

This Instrument Prepared by:
 Lanning P. Wynn, Attorney
 113 Joy Street
 Sevierville, TN 37862
 DW:TC:RESTRICTIONS:THUNDER MOUNTAIN

RC 18 PG BA: 56877	
03/17/2005 02:55 PM	
VALUE	0.00
MIG TAX	0.00
TRN TAX	0.00
REC FEE	90.00
DP FEE	2.00
REG FEE	0.00
TOTAL	92.00

STATE OF TENNESSEE, SEVIER COUNTY
 SHERRY ROBERTSON HUSKEY
 REGISTER OF DEEDS

**DECLARATION OF COVENANTS AND RESTRICTIONS
 FOR THUNDER MOUNTAIN SUBDIVISION ON
 LITTLE COVE ROAD**

THIS DECLARATION made this the 15th of March, 2005, by **GERALD L. MILLER AND CHARLES A. McGINNIS,** hereinafter collectively called "**Developer**".

WITNESSETH:

WHEREAS, Developer is the owner of the real property known as **Thunder Mountain Subdivision**, as described and shown on Plat of record in Large Map Book 6, Page 70, in the Register's Office of Sevier County, Tennessee, and being the same property conveyed to Developer by Warranty Deed from Marjorie King, a single person and James G. King, a single person, dated December 16, 2002, and of record in Volume 1583, Page 487, and by Quit Claim Deed from Tommy R. Smith dated November 18, 2003 and of record in Volume 1842, Page 264, both in said Register's Office; and,

WHEREAS, Developer desires to impose certain Covenants, Restrictions, Easements and other derogations of title on said property for the purpose of maintaining the appearance of the property, to prevent nuisances, and to thereby secure to each property owner, the full benefit and enjoyment of their property, herein declaring the same to be for the benefit of said property and each and every owner of any and all parts thereof; and,

WHEREAS, Developer deems it advisable to create an entity to be known as the **THUNDER MOUNTAIN SUBDIVISION OWNERS ASSOCIATION**, which shall be delegated and assigned the power and authority to maintain and

preserve the subdivision amenities and to administer and enforce the Covenants and other provisions as are provided for hereinafter; and,

WHEREAS, Developer reserves the right to add property to the subdivision whether now owned by Developer or hereafter acquired by Developer either individually or with other persons.

NOW THEREFORE, the Developer declares that the real property described on the above referenced map is and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, obligations, and liens (generally herein referred to as "the Declaration of Covenants and Restrictions") hereinafter set forth in order to provide an orderly plan of construction and development and to protect the common interests of the property owners.

The following Covenants and Restrictions are hereby imposed and shall be covenants running with the land and shall be binding upon the Developer and all subsequent owners thereof in any capacity whatsoever.

ARTICLE I Definitions

The following words and terms, when used in this Declaration, (unless the context clearly shall indicate otherwise) shall have the following meanings:

(a) "**Association**" shall mean and refer to the Thunder Mountain Subdivision Owners Association, a Tennessee nonprofit Association.

(b) "**Developer**" shall mean and refer to Gerald L. Miller and Charles A. McGinnis, their personal representatives, heirs, successors and assigns, if such personal representatives, heirs, successors or assigns should acquire more than one undeveloped lot from the Developer for the purpose of development.

(c) "**Developer Control Period**" shall commence on the date of the recording of these covenants and restrictions and shall mean a period of 3 years from the date following the first conveyance to a tract purchaser or the sale of the last tract in the subdivision, whichever is longer, but not to exceed 5 years.

(d) "Tract" shall mean and refer to any improved or unimproved plot of land shown upon any recorded final subdivision map of any part of the property.

(e) "Member" shall mean and refer to all those Owners who are members of the Association, as provided in Section 1 of Article III hereof.

(f) "Owner" shall mean and refer to the record owner, whether one or more persons, firms associations, corporations, or other legal entities, of the fee simple title to any tract situated upon the Property; but, notwithstanding any applicable interest thereof of a mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure, nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

(g) "Property" shall mean and refer to the existing property as shown on plat of record in ^{LARGE} Map Book 6, Page 70 in the Sevier County Register's Office.

