or in any way pertaining thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners.

**"Proportionate Share"** means the respective proportionate share of a Unit Owner in the aggregate undivided ownership interest in the Common Elements and in the aggregate membership in the Corporation, which shall be calculated as follows: Each Unit Owner is allocated a percentage undivided ownership interest in the Common Elements and a percentage ownership of the total membership in the Corporation in an amount equal to the product obtained by multiplying (a) the fraction obtained by dividing (i) the number of Units owned by such Unit Owner by (ii) the total number of Units constituting a part of the Property, by (b) one hundred percent (100%).

**"Record", "Recorded" or "Recording"** refers to the record or recording in the Office of the Register of Deeds in Maury County, Tennessee.

**"Unit"** means an enclosed space intended for occupancy as a single family residential living unit and consisting of one or more rooms occupying all or part of a floor or floors in a Building, together with the corresponding Private Elements, which residential living unit and corresponding Private Elements are not owned in common with the Unit Owners of other Units. It is intended that the term "Unit" as used in this Declaration shall have the same meaning as the term "apartment" as used in the Act. Each Unit is numbered as shown on the Plat.

**"Unit Owner"** means, collectively if more than one (1), the Person(s) whose estate(s) or interest(s) aggregate fee simple ownership of a Unit and the undivided interest in the Common Elements appurtenant thereto, and such term shall be deemed to have the same meaning as the term "co-owner" as used in the Act. For purposes of applying this definition at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to any incomplete or unconstructed Units as to which Declarant or Builder, as the case may be, is the owner of the corresponding Private Elements at such time. The maximum number of Units that may be constructed on the entire Parcel is fifty-four (54).

The foregoing definitions shall apply equally to both the singular and plural forms of the terms defined.

2. **Submission of Property to the Act.** Declarant, as the legal title holder in fee simple of the Property, expressly intends to, and by executing and Recording this Declaration does hereby, submit and subject the Parcel and the rest of the Property to the provisions of the Act pursuant to the terms hereof. The Property shall be known and may be referred to collectively as "Cobblestone Cove".

3. **Plat.** The Plat, which is incorporated herein by this reference thereto, sets forth the Unit numbers, areas, locations and other data required by the Act.

4. Units. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat. Every deed, lease, mortgage, deed of trust or other instrument shall describe a Unit by its identifying number or symbol as shown on the Plat, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat.

5. Corporation as Governing Body for Unit Owners: Administration and Operation of the Property.

(a) Corporation. The Corporation, which has been or will be incorporated, shall be the governing body for all of the Unit Owners, for the maintenance, repair, replacement, administration and operation of the Property, as provided in the Act, this Declaration and the By-Laws. The By-Laws for Corporation shall be the By-Laws attached to this Declaration as Exhibit B and made a part hereof, as the same may be amended or modified from time to time pursuant to the provisions hereof and thereof. The Board shall be elected and shall serve in accordance with the provisions of the By-Laws. The fiscal year of the Corporation shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Corporation shall not be deemed to be conducting a business of kind. All activities undertaken by the Corporation shall be for the sole benefit of the Unit Owners, and all funds received by the Corporation shall be held and applied by it for the use and benefit of the Unit Owners in accordance with the provisions of the Act, this Declaration and the By-Laws. Each Unit Owner shall be a member of the Corporation and shall own a Proportionate Share of the total membership in the Corporation for so long as he is a Unit Owner. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in and Proportionate Share of the total membership in the Corporation. The aggregate number of votes for all members of the Corporation shall be equal to the number of Units, and the Unit Owners' ownership of the total membership in the Corporation shall be pro rata in accordance with the respective Proportionate Shares of each. For purposes of determining membership in the Corporation and voting rights at any time, Declarant or Builder, as the case may be, shall be deemed to be a Unit Owner not only with respect to completed Units owned by it at such time, but also with respect to any incomplete or unconstructed Units as to which Declarant or Builder, as the may be, is the owner of the corresponding Private Elements at such time. The maximum number of Units that may be constructed on the entire Parcel is fifty-four (54).

(b) Management of Property. The Board shall have the authority to engage the services of an agent (sometimes herein referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of subparagraph (c) below. The cost of such services shall be a common expense, as defined in Paragraph 10 below.

(c) Initial Management Agreement. The first Board, appointed as provided in the By-Laws, shall have the authority, but not the obligation, to ratify and approve any management agreement between Declarant, on behalf of the Corporation, and a Managing Agent, which shall be determined in the Board's sole discretion. Such management agreement, if any, shall contain such terms, conditions and provisions as the Board shall determine are appropriate.

(d) Use by Declarant and Builder. During the period of development or construction by Declarant or Builder of any Units, Declarant and Builder and their respective agents, employees, contractors and subcontractors shall be entitled to access and ingress to and egress from the Property as may be required for purposes of said sale and construction of Units. While Declarant or Builder owns any of the Units and until each Unit sold by Declarant or Builder is occupied by a purchaser other Declarant or Builder, Declarant or Builder and their respective employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units, may use one or more of such unsold or unoccupied Units as a sales office and may maintain customary signs in connection therewith.

(e) Non-Liability of Directors, Board, Officers, Declarant and Builder; Indemnity. To the fullest extent permitted by law, the Board, the individual members thereof, the officers of the Corporation, Declarant, Builder and the officers, managers, directors, agents and employees of Declarant and Builder shall not be personally liable to the Corporation or the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Declarant, Builder, members, officers, managers, agents employees, except for any acts or omissions found by a court to constitute gross negligence or willful misconduct. The Corporation shall indemnify and hold harmless each of the Board, Declarant, Builder and the aforesaid members, officers, managers, directors, agents and employees, and their respective heirs, executors, administrators, successors and assigns, in accordance with the provisions of Article VIII of the By-Laws.

6. Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration or the By-Laws, the determination thereof by the Board shall be final and binding on each and all such Unit Owners.

7. Ownership of the Common Elements. Each Unit Owner shall be entitled to the percentage of undivided ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth Exhibit C. The percentages of ownership interests set forth in Exhibit C shall remain constant unless hereafter changed as provided in Paragraph 30 or otherwise by Recorded amendment to this Declaration consented to in writing by the Unit Owners and Eligible Mortgagees in accordance with Paragraph 21. Said ownership interests in the Common Elements shall be undivided interests, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership. The percentage ownership of the Common Elements corresponding to each Unit shall not be conveyed separately from that Unit, and any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the Common Elements shall be void unless the corresponding Unit to which that interest is allocated is also transferred. The percentage ownership in the Common Elements corresponding to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the

instrument conveying or encumbering said Unit may refer only to the fee title to that Unit. The Common Elements shall remain undivided and shall not be the subject of any partition action.

