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Blount County Tennessee
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**THIRD
AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LASHBROOKE
BLOUNT COUNTY, TENNESSEE**

THIS **THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LASHBROOKE** ("Declaration") is made, imposed and declared as of the 19th day of OCTOBER, 2009, by **THE LASHBROOKE CORPORATION, a Tennessee corporation**, with principal office and place of business at 2047 Castaic Lane Knoxville, Tennessee 37932 ("**Developer**").

WITNESSETH:

WHEREAS, Developer is the owner of certain property located on Rankin Ferry Loop Road in the town of Friendsville within Blount County, Tennessee, which it has developed into a subdivision known as LashBrooke; and

WHEREAS, Developer has caused to be recorded a subdivision plat of Lashbrooke recorded as Map Files 2161A, 2161B, 2162A, 2162B, 2163A and 2163B, in the Blount County Register's Office (the "Subdivision Plat"), which, together with any future additions hereto, shall hereafter be referred to as the "Subdivision"; and

WHEREAS, Rankin Ferry Road Partnership ("Rankin Ferry") caused to be recorded a subdivision plat of the Preserve at LashBrooke (the "Preserve") in Map Files 2297B, 2298A, 2298B, 2299A and 2299B, all in the Blount County Register's Office, which shall hereafter be included within any reference to the "Subdivision"; and

WHEREAS, Developer has imposed restrictions on LashBrooke which restrictions are recorded in Record Book 2063, page 8, in the Blount County Register's Office (the "Restrictions") to govern the use thereof and insure the orderly development and to maintain the value of the same; and

WHEREAS, by Amended and Restated Declaration of Covenants, Conditions and Restrictions for LashBrooke recorded in Record Book 2108, page 2547, in the Blount County Register's Office (the "Amended and Restated Restrictions"), the Developer, Rankin Ferry Road Partnership and Acme Investments extended the Restrictions to additional properties as described therein; and

WHEREAS, by Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for LashBrooke recorded in Record Book 2137, page 1340, in the Blount County Register's Office (the "Second Amended and Restated Restrictions"), the Developer extended the Restrictions to the area designated as Highpoint on the plat recorded in Map File 2334A, in the Blount County Register's Office.

WHEREAS, Developer has filed amendments to the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded in Record Book 2189, page 1520, and Record Book 2215, page 1934, both in the Blount County Register's Office.

NOW, THEREFORE, in accordance with the foregoing recitals and premises, Developer hereby declares that the Restrictions are hereby amended and restated as hereinafter set forth and that the real property as hereafter described, and such additional real property as may hereafter be made subject to this Declaration pursuant to Article I below, shall be owned, held, used, leased, sold, conveyed and occupied subject to the rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in the provisions of this Declaration, all of which are declared and agreed to be in furtherance of the common plats and schemes for the Subdivision, and the development, sale and improvement of the real property made subject hereto, and which are for the purpose of protecting the value, desirability and

attractiveness of such real property and portions thereof hereafter conveyed to others. The rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in the provisions of this Declaration shall run with the real property made subject hereto, and be binding upon and inure to the benefit of all parties having any right, title or interest therein, their respective heirs, personal representatives, successors and assigns. The provisions of this Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for LashBrooke shall supersede and replace the Restrictions, the Amended and Restated Restrictions and the Second Amended and Restated Restrictions, as subsequently amended, and all lots heretofore and hereafter sold in LashBrooke, The Preserve, the Acme Property, Highpoint and other real property hereafter made subject hereto, shall be conveyed subject to this Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for LashBrooke (hereafter "Declaration").

**ARTICLE I - PROPERTY SUBJECT TO THIS
DECLARATION; ADDITIONS**

Section 1.1 Subject Property. For purposes of this Declaration, the term "Property" shall mean and be a reference to all of the residential and common property within LashBrooke, the Preserve, the Acme Property and Highpoint, which are included within the parcels more particularly described as follows:

**(SEE PROPERTY DESCRIPTION ON EXHIBIT "A"
ATTACHED HERETO AND MADE A PART HEREOF)**

Provided that this Declaration shall not restrict the use of any portion of the Property owned by Developer, unless such is specifically made subject to this Declaration. The area identified on the Subdivision Plat as "Reserved to Developer" is specifically excluded from these restrictions.

The Plats for the Subdivision have been recorded as set forth above and are subject hereto. The Property, including the Subdivision, will be developed in named, numbered and/or lettered phases or sections or units (collectively, the "Phases", and individually, a "Phase") as determined by Developer, to be evidenced by, and which Phases shall contain a number of residential lots denominated as such or otherwise identified by similar nomenclature (collectively, the "Lots," and individually, a "Lot"), on and other areas as provided on, an appropriate subdivision plat for each such Phase placed of public record in the BLOUNT County Register of Deeds Office (any such subdivision plat as filed in the aforesaid Register's Office being hereinafter referred to as "Plat"). The property evidenced thereby and denominated thereon shall be deemed subject to the rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens hereinafter set forth in, and the other provisions of this Declaration when subjected hereto as provided in Section 1.2 below. The use of the term "Lot" herein shall mean only those Lots included within the Property expressly made subject to this Declaration.

Section 1.2 Additions to and withdrawal of Property.

(a) The Subdivision. The Property may be hereafter included from time to time by Developer as a part of the Subdivision and be made subject to the terms of this Declaration (or a similar declaration of covenants, conditions and restrictions acceptable to Developer in its sole discretion), pursuant to a statement to such effect made by Developer on the subdivision plat for any such portion of the Subdivision which is filed in the aforesaid Register's Office and/or by the filing of a declaration to such effect by Developer in the aforesaid Register's Office. Upon the inclusion of any such subdivided section of the Subdivision subject to this Declaration, the recorded subdivision plat therefore shall be deemed a "Plat" under this Declaration and may include such information and matters as contemplated with respect to any Plat, the phase or section of the Subdivision evidenced thereby shall be deemed a Phase under this Declaration, and all residential lots and/or common area created pursuant thereto shall be deemed to be "Lots" and "Common Area," respectively, subject to this Declaration.

(b) Additions. Additional real property, whether owned by Developer or others, which is not presently a part of Developer's general plan and scheme of development of the Subdivision may be hereafter annexed to the Subdivision by Developer in its sole discretion and made subject to this Declaration, or another declaration of covenants, conditions and restrictions acceptable to Developer in its sole discretion. All such additions to the Subdivision shall be made by filing a Declaration of Annexation in the aforesaid Register's Office with respect to such additional real property, which shall declare the annexation and addition of such real property to the Subdivision and shall extend the scheme of this Declaration to, or impose the scheme of such other declaration of covenants, conditions and restrictions acceptable to Developer on, such annexed real property. Upon the filing of any such Declaration of Annexation, the term "Property" as used in this Declaration shall be automatically deemed modified to include and be a reference to such additional real property, unless otherwise specified therein. Any such Declaration of Annexation extending the scheme of this Declaration to such annexed real property may contain additions and modifications of the provisions of this Declaration as Developer may elect and/or as may be necessary to reflect the different character, if any, of the annexed real property. This Declaration shall operate as a Declaration of Annexation as to Highpoint.

(c) Withdrawal. Developer may from time to time elect in its sole discretion not to develop portions of the Property for which a Plat has not been recorded, or, if a Plat has been recorded, in which Phase evidenced thereby no Lots are then owned by other than Developer or any of its owners, respective affiliates or related entities, and may withdraw such portions of the Subdivision from this Declaration, as applicable. Any such withdrawal shall be accomplished by the filing in the aforesaid Register's Office of a Notice of Withdrawal executed by the Developer, and describing by adequate legal description the portions of the Subdivision, thereby withdrawn. Upon the filing of any such Notice of Withdrawal, the term "Property" as used in this Declaration shall be automatically deemed modified to exclude the real property thereby withdrawn.

Section 1.3 Cross-Easements. Developer reserves the right to create cross-easements and to restrict all of the Property according to the terms of this Declaration. The "Common Area" initially covered by this Declaration and hereafter created pursuant to the Plat for any Phase, or as otherwise provided herein, shall be subject to the provisions of this Declaration and shall inure to the benefit of the owners of Lots within the Subdivision which hereafter become subject to this Declaration, or to another declaration of covenants, conditions and restrictions as approved by Developer in its sole discretion which so provides, and the Common Area allocable to the owners of all such Lots within the Property shall inure to the benefit of the owners of Lots within the Property created pursuant to Plats recorded earlier, each to enjoy the Common Area of the other and to have and to hold the same as if each such Lot had been developed and subjected to this Declaration simultaneously. The Common Area subject to this Declaration, together with the common area as described and/or defined in or on any later Declarations and/or later Plats, is sometimes hereinafter collectively referred to as the "Lashbrooke Common Area". No portion of the Common Area or Lashbrooke Common Area may be partitioned by or for the benefit of any Lot owner.

ARTICLE II - USE RESTRICTIONS

Section 2.1 Primary Use Restrictions.

(a) Single-Family Residential Use.

(i) Except as otherwise expressly provided in this Declaration, no Lot shall be used except for private single-family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any Lot except one single-family residence designed for the occupancy by one family (except that any reasonable number of domestic servants living on the premises in accordance with

applicable law shall be permitted), not to exceed two stories in height, unless approved otherwise by Developer in its sole discretion and permitted by applicable law, or except as otherwise provided in this Declaration.

(ii) References to "Structure" in this Declaration shall include, without limitation, any building, residence, garage, shed, fence, wall, antennae, microwave and other receivers and/or transmitters (including those currently called "satellite dishes"), dock, boat slip, patio, deck, swimming pool, hot tub or spa.

(iii) Each residence on a Lot shall include an attached or detached garage (with garage doors) capable of housing at least two (2) vehicles, for the sole use of the owner and occupants of the Lot.

(iv) Lashbrooke Common Area and any facilities located within the Subdivision, whether operated and maintained by Developer, its successors and assigns, or the Association (as hereinafter defined), shall be exempt from the use restrictions of this Section 2.1, but shall remain subject to the rules and regulations of the Association.

(v) For purposes of this Declaration, there shall be specifically excluded from the meaning of the phrase "private single-family residential purposes," and shall not be permitted on any Lot within the Subdivision, regardless of whether any of the same would otherwise be permitted by any applicable zoning regulations or other governmental laws, rules and regulations, any uses which constitute or relate to (1) boarding houses, (2) lodging houses, (3) fraternities or sororities, (4) clubs, (5) hotels, (6) residences or homes for social rehabilitation, (7) nursing homes, (8) boarding homes, (9) residences or homes for the aged or infirm, (10) programs with respect to which admission to residency in or occupancy of the premises is limited to or intended in whole or in part for persons in the custody of the criminal justice system or the juvenile justice system and/or persons engaged in the care, custody, nurturance or supervision of such persons, and (11) any "group home" or (12) any other similar use as determined by Developer and/or the Board.

(b) Lease Restrictions. No vacant Lot may be leased, and no Improved Lot may be leased for a term of less than six (6) months. At least seven (7) business days (not including weekends or state or Federal holidays) prior to the commencement date of the lease of any improved Lot, the owner(s) of such Lot shall notify Developer in writing of the execution of such lease, which notice shall specify in full the names of the lessees thereunder and the names of such lessees' dependents and other family members who will reside at such Lot, shall include a copy of the executed lease and shall confirm that such lease incorporates by reference the provisions of this Declaration. In addition the Lessee's liability for all fees, charges and expenses owed to Developer and/or the Association, the Lot owner(s) shall be and remain liable for any and all unpaid fees, charges and expenses owed to Association and/or Developer and any related entity, by such lessees and/or their dependents, whether in connection with the use of any recreational facilities within the subdivision or otherwise.