ARTICLE II

Property Subject to This Declaration

The real property which is and shall be held, transferred, sold, conveyed, leased, and occupies, subject to this Declaration, is located on Little Cove Road in Sevier County, Tennessee, and is more particularly described as shown on map of record in Large Map Book 6, Page 70, in the Register's Office of Sevier County, Tennessee.

ARTICLE III

Membership and Voting Rights in the Association

Section 1. Membership. Every person, firm, association, corporation, or other legal entity who is a record owner or co-owner, as defined herein, of the fee simple to any tract which is subject by this Declaration to assessment by the Association, shall be a member of the Association; provided that any person, firm, association, corporation or legal entity who holds such title or interest merely as a security for the performance of an obligation (including but not

limited to mortgagees or trustees under deeds of trust) shall not be a member of this Association.

Section 2. Voting Rights. Members of the Association, as defined in Section 1 of Article III, shall be entitled to one (1) vote for each tract owned to be exercised in person or by proxy. When more than one person holds the fee simple title to any tract as co-owners (including but not limited to tenants by the entirety, joint tenants or tenants in common), the vote for such tract shall be exercised as the co-owners among themselves determine, but in no event shall more than one vote be cast with respect to any one tract.

Any one co-owner may vote on behalf of all other co-owners unless any co-owner has notified the Association in writing to the contrary.

ARTICLE IV Covenant for Maintenance and Capital Improvement Assessments

Section 1. Creation of the Lien and Person Obligation of Assessments. The Developer covenants for themselves, their successors and assigns that no contract will be made for the sale of any tract and no deed conveying a tract shall be delivered unless the same shall include provisions obligating the purchaser or grantee and his, her or its heirs, executors, administrators, successors and assigns to pay to the Association (1) Annual Assessments for charges and (2) Special Assessments for capital improvements which will be fixed, established and collected from time to time as herein provided. Each person who accepts a deed for a tract or accepts title as an heir or devisee shall be deemed to have consented to make such payments and to have agreed to all the terms and provisions of this Declaration whether or not the above mentioned provision was included in the contract or deed or other instrument by which he, she or it acquired title. The Annual and Special Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and shall constitute a continuing lien upon the land against which each assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal

obligation of the person or persons or entity who was the owner of such property at the time when the assessment fell due. In the case of co-ownership of a tract all of such co-owners of the tract shall be jointly and severally liable.

Section 2. Purpose of Assessment. The Annual Assessment levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the owners of tracts and the costs and expenses incident to the operation of the Association, including, without limitation, common areas and amenities, if any, payment of all taxes and insurance premiums, and all costs and expenses incidental to the operation and administration of the Association.

A Special Assessment may be used for the purpose of paying the cost of a capital improvement for which such Special Assessment is levied, and all expenses incidental thereto.

Section 3. Annual Assessments-Maximum Assessment. The amount of the Annual Assessment shall be fixed by vote of three-fourths of the members for the next succeeding year. The initial annual assessment against each tract shall be \$_____ payable to the Association in quarterly installments of \$_____ each due the first day of each calendar quarter and delinquent if not paid within 20 days.

Section 4. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized in Section 3 of this Article, 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 cost of capital construction or reconstruction, unexpected repair or replacement, or improvement to the streets and roads; provided that any such Special Assessment shall receive the assent of three-fourths of all of the votes eligible to be cast by all of the Members, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and which notice shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum Amounts of Annual Assessments. Subject to the limitations of Section 3 of this Article, and for the successive periods therein provided, the Association may change the maximum amounts of the assessments fixed by Section 3 of this Article for any such period, provided that any such change shall have the assent by the vote in person or by proxy of three-fourths of all of the votes eligible to be cast by all of the Members at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance, which notice shall set forth the purpose of the meeting.

Section 6. Period for which Annual Assessments are made. The period for which Annual Assessments are made shall be the twelve month period extending from January 1st through the next succeeding December 31st. Upon the purchase of a tract from the Developer, the then current quarterly installment shall be pro-rated. In addition, upon the initial purchase of a tract from the Developer, such purchaser shall contribute at closing the sum of \$100.00 to be deposited in either the maintenance fund or the capital fund of the Association, as determined by the Association.