Declarant shall not retain any ownership interest in or other rights to the Common Elements except in its capacity as a Unit Owner.

8. Use of the Common Elements. Subject to the provisions of the Act, this Declaration and the By-Laws, each Unit Owner shall have the unrestricted right to use the Common Elements (except the Limited Common Elements and portions of the Property subject to leases made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access and ingress to, egress from and use, occupancy and enjoyment of the Unit owned by such Unit Owner. Such right to use the Common Elements shall extend not only to each Unit Owner, but also to his agents, guests, visitors, invitees and licensees. Each Unit Owner of a Unit benefited by Limited Common Elements shall have exclusive use and possession of such elements contiguous to and serving such Unit alone or with adjoining Units. Such rights to use the Common Elements, including Limited Common Elements, shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws and the rules and regulations of the Corporation. In the event of any dispute regarding use of the Common Elements, the Board's determination regarding such use shall be final and binding upon all interested parties, to the extent permitted by applicable law. In addition to the foregoing, the Corporation shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of this Declaration and the By-Laws. All income derived by the Corporation from leases, concessions or other sources shall be held and used for the benefit of the members of the Corporation, pursuant to such rules, resolutions or regulations as the Board adopts or prescribes.

9. Parking. Parking spaces within the Parcel that are not Limited Common Elements shall be part of the Common Elements, and shall be used by the Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe.

10. Common Expenses.

(a) Common Expenses. Each Unit Owner, including Declarant or Builder, (so long as Declarant or Builder is a Unit Owner) to the extent thereafter provided, shall pay his Proportionate Share of the expenses of the administration and operation of the Common Elements and the Corporation, including insurance premiums and the costs, maintenance, repair and replacement of and additions to the Common Elements, together with any other expenses or liabilities incurred by the Corporation in accordance with the Declaration and the By-Laws and the establishment of appropriate reserves with respect to the foregoing pursuant to this Declaration and the By-Laws (collectively, "common expenses"); *provided, however*, that except as otherwise provided in Paragraph 14, any such expenses with respect to Limited Common Elements shall be borne by the Unit Owners to whose Units such Limited Common Elements are appurtenant in accordance with such Unit Owners relative Proportionate Shares. Payment of common expenses, including any prepayment thereof required by a contract for sale of a Unit shall be in such amounts and at such times as determined in the manner provided in the By-Laws. No Unit Owner shall be exempt from payment of his Proportionate Share of the common expenses by waiver of the use or enjoyment of the Common or Limited Common Elements or by abandonment of his Unit. If any Unit Owner shall fail or refuse to make any such payment of common

expenses when due, the amount thereof, together with interest thereon at the Delinquency Interest Rate from the date that said common expenses become due and payable, plus reasonable attorney's fees incurred by the Corporation in the collection thereof or the enforcement of the lien herein provided, shall constitute a lien on the interest of such Unit Owner in his Unit and in the Property as provided in the Act. The sale or conveyance of a Unit shall in all cases be subject to all unpaid assessments against the Unit Owner thereof for his Proportionate Share of the common expenses, and if the same are not paid by the owner thereof prior to any sale or conveyance, shall be a lien against the Unit and shall be payable by the new Unit Owner thereof. Likewise, all taxes and other levies and assessments by governmental taxing bodies shall be a lien against individual Units.

The assessments against a Unit for common expenses will commence as of the date that such Unit is completed and ready for occupancy, as evidenced by a certificate of occupancy or similar approval issued by the appropriate governmental authority. For purposes of determining Proportionate Shares with respect to assessments for common expenses, Units that are not completed and ready for occupancy shall not be taken into account. Notwithstanding the foregoing, neither Declarant nor Builder shall have any liability for assessments in respect of unsold Units prior to the day that is one hundred twenty days (120) days after the date on which the first Unit is conveyed to the initial purchaser thereof (other than Declarant or Builder), after which time all completed Units shall be allocated full assessments.

Subsequent to the date of Recording of this Declaration but prior to the expiration of the Development Period, Declarant shall fund any deficit in the operations of the Corporation after application of available funds from assessments for common expenses in respect of Units previously sold. After the expiration of the Development Period, (1) the liability of Declarant for payment of assessments for common expenses in respect of Units owned by it shall not exceed an aggregate amount equal to the lesser of (i) the amount of the assessments for such Units as such assessments accrue and become payable, or (ii) the amount from time to time to fund any deficit in the operations of the Corporation after application of available funds from assessments for common expenses in respect of Units previously sold, and (2) Declarant shall have no responsibility for maintenance, repair or replacement of any of the Common Elements or any other items to be paid for as common expenses except for its responsibilities as a Unit Owner as provided herein; however, should Declarant advance any of its own funds for such expenses, it shall be entitled to a credit for all sums so paid against the assessments that it is required to pay as a Unit Owner.

(b) Grant of Lien. FOR AND IN CONSIDERATION OF the foregoing, the privileges and protections of this Declaration and the By-Laws the mutual enjoyment and use of the Common Elements and the rest of the Property, the receipt of which is hereby acknowledged, and any assumption of the obligations by transferees as required hereunder, and to secure the payment of said common expenses, principal, interest and attorney's fees) a lien is expressly retained in favor of the Corporation on each and every Unit Owner's Unit and Proportionate Share of the Common Elements.

(c) Protection of Certain Mortgages and Deeds of Trust. The lien for common expenses payable by a Unit Owner is and shall be subordinate to the lien of a first mortgage or deed of trust encumbering the corresponding Unit, except for the corresponding Proportionate Share of common expenses that become due and payable from and after the date on which the mortgagee or beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest

therein (other than as security) or forecloses its mortgage or deed of trust. The lien for common expenses will not be affected by any sale or transfer of a Unit except in the case of a foreclosure of first mortgage or deed of trust encumbering such Unit (or a conveyance in lieu thereof), in which event such foreclosure or conveyance will extinguish the lien for the amount of the corresponding Proportionate Share of common expense that became due and payable prior thereto but will not relieve any owner that was foreclosed upon or conveys the Unit, in lieu thereof from personal liability for said obligation to the Corporation or subsequent owner from liability for the payment of assessments arising thereafter.

Any delinquent common expense assessments that are extinguished by virtue of the foreclosure of or other exercise of remedies under any such mortgage or deed of trust that may be reallocated and assessed to all of the Units as a common expense.

#### 11. Mortgages and Deeds of Trust

(a) Each Unit Owner shall have the right, subject to the provisions hereof, to make separate mortgages and deeds of trust for his respective Unit together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to grant, make or create, or cause to be granted, made or created, any mortgage, deed of trust or other lien on or affecting the Property or any part thereof, except only to the extent of his own Unit and the respective percentage interest in the Common Elements corresponding thereto.