(c) No Subdivision. No Lot shall be subdivided or its boundary lines changed, except with the prior written approval of the Developer in its sole discretion, which approval may be arbitrarily and unreasonably withheld. All Lot owners are hereby notified that Developer has the express right, in its sole discretion, to subdivide, replat and/or alter the boundary line of any Lot or Lots owned by Developer. Any such division, boundary line change, or replatting of any Lots shall not be in violation of applicable subdivision and zoning regulations. Provided, however, Lot 12 of the Preserve may be resubdivided by Rankin Ferry into up to thirteen (13) lots and Lot 13 of The Preserve may be resubdivided into up to nine (9) lots without such approval.

(d) No Time-Shares. No Lot shall be subjected to any time-share program or any similar division of interest or program whereby the right to use of the Lot rotates among members of the program or holders of interests in the Lot on a recurring or reservation basis.

Section 2.2 Nuisances. No noxious or offensive trade or activity shall be conducted or permitted to exist on any Lot, nor shall any Lot owner do anything on any Lot, or otherwise within the Subdivision, which may be or become an annoyance or nuisance to the residents of the Property.

Section 2.3 Uses of Other Structures and Vehicles.

(a) Restrictions on Structures. No used or previously erected or temporary house shall ever be placed, erected or allowed to remain on any Lot. No structure of a temporary character shall be permitted on any Lot, except for temporary tool sheds, field offices or sales offices used by Developer, or by a Builder (as hereinafter defined) as Developer may permit by written consent, which shall be removed by Builder when construction or redevelopment on a Lot is completed or as directed by Developer. A Builder shall remove any such temporary structure within ten (10) days of receipt of written notice from Developer.

(b) No Temporary Residences. No bus, mobile home, trailer, camping unit, camping vehicle, motor home, or other vehicle, or outbuilding, basement, tent, shed, shack, garage or barn, or any structure other than the main residence erected on a Lot, shall at any time be used as a residence, temporarily or permanently, on any Lot or otherwise within the Property.

(c) Restrictions on Vehicles and Parking.

(i) No bus, mobile home, motor home, trailer, truck, motorcycle, commercial vehicle, camper trailer, camping unit, camping vehicle or boat shall be parked or kept on any Lot at any time unless housed in a closed garage or basement, except as otherwise may be acceptable to Developer in its sole discretion.

(ii) Each Lot owner and resident of the Property is hereby advised that any other vehicle determined to be objectionable or unsightly by Developer or the Association must upon notice from either Developer or the Board, as applicable, be thereafter kept in a closed garage or basement or removed from the Property.

(iii) No vehicle which is inoperable shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street in the Subdivision.

(iv) No trailer, boat, truck or other vehicle shall be parked on any street in the Subdivision for a continuous period in excess of ten (10) hours, or for an aggregate period in excess of twenty-four (24) hours in any one calendar year.

(d) No Street Parking; No Semi-Tractor Trailers. No motor vehicle or other vehicle shall be continuously or habitually parked on any street, common area or public right-of-way in the Subdivision, it being the intent of Developer and this Declaration that vehicles be kept in driveways and garages. No semi-tractor trailers, or other large trucks, vans or other vehicles as determined by Developer in its sole discretion, shall be permitted within the Property, except for limited periods as determined by Developer in its sole discretion for moving vans being utilized by residents for moving in or out of a residence, and except for such construction, delivery or other vehicles as Developer may permit from time to time in its sole discretion.

Section 2.4 Animals. No animals, including, without limitation, reptiles, livestock or poultry of any kind, shall be raised, bred or kept on any Lot containing less than six (6) acres, except that a reasonable number of dogs, cats or other traditional household pets (meaning the domestic pets traditionally recognized

as household pets in the Knoxville vicinity) may be kept in the residence on a Lot, provided they are not kept, bred, or maintained for any commercial or breeding purposes. No dog or other pet runs are permitted on any Lot, except for those the design, placement and landscaping of which have been approved in writing by Developer in its sole discretion. The Lot owner keeping any such pets shall keep the Lot free of pet waste and feces, and any person in charge of a dog, cat or other pet in the Common Area shall remove and dispose of any feces dropped by the pet, in a prompt and sanitary manner; provided, that the foregoing shall not be construed to permit any person in charge of a pet or other animal to take the pet or animal on private property without the consent of the property owner. No animal shall be left on a chain in any yard. Lot owners with pets must keep such pets confined to their own Lot, and must comply with applicable laws at all times. In addition to such other remedies as may be available, violation of this Section 2.4 by any Lot owner or resident of the Property may result in the suspension of the voting rights of a Lot owner in the Association and suspension of other rights set forth in this Declaration.

Section 2.5 Clothes Lines; Fences and Walls; Tennis and Basketball Courts; Swimming Pools; Antennae and Receivers/Transmitters; Exterior Lighting; Play Equipment.

(a) Clothes Lines. No outside clotheslines shall be erected or placed on any Lot.

(b) Fences and Walls. All fences and walls are subject to prior written approval by Developer in its sole discretion. For lots of less than six (6) acres: no fence or wall of any nature may be extended toward the front or street side property line or, if a corner lot, beyond the side wall of the residence facing the second street; and all fences and walls, as determined by Developer in its sole discretion (i) shall be solid but shall be see-through, and (ii) shall be constructed so that the finished side thereof shall face away from the Lot upon which such fence or wall is constructed; and no wire or chain link fences are permitted on any Lot.

(c) Antennae. Antennae or microwave or other receivers and/or transmitters (including, without limitation, those currently referred to as "satellite dishes") shall be erected or placed on any residence or any Lot so that they are contained either wholly within the interior of a residence or if outside on the Lot are not viewable from any street, as determined and approved in writing by Developer, which approval shall be within the sole and absolute discretion of Developer and may be arbitrarily and unreasonably withheld.

(d) Exterior Lighting. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of adjacent or nearby Lots, as determined by Developer. All Lot owners and residents of the Subdivision are hereby advised that all exterior lighting, ornamental post lights and other ornamental yard decorations located or proposed to be located on any Lot are subject to the prior written approval of Developer in its sole discretion.

(e) Play Equipment. For lots of less than six (6) acres, no exterior or outside play equipment may be located on a Lot, including, without limitation, swing sets, trampolines, jungle gyms and similar equipment.

Section 2.6 Duty to Maintain Lot.

(a) Developer's Maintenance and Fees. From and after the date of purchase of a Lot until construction of a single family residence is started thereon, Developer shall have the exclusive right, but not the obligation, to perform all normal maintenance on the Lot which Developer deems necessary, including, without limitation, mowing; provided, that Developer shall have no obligation to remove damaged, dead or dying trees or limbs thereon, or fallen portions thereof from the Lot, although Developer may elect to do so in its discretion, and all of which the Lot owner shall promptly cut and remove from the Lot after falling, or otherwise after a determination and notice by Developer to the Lot owner that any of the same constitute a danger or are unsightly. If Developer decides in its sole discretion, that any mowing or other maintenance is appropriate, each owner of a Lot requiring such maintenance shall be assessed a fee ("Maintenance

Assessment") payable in advance upon notice, at the initial rate of \$50.00 per month, provided Developer may assess each Lot owner at a greater or lesser amount as Developer determines in its sole discretion is necessary to maintain the Lot as provided herein, or as may otherwise be stated in the applicable Supplemental Declaration and/or Plat for any Phase. The Lot owner shall pay such maintenance fees, in any case, within ten (10) days of demand by Developer.

(b) Lot Owner's Maintenance. From and after the date construction of a single family residence on a Lot is started, it shall be the duty of each Lot owner to keep the grass on the Lot properly cut, to keep the Lot free from weeds, waste and trash, including, without limitation, construction waste, and to keep it otherwise neat and attractive in appearance to the satisfaction of Developer. Should any Lot owner fail to do so, then Developer may take such action as it deems appropriate, including, without limitation, mowing and trash removal, in order to make the Lot neat and attractive, and the Lot owner shall, immediately upon demand, reimburse Developer or other performing entity for all expenses incurred in so doing.

(c) Indemnification By Lot Owner. Each Lot owner, by acceptance of a deed for the Lot, releases and shall indemnify and hold harmless Developer and any and all of its owners, officers and directors from and against all losses or damages which may accrue to such Lot owner's Lot, and the vegetation thereon, arising from any activities of Developer and its agents and/or the Lot owner pursuant to this Section 2.6.

Section 2.7 Duty to Repair and Rebuild Structures.

(a) Normal Repairs. Each Lot owner shall, at its sole cost and expense, repair and maintain the residence and other approved structures on such Lot owner's Lot, keeping the same in first class condition and repair acceptable to Developer and the Board of the Association (the "Board"), and otherwise in a condition comparable to the condition of such residence at the time of its initial construction consistent with the approved plans therefore. In the event any such residence or other structures on any Lot are not so repaired and maintained, the Lot owner shall, within thirty (30) days after written notice from Developer or the Board (or such greater period as Developer or the Board shall specify in such notice), cause the same to be fully repaired and maintained to the satisfaction of Developer and the Board, or, if the existing status of the residence or other structures on the Lot are such that the same cannot be reasonably repaired and maintained within such thirty (30) day period, the Lot owner shall immediately commence and proceed with all due diligence and best efforts toward the completion of such repair and maintenance, which shall in any case be completed within sixty (60) days of such notice from Developer or the Board or within such other period as shall be reasonably specified by Developer or the Board (which specification shall be deemed reasonable if confirmed in writing by at least two (2) Builders). Should such Lot owner fail to complete such repairs and maintenance within the applicable period provided above, Developer or the Board may, in their respective sole discretion, elect to cause such repairs and maintenance to be so completed to their respective satisfaction, and Developer and/or the Board, and their respective agents, employees and contractors, may enter upon the Lot and all improvements thereon during the period from 7:00 a.m. through 5:00 p.m. each weekday and 8:00 a.m. through 1:00 p.m. Saturdays (Blount county Tennessee time) in connection with such repairs and maintenance, and may at all other times store necessary materials on the Lot, without liability or obligation of any kind to such Lot owner or any resident or lessee of such Lot, and the Lot owner shall reimburse Developer or the Board, as applicable, upon demand for all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and court costs, and all such costs and expenses shall constitute a charge on the Lot and Developer or the Board, as applicable, shall have a lien on such Lot to secure the payment thereof of equal priority to the lien for assessments provided for in Article IV below.

(b) Repair of Damage. If all or any portion of a residence or other approved structure is damaged or destroyed by vandalism, fire or other casualty, then the Lot owner shall, with all due diligence, promptly (as acceptable to the Developer and the Board) rebuild, repair or reconstruct such residence or structure in a manner which will substantially restore it to first class repair and condition consistent with the

approved plans therefore. In the event any such residence or other structures on any Lot are not so rebuilt, repaired or reconstructed, the Lot owner shall within thirty (30) days after written notice from Developer or the Board (or such greater period as Developer or the Board shall specify in such notice), cause the same to be fully rebuilt, repaired, or reconstructed to the satisfaction of Developer and the Board, or, if the existing status of the residence or other structures on the Lot are such that the same cannot be reasonably rebuilt, repaired or reconstructed within such thirty (30) day period, the Lot owner shall immediately commence and proceed with all due diligence and best efforts toward the completion of such residence or other structures, which shall in any case be completed within one hundred twenty (120) days of such notice from Developer or the Board, or within such other period as shall be reasonably specified by Developer or the Board (which specification shall be deemed reasonable if confirmed in writing by at least two (2) Builders). Should such Lot owner fail to complete such rebuilding, repairs or reconstruction within the applicable period provided above, Developer or the Board may, in their respective sole discretion, elect to cause such rebuilding, repairs or reconstruction to be completed to their respective satisfaction in accordance with the approved plans for such structure, and Developer and/or the Board, and their respective agents, employees and contractors, may enter upon the Lot and all improvements thereon during the period of 7:00 a.m. through 5:00 p.m. each weekday and 8:00 a.m. through 1:00 p.m. Saturdays (Blount county Tennessee time) in connection with such rebuilding, repairs, or reconstruction, and may at all other times store necessary materials on the Lot, without liability or obligation of any such kind to such Lot owner or any resident or lessee of such Lot, and the Lot owner shall reimburse Developer or the Board, as applicable, upon demand for all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and court costs, and all such costs and expenses shall constitute a charge on the Lot, and Developer or the Board, as applicable, shall have a lien on such Lot to secure the payment thereof of equal priority to the lien for assessments provided for in Article IV below.