Section 7. List of Assessments, notice of Assessment, Certificate as to Payment. The Board of Trustees of the Association shall cause to be prepared, at least thirty (30) days in advance of the due date of each assessment, a list of the tracts according to the record owner thereof and the assessments applicable thereto. Written notice of the assessment shall be sent to every Owner subject thereto.

The Association shall, upon the request of any Owner liable for an assessment or of the mortgagee of the Owner's premises, furnish to such Owner or mortgagee, a certificate in writing, signed by an officer of the Association, setting forth whether or not such assessment has been paid.

Section 8. Effect of Non-Payment of Assessment: The Personal Obligations of the Owner; the Lien; Remedies of the Association. If the assessments are not paid promptly on the due date thereof as specified in Section

3 of this Article, then such assessment shall become delinquent automatically and shall, together with interest thereon at the rate of fifteen percent (15%) per annum from the due date, and costs of collection thereof, as hereinafter provided, thereupon become a continuing lien of the property against which it is levied, which lien shall bind such property in the hands of the then Owner, his, her, or its heirs, executors, devisees, personal representatives, successors, and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his, her, their or its personal obligation for a period of six (6) years from the due date thereof, and shall not pass as a personal obligation to his, her, their or its successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the due date, specified in Section 3 of this Article, the assessment, together with interest thereon at the rate of fifteen percent (15%) per annum, may be enforced and collected by the Association by the institution of an action at law against the Owner or Owners personally obligated to pay the same, or by an action to foreclose the lien against the property, and there shall be added to the amount of such assessment and interest, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include, in addition to the assessment, interest and court costs, a reasonable attorney's fee.

ARTICLE V

Basic Restrictive Covenants

Section 1. No Subdividing. All lots in the subdivision shall be known and described as residential tracts and shall not be re-subdivided into smaller lots or tracts. Modification of residential tract lines may be permitted, with the prior consent of the Developer or their successors, in order to correct problems caused by encroachments across tract lines, or where both affected tract owners agree and there is no substantial change in the character of the residential tracts involved.

Section 2. Exceptions. Developer reserves unto themselves the right by written action to impose additional and separate restrictions or to grant exceptions at the time of sale of any of the tracts sold by them in this subdivision,

which said additions, restrictions and exceptions may not be uniform, but may differ as to different tracts. During the Developer Control Period, or until they have assigned their rights hereunder, whichever shall first occur, Developer may amend these restrictions in their entirety, so long as the general plan of development of the subdivision is not changed.

Section 3. One Residence Per Tract. Each tract shall have only one residential building of not more than two stories in height plus basement (if desired) with only one detached or adjoining garage for not more than three cars and/or other vehicles or boats. Any detached outbuildings for storage or other purposes must be built of the same materials as the residence.

Section 4. Residential Environment. The property in this subdivision shall be used for residential purposes only, which shall include overnight rentals, though each property owner may maintain a garden upon his tract for his private, non-commercial use. No illegal, noxious or offensive activity or excessively loud noise shall be permitted or carried on any part of the subdivision, nor shall anything be permitted or done therein which is or may become a nuisance or a source of discomfort or annoyance to the neighborhood or any of its residents; nor will goods or services be offered for sale to the public from any tract or other property of the subdivision, with the exception of a yearly garage sale. All undue or unnecessary loud noise in this subdivision is prohibited.

Section 5. Vehicles. No inoperable car, truck or other vehicle may be parked in the street or on any tract in this subdivision except in a garage. No major vehicle repairs will be undertaken except in a garage. No trucks larger than one and one half ton pickup variety shall be parked in this subdivision, except those reasonably necessary to complete approved improvements. Recreational vehicles and boats will be parked in garages or beside the buildings and as much as possible removed from the view of neighbors.

Section 6. Signs. No sign of any kind shall be displayed to the public view on any tract of the subdivision without the written permission of Developer or their designated representative, with the exception of a sign denoting that the

property is available for overnight rentals and a small wooden sign denoting home ownership. Also allowed will be one sign of not more than five square feet advertising the tract for sale.