(b) Any holder, insurer or guarantor of a deed of trust or mortgage on a Unit may file with the Corporation a written request for the information listed below in subparagraph (b). Such request shall the requesting party's identity and address and the Unit number or address of the Unit encumbered by the corresponding deed of trust or mortgage. Such request shall be effective only upon delivery to such holder, insurer or guarantor, at the address specified in the request, of the Corporation's written acknowledgment of receipt of the request, and upon the effectiveness of such request such holder, insurer or guarantor shall be entitled to timely written notice of:

(1) any condemnation or casualty loss affects a material portion of the Property or the Unit encumbered by the corresponding deed of trust or mortgage,

(2) any sixty (60) day delinquency in the payment of any assessments or charges owed by the Unit Owner who owns the Unit encumbered by the corresponding deed of trust or mortgage,

(3) a lapse, cancellation or material modification of any insurance policy maintained by the Corporation, and

(4) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

12. Utility and Tax Assessments.

(a) Utility services for Units shall be separately metered, and all utility charges for Units shall be assessed to and constitute the sole responsibility of the respective Unit Owners thereof. In the event that any utility services are not separately metered, the charges for such utility services shall be paid by the Unit Owners served thereby *pro rata* in accordance with their relative Proportionate Shares.

(b) Real estate taxes shall be separately assessed to each Unit Owner for his Unit and his corresponding percentage of ownership of the Common Elements, as provided in the Act. In the event that such taxes for any year are not separately assessed to Unit Owner, but rather are assessed on the Property as a whole, then such taxes shall be treated as a common expense and each Unit Owner shall pay his Proportionate Share thereof.

13. Insurance: Damage or Destruction: Reconstruction.

(a) The Board (or the Declarant prior to passing control of the Corporation to the Unit Owners) shall have the authority to and shall obtain insurance for the Property, exclusive of the additions within, improvements to and decorating of the Units or Limited Common Elements by the Unit Owners, against loss or damage by fire and such other hazards as covered under standard "all risk" coverage, for the full insurable replacement of the Property, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements, the Units or any part thereof to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board as the trustee for each of the Unit Owners in accordance with their respective Proportionate Shares, as set forth in this Declaration, and for the holders of mortgages on his Unit, if any. The policy of insurance shall also contain, if available at reasonable expense, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a common expense; however, at the option of the Board and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements.

(b) In the event of damage to or destruction of any of the Buildings or any other structures or improvements constituting a part of the Property as a result of fire or other casualty covered by insurance maintained by the Board pursuant hereto (unless more than two-thirds of all the Buildings and Common Elements require reconstruction), the Board shall, in its sole and absolute discretion, determine, and without intervention of any Unit Owner, arrange for the prompt repair and restoration of the damaged portions of all Units, Buildings and Common Elements in accordance with the original plans and specifications therefor. Subject to the terms, conditions and coverage of said casualty insurance as determined by the Board in its sole and absolute discretion, this repair and replacement shall include the roof structure, all exterior and interior walls and ceilings, plumbing, electrical and HVAC systems, cabinetry, and light fixtures, carpet and wall coverings of the type originally installed by Builder. Where the insurance proceeds are insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners directly affected by the damage, *pro rata* in accordance with their relative Proportionate Shares. The Board shall not be responsible for the repair, replacement or restoration of any wall, ceiling or floor decorations or covering, furniture, furnishings, fixtures, appliances or equipment installed in, on or about the Unit by a Unit Owner or Occupant or any other personal property located on the Property owned by a Unit Owner or Occupant unless insurance therefor is specifically provided for in the insurance policy obtained by the Board. The Board in its sole discretion shall determine which Unit Owners are directly affected by the damage.

(c) If the whole or more than two-thirds of all the Buildings and Common Elements are destroyed or damaged by fire or other casualty, as determined by the Board, and if not less than sixty-seven percent (67%) of the Unit Owners, together with Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees, determine that reconstruction shall not take place, then reconstruction shall not be required. In such event, the Board, as soon as is reasonably practicable and as agent for the Unit Owners, shall sell the Property, in its then condition, free from the effect of this Declaration, which shall terminate upon sale, on terms satisfactory to the Board, and the net proceeds of such and of all insurance policies shall thereupon be distributed to the Unit Owners, their mortgagees, as their interests may appear. If and to the extent requested by the Board, the Unit Owners shall join in any conveyance necessary to facilitate such sale. If the Board fails to consummate a sale pursuant to this paragraph within twenty-four (24) months of the destruction or damage occurs, then the Managing Agent or the Board shall, or if it does not, any Unit Owner or mortgagee may, Record a sworn declaration setting forth such fact and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in this Declaration has terminated and that judicial partition of the Property may be obtained pursuant to the laws of the State of Tennessee. Upon final judgment of a court of competent jurisdiction decreeing such partition, this Declaration shall terminate.

(d) Reconstruction also shall not be compulsory where the whole or more than two-thirds (2/3) of anyone of the Buildings is destroyed, as determined by the Board; *provided however*, that unless more than two-thirds (2/3) of all the Buildings and Common Elements require reconstruction, the destroyed Building shall be reconstructed as hereinabove provided if any one or more of the Unit Owner(s) directly affected or an Eligible Mortgagee thereof so directs. If such Building is not to be reconstructed, the net proceeds of insurance policies shall be divided among all the Unit Owners directly affected by the casualty and their mortgagees *pro rata* in accordance with the relative Proportionate Shares of the affected Unit Owners, after paying from the share of each such affected Unit Owner (1) the costs of removing debris and returning the site to condition compatible with the overall appearance of the Property, including landscaping, and (2) the amount of any unpaid liens on the Unit of such Unit Owner, in the order of priority of such liens. Notwithstanding the foregoing, no such disbursement of the aforesaid insurance proceeds shall occur unless simultaneously with such disbursement each affected Unit Owner delivers to the Board a recordable deed quitclaiming his interest in his Unit or the affected portion thereof to the remaining Unit Owners, *pro rata* in accordance with their relative Proportionate Shares, and also delivers to the Board a recordable release of any liens on his Unit or the affected portion thereof. Upon the Recording of the aforesaid deeds and releases, each such Unit or the affected portion thereof, shall be deemed withdrawn and thereafter to be Common Elements. Upon the withdrawal of any Unit, or portion thereof, the percentage interest in the Common Elements allocable to such Unit shall be reallocated among the remaining Units on the basis of the relative percentage interest of each remaining Unit. If only a portion of Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, as determined by the Board. After the Board has effected any such withdrawal, the responsibility for the payment of assessments for any such withdrawn Unit or portion thereof shall cease.