Section 2.8 Restrictions on Business and Home Occupations. No trade or business of any kind (and no practice of any profession, including, without limitation cosmetology, medicine, dentistry, chiropody, osteopathy, accounting, law or other like endeavors) shall be conducted on any Lot, nor shall anything be done thereon which constitutes or may become an annoyance or nuisance to the neighborhood or other residents in the Subdivision, as determined by Developer or the Board. Notwithstanding the provisions hereof or of Section 2.1 above, a new house may be used by the Builder thereof as a model home for display of the Builder's work in the Subdivision or for the Builder's own office, provided said use terminates within eighteen (18) months from completion of such house by the Builder or at such other time as may be determined by Developer, and provided further that such use otherwise conforms to this Declaration and/or such rules as Developer may from time to time issue.

Section 2.9 Signs.

(a) **Sign Limits.** No sign for any purpose shall be displayed on any Lot or on any structure located on any Lot, except as provided in this section. Small, unobtrusive signs providing notice that the property is protected by a security system shall be permitted. One neat and attractive sign not greater in area than six square feet advertising the lot for sale or lease shall also be permitted. On Lots with residences under construction, the primary builder may place an additional single sign designating the name of the builder, however, no subcontractor or supplier signs shall be permitted except as otherwise provided in this section. All signs of any nature on any Lot or at any other location within the Subdivision must be approved by the Developer as to size, condition, format, appearance, positioning and content. Developer's approval may be withheld for any reason, and Developer may remove and discard any unapproved sign without liability for so doing. , Provided, however, no sign for any purpose may be placed on any Lot where any fees, charges, reimbursements, expenses, assessments, interest or any other amount applicable to such Lot or Lot Owner are owed to the Developer or the Association, and the Developer or Association may remove and discard any sign on any such Lot without liability for so doing.

(b) Developer's Signs. Each Lot owner and resident of the Subdivision is hereby advised that Developer may elect from time to time (i) to erect larger signs when advertising the Subdivision, (ii) to place signs on Lots designating the lot number of the Lots, and (iii) following the sale of a Lot, to place signs on such Lot indicating the name of the purchaser of that Lot and/or the fact that it has been sold.

(c) Street Numbers. This Section 2.9 shall not prohibit placement of occupant name signs and lot numbers as allowed by Developer's guidelines (which may be included in the Design Guidelines as such term is hereafter defined, or otherwise) or as are otherwise acceptable to Developer, and which signs and numbers are in compliance with applicable zoning regulations.

(d) Uniform Sign Program. Developer shall have the unfettered right in its sole discretion to establish from time to time a uniform sales sign program for all Lots, whether improved or unimproved, within any Phase and/or to require Lot owners to obtain all signs advertising the sale or lease of a Lot, whether improved or unimproved, from Developer or any of its related entities or from a designated third party.

Section 2.10 Drainage And Storm Water. Drainage of each Lot shall conform to the general drainage plans of Developer for the Phase and Subdivision. No construction upon a Lot by those other than Developer shall cause storm water to drain upon any adjacent Lot unless appropriate easements have been provided for such drainage or such drainage is otherwise allowed by local ordinances and permitted by Developer. No storm water, drains, roof downspouts or ground water shall be introduced into the common Wastewater System. All systems for storm water or drainage must be totally separate and may not be connected to the Wastewater System as described in Section 2.17 herein. All connections for the Wastewater System, and for other drainage and storm sewers, on each Lot shall be made with watertight joints and otherwise in accordance with all applicable plumbing and building code requirements. No Hazardous Substance (as hereinafter defined) shall be dumped or introduced into the Wastewater System, or other drainage or storm sewer systems for the Lot or Subdivision, or otherwise improperly stored or disposed of on any Lot.

Section 2.11 Disposal of Trash; No Hazardous Substances. No Lot shall be used or maintained as a dumping ground for, or for the storage or keeping or disposal of, rubbish, trash, or garbage or other waste or Hazardous Substances. Rubbish, trash, garbage or other waste shall not be kept on any Lot except for normal household rubbish, trash, garbage and similar waste kept indoors within sanitary closed containers temporarily prior to collection. There shall be no burning of trash or other refuse on any Lot. Such containers shall be placed at appropriate collection points not earlier than the night preceding a scheduled collection, and shall be promptly removed and returned indoors after each collection. Developer and the Association reserve the right from time to time to establish and maintain a uniform and exclusive trash collection program for the Phases subject hereto or the Subdivision in general with one or more contractors or companies selected by Developer or the Board on such terms as may be deemed acceptable by the Developer or the Board in their respective discretion. For purposes of this Declaration, the term "Hazardous Substances" shall include, without limitation, petroleum, its products and by-products and petrochemicals, and any compound containing any of the same, asbestos, radioactive substances, polychlorated biphenals, any pollutant or contaminant and any hazardous, toxic, dangerous or flammable waste, substance or material, including any of the same defined as such in, for purposes of, or otherwise regulated or classified by or pursuant to, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (43 U.S.C. Section 9601, et. seq.) and regulations promulgated thereunder, as amended, any so-called "superfund" or "superilen" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree (whether not existing or hereafter enacted, promulgated or issued) or any judicial or administrative interpretation of any of the same, and including "oil" or "oil waste" as defined in the Clean Water Act (33 U.S.C. Section 1251, et. seq.) as amended. The definition of "Hazardous Substances" for purposes of this Declaration shall not include, however, small quantities of such substances described above which constitute or are included within normal household cleaning substances or other substances used in connection with normal single-family residential purposes which are in all cases kept within approved

containers and stores, used and disposed of in accordance with all applicable governmental laws, rules and regulations and other applicable guidelines existing or established from time to time (such substances being hereinafter referred to as "Permitted Substances"). Each Lot owner shall indemnify and hold harmless Developer, its officers, employees, stockholders, successors and assigns, the Board and the Association, and all related entities from and against any and all liabilities, damages, actions and causes of action, costs and expenses arising from or related to the introduction and/or use of any Hazardous Substances and/or permitted Substances by such Lot owner or otherwise on such Lot owner's Lot during the ownership of the Lot by such Lot owner.

Section 2.12 Use of Playgrounds And Activity Areas. Any playground, tennis court, swimming pool, exercise facility, dock, boat slip, basketball court, open air pavilion, fireplace or other areas or equipment furnished by Developer or the Association shall be used at the sole risk of the user, and Developer and the Association shall not be held liable to any person or entity for any claim, damage, liability or injury occurring thereon or related to use thereof.

Section 2.13 Air Conditioning Units. Except as may be permitted from time to time by Developer in its sole discretion, no window air conditioning units may be kept or used on any Lot, and all exterior mechanical units must be housed in approved enclosures.

Section 2.14 Lighting. Except for seasonal Christmas/Holiday season decorative lights, and attendant displays and decorations, which may be displayed from November 15 of each year through the following January 10 and only as shall be acceptable to Developer in its sole discretion, all exterior lights must receive the prior written approval of Developer.

Section 2.15 Utility Service.

(a) **Underground Service to Lots.**

(i) Each Lot owner's electric, cable and telephone utility service lines shall be underground throughout the length of the service line, from Alcoa Electric Utilities Board's ("AEUB") and Charter Communications' ("Charter") and Bellsouth Telecommunications' ("Bellsouth") or other utility's respective points of delivery to a Lot, to the residence on such Lot; and the cost of installation and maintenance thereof shall be borne by the owner of the Lot upon which such service lines are located.

(ii) Appropriate easements as shall be acceptable to Developer, are hereby dedicated and reserved to AEUB, Charter, Bellsouth, as applicable, together with the right of ingress and egress over abutting Lots or properties, to install, operate and maintain electric, cable and telephone service lines from each Lot to the utility's respective termination points. Electric, cable and telephone service lines, as installed from time to time in locations acceptable to Developer, shall determine the exact location of said easements.

(iii) The electric, cable and telephone easements shown on the Plat for any Phase, if any, shall be maintained and preserved in their present condition, and no encroachment therein and no change in the grade or elevation thereof shall be made by any person or Lot owner without the express written consent of Developer, and of AEUB, Charter and Bellsouth, and their respective successors and assigns, as applicable.

(b) **Additional Easements.**

(i) Easements for underground electric, cable and telephone transmissions and distribution feeder lines, poles and equipment appropriate in connection therewith, are reserved over, across and under all spaces (including park, open and drainage space area) outlined or otherwise shown and designated on the Plat for any Phase and over, across and under such portions of the Common Area as Developer shall determine from time to time, for underground facilities. Developer hereby reserves the right to grant such

additional easements as may be necessary to facilitate electric service, gas service, water and sewer service, telephone and communications services, cable television and the like throughout the Subdivision.

(II) Aboveground electric transformers and pedestals may be installed at appropriate points in any electric or other utility easement with the prior written approval of Developer, which shall not be unreasonably withheld.

(c) Cable Television Easement. The electric and telephone easements dedicated and reserved in this Section 2.15, and those as shown on the Plat for any Phase shall include easements for the installation, operation and maintenance of cable television service to the Lots and the Common Area including the underground installation and service of coaxial cables, cable drop wires, converters, home terminal units and other necessary or appropriate equipment, as well as easements for the installation, operation and maintenance of future communications, telecommunications and energy transmission mediums.

(d) Propane Gas. In the event the owner chooses to heat some portions of the home using propane as the heat source, the owner will bear the expenses of the underground tank system and its installation. The location and size of the tank will be submitted as a part of the architectural approval process.

Section 2.16 Exclusive Water Service. Each Lot owner shall be obligated upon the construction of a residence on any Lot to connect to, and obtain service from, the central water systems provided for the Subdivision by the South Blount Utility District of Blount County, Tennessee, or their respective successors and assigns. No other utility water system shall be permitted on or for any Lot. No private water treatment systems shall be permitted in the Subdivision except for systems designed for home use and housed solely within a residence.

Section 2.17 Exclusive Wastewater System.

(a) Developer has contracted with a utility ("Utility") to operate and maintain the "Wastewater System" treatment facility serving the portion of the Development east of Rankin Ferry Loop Road. Developer is not responsible for the operation of the Wastewater System and does not accept or assume any liability for the acts or omissions of the Utility or for the maintenance, repair or replacement of the Wastewater System.

(b) Lots in the Preserve, except Lot 7, shall not participate in the Wastewater System, but shall have private individual septic systems. Rankin Ferry may connect Lot 7 in the Preserve to the Wastewater System or provide a separate drainfield on another lot within the Preserve. Private individual septic systems must be approved by the Blount County Health Department before a building permit may be issued.