(e) The Board also shall have authority to and shall obtain comprehensive public liability insurance in such amounts as it deems desirable (but in no event less than \$1,000,000), and worker's compensation insurance and other liability insurance as it deems desirable insuring each Unit Owner, the mortgagee(s) of Record, if any, the Corporation, the Board, Declarant, Builder, any Managing Agent

and their respective members, officers, directors, agents and employees, from (1) liability in connection with the Common Elements, and (2) liability arising out of proceedings relating to employment contracts to which the Corporation is a party (to the extent such insurance is reasonably available). The premiums for such insurance shall be a common expense; however, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner in corresponding to such Unit Owner's Proportionate Share. The Board shall retain in safekeeping any such public liability policy for nineteen (19) years after the expiration of the policy.

(f) The Board also shall have authority to and may obtain such other insurance and bonds, including fidelity insurance and bonds, as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officer of the Corporation, and each member of any committee appointed pursuant to the By-Laws of the Corporation, from liability arising from the fact that said person is or was director or officer of the Corporation or a member of any such committee. The premiums for such insurance and bonds shall be a common expense.

(g) Each Unit Owner shall be responsible for obtaining his own insurance on his possessions within and any other contents of his own Unit, the Private Elements corresponding to his Unit and the Limited Common Elements serving his Unit, as well as his additions and improvements thereto, all decorations, furnishings and personal property therein and any personal property stored elsewhere on the Property. In addition, in the event a Unit Owner desires to insure against his personal liability and loss or damage by fire or other hazards above and beyond the extent his liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for the benefit of all of the Unit Owners as part of the common expenses, as above provided, said Unit Owner may at his option and expense, obtain additional insurance.

14. Maintenance; Repairs and Replacements.

(a) Maintenance of, repairs to, and replacements of and within the Common Elements shall be the responsibility of and shall be furnished by the Corporation. The cost of maintenance of, repairs to and replacements of or within the Common Elements shall be part of the common expenses, subject to the provisions of this Declaration, the By-Laws and the Rules and Regulations of the Corporation.

(b) If, due to the act or neglect of a Unit Owner, or of his agent, invitee or licensee, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repair or replacement are required that otherwise would be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repair and replacement, as may be determined by the Corporation, to the extent not covered by the Corporation's insurance or sufficient proceeds are not collected from the insurance carrier.

(c) Each Unit Owner, at his own expense, shall be responsible for and shall furnish all maintenance of, repairs to and replacements with respect to the Unit of such Unit Owner and the corresponding Limited Common Elements appurtenant thereto. At the discretion of the Board, the Board may direct Unit Owners who stand to be benefited by such maintenance of, repairs to and replacements of and within the Limited Common Elements to arrange for such maintenance, repairs and replacement in the name and for the account of such benefited Unit Owners, pay the cost thereof with their own

funds and procure and deliver to the Board such lien waivers and contractor's and sub-contractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom; *provided however*, that if, in order to maintain, repair or replace the electrical wiring, plumbing or other utilities of a Unit, it shall become necessary to gain entry to another Unit, it shall be the responsibility of the Corporation to provide such maintenance, repair or replacement, but the cost of such maintenance, repair or replacement may be assessed to the Unit Owners benefited thereby as hereinabove provided.

(d) Notwithstanding the provisions of the preceding subparagraph (c), the Board may, in its discretion, determine and direct that the Corporation shall be responsible for and shall furnish the maintenance of, repairs to and replacements within specified categories of Limited Common Elements or Private Element (such as, but not limited to, roofs, foundations and exterior walls of Units, drives, garages, patios, decks, porches, balconies, gardens and fencing around patios or gardens), and that the cost of same shall be part of the common expenses, subject to the provision of this Declaration, the By-Laws and the Rules and Regulations of the Corporation; *provided* that any such determination with respect to any category of Limited Common Elements or Private Elements shall be made uniformly with respect to the entire Property.

(e) The authorized representatives of the Corporation, the Board or the Managing Agent, with approval of the Board, shall be entitled to reasonable access to individual Units and Limited Common Elements as may be required in connection with the preservation of any individual Unit or Limited Common Elements in the event of an emergency, or in connection with any maintenance, repairs or replacements of or within the Common Elements, Limited Common Elements or any equipment, facilities or fixtures affecting or serving other Units, Common Elements and Limited Common Elements, or to make any alteration required by any governmental authority.

15. Alterations, Additions or Improvements. Except as provided in Paragraph 16, no alteration of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written consent of the Board. The Board may authorize and charge as common expenses alterations, additions and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make non-structural alteration, additions or improvements within his Unit without the prior written approval of the Board, but such Owner shall be responsible for any damages to other Units, the Common Elements, the Property or any part thereof resulting from such alterations, additions or improvements.

16. Decorations; Cleaning. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorations and cleaning within his own Unit and the Limited Common Elements serving his Unit, as may be required from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting and other furnishings and decorations. Each Unit Owner shall be entitled to the exclusive use of his Unit, and such Unit Owner at his sole expense shall maintain said Unit, including the corresponding Private Elements, in good condition, as may be required from time to time. Said maintenance and use of the Unit shall be subject to the Rules and Regulations of the Corporation, but each Unit Owner shall have the right to decorate the interior of his Unit from time to time as he may see fit and at his sole expense. Decorations of the Common Elements (other than Limited Common Elements) and any redecoration of Units, to the extent such redecoration of Units is made necessary by damage to Units caused by maintenance, repair

or replacement of the Common Elements by the Corporation, shall be furnished by the Corporation as part of the common expenses. All windows and screens forming part of a perimeter wall of a Unit shall be cleaned and washed at the expense of the Unit Owner of that Unit.

17. Easements and Encroachments.

(a) If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are generally and approximately shown on the Plat, due to engineering errors, errors in original construction, reconstruction or repair, settlement or shifting of a Building or movement of any portion of any other improvements on the Property or any similar cause, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist; provided, however, that in no event shall an easement for encroachment be created in favor of a Unit Owner if said encroachment occurred due to the willful act of said Unit Owner, and further provided that the physical boundaries of a Unit following construction or any reconstruction or repair thereof will be in substantial accord with the description of those boundaries in this Declaration or on the Plat. In no event, shall Declarant, Developer or Builder be required to relocate or tear down and rebuild any Unit or be liable for any damages relating to or resulting from any such an encroachment or errors as described hereinabove.

(b) Each Unit Owner shall have a perpetual and non-exclusive easement for ingress and egress to his Unit, upon, over, under, across and through the Common Elements (other than Limited Common Elements the enjoyment, benefit or use of which is reserved exclusively to other Unit Owners), which easement shall be appurtenant to the Unit of such Unit Owner and shall pass with the Unit estate as and when a transfer or conveyance of ownership of the Unit occurs.