(c) The Wastewater System is to exclusively process sewage and wastewater routinely produced within a residence or common area structure within the areas of the Development it serves. No Lot owner may allow gutter runoff, pool backwash, hazardous substances or other materials that may contaminate or overburden the Wastewater System to enter the Wastewater System. The septic tank effluent pumping system, which is a part of the Wastewater System, will be initially installed by the Lot owner or Builder and at their expense and according to plans and specifications established by the Utility.

(d) There is hereby created and shall be a lien in favor of the Utility against any individual units or lots for default in the payment of any fee or charge imposed by the Utility in the operation of the Wastewater System treatment facility which lien shall also secure fees and costs (including attorney fees) incurred by the Utility incident to the collection of such fees or charges or enforcement of such lien, regardless of whether legal action is commenced. Each such fee or charge, together with interest, costs and attorney fees, shall also be the personal obligation of the person or persons who were the Owner or Owners of the unit or Lot at the time when the fees or charges were incurred. In the event of the

11

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occurrence of a catastrophic event, an act of God, or any other event beyond the control of the Utility that renders the Wastewater System treatment facility or the collection system inoperable or substantially impairs the operation of the Wastewater System treatment facility or the collection system, the Utility shall have the authority to impose a special assessment on the owners of all Lots or units in order to repair and remediate the system. There shall also be a lien in favor of the Utility against each individual unit or Lot to secure the payment of such special assessment, including collection costs and fees (including attorney fees) incurred by the Utility. Notwithstanding any other provision of these covenants this lien shall be subordinate to only a first priority mortgage or first priority deed of trust.

Section 2.18 Rules for Common Area. The Developer and Association are authorized to adopt and modify from time to time rules and regulations for the use of the Common Area, including, without limitation, landscaping or any recreational facilities and other common amenities now or hereafter located within the Subdivision upon such Common Area, and such rules, if not otherwise posted at any such facility or amenity, shall be furnished in writing to a Lot owner upon reasonable request. No Lot owner or person within their residence shall do or permit anything to be done or kept in the Common Area which might result in the cancellation of insurance on any part of the Common Area, which would interfere with rights of other Lot owners, or which would be noxious, harmful or unreasonable offensive to other Lot owners as determined by Developer or the Board in their respective sole discretion. No Lot owner or their resident(s), agent(s), builder or guests shall deposit trash, equipment or any item of any type within the Common Area.

Section 2.19 Limitation on Auctions, Sales and Promotional Events. No promotional or sales event, including auctions or similar activities, as determined solely by the Developer, may be held on any Lot or at any other location within the Subdivision without the express written prior approval of the Developer, whose approval may be withheld for any reason. The Developer shall have the right to take any and all actions to stop any such planned or occurring activity that has not received specific prior approval, and shall not incur any liability for doing so. Developer may recover all costs and expenses incurred in connection with the enforcement of its rights, including, but not limited to, reasonable attorney fees and litigation expenses, and shall have a charge and lien against any Lot or Lots involved in such unapproved activity in accordance with Section 4.11 hereof.

ARTICLE III-ARCHITECTURAL CONTROL

Section 3.1 Design Review Board; Approval of Construction and Landscape Plans. Developer shall appoint a Design Review Board (the "Design Review Board") to oversee the approval of all construction, architectural and landscape plans. The Design Review Board may be composed one or more individuals or firms as Developer shall determine. Developer may appoint a design or architectural firm to serve as the Design Review Board. One or more representatives of the Developer may serve on the Design Review Board. The Developer may appoint a Design Review Administrator who shall serve as the primary contact between Lot Owners and their Builder and the Design Review Board.

(a) Site Plan and Basic Landscape Plan. (i) No clearing or grading of any Lot shall be permitted, and no structure may be erected, placed or altered on any Lot or shoreline, until (A) the Lot owner has delivered to Developer all fees and Deposits required in paragraph 3.1(g) herein for each Lot, and (B) the Lot owner has submitted, and Design Review Board has approved, in writing, in its sole discretion, a Site Plan, Basic Landscape Plan and any other information or documents as the Design Review Board in its sole discretion shall determine. The Site Plan shall show (1) the location of all improvements and proposed improvements on the Lot and the minimum elevation of any proposed improvements, (2) the final grade elevation (including rear, front and side elevation) and first floor elevation, which must be in compliance with Developer's drainage and grade plans for the Subdivision, (3) the type of exterior material (including delivery of samples thereof requested by Developer), and (4) the time frame within which all construction shall be completed. Developer may further specify the requirements of such plans and specifications and other requirements in the Design Guidelines (as defined below) or otherwise as shall be acceptable to Developer. The Deposit, among other things, shall be used to pay the expenses incurred in the review and approval of

the Site Plan, Basic Landscape Plan and other documents, and in the oversight and review of subsequent construction.

(b) Landscape Plan.

(i) The landscape plan shall be submitted by such Lot owner to the Design Review Board for its approval in writing, which plan shall show the trees, shrubs, and the other plantings then existing and/or to be planted on the Lot, and specify the time frame within which such landscaping shall be completed. Each landscape plan for a Lot submitted to the Design Review Board shall show that the Lot has or will have prior to occupancy a minimum of six existing or new trees, with three trees (at least 2-1/2 inches in diameter) in the front yard of the Lot and an additional three trees (at least 1-1/2 inches in diameter) on the Lot, and shall further obligate, and this Declaration does so obligate, each Lot owner to install such approved landscaping in good health at all times thereafter, and to replace such approved landscaping as necessary, in the front and side yards of each Lot, readily visible from the street(s) adjacent to the Lot, if any. Further, any portion of the yard not to be landscaped pursuant to an approved landscape plan shall be sodded by the Lot owner. All Lot owners shall install an irrigation system at the time the landscaping and sod are installed.

(ii) The Lot owner shall install all required landscaping and the irrigation system for inspection by the Developer at its request at any time following commencement of occupancy of the residence on the Lot; provided, that when seasonal limitations prohibit, the approved landscaping on, and/or sodding of, the Lot must be installed with fifteen (15) days from the time planting operations can be feasibly undertaken as determined by Developer. Moreover, when seasonal limitations do not permit planting, erosion control measures must be immediately implemented in accordance with generally accepted practices in the real estate development industry, as approved by Developer in its sole discretion, and as otherwise may be required by applicable laws, rules, regulations, and ordinances, and as otherwise provided in this Declaration. In no event shall any irrigation or other water system on any Lot be permitted to draw or otherwise use water from any interior lakes within the Subdivision. Developer reserves the right to waive or modify, in its discretion, all or any of the requirements of this Section 3.1(b) with respect to any Lot.

(iii) In the event that the Lot owner shall fail to diligently proceed with and/or complete the landscaping of the Lot within the time frame established pursuant to the landscape plans therefore approved by the Design Review Board, the Lot owner shall, within fifteen (15) days after written notice from Developer (or within such greater period as specified by Developer considering seasonal limitations in Developer's sole discretion), cause such landscaping to be completed in a good, workmanlike and professional manner. Should such Lot owner fail to complete such landscaping within the applicable period provided above, Developer may, in its sole discretion, elect to complete such landscaping on such Lot in accordance with the approved plan therefore, and Developer, its agents, employees and contractors, may enter upon the Lot at any time and from time to time in connection therewith, without liability or obligation of any kind to such Lot owner or any resident or lessee of such Lot, and the Lot owner shall reimburse Developer upon demand for all costs and expenses incurred in connection therewith.

(c) Modification of Standards. Developer reserves the right to compile and modify from time to time architectural and design review and /or construction standards manuals and guidelines, or other written standards (collectively, "Design Guidelines"), for use by Lot owners for control and guidance in the design and construction of any Structure(s) and other improvements on the Lots, and for such other purposes as described in this Declaration, and all improvements addressed therein shall be constructed by Lot owners in accordance therewith and pursuant to the plan(s) therefore approved pursuant to this Article III. All such manuals and guidelines constituting Design Guidelines shall, from time to time when issued by Developer, be deemed to constitute a part of and be incorporated within this Declaration.

(d) Time for Completion. All approved construction activities and landscape activities shall be completed by the Lot owner within the time frame specified in the approved plans contemplated by this Section 3.1, with such period, from the date plans are approved by Developer, not to exceed twelve (12)

months for primary residences with 4,000 square feet or less and eighteen (18) months for residences greater than 4,000 square feet (except for waivers granted by Developer in its sole and absolute discretion). Upon completion of all such construction, the Lot owner shall, at the Lot owner's cost, furnish to Developer upon request a written statement and certification of the Lot owner's Builder and/or an engineer acceptable to Developer, to the effect that (1) the improvements constructed upon the Lot substantially conform to the plans and specifications approved pursuant to this Section 3.1, and (2) drainage of the Lot after improvement is in positive drainage compliance with the drainage plans for the Phase and Subdivision.

(e) Non-Compliance. In the event any such Structure(s), landscaping or other improvements constructed on any Lot, and/or the final grade of any Lot, do not conform to the approved construction plans, drainage plans or landscape plans for the Phase and Subdivision, the Lot owner shall, within thirty (30) days after written notice from Developer (or such greater period as Developer shall specify in such notice), cause such non-compliance to be fully remedied to the satisfaction of Developer. Further, in the event that the Lot owner shall fail to diligently proceed with and/or complete the construction of any improvements on a Lot within the time frame established pursuant to the construction plans and specifications therefore approved by Design Review Board, the Lot owner shall, within thirty (30) days after written notice from Developer, complete such improvements in a good, workmanlike and professional manner, or, if the existing status of the improvements on the Lot are such that the same cannot be reasonably completed within such thirty (30) day period, the Lot owner shall immediately commence and proceed with all due diligence and best effort toward the completion of all such improvements, which such in any case shall be completed within ninety (90) days of such notice from Developer or within such other greater or lesser period as shall be reasonably specified by Developer (which specification shall be deemed reasonable if confirmed in writing by at least two (2) Builders of Developer's choosing). Should such Lot owner fail to cure such non-compliance if confirmed or to complete such construction within the applicable period provided above, Developer may, in its sole discretion, elect to cause such non-compliance to be so cured, and may, in its sole discretion, elect to complete such construction on such Lot in accordance with the approved plans therefore and Developer and/or the Board and their respective agents, employees and contractors, may enter upon the Lot and all improvements thereon at any time and from time to time in connection therewith, without liability or obligation of any kind to such Lot owner or any resident or lessee of such Lot, and the Lot owner shall reimburse Developer upon demand for all costs and expenses incurred in connection therewith.

(f) Modifications. Any modifications to the existing grade of any Lot shall comply with any approved drainage plans for the Property.

(g) Approval of Plans. A complete and final set of architectural plans and drawings for any residence to be constructed on any lot shall be submitted to the Design Review Board with a request for approval, together with a non-refundable check in the amount of \$750.00 (paid upon preliminary submission) for Design Review Board costs and a separate "Deposit" check in the amount of \$2,250.00, and such additional amounts if any as Developer may determine. The Design Review Board shall be the sole arbiter of same and may withhold approval for any reason including truly aesthetic considerations. In the event the Design Review Board fails to approve or disapprove the plans for design, specifications, and location within thirty (30) days after all documents and information requested by the Design Review Board have been received and accepted as complete, approval will be implied and this section will be deemed to have been fully complied with. A complete set of final plans and specifications of the house or other Structure to be built shall be left with the Design Review Board during the time of construction.

(h) Architectural Standards. Developer reserves the right to issue and modify from time to time architectural and other standards and design guidelines as a part of the Design Guidelines to control and assist Lot owners in their initial design efforts prior to submitting plans and specifications for approval pursuant to Section 3.1 hereof. All Lot owners and their Builders and other contractors shall comply with the construction regulations portions, if any, of the Design Guidelines. Such regulations may affect, without limitation, the following: appearance, materials, design and construction of any structure; size and

placement of structures; required landscaping; construction rules, trash and debris removal; sanitary facilities; work trailers; parking areas; outside storage; conduct and behavior of Builders, contractors, subcontractors and Lot owners; the conservation of landscape materials; and fire protection.

(l) No Occupancy Before Completion. No occupancy of any residence shall be permitted prior to the completion thereof to the satisfaction of Developer, and the compliance with the provisions of this Declaration, including, without limitation, this Article III, in connection with the construction thereof and other Structure(s) and Improvements on the Lot.

Section 3.2 Building Materials; Roof; Builder; Architectural Standards and Design Guidelines.

(a) Building Materials.

(i) The exterior building material of all residences and structures on any Lot shall extend to ground level, and the exterior building materials of all residences shall be brick, stone, stucco, wood shakes, cement-fiber products or a combination of same, or such other materials as shall hereafter be limited or specified for any Phase in the Declaration of Annexation for such Phase, if any, or on the Plat for such Phase, or in the Design Guidelines. Developer recognizes that the appearance of other exterior building materials may be attractive and innovative and reserves to the Design Review Board the right to approve in writing the use of other exterior building materials. Exposed smooth or brick mold-poured concrete walls shall not be permitted. All exterior paint and stain finishes and combinations and prefinished exterior materials must receive the prior written approval of the Design Review Board.

(ii) Each Lot owner and resident of the Subdivision is hereby advised that rights of approval reserved by Developer to the Design Review Board in this Declaration include, without limitation, the right of prior approval and specification, in its sole discretion, of the color, texture and appearance of all stucco, wood, brick, stone, mortar and other materials to be used on the exterior of residences or other structures built on Lots which abut or are adjacent to, or are in the vicinity of (as determined by Developer in its sole discretion), portions of the Common Area on which entry walls, signature gates and/or entryways, or other walls and/or structures have been constructed.

(b) Roof Pitch and Height. The roof pitch of any residential structure shall not be less than a plane of 8 inches vertical for every plane of 12 inches horizontal for structures with more than one story, provided, however, porch or patio roofs and the dormers on one and one-half story houses may have a roof pitch of less than 8 inches vertical for every 12 inches horizontal with the prior written consent of the Design Review Board in its sole discretion, which consent may be arbitrarily and unreasonably withheld; or such other plane(s) as shall otherwise be specified from time to time in the Design Guidelines. The Design Review Board may waive or modify the requirements of this Section 3.2(b) in its sole discretion in special cases where architectural design warrants or requires for proper perspective. No residence shall exceed two stories in height above ground level.

(c) Erosion Control. During the clearing of any Lot and the construction of, or addition to, a residence thereon, each Lot owner shall cause to be placed, and maintained in good repair and condition, a fabric silt fence with a minimum height of eighteen inches (18") above-ground, and a minimum burial of six inches (6") underground, along that portion of the perimeter of the Lot bordering, backing up to or otherwise in the near vicinity of any developed Lot in order to prevent silt/or fill migrator and contamination. The silt fence may be removed only upon sodding of the Lot or establishment of grass thereon.

(d) Driveways. On lots containing less than six acres, all driveways shall be of concrete or concrete pavers, or other similar materials approved by the Design Review Board, which shall be constructed in final finished form not later than thirty (30) days subsequent to the substantial completion of any residence on a Lot, as determined by the Design Review Board in its sole discretion.

(e) Builder Approval. Developer reserves the right of prior approval, in its sole and absolute discretion, of each general contractor, contractor, builder, subcontractor or other person or entity (collectively, as so approved, the "Builders" and individually, a "Builder"), which proposes or is contracted with, hired or otherwise retained by or on behalf of any Lot owner to construct, modify or repair a residence or other Structure on any Lot, which approval must be obtained prior to the commencement of any such construction. No Lot owner, unless an approved Builder, may construct a residence on the Lot. Developer reserves this right of prior approval because the Subdivision is a planned community of high aesthetic and construction quality with which the Developer's name and reputation, and the name and reputation of Developer and that of its affiliated and related entities, shall continue to be associated and identified and further, in an attempt to ensure (i) the maintenance of a high quality of construction within the subdivision, (ii) that the economic value of other Lots and structures within the Subdivision will not be impaired by the construction of residential structures not of the same or comparable quality as now exist in the Subdivision, (iii) the maintenance of the existing high aesthetic quality of the Subdivision, and (iv) a uniform subdivision, development, improvement and marketing program for the Subdivision. Nothing contained in this Section 3.2 or otherwise within this Declaration shall constitute or be deemed to be a representation or warranty by Developer or the Design Review Board with regard to any matter whatsoever pertaining to any Builder, or of the value or quality of any Lot, or any residence or other structure or improvement constructed thereon or otherwise within the Subdivision.

(g) Sanitation. At all times during construction, the Builder will keep and maintain on site a portable toilet and dumpster. The Builder shall provide Developer with copies of maintenance agreements for each.

Section 3.3 Minimum Finished Floor Areas. The following shall be the minimum finished and heated floor areas for homes to be constructed within each Phase (unless other minimum finished floor areas are otherwise specified with respect to any Lot in any Supplemental Declaration or in the Design Guidelines or on the Plat filed in the aforesaid Register's Office with respect to such Phase):

(a) One-Story. The ground floor area of a one-story residence shall be a minimum of (i) 2,600 finished and habitable square feet within The Park Section and the Preserve, and (ii) 2,900 finished and habitable square feet within all other Phases.

(b) One and One Half-Story And Two-Story. The area of a one and one half-story, two-story residence shall be a minimum of: (i) 1,800 finished and habitable square feet on the ground floor and 1,200 finished and habitable square feet on the second floor (a total of 3,000 square feet) within The Park Section and the Preserve, and (ii) 2,600 finished and habitable square feet on the ground floor and 1,000 finished and habitable square feet on the second floor (a total of 3,600 square feet) for all other residences.

(c) Basement Rancher. The main floor of a basement rancher shall contain a minimum of 2,600 square feet.

(d) Exclusions. Finished basement areas, except in the Preserve, bonus rooms over detached garages, garages and open porches, unfinished and non-heated areas are not included in computing minimum square footage and floor areas pursuant to this Section 3.3.

(e) Waiver. Design Review Board shall have the right, but no obligation, to waive the square footage required of this section and to approve plans for a residence containing less than the minimum square footage specified herein. Square footage requirements in the Highpoint Section shall be determined by the Design Review Board.

Section 3.4 Setbacks. No structure shall be located on any Lot nearer to the front lot line, the side street line or other side lot lines, or to rear lot lines or shorelines, than the minimum building setback lines required by the applicable zoning regulations and (in addition to such regulations) defined within the Design Guidelines, or shown or otherwise specified on the Plat of any Section or Phase, recorded with respect to any

Phase, except that reasonable (as determined by Developer) bay windows, chimneys, roof overhangs, uncovered patios, and steps may project into said areas, and open porches may project into said areas not more than six feet, if permitted by applicable law and as shall be acceptable to the Design Review Board. Each Plat of a Section or Phase shall designate a "Building Envelope" within which the residence shall be constructed. Developer may from time to time vary the established building setback lines, and/or grant variances therefrom, in its sole discretion, where not in conflict with applicable zoning regulations or other applicable law. The side setback minimums shall be as follows: Lot Numbers 1 - 17; 31 - 43 and 58 - 68 shall have a minimum side setback of ten feet (10') on each side. All other lots shall have a minimum side setback of fifteen feet (15') on each side, except in the Highpoint Section. The Design Review Board shall establish setbacks from the Highpoint Section and shall have the power to grant waiver of side setbacks in other cases.

Section 3.5 Garages; Carports.

(a) Openings. The openings or doors for vehicular entrances to any garage located on a Lot shall include doors and shall not face the front lot line unless otherwise approved in writing by Developer in its sole discretion. All Lots shall have at least a two-car garage. Garages, as Structures, are subject to prior plan approval under Section 3.1. The interior of all garages shall be dry wall finished and painted. Garage doors shall be kept closed except when in use.

(b) No Carports. No carport shall be constructed on any Lot containing less than six acres.

Section 3.6 Landscaping; Sidewalks; Driveways; Trees.

(a) Sod. After the construction of a residence, the Lot owner of any lot containing less than six acres shall grade and sod the area of the lot disturbed during construction, and shall otherwise landscape and seed all remaining portions of the Lot in accordance with the provisions of this Declaration and the landscape plan for such Lot which has been approved pursuant to Article III hereof, and each Lot owner shall thereafter maintain (and replace, as necessary) all of the same in good health and in a neat, attractive and well-kept condition satisfactory to Developer. Only fescue grass shall be permitted. The requirements of this section shall also be subject to the Design Guidelines.

(b) Driveway. Each Lot owner shall concrete or otherwise finish in a material or materials approved by the Design Review Board, and thereafter maintain in good repair and condition, the driveway from the abutting street to the Lot within thirty (30) days after substantial completion of a residence on such Lot as determined by Developer. All driveways shall connect to the street on the side of the Lot as may be designated by Developer for each Lot.

(c) Trees. Each Lot owner shall cause to be planted on the Lot such trees as shall be required and otherwise approved pursuant to Section 3.1 hereof. No tree shall be removed from any Lot subsequent to the implementation of the approved initial lot-grading plan for such Lot without the prior written approval of Developer in its sole discretion. No Lot owner shall cause or allow any placement or storage of any chemicals, solvents, material construction machinery or temporary soil deposits within the drip line of any tree. The term "drip line" as used herein shall mean an imaginary perpendicular line that extends downward from the outermost tips of the tree branches to the ground. Except as permitted by Developer in its sole discretion, no trenching shall be allowed within two-thirds of the drip line of any tree having a trunk diameter of six inches or greater. Developer reserves the right to establish, from time to time, regulations or rules relating to the preservation and planting of trees. In addition to its other remedies hereunder, Developer may require any Lot owner to immediately replace all damaged or improperly removed trees with a new tree of type and size required by the Developer.

(d) Default. Upon a Lot owner's failure to comply with the provisions of this Section 3.6, Developer may take or cause to be taken such action as may be necessary in Developer's opinion to cause compliance therewith, without liability of Developer, the Association or any of their respective successors, assigns, officers, employees, stockholders, directors, partners, agents, servants or contractors, or affiliates or related entities for trespass or otherwise, and the Lot owner shall immediately, upon demand, reimburse Developer or other performing party for all expenses incurred in so doing.

Section 3.7 Mail and Paper Boxes. Only mailboxes and paper boxes as approved by the Developer may be used or placed on a Lot.

Section 3.8 Design Guidelines. Notwithstanding anything to the contrary in this Declaration, the Design Review Board reserves the right to reject any plans that do not comply with such architectural and other standards set forth in this Declaration, or within the Design Guidelines as the same may be modified and issued from time to time by Developer.

Section 3.9 Maintenance of Roads and Curbs. Any builder performing construction services on the Property, and any Lot owner purchasing such services, shall be jointly and severally liable for any damage caused by either party, or any subcontractors, material suppliers or other parties claiming by, under, or through such parties, to any portion of the Property, including, without limitation, the Common Areas, curbs, roadways and signage. All builders and Lot owners shall take such measures as are necessary to avoid the deposit of any mud, dirt, concrete or other substance on roads within the Subdivision.