(c) Declarant hereby reserves a perpetual and non-exclusive easement in, upon, over, under, across and through the Common Elements for the purpose of the installation, maintenance, repair and replacement of sewer, water, electric power and telephone pipes, lines, mains, conduits, poles or transformers, facilities for cable television and similar systems, and any and all other equipment or machinery necessary or incidental to the proper functioning of any utilities systems servicing the Property, which easement shall be for the benefit of the Declarant and any governmental agency, utility company or other entity (public or private) that requires the same for the purpose of furnishing one or more of the foregoing services.

(d) Declarant hereby reserves an easement upon, over, under, across and through the Common Elements during the Development Period in order to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction of the Units and the Common Elements and the sale of the Units, including a business office, sales office, storage area, construction yards, signs and model Units, and for a period of two (2) years thereafter, in order to make any repairs to improvements on the Property, including the Units, that the Declarant may deem necessary or that may be required pursuant to contracts of sale made with purchasers of Units.

(e) In accordance with the specifications of each governmental body having jurisdiction over the construction of any roads on the Parcel, the right and easement is hereby reserved by the Declarant to construct all streets, roads, alleys or other ways as now or hereafter may be shown on the Plat, or any recorded plat, at such grades or elevations as Declarant in its sole discretion may deem proper for the purpose of constructing such streets, roads, alleys or ways. Declarant additionally shall have a temporary construction easement not exceeding ten (10) feet in width, upon and along the Common Elements for the construction of same, no Unit Owner shall have any right of action or claim for damages against anyone on account of the grade or elevation at which such road, street, alley or public way hereafter may be constructed, or on account of any bank slopes constructed within the limits of said ten (10) foot easement.

(f) A perpetual and non-exclusive easement of unobstructed ingress and egress in, upon, over, under, across and through the Common Elements is hereby reserved to the Declarant and the Corporation for the purpose of maintaining, repairing and replacing the Common Elements or any equipment, facilities or fixtures affecting or servicing the Common Elements; *provided* that requests for entry are in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner or Occupant, except that, in case of an emergency, such right of entry shall be immediate and absolute, regardless of whether the Unit Owner or Occupant is present at the time or whether request is made.

(g) An easement is hereby established for the benefit of the Municipality in, upon, over, under, across and through the Property for the setting, removing and reading of water meters, for maintaining and replacing water, sewage and drainage facilities, for police protection, fire fighting and garbage collection and the rendering of such other public services as are appropriate and necessary for the use and enjoyment of Property.

#### 18. Transfer of a Unit.

(a) Leases. Subject to prior written approval of the Board, a Unit or interest therein may be leased by a Unit Owner. Any lease made by a Unit Owner other than Declarant without first obtaining Board approval shall be voidable at the Board's option upon five (5) days' written notice to the Unit Owner. Nothing contained in this Declaration shall restrict the ability of Declarant to lease any Units owned by Declarant without the necessity of Board approval for such periods of time and upon such terms and conditions as Declarant deems appropriate. Any lease or rental agreement with respect to a Unit must in writing and subject to applicable requirements of the Act, this Declaration, the By-Laws and the Rules and Regulations of the Corporation.

(b) Corporation's Right to Purchase. The Board shall have the power and authority to bid for and purchase, for and on behalf of the Corporation, any Unit, or interest therein, that is offered for sale by the Unit Owner or pursuant to a deed of trust or mortgage foreclosure, a foreclosure of the lien for common expenses under the Act or an order or direction of a court, or at other involuntary sale, upon the consent or approval of not less than sixty-seven percent (67%) of the Unit Owners. Such consent shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for said Unit. This paragraph shall not be deemed a right of first refusal or option.

(c) Financing of Purchase by Corporation. The Board shall have authority to make such mortgage arrangements and special assessments proportional among the respective Unit Owners, and such other financing arrangements, as the Board may deem desirable, in order to close and consummate the purchase of a or interest therein, by the Corporation. Notwithstanding the foregoing, no such financing arrangement may be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein to be purchased and the percentage interest in the Common Elements appurtenant thereto.

(d) Miscellaneous.

(1) The Corporation shall hold title to any Unit, pursuant to the terms hereof, in the name of the Corporation, or a nominee thereof designated by the Board, for the sole benefit of all Unit Owners. The Board shall have the authority at any time to sell, lease or sublease said Unit on behalf of the Corporation upon such terms as the Board shall deem desirable, but in no event shall a Unit be sold for less the amount by the Corporation to purchase said Unit unless not less than sixty-seven percent (67%) of the Unit Owners first authorize the sale for such lesser amount.

(2) The Board may adopt Rules and Regulations from time to time, not inconsistent with the provisions of this Paragraph 18, for the purpose of implementing and effectuating said provisions.

19. Use and Occupancy Restrictions.

(a) Subject to the provisions of the By-Laws, no Unit or no part of the Property may be used for purposes other for single family residences and the related common purposes for which the Property designed and as allowed by zoning laws. Each Unit or any two or more adjoining Units used together shall be used as a single family residence or for such other use as is permitted by this Declaration, and for no other purpose. The foregoing restrictions as to residential use shall not be construed to prohibit a Unit Owner from: (1) maintaining his personal professional library within his Unit, or (2) keeping his professional or personal business records or accounts within his Unit, or (3) handling his professional or personal business telephone calls, other electronic communications or correspondence within his Unit; such uses being hereby expressly declared to be incident to the principal residential use and not in violation of said restrictions.

(b) Subject to the approval of the Board, the part of the Common Elements separating and located between and exclusively serving two or more adjacent Units used together (including portions of any hallway and any walls) may be altered to afford ingress and egress to and from such Units and to afford privacy to the Occupants of such when using such Common Elements, and that of the Common Elements so altered maybe used by the Unit Owner or Owners of such Units as licensee pursuant to a license agreement with the Corporation, *provided* that (1) the expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alteration, (2) such Unit Owner or Owners shall pay in full the expense of restoring such Common Elements to their condition prior to such alteration in the event such Units shall cease to be used together, as aforesaid, and (3) alteration shall not interfere with use and enjoyment of the Common Elements (other the aforesaid part of the Common Elements separating such adjacent units), including reasonable access and ingress to and egress from the other Units in the hallway affected by any such alteration.

(c) The Common Elements shall be used only by Unit Owners and their family members, agents, invitees, guests licensees for access and ingress to and egress from the respective and for such other purposes as are incidental to the ownership, use and enjoyment of the Units; provided, however, that receiving rooms, storage areas and other designed for specific use shall be used only for purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession or easement presently in existence or hereafter entered into by the Board at some future time, affecting any part or all of said Common Elements.