Section 3.10 Temporary Window Treatments. Any temporary window treatments, including, without limitation, sheets, canvas, plywood or other opaque or security coverings, shall not be permitted to remain more than thirty (30) days except as may be permitted by Developer, in its sole discretion.

Section 3.11 Street Lights. Developer will install streetlights within the Subdivision where Developer deems appropriate. After installation, the maintenance, repair, replacement and utility costs of all streetlights will be the sole responsibility of the Association.

ARTICLE IV - COMMUNITY ASSOCIATION; ASSESSMENTS

Section 4.1 Association. The Developer has created the Lashbrooke Community Association, Inc., a Tennessee non-profit corporation (the "Association") and has filed articles of incorporation of same in the Office of the Secretary of State of Tennessee and in the corporation records in the Register of Deed's Office in Blount County, Tennessee. The operation of the Association shall be governed by a Board of Directors (the "Board") elected by the members in accordance with the Association's By-Laws. Developer shall, and hereby reserves the right to, assign certain of its rights hereunder to such Association, such assignment to be effective upon recording by Developer of an assignment to the Association. Until such assignment, all rights of the Association as set forth in this Declaration shall run to the benefit of, and be exercised by, Developer. All owners of Lots within the Property (and within any additional sections of the Subdivision as are added by Developer) shall be members of the Association and shall have one vote for each Lot, provided that, so long as Developer owns any of the Lots within the Property, Developer shall have one vote for each Lot within the Property, without regard to whether or not such Lot is owned by Developer. Each owner of a Lot within the real Property shall automatically, by acceptance of the deed thereto, become a member of the Association, regardless of any other abilities, intentions or desires of such Lot owner, and each Lot owner agrees to abide by all rules, regulations, and by-laws and to pay the fees and assessments of the Association.

Section 4.2 Easements of Enjoyment.

(a) Common Area.

(i) Every Lot owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the easements and other reservations set forth in this Declaration. Further, Developer, and its successors and assigns, shall have a superior right and easement in gross for ingress, egress and access on and over, and use of, the Common Area for so long as Developer, its successors or assigns, owns any Lot or any portion of the Subdivision. The term "Common Area" as used in this Declaration means and refers to all of the following, and all facilities and amenities thereon designated by Developer as a part of the Common Area:

- (1) The grassy and landscaped areas located in any islands within any of the streets, roadways and cul-de-sac within the Subdivision;
- (2) All areas shown and designated on the Plat for any Section, or on any other subdivision plat for any portion of the Property filed by Developer in the aforesaid Register's Office, as "Common Area," "common area," "open space" or the like, or as otherwise subject to the control and/or jurisdiction of the Association;
- (3) All areas encumbered by easements reserved in favor of the Association in this Declaration or on any Plat or otherwise on any other subdivision plat for, or any easement, leasehold or license in favor of the Association applicable to, any portion of the Property, or any other real property, filed by Developer or with the express written consent of Developer in the aforesaid Register's Office, subject to the terms thereof;
- (4) All roads, streets and public rights-of-way on portions of the Property subject to this Declaration, and all other streets, roads, joint permanent easements, and public rights-of-way within the Subdivision designated by Developer or the Board, regardless of whether any of the same are dedicated to public use, and all street lights thereon, until such time, if any, as the same are accepted for maintenance by an applicable governmental authority to the satisfaction of Developer and are relinquished by the Association;
- (5) All areas designated on any Plat as a part of the "Common Area" or as "sidewalk and/or landscape" easements;
- (6) Such other areas of the Property subject to this Declaration, and facilities thereon, as Developer shall designate from time to time as a part of the "Common Area"
- (7) Developer shall have the unfettered and unencumbered right to from time to time file for record revised plats adjusting or redesignating portions of the Common Area as either lots or dedicated public rights-of-way or easements; provided that such adjustments shall not materially adversely affect the existing planned residential nature of the development.

(ii) Any entranceways, gates, gate houses, walls, signs, signature entrances, and other similar structures, and attendant lighting fixtures and landscaping, to or within the Subdivision and/or the Property, and landscaped medians, although constructed and/or located in areas intended for or dedicated to public use are also part of the Common Area subject to maintenance by the Association.

(iii) Developer and its successors and assigns, shall have the unfettered and unencumbered right to from time to time convey all or any portion of the Common Area, and any of the respective facilities and amenities located thereon, in the then existing condition thereof, to the Association, as may be determined by Developer in its sole discretion, and which conveyances the Association shall be obligated and hereby agrees to accept. Any such portion or portions of the Common Area to be conveyed in fee shall be conveyed by quit claim deed from Developer to the Association, and any such portion or portions of the Common Area so conveyed shall be quitclaimed free and clear of all liens except for the lien of ad valorem taxes not yet due and payable and for such liens as are contemplated by this Declaration, and subject to all other matters of record.

(iv) The Association shall bear and pay any and all costs and expenses relative to all Common Areas including, but not limited to, property taxes, utilities, structure and liability insurance covering the Developer, reasonable rent paid to the Developer or its assigns, maintenance and repairs, additions and replacements.

(b) **Reservations.** The rights and easements of enjoyment granted pursuant to Section 4.2(a) above, and the provisions of Article II above, are further subject to the following:

(i) The right of the Association to permit the construction and use of and to charge reasonable admission and other fees for the use of any recreational facilities and other amenities situated upon the Common Area, and to adopt rules and regulations with regard to the use of the Common Area.

(ii) The right of the Association to borrow money for the purpose of improving the Common Area, or for constructing, repairing or improving any facilities and/or amenities located or to be located thereon, and to give as security for the payment thereof, a mortgage encumbering all or any part of the Common Area.

(iii) The right of the Association to suspend the voting rights and the right to use the recreational facilities and other Common Area amenities by a Lot owner for any period during which a violation of this Declaration by such Lot owner or a resident of such Lot exists, or any assessments or liens against the Lot owner's Lot or other sums due to the Association by such Lot owner, remain unpaid, and for a period of time for any infraction of this Declaration and/or the rules and regulations of the Association.

(iv) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board, and to grant permits and licenses as well as easements for access, utilities, drainage, water facilities and other matters, in, on, over, across or under the Common Area, as may be deemed necessary or useful by the Board. Developer may dedicate access, utility, drainage, water facility, service and other easements, rights and licenses on or over the Common Area, and any recreational facilities and other amenities thereon, owned by the Association at Developer's sole discretion for so long as Developer, its successors or assigns, owns any Lot or any portion of the Subdivision.

(v) An easement in gross on and over the Common Area in favor of Developer, its successors and assigns, for so long as Developer, its successors or assigns, owns any Lot or portion of a Lot in the Subdivision.

(vi) Developer shall be entitled to modify, restrict, and/or confirm any of the foregoing rights and easements provided for in this Section 4.2(b), and/or to grant additional rights and easements on or over the Common Area in favor of Developer, its successors and assigns.

c. **Construction Mortgages.** Developer may from time to time construct certain recreational facilities and/or amenities on portions of the Common Area owned or to be owned by Developer, and, in order to finance this construction and the development of the Subdivision in general, Developer shall have the right to subject all or any portion of the Common Area and any improvements thereon to the lien of a mortgage on terms acceptable to Developer in its sole discretion.

Section 4.3 **Delegation of Use.** Any Lot owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Area, and facilities and amenities thereon, to the members of his family residing on the Lot or to (a) his tenant(s) actually occupying a residence on the Lot pursuant to a lease supplied to Developer, and of which Developer receives proper notice, pursuant to, and which otherwise complies with, Section 2.1 hereof, or (b) contract purchaser(s) who reside on the Lot, but membership in the Association cannot be shared with a tenant(s) or contract purchaser(s). Membership in the Association may not be conveyed separately from ownership of the Lot.

Section 4.4 Right of Entry. The officers, employees, agents and authorized representatives of Developer, the Association and the Board shall be entitled to reasonable access to the Individual Lots as may be required (a) in connection with the preservation of property on an individual Lot or in the event of an emergency or in connection with the maintenance of, repairs or replacements within the Common Area or the remainder of the Subdivision, of any equipment, facilities or fixtures affecting or serving other Lots and/or the Common Area, or to make any alteration required by any governmental authority, and (b) in connection with and reasonably related to the exercise and performance by Developer, the Association or the Board of their respective rights and responsibilities pursuant to this Declaration, including, without limitation, the right of access to each Lot at reasonable times and intervals and in a manner which does not unreasonably interfere with the use thereof to inspect the Lot for purpose of verifying conformance with this Declaration, whether in connection with the construction of improvements thereon in accordance with Article III of this Declaration, or otherwise.

Section 4.5 Assessments; Lien and Personal Obligation.

(a) Payment. Each Lot owner, except for Developer, by acceptance of a deed for the Lot, whether or not it shall be so expressed in such deed, covenants and agrees to observe and conform to, and to cause the residents of the Lot to observe and conform to, the provisions of this Declaration, and such Lot owner further covenants and agrees, and incurs an obligation, to pay to the Association, except as otherwise provided in this Declaration, (i) annual assessments or charges ("Annual Assessments"), and (ii) special assessments for capital improvements ("Special Assessments"), such assessments to be established and collected as provided in this Article IV. At the sole discretion and direction of Developer or the Board, however, the Association may elect, from time to time, not to levy any assessment against one or more specific Lots conveyed to certain Builders (other than assessments with respect to such Builder's residence or sales office) until the first anniversary of such conveyance or the conveyance of the Lot by the Builder, whichever first occurs, or until such other time as Developer or the Board may elect.

(b) Charge and Lien. The Annual Assessments, Special Assessments and any other amount owed to the Association or to Developer or their agents or contractors shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with reasonable attorneys' fees, costs and such interest, shall also be the personal obligation of each and every person or entity which was the Lot owner of such Lot at the time when the assessment fell due, and the personal obligation for delinquent assessments shall pass jointly and severally on such Lot owner's successor in title, regardless of whether expressly assumed by such successor, and such delinquent assessments shall remain a charge on and continuing lien against the Lot, which may be foreclosed by the Developer or the Association in the manner prescribed by law.

Section 4.6 Purpose of Assessments.

(a) Use. The assessments levied by the Association shall be used as provided in this Declaration and otherwise to promote the recreation, health, safety and welfare of the residents and Lot owners in the Subdivision, and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose, and for the improvement, maintenance, use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of utilities, labor, equipment, materials, management and supervision and other services, payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Articles and/or Bylaws of the Association, the employment of attorneys to represent the Association when necessary and such other needs as may arise, and for the improvement and maintenance of the Common Area. The Association shall maintain, operate and repair, unless such obligations are assumed to the satisfaction of the Developer by any municipal or governmental authority or agency having jurisdiction thereof and are relinquished by the Association, the Common Area.

(b) Administration. Until assignment of its rights hereunder to the Association, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes permitted in this Declaration and/or the Articles and Bylaws of the Association.

Section 4.7 Initial Annual Assessment.

(a) Initial. Annual Assessments will begin January 1st in the calendar year 2006, with the initial Annual Assessment set at a rate of \$1,200.00 per year per Lot, and shall be thereafter increased or reduced for each year as shall be determined by the Association's Board. The full pro-rated amount (based upon the days of ownership within the remainder of applicable current calendar year) of the initial Annual Assessment or the then current Annual Assessment shall be due and payable upon the purchase of each Lot. Lots purchased in 2005 shall pay the full initial Annual Assessment for 2006 in advance at the time of closing.

(b) Payment. The Annual Assessment as provided above shall be due and payable in full annually in advance on or before each January 1st.