20. Remedies. In the event of any violation of the provisions of these or any of covenants, conditions, restrictions or provisions of this Declaration or the By-Laws or any of the rules and regulations of the Corporation by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit or any family member, invitee, guest or licensee thereof) the Corporation, or its successors or assigns, or the Board, or its agents, shall have each and all of the rights and remedies that may be provided for in the Act, this Declaration, the By-Laws or said Rules and Regulations, or that may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner or Occupant for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection or for any combination of remedies or for any other relief. All expenses of the Corporation, or its successors or assigns thereof, or the Board, or its agents, in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the Delinquency Interest Rate until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed of part of his respective share of the common expenses, and the Corporation shall have a lien for all of the same, as well as for non-payment of his respective share of the common expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Unit Owner and upon all of his additions and improvements thereto upon all of his personal property in his Unit or located elsewhere on the Property; *provided, however,* that such lien shall be subordinate to the lien of a first mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the corresponding Proportionate Share of said common expenses that becomes due and payable from and after the date on which the beneficiary of said mortgage or deed of trust either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security) or forecloses its mortgage or deed of trust. In the event of any such default by any Unit Owner, the Board and the Managing Agent, if so authorized by the Board, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner and secured by the lien hereinabove provided. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

A violation of the Act or any of the covenants, conditions, restrictions or provisions of this Declaration or the By-Laws or any of the Rules and Regulations of the Corporation shall give the Corporation, the right, in addition to any other rights provided for in this Declaration: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the Property upon which or as to which such violation or breach exists, and summarily to (i) abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition which may exist thereon contrary to the intent and meaning of the provisions hereof (provided that an appropriate civil

action shall be instituted before any items of construction may be altered or demolished), or (ii) take any other action reasonably required to remedy such violation, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) of such Unit interest in the Property and to maintain an action for possession of such Unit in the manner provided by law. If any Unit Owner (either by his own conduct or the conduct of any other Occupant of his Unit or any family member, agent, invitee, guest or licensee thereof) shall violate the Act or any of the covenants, conditions, restrictions or provisions of this Declaration or the By-Laws or any of the Rules and Regulations of the Corporation, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any ten (10) day period after such written notice or request from the Board to cure such violation, then the Board shall have the power to issue to said defaulting Unit Owner a notice in writing terminating the rights of the said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his Unit, and thereupon an action in equity may be filed by the Corporation, acting through the Board, against said defaulting Unit Owner for a decree of mandatory injunction against such defaulting Unit Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of said violation, and ordering that all right, title and interest of said defaulting Unit Owner the Property shall be sold (subject to the lien of any existing deed of trust or mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Unit Owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of such proceeding and sale, and all such items shall be assessed against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments or liens hereunder, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser thereupon shall be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold, and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit ownership sold subject to this Declaration.

#### 21. Amendment.

(a) Except as otherwise provided in this Declaration, the provisions of this Declaration may be changed, modified or rescinded only by an instrument in writing, setting forth such change, modification or rescission, signed by not less than sixty-seven percent (67%) of the Unit Owners and acknowledged.

(b) Notwithstanding the foregoing, the approval of Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees shall be required for (i) the amendment of provision of this Declaration that relates to any of the following (sometimes referred to herein as "Major Decisions"), or (ii) the approval by the Unit Owners of any matter that is submitted to a vote of the Unit Owners pursuant to this Declaration and that relates to any Major Decision:

- (1) voting rights,
- (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%) or the lien for assessments or the priority thereof,
- (3) reductions in reserves for maintenance, repair and replacement of the Common Elements,
- (4) responsibility for maintenance and repairs,
- (5) re-allocation of interests in the Common Elements or rights to their use,
- (6) except as provided in subparagraph (d), below, redefinition of any Unit boundaries,
- (7) convertibility of Units into Common Elements and vice versa,
- (8) expansion or contraction of the Property, or the addition, annexation or withdrawal of property from the Property,
- (9) hazard or fidelity insurance requirements,
- (10) imposition of any restrictions on the leasing of units,
- (11) imposition of any restrictions on a Unit Owner's right to sell or transfer his unit,
- (12) a decision by the Corporation to establish self-management of the Property, if professional management had been required previously by this Declaration, the By-Laws or any Eligible Mortgagee,
- (13) restoration or repair of the Property (after damage or partial condemnation) in a manner other than as specified by this Declaration or the By-Laws, or
- (14) protection or benefit of holders, insurers or guarantors of deeds of trust or mortgages on Units.

(c) Notwithstanding the foregoing, an amendment to this Declaration solely for the purpose of setting forth modification of or amendment to the By-Laws, as provided in Article IX, Section 3 of the By-Laws, need only be executed on behalf of the Corporation by the President (or other duly authorized officer) of the Corporation and accompanied by the affidavit of such officer to the effect that such amendment or modification approved in accordance with the provisions of Article IX, Section 3 of the By-Laws and that such officer duly authorized to execute and deliver such amendment.

(d) Notwithstanding the foregoing, only Declarant need execute an amendment to this Declaration or the By-Laws to correct clerical or scrivener's errors or an amendment to the Plat to reflect the actual locations and areas of the Units as built, and the joinder or approval of the Corporation, the Unit Owners or Eligible Mortgagees shall not be required.

(e) Notwithstanding the foregoing, any termination of this Declaration by the Unit Owners other than as provided in Paragraphs 13 and 27 may not be effected without the concurrence of Eligible Mortgagees representing at least sixty-seven percent (67%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees

(f) Whenever pursuant to this Declaration or the By-Laws the agreement, concurrence or approval of an Eligible Mortgagee is required or otherwise sought, such Eligible Mortgagee's agreement, concurrence or approval may be assumed if it fails to submit a response to a written proposal for an amendment or other action within thirty (30) days after it receives proper notice of the proposal by certified or registered mail, return receipt requested.

(g) Notwithstanding the foregoing, if the Act, this Declaration or the By-Laws requires the consent or agreement of Unit Owners or of all lien holders for any action specified in the Act or in this Declaration or the By-Laws, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all Unit Owners or all lien holders or both as required by the Act, this Declaration or the By-Laws. The change, modification or rescission, whether accomplished under either of the provisions of this Paragraph 21, shall be effective upon the Recording of such instrument; *provided, however*, that no provisions in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act.

(h) Notwithstanding anything herein to the contrary, Declarant, during the Development Period, may unilaterally amend, change or modify this Declaration and the By-Laws, without the consent or approval of the Unit Owners, Eligible Mortgagees or any other interested parties. Notwithstanding anything herein to the contrary, this Declaration and the By-Laws may not be amended, changed or modified by the Unit Owners during the Development Period without the express written approval of Declarant.

22. Notices. Notices provided for in the Act, this Declaration or the By-Laws shall be in writing, and shall be addressed as follows:

(a) to the Corporation or the Board, as the case may be, McBroom Family Partnership, a Tennessee General Partnership, 943 Riverview Lane, Columbia, Tennessee 38401,

(b) to Declarant c/o McBroom Family Partnership, a Tennessee General Partnership, 943 Riverview Lane, Columbia, Tennessee 38401, with a copy to Builder,

(c) to Builder c/o Parrish Lumber & Building Supply Co., Inc., 943 Riverview Lane, Columbia, Tennessee 38401, and

(d) to each Unit Owner at his Unit.

Notwithstanding the foregoing, Declarant, Builder, the Corporation or the Board may designate a different name, address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Corporation. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgment of the receipt thereof.

23. Severability. If provisions of this Declaration or the By-Laws, or any section, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the By-Laws and the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby, and the remainder of this Declaration or the By-Laws shall be construed as if such invalid part was never included therein.

24. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by Declaration otherwise would be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the of now living descendants of Elizabeth II, Queen of England.

25. Rights and Obligations. Each grantee of Declarant or Builder, by the acceptance of a deed of conveyance with respect to any of the Property, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges of, the jurisdiction, rights and powers created or reserved by this Declaration. All future Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. Any restrictions or rules in the By-Laws are more administrative in nature such as, but not limited to, reservations in favor of and future rights of Declarant, are hereby incorporated into and made a part of this Declaration by reference. All rights, benefits and privileges of every character hereby shall be deemed and taken to be covenants running with the land, and shall bind any Person having at any time any interest or estate in the Property, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every such deed of conveyance or contract for conveyance.

All present and future Unit Owners, tenants and occupants of a Unit shall be subject to, and shall comply with, the provisions of the By-Laws, as they may be amended from time to time. The acceptance of a deed of conveyance, devise of or lease to a Unit, or the entering into occupancy of any Unit, shall constitute an agreement that the provisions of the By-Laws and any Rules and Regulations promulgated thereunder, as they may be amended from time to time, are assumed, accepted and ratified by such Unit Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any Person having at any time any interest or estate in such as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

The terms and conditions of this Declaration, the By-Laws and the Rules and Regulations promulgated thereunder may be incorporated by reference in, and because of, any agreement between any first mortgagee and any Unit Owner who enters into such agreement with a first mortgagee. When so incorporated, any default in the terms and conditions of this Declaration, the By-Laws or the said Rules and Regulations may be considered as a default by the first mortgagee, whereupon first mortgagee, after exercising its option to declare a default, shall then have all of the rights and privileges arising as a result of a default under its agreement with said Unit Owner.

26. Trustee as Unit Owner. In the event title to any Unit is conveyed to a land title holding trust, under the terms of which all powers of management, operation and control of the Unit remain vested in the beneficiary or beneficiaries, then the beneficiary or beneficiaries thereunder shall be considered the Unit Owner for all purposes and shall be responsible for payment of obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit. No claim shall be made against any such titleholding trustee personally for payment of any lien or obligation created hereunder, and such trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

27. Condemnation.

(a) In the event of a taking of a part of the Common Elements through condemnation or by exercise of the power of eminent domain, the award made for such taking shall be payable to the Corporation. The Corporation is hereby designated to represent the Unit Owners in any such proceedings and any related negotiations, settlements or agreements, and is hereby appointed the agent and attorney-in-fact of the Unit Owners for such purposes. If a majority of the Board, in their sole and absolute discretion, approve the repair and restoration of such Common Elements, the Board shall arrange for the repair and restoration of such Common Elements, and the Board shall disburse the proceeds of such award to the contractor(s) engaged in such repair and restoration in appropriate progress payments. In the event that the Board does not approve the repair and commence restoration of such Common Elements within one hundred twenty (120) days after taking by the public or private authority, the Board shall disburse proceeds of such award on the basis of each Unit's percentage of ownership in the Common Elements.

(b) If the whole or more than two-thirds (2/3) of all the Buildings and Common Elements are taken through condemnation or by exercise of the power of eminent domain as determined by the Board, and if not less than sixty-seven percent (67%) of the Unit Owners, together with Eligible Mortgagees representing at least fifty-one percent (51%) of the votes of Units subject to deeds of trust or mortgages held by Eligible Mortgagees, determine that restoration of the affected portion(s) of the Property is not feasible or otherwise shall not take place, then such restoration shall not be required. In such event, the Board, as soon as is reasonably practicable and as agent for the Unit Owners, shall sell the Property, in then condition, free from the effect of this Declaration, which shall terminate upon such sale, on terms satisfactory to the Board, and the net proceeds of such sale and of all condemnation awards shall thereupon be distributed to the Unit Owners and their mortgagees, as their interests may appear. If and to the extent requested by the Board, the Unit Owners shall join in any conveyance

necessary to facilitate such sale. If the Board fails to consummate a sale pursuant to this paragraph within twenty-four (24) months after the destruction or damage occurs, then the Managing Agent or the Board shall, or if it does not, any Unit Owner or mortgagee may Record a sworn declaration setting forth such fact and reciting under the provisions of this Declaration the prohibition against judicial partition provided for in this Declaration has terminated and that judicial partition of the Property may be obtained pursuant to the laws of the State of Tennessee. Upon final judgment of a court of competent jurisdiction decreeing such partition, this Declaration shall terminate.

28. Rights Reserved. The Unit Owners' rights of enjoyment in the Common Elements shall be subject to:

(a) The right of the Corporation, as provided in the By-Laws, to suspend the enjoyment rights of any member in utilities, ingress and egress, and all other rights in the Common Elements for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published Rules and Regulations; and

(b) The right of the Corporation to charge reasonable fees for the use of designated parts of the Common Elements; and

(c) The right of the Corporation to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such diminution or dedication or transfer, nor any determination as to the purposes or conditions thereof, shall be effective unless Declarant (or its successors or assigns) and a Majority of the Unit Owners have approved such dedication, transfer, purpose or condition; and

(d) The right of Declarant, at its sole expense, to relocate, expand, modify, reduce, enlarge or extend existing driveways, parking areas and yard and to construct, relocate, expand, modify, reduce, enlarge or extend sewers, utility lines or service connections in order to serve the Buildings; and

(e) The right of the Corporation to such licenses, permits, easements and rights-of-way to such utility companies or public agencies or authorities as it shall deem necessary for the proper servicing, maintenance and operation of the Common Elements and the individual Units.

29. Special Provisions Relating to Builder.

(a) Declarant has designated and by these presents hereby designates Parrish as Builder pursuant to this Declaration. Parrish, for so long as Parrish is the Builder, shall be the exclusive builder of Units and, subject to the provisions of this Paragraph 29, shall have all of the rights, privileges, options, remedies and benefits of Builder provided herein.