Section 4.8 Special Assessments. In addition to the Annual Assessments, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the current or future cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Any such assessment shall have the assent of the members of the Association in accordance with the Bylaws of the Association. Each Special Assessment shall be due from Lot owners at a time and schedule as determined by the Board and described in a written notice to the Lot owners.

Section 4.9 Uniform Rate of Assessment. Subject to Section 4.5 and 4.7, each Annual Assessment and Special Assessments shall be fixed at a uniform rate for all Lots. The Board and/or Developer may at its respective discretion waive or reduce any assessment in whole or in part for any year or part of a year for any Lot where construction of a residence has not yet begun.

Section 4.10 Date of Commencement of Annual Assessments; Due Dates. The Annual Assessments shall begin as to any Lot at the time the Lot is initially conveyed by Developer to a person or entity unless otherwise provided in the deed for such Lot, but shall not begin before January 1, 2006. The first Annual Assessment for a Lot shall be adjusted according to the number of days remaining in the assessment calendar year when the Lot is so first conveyed.

Section 4.11 Effect of Nonpayment of Assessments Or Any Other Amount Due Developer Or Association Hereunder; Remedies of Developer And Association.

(a) Late Payments And Interest Accrued And Payable. Any unpaid fee, charge, deposit, reimbursement, expense, claim, Annual Assessment, Maintenance Assessment, Special Assessment, accrued interest, and any other amount charged or assessed against a Lot or payable by any Lot owner(s) to the Association or to Developer or their agent or contractor (as the case may be) and not paid by the due date (such amounts called "Late Payments") shall bear interest from the due date at a rate of twenty-four percent (24%) per annum accrued monthly, with a minimum of \$20.00 per month, or such lower rate as may constitute the maximum rate then permitted by applicable law.

(b) Attorney's Fees And Collection Costs. Should Developer and/or Association take any action to collect any Assessment, Late Payment or other amount due from a Lot owner, then Lot owner shall immediately reimburse and pay any and all cost and expense of such action ("Collection Costs"), including but not limited to collection agency costs, reasonable attorneys' fees and court costs, and shall bear interest at the rate prescribed in Section 4.11(a) above.

(c) Charge And Lien Upon A Lot. All Late Payments and other amounts owed to Developer and/or Association hereunder, plus Collection Costs and accrued interest thereon, shall constitute a charge and lien upon the Lot to secure the payment thereof of equal priority to the lien for assessments provided for in Article IV of this Declaration. The Developer and/or the Association may bring an action against the Lot owner(s) and/or persons personally obligated to pay such amounts, and/or may foreclose the lien against the Lot, and costs and reasonable attorneys' fees of such action and/or foreclosure shall be added to the amount owed by Lot owner(s). No Lot owner may waive or otherwise escape liability for assessments or charges provided for herein by non-use or abandonment of the Lot, or by claim of set-off.

Section 4.12 Subordination of the Lien to First Mortgage. Annual Assessments, Special Assessments and Maintenance Assessments shall constitute a charge upon each Lot, and the lien of such assessments shall only be subordinate to the lien of any first mortgage encumbering a Lot in favor of a bona fide institutional lender, which mortgage encumbered the Lot prior to the due dates of any such assessments. Sale or transfer of any Lot shall not affect the assessment lien or other liens provided for in this Declaration.

Section 4.13 Membership. Developer and every Lot owner of a Lot which is subject to an assessment shall be a member of the Association, as provided herein and in the Articles and Bylaws of the Association. Each such Lot owner and member shall abide by the Association's Articles of Incorporation recorded in the corporation records in the Office of the Register of Deeds of BLOUNT County, Tennessee ("Articles"), and By-Laws, rules and regulations, shall pay the assessments provided for in this Declaration when due, and shall comply with decisions of the Board. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment.

Section 4.14 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(a) All properties to the extent of any easement or other interests therein dedicated and accepted by an applicable governmental authority or agency and devoted to public use; and

(b) All of the Common Area; and

(c) All Lots and property owned by the Developer; and

(d) Notwithstanding anything within the Declaration to the contrary, lots owned by the Developer, Acme Investments, a Tennessee partnership, and their owners, stockholders and partners of owners as of the day the Declaration was originally recorded, shall be exempt from any Annual Assessment, Maintenance Assessment, Special Assessment, or any other charge, expense or lien created herein or assessed by the Association.

Section 4.15 Lot Owner's Negligence. In the event that the need for maintenance, repair, or replacement of the Common Area or any portion thereof, is caused through or by the negligent or willful act or omission of any Lot owner, or by any member of a Lot owner's family, or by a Lot owner's tenants, guests, contractors, subcontractors, agents, or invitees, then the expenses, costs and fees incurred by the Association for such maintenance, repair, or replacement, in the amount for which the Lot owner or the Lot owner's family members, tenants, guests, contractors, subcontractors, agents, or invitees are liable under Tennessee law, shall be a personal obligation of such Lot owner.

Section 4.16 Recorded Easements. The Common Area, and all portions thereof, shall be subject to all easements shown on any recorded Plat affecting the Common Area, or any portion thereof, and to any other easements of record, which shall include without limitation, use for construction, installation and repair of utilities, maintenance, encroachment, drainage, and ingress and egress as of the date of recordation hereof.

ARTICLE V – THE PARK

Section 5.1 The Park Community. Developer has created a maintenance assisted community within the Development consisting of 17 lots numbered 1 through 17 called "The Park". All lots within The Park are subject to all provisions within this Declaration, however, the provisions of Article V apply only to Lots within The Park and to no other property within the Development.

Section 5.2 Assistance With Exterior Maintenance. The Association shall arrange and pay for limited maintenance to the yards and landscaping within The Park as a majority of the Lot owners within The Park shall from time to time decide in writing, however, such maintenance shall include these routine tasks: lawn mowing and weed control; debris and brush removal; mulching, trimming and landscape maintenance (with the expense of additions or replacement of trees, shrubbery and other plants at the expense of the applicable Lot owner). Such expenses for maintenance to Lots within The Park are to be paid from Maintenance Assessments, however, mowing and maintenance of Common Areas within these areas is an expense to be covered within the Annual Assessment charged to all Lot owners.

Section 5.3 Maintenance Assessment. The Association shall, when setting the Annual Assessment for all Lots, set a "Maintenance Assessment" to be charged to each Improved Lot (a Lot with a completed residence) within The Park, in a total amount equal to the anticipated actual annual expense for maintenance services within these areas divided by the total number of improved lots. Each such Maintenance Assessment shall be a charge and lien on the applicable Lot owners and Lots within The Park, under the same terms and with the Association having the same rights as with the Annual Assessments described in Section 4.5(b), 4.11 and 4.12 herein. Each Lot within The Park is subject to an Annual Assessment, and all improved Lots within these areas are subject to an additional Maintenance Assessment.

ARTICLE VI – DOCKS CONSTRUCTED BY DEVELOPER.

Section 6.1 Private Boat Slips Within Common Area Docks. Developer plans to, subject to obtaining all applicable governmental and regulatory approvals, construct one or more docks with a combined minimum of forty (40) "Private Boat Slips", which are accessible through Common Areas within the Development. All such Private Boat Slips are the property of the Developer, unless transferred to the Association under the provisions contained in this Article VI.

Section 6.2 Exclusive License To Use Private Boat Slips. Private Boat Slips are for the exclusive use of certain designated Lot owners and the Developer. When determined by Developer, Developer will offer to sell an exclusive "License" to use a Private Boat Slip to Lot owners within the Development, in order of the date Lots were purchased but otherwise at a price, under terms, and in a manner as solely determined by Developer. Upon the sale of each such License, Developer will issue a document granting to the Lot owner the exclusive right to use and improve a designated Private Boat Slip. Thereafter, such Lot owner who has purchased such a License may sell and assign that License, but only to another Lot owner within the Development including the purchaser of such Lot Owner's Lot and under rules and regulations established by the Developer and/or Association.

Section 6.3 Maintenance Of And Improvements To Private Boat Slips. Those Lot owners who have purchased a Private Boat Slip License may make such improvements to their assigned slip as allowed under the Private Boat Slip rules and regulations as may be from time-to-time established by Developer and/or the Association. Such holders of a License for a Private Boat Slip must routinely maintain the slip and all improvements to keep them in good repair and working order.

Section 6.4 Transfer Of License To A Private Boat Slips. When and if determined by Developer, Developer may transfer ownership of one, more or all of the Private Boat Slips and any related structures or improvements to the Association, and if so transferred by Developer the Association agrees to unconditionally accept such transfer. Upon transfer, the Association will thereupon be solely responsible for

oversight of the Private Boat Slips and transferred improvements, and to assure that such areas and improvements are properly maintained by the licensed Lot owner or the Association as the case may be.

Section 6.5 Fees Charged To Private Boat Slip Licensees. The Developer and/or Association may establish and charge an annual fee, due and payable in advance on or before each January 1st, by each Licensee of a Private Boat Slip, with amounts generated by such annual fees to be used for the exclusive use of maintaining the common and unlicensed areas of the dock facilities and related improvements, and for routine expenses associated with water and electrical power that may be furnished to the dock area. Failure to pay such annual fee when due could result in the termination and loss of the licensee's right to the Private Boat Slip, as may be defined within certain rules and regulations which may be adopted from time-to-time by the Developer and/or the Association. Each such Private Boat Slip annual fee shall be a charge and lien on the applicable Lot owner and their lot, under the same terms and with the Association having the same rights as with the Annual Assessments as described in Sections 4.5(b), 4.11 and 4.12 herein.

Section 6.6 Rules And Regulations Governing Private Boat Slips. Developer will create and establish certain rules, regulations, conditions and requirements for the licensing, transfer, use, improvement, and operation of Private Boat Slips and related improvements. At a time as determined by Developer, Developer may assign to the Association, and the Association will accept and thereafter be responsible for maintaining, modifying and enforcing all such rules and regulations governing Private Boat Slips and the adjacent common areas.

ARTICLE VII - NO WARRANTIES

Section 7.1 "AS IS: Sales. All Lots within the Property are sold by Developer in their "AS IS," "WHERE IS" condition. No warranty is made by Developer of any kind, including, without limitation, any warranty regarding the market value of any Lot within the Subdivision or of any use of the Lot for any purpose. All Lots are offered and sold for future use in building a home and are not represented as a business investment.

ARTICLE VIII - GENERAL PROVISIONS

Section 8.1 Enforcement.

(a) **Parties.** Enforcement of these restrictions shall be by proceeding at law and/or in equity, brought by Developer and/or the Association, or in the absence of any such action, by any Lot owner (although Developer and/or the Association shall at all times have the superior right to bring and/or assume and control the course of, as applicable, any such proceeding) against any party violating or attempting to violate any covenant or restriction or other provision of this Declaration, either to restrain violation, to direct restoration and/or to recover damages. Failure of any Lot owner, Developer or the Association to demand or insist upon observance of any of the provisions of this Declaration, or to proceed for restraint of violations, shall not be deemed a waiver of the violation or of the right to seek enforcement of that provision in that or any other case. Any such Lot owner, Developer and/or the Association enforcing this Declaration shall be entitled to recover all costs and expenses incurred in connection with such action, including, without limitation, court costs and reasonable attorney's fees. Any award of damages received by Developer or the Association in connection with any such action, and all costs and expenses incurred by Developer or the Association in connection therewith, shall constitute a lien upon the Lot, of equal priority to the lien for assessments provided for in Article IV, and any award of damages received by any Lot owner in connection with any such action shall accrue to the sole benefit of the Association.