(b) Subject to the limitations set forth in this Paragraph 29, Developer, as Declarant, hereby assigns to Builder, and Builder shall have, may exercise and shall be entitled to the benefit of all of the rights, powers, privileges, options and remedies of Declarant pursuant to this Declaration, the By-Laws and the Act. The designation of Builder and this assignment to Builder shall be and remain in full force and effect until an instrument of revocation is executed by Developer and duly Recorded; *provided, however*, that the designation of Builder and this assignment to Builder may not be revoked unless (1) Builder has defaulted in the performance of a material contractual obligation of Builder to Developer and, if such default is subject to a cure right, has failed to cure such default within the applicable cure period, or (2) Builder in its discretion executes a written acknowledgement of such revocation. Upon revocation of the designation of Builder and this assignment to Builder, Builder immediately shall be divested of all of its rights as Declarant pursuant to this Declaration, and such rights automatically shall revert to Developer; *provided, however*, that (1) Developer shall not be responsible for curing any default or failure of any Person designated as Builder to perform as Declarant hereunder. It being expressly acknowledged that any Person designated as Builder hereunder shall remain responsible for all of its obligations as hereunder accruing during the time that such designation was in effect, and (2) no such revocations shall affect any right of Builder, such as a right to indemnification, with respect to events and occurrences during the time such designation was in effect. Upon any such revocation, Developer may designate a successor Builder by instrument duly Recorded.

(c) Subject to the limitations set forth in this Paragraph 29, Developer, as Declarant, hereby delegates to Builder, and Builder shall be responsible for the performance of all of the duties and obligations of Declarant pursuant to this Declaration, the By-Laws and the Act.

(d) The rights assigned and duties delegated to Builder by Developer may not be further assigned or delegated by Builder without the express written consent of Developer, which shall not be withheld unreasonably.

(e) Builder shall notify Developer of each conveyance of a Unit by Builder with reasonable promptness following such conveyance.

(f) Builder hereby agrees to indemnify Developer and hold Developer harmless from any loss, liability, damage or expense, including reasonable attorney's fees, incurred by Developer as a result of the actions of Builder pursuant to this Declaration, the By-Laws and the Act; *provided, however*, that this indemnity shall not extend to any loss, liability, damage or expense resulting from the fault of Developer. This indemnity shall extend to and include all losses, liabilities, damages and expenses that are the responsibility of Builder, as Declarant, and that accrue prior to Developer's revocation of the assignment of Declarant's rights to Builder pursuant to subparagraph 29(b).

(g) Until such time as Developer no longer has any interest in the Property, other than solely as a Unit Owner, and notwithstanding any provision of this Paragraph 29 to the contrary:

(1) The appointment of the Board pursuant to the provisions of Article II Section 3 of the By-Laws shall be subject to the approval of Developer, such approval not to be withheld unreasonably.

(2) No change, modification or amendment of this Declaration or the By-Laws that would delete, rescind, limit, impair or in any other manner adversely affect any right, remedy, easement, reservation, power, benefit or privilege afforded to, or that would expand, increase or extend any duty or obligation of, Declarant hereunder shall be effective without the express written consent of Developer.

30. Miscellaneous Provisions.

(a) This Declaration shall be construed in accordance with and governed by the laws of the State of Tennessee.

(b) The use of defined terms herein and in the By-Laws is for convenience of reference and shall not be deemed to be limiting or to have any other substantive effect with respect to the Persons or things to which reference is made through the use of such defined terms. Paragraph headings herein and in the By-Laws are included for convenience of reference only, shall not constitute a part hereof for any other purpose and in no way define, limit or describe the scope or intent of any provision hereof or thereof.

(c) Any reference herein or in the By-Laws to any instrument, document or agreement, by whatever terminology used, shall be deemed to include any and all amendments, restatements, modifications, supplements, extensions, renewals or replacements thereof as the context may require.

(d) All references herein to the preamble, the recitals or paragraphs, subparagraphs or exhibits, are to the preamble, recitals, paragraphs, subparagraphs and exhibits of or to this Declaration unless otherwise specified. All references in the By-Laws to articles, sections, paragraphs or subparagraphs are to articles, sections, paragraphs and subparagraphs of the By-Laws unless otherwise specified. The words "hereof", "herein" and "hereunder" and words of similar import, when used in this Declaration, refer to this Declaration as a whole and not to any particular provision of this Declaration.

(e) When used herein and in the By-Laws, (1) the singular shall include the plural, and vice versa, and the use of the masculine, feminine or neuter gender shall include all other genders, as appropriate, and (2) "include", "includes" and "including" shall be deemed to be followed by "without limitation" regardless of whether such words or words of like import in fact follow same.

(f) Any reference herein to any law shall be a reference to such law as in effect from time to time and shall include any rules and regulations promulgated or published thereunder and published interpretation thereof.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by its duly authorized officer this 17<sup>th</sup> day of August, 2007.

MCBROOM FAMILY PARTNERSHIP,  
A TENNESSEE GENERAL PARTNERSHIP

By: [Signature]  
Charles E. McBroom, Partner

ACCEPTED AND AGREED TO by Builder this 17<sup>th</sup> day of August, 2007.

PARRISH LUMBER & BUILDING  
SUPPLY CO., INC.

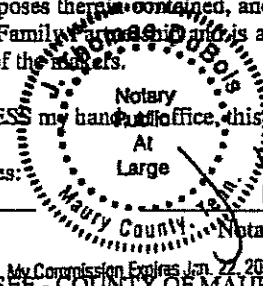
By: [Signature]  
Charles E. McBroom, President

STATE OF TENNESSEE - COUNTY OF MAURY

Personally appeared before me, the undersigned, Charles E. McBroom, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is a Partner of McBroom Family Partnership and is authorized by the makers to execute this instrument on behalf of the makers.

WITNESS my hand and office, this 17<sup>th</sup> day of August, 2007.

My commission expires: \_\_\_\_\_  
At Large  
Notary Public

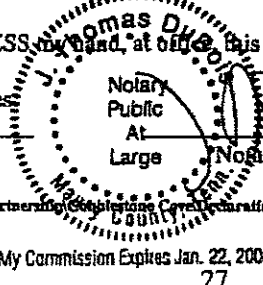


STATE OF TENNESSEE - COUNTY OF MAURY

Personally appeared before me, the undersigned, Charles E. McBroom, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the President of Parrish Lumber & Building Supply Co., Inc. and is authorized by the makers to execute this instrument on behalf of the makers.

WITNESS my hand, at office, this 17<sup>th</sup> day of August, 2007.

My commission expires: \_\_\_\_\_  
At Large  
Notary Public



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My Commission Expires Jan. 22, 2008  
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**EXHIBIT A**

Being a tract of land located in the Ninth (9<sup>th</sup>) Civil District of Maury County, Tennessee and more particularly described as the Cobblestone Cove, A Gated Community property containing Fifty-Four (54) units on 9.19 acres as shown on plat of record in Plat Book P17, Pages 1 and 2, Register's Office of Maury County, Tennessee.