(b) Liens. All liens created and/or imposed against any Lot pursuant to the provisions of this Declaration may be enforced in accordance with the applicable provisions of Tennessee law, including the judicial foreclosure thereof and sale of Lot encumbered thereby, with the Lot owner and any other persons responsible therefore remaining liable for any deficiency.

(c) Owner Liability. Either Lot owner (other than Developer) shall be responsible and liable for any violations made or caused by such Lot owner and every family member, agent, employee, contractor, material supplier, invitee, licensees and subleases and assigns of such Lot owner.

(d) Developer Written Waiver. Developer reserves the right to waive any obligation or violation of any Lot Owner under the terms of this Declaration upon Developer's determination, in its sole and absolute discretion, provided that such waiver shall be express and in writing.

Section 8.2 Severability. Invalidation of any provision of this Declaration by judgment or court order of a court of competent jurisdiction shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and such provision so invalidated shall remain in full force and effect in all permitted contexts.

Section 8.3 Declaration Runs With The Land.

(a) Term; Amendment. Unless cancelled, altered or amended under the provisions of this Section 6.3, the provisions of this Declaration shall run with the land and shall be binding on the Lots, the owners of each Lot and all parties claiming under them, for a period forty (40) years from the date this Declaration is recorded. After such forty (40) years, this Declaration shall be deemed extended automatically for successive periods of ten (10) years, unless and until an instrument signed by at least seventy-five percent (75%) of the owners of the Lots subject to this Declaration has been recorded in the aforesaid Register's Office, agreeing to change this Declaration in whole or in part and the term hereof; provided, however, that if Developer, its designated successors or assigns, then owns any Lot, or any portion of the Subdivision, or if any portion of the Subdivision remains unplatted as a Phase, this Declaration may not be so changed in whole or in part without the prior written consent of Developer in its sole discretion. From the date of this Declaration and so long hereafter as Developer, its designated successors or assigns, as applicable, owns any Lot or any portion of the Property (i) this Declaration may hereafter be unilaterally amended by order, decree, judgment or ordinance, and (ii) Developer may otherwise unilaterally amend this Declaration as Developer may elect in its sole discretion, provided, that any such amendment under this subpart (ii) shall not materially adversely affect the then existing planned residential nature of the developed Phases of the Subdivision. At such time as neither Developer or its designated successors or assigns, owns any Lot or any portion of the Subdivision, or upon such earlier date as Developer may elect in its sole discretion by written notice given to the Board, this Declaration may thereafter be cancelled, altered or amended by the recordation of a document in the aforesaid Register's Office in which the Board certifies that such cancellation, alteration or amendment was executed by the owners of seventy-five percent (75%) of the Lots subject to this Declaration.

(b) Easements and Rights Unaffected. Notwithstanding any other provision of this Declaration, no cancellation, alteration or amendment of this Declaration shall in any event (i) affect or impair the rights, privileges or easements granted pursuant to this Declaration in favor of Developer, its successors and assigns, or any other person or entity other than the Lot owners, without the express written consent of the foregoing entities and such other persons and entities benefited thereby, or (ii) change the method of assessment or the obligations or duties of the Association without the prior written consent of Developer in its sole discretion.

(c) Assignment of Rights and Grant of Proxy. Until the Developer no longer owns any Lots or Phases of the Subdivision or until Developer shall otherwise declare, each Lot owner, by the acceptance for a deed for such Lot, does automatically and irrevocably appoint the Developer as the attorney-in-fact and proxy for such Lot owner, in the name and stead of such Lot owner, (i) to act for such Lot owner in executing any document or taking any action to amend this Declaration and/or the Articles or Bylaws of the Association, as applicable, and (ii) to otherwise exclusively exercise all rights of such Lot owner to vote as a member of the Association on all matters coming before the members of the Association, and to cause such vote as Developer sees fit in its sole discretion. All actions so taken by the Developer as such attorney-in-fact and proxy shall be fully binding upon the Lot owner as if taken by the Lot owner in its, his or her own name without acting through an attorney-in-fact and proxy. Such irrevocable appointment of Developer as attorney-in-fact and proxy for each such Lot owner is a power coupled with an interest.

Section 8.4 Amendments to Articles and Bylaws of the Association. Nothing in this Declaration shall limit the right of the Association to amend, from time to time, its Articles and Bylaws.

Section 8.5 Non-Liability of the Directors and Officers. Neither Developer, its owners, officers, directors or managers, nor the directors or officers of the Association, shall be personally liable to any of the Lot owners for any mistake of judgment or fact or for any other acts or omissions of any nature whatsoever while acting in their official capacity, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or actual fraud. The Lot owners shall indemnify and hold harmless each of the directors and officers of the Association and their respective heirs, executors, administrators, personal representative, successors and assigns, for acts or omissions of any nature whatsoever while acting in their official capacity and otherwise in accordance with the Articles and/or Bylaws of the Association.

Section 8.6 Binding Determination. In the event of any dispute or disagreement with or between any Lot owner(s) relating to, or of any other disputes, disagreements or questions regarding, the interpretation or application of the Developer for so long as Developer owns any Lot or any portion of the Subdivision, and (b) thereafter by the Board, shall be final and binding on each and all such Lot owners.

Section 8.7 Association Easement. Developer hereby grants and conveys to the Association an easement in, on, under, over, above, and across and through the entirety of the Property for the use and benefit of the Association in order to permit the Association in or upon such portions of the Property as are reasonably necessary to discharge the rights and obligations of the Association enumerated in this Declaration, which shall be exercised only to the extent reasonably necessary and appropriate to discharge those obligations.

Section 8.8 Incorporation by Reference on Resale. Upon the sale or other transfer of any Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, conditions, restrictions, charges, liens, assessments and other provisions set forth in this Declaration; provided, however, that the failure of any such deed to so incorporate by reference this Declaration shall not affect the validity of such deed nor shall it be deemed to release the Lot conveyed thereby from the effect of this Declaration.

Section 8.9 Notices. Upon purchase of any Lot, the purchaser thereof shall notify Developer and the Association in writing, sent to the address of Developer set forth above (or to such other address or to such other entity as shall be designated by Developer and/or the Association, whether by notice to Lot owners or by the filing of a statement and/or declaration in the aforesaid Register's Office), of such purchase and shall set forth in writing the then existing address of such purchaser and the Lot purchased. Any notice required to be sent to any Lot owner pursuant to the provisions of this Declaration shall be deemed to have been properly given upon personal delivery, or when mailed, by ordinary mail, postage-paid, to the last known address of the person or entity which appears as the Lot owner on the records of Developer or of the Association at the time of such mailing, or as specified on the deed of the Lot to such Lot owner.

Section 8.10 Exhibits. All exhibits attached to this Declaration and referred to herein as designated Exhibits are hereby incorporated herein above the signature lines hereof.

Section 8.11 Captions and Headings. All captions and headings used in, and the title page and table of contents of, this Declaration are for convenience of reference only and shall not affect the interpretation of the provisions hereof.

Section 8.12 Additional Rights of Developer. Notwithstanding any provisions contained in this Declaration to the contrary, so long as Developer owns any lots or other portions of the Subdivision, it shall be expressly permissible for Developer to maintain and carry on upon portions of the Common Area and facilities thereon, such activities as, in the sole opinion of Developer, may be reasonably required, convenient or incidental to the construction, development, improvement and marketing of Lots within Lashbrooke, including, without limitation, business offices, signs and sales offices, and Developer shall have an easement for access to such facilities.

Section 8.13 Reservation of Easement. Developer hereby reserves, grants and conveys unto itself, its successors and assigns, a perpetual easement five (5) feet in width on each side of all interior lot lines, ten (10) feet inside exterior lot lines and roads, plus rights of ingress and egress and access on and over each Lot to such easement, for utility services, access, drainage, construction, grading, and fill, and such other use as Developer shall determine in its reasonable discretion, which easement is reserved, granted and conveyed for the benefit of Developer, its successors and assigns, and of any Lot or other portion of Lashbrooke, and other persons or entities, selected by Developer in its sole discretion; provided, that sidewalks, driveways and other structures approved pursuant to Article III above, and utilities to serve such Lot, shall be permitted to cross such easement.

Section 8.14 Developer's Rights to Complete Development; Rezoning. No provision of this Declaration shall be construed to prevent or limit Developer's rights to complete the development, construction, promotion, marketing, sale and leasing of Lots developed from the Subdivision and other portions of the Subdivision; to construct or alter improvements on any real property owned by Developer within the boundaries of the Subdivision; to maintain model homes, offices for construction, sales or leasing purposes or similar facilities on any property owned by Developer; or to post signs incidental to the development, construction, promotion, marketing, sale and leasing of the Subdivision. Nothing contained in this Declaration shall limit the rights of Developer or require Developer to obtain approval for any matters whatsoever, including, without limitation, to: (a) excavate, cut, fill or grade any property owned by Developer or to construct, alter, remodel, demolish or replace any improvements on any portion of the Common Area or any property owned by Developer; (b) use any structure on any portion of the Common Area or any property owned by Developer as a construction, model home or real estate sales or leasing office; or (c) rezone any portion of the Subdivision for any residential use or any new ratio of housing units per acre, including, without limitation, estate sections or villas. So long as Developer owns any portion of the Subdivision, all owners of Lots shall support and join in any such rezoning and shall take no efforts to oppose such rezoning. Nothing in this Section 8.14 shall limit or impair the reserved rights of Developer as elsewhere provided in this Declaration, and Developer shall be generally exempt from the application of the covenants, conditions and restrictions imposed by this Declaration except as it may from time to time elect in writing in its sole discretion.

Section 8.15 Developer's Approval of Conveyances or Changes in Use of Common Area. For so long as Developer owns a Lot, the Association shall not, without first obtaining the prior written consent of Developer, convey, mortgage, change or alter the use of the Common Area.

Section 8.16 Reservation of Additional Easements, Exceptions, and Exclusions. Developer reserves to itself and hereby grants to the Association the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Area for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions, and exclusions consistent with the ownership of Lashbrooke and the Property for the best interest of the Land owners and the Association, in order to serve the Lot owners within Lashbrooke as initially built and expanded. Developer further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, and to create other reservations, exceptions, and exclusions convenient or necessary for the use and operation of any other property of the Developer, as long as it does not unduly hamper the enjoyment of the Lots by the Lot owners.

Section 8.17 Drainage Easement. An easement is hereby reserved to the Developer and granted to the Association and their respective officers, agents, employees, successors, and assigns to enter upon, across, over, in, and under all Lots and any portion of the Common Area for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Common Area so as to improve the drainage of water on the Common Area. Reasonable efforts shall be made to use this easement so as to disturb as little as possible the uses of the Lot owners of their Lots, to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work.

Section 8.18 Pronouns. Whenever in this instrument a pronoun is used, it shall be construed to represent either singular or plural, or the masculine, feminine or neuter gender, as the case may demand.

Section 8.19 Definition Of Developer And Its Assigns. References to "Developer" in this Declaration shall include the Developer and any entity, person or association to whom Developer may from time to time assign all or any of its rights or obligations under this Declaration, including rights of approval, whether on a permanent or temporary basis as determined by Developer. Developer, its successors and assigns shall have the right to so assign all or any such rights or obligations to the Design Review Board. Developer, its successors and assigns shall have the right to so assign all or any such rights or obligations to the Association, which assignment the Association hereby irrevocably agrees to accept when executed by Developer.

IN WITNESS WHEREOF, the undersigned has duly executed this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions as of the day, month and year first above written.

THE LASHBROOKE CORPORATION

By: 

Robert T. Stooksbury, President