Section 7. Animals. No stables or other quarters shall be erected, maintained or used on any tract of the subdivision for stabling or accommodating any horses, cattle, swine, goats, sheep, or other non-domesticated animals; and such non-domesticated animals shall not be kept or maintained in the subdivision. All pets shall be kept on their owner's particular tract of the subdivision and shall not be offensive to neighbors. Breeding of pets or other animals for commercial purposes shall not be permitted.

Section 8. Construction/Building Size. When the construction of any improvement upon any tract of the subdivision is once begun, work thereon shall be pursued diligently and continuously until the full completion thereof. The improvement shown on the plans and specifications approved by the Developer must be completed in accordance with said plans and specifications within twelve months after the commencement of construction of such improvement, unless such completion is rendered impossible as the direct result of strikes, fires, national emergencies or natural calamities. Prior to completion of construction of his residence, the property owner shall install at his expense an asphalt or concrete driveway, if not already existing, from the paved portion of the abutting access way to the garage or parking area for the residence. During construction on any tract of the subdivision, all vehicles involved in such construction, including those delivering materials and supplies, shall enter upon such tract from the access way only at such location as shall be approved by the Developer, and such vehicles shall not be parked at any time on the access way or ways or upon any property other than the tract on which the construction is proceeding.

During the construction phase of any improvements to any tract in the subdivision, at no time shall any owner, his employees or agents, expose the surface of the road to track machines or any other type of equipment which causes

surface damage. Any and all road damage caused by any owner, his employees or agents, shall be the responsibility of such owner to promptly correct and repair.

Residences constructed on tracts of the subdivision shall contain a minimum of 1200 square feet of heated floor space. Residences with more than one level shall contain a minimum of 600 square feet of heated floor space on the ground floor level, as viewed from the front of the structure.

Section 9. Temporary Structures. No trailer, mobile home, shack, garage or other outbuilding shall be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Section 10. Tract Care/Rubbish. No tract or other property within the subdivision shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage of such materials shall be kept in a clean and sanitary condition and shall be kept out of public view.

Section 11. Fences. Any fences that are built shall be of wood, not more than four feet high, and shall have reasonable space between wood planks or pickets creating some open space rather than solid and closed space, except for any fences around small enclosed areas such as pools or patios, where the owner may build fences at any height and style of wood, brick, stucco, stone or wrought iron. No wire fences nor chain link fences will be permitted.

Section 12. Satellite Dishes. The location and type of any satellite dish to be installed upon a tract of the subdivision or any structure thereon shall be subject to the approval of the Developer during the Developer Control Period, and thereafter by the Association if it elects to assume such responsibility. Every effort should be taken to locate satellite dishes out of the view of other residents of the subdivision. The approval or disapproval of the satellite dish type or location shall be given within thirty days following the request for same, and if the location is disapproved, the disapproving authority shall recommend a suitable location within thirty additional days thereafter.

Section 13. Underground Wires. All wires (telephone, electric supply, cable TV and the like) to the individual residences or improvements thereon shall be buried underground; however, Developer reserves the right, in appropriate circumstances, to approve aboveground wiring.

Section 14. Septic Treatment. Unless and until a sewage treatment plant and collection system shall be provided to serve the subdivision, a septic tank and drain field shall be placed in accordance with local health codes on each tract of the subdivision by the property owner. This septic tank and drain field will be properly maintained by the owner, and at no time shall sewage be discharged onto the open ground or into any drainage area or access way.

Section 15. Maintenance of Natural Environment. No development of, construction upon nor improvement to any tract of the subdivision, which may reasonably involve the cutting or removal of live trees, may commence without prior approval by Developer or its designee, including the Association, of a tree-cutting plan submitted by the owner of such tract. In the event that Developer, or their designee, fails to approve or disapprove the plan within a period of thirty days following its submission, or if no litigation to enjoin the construction, development or improvement has been initiated prior to completion thereof, such approval shall not be required, and this covenant will be deemed to have been fully complied with. Neither the Developer, nor their designee shall be entitled to any compensation for services performed pursuant to this covenant. The powers and duties of the Developer and their designee shall cease upon the expiration of the Developer Control Period. Thereafter the approval described in this covenant shall not be required unless, prior to said date, and effective thereon, a written instrument amending this Declaration of Covenants and Restrictions shall be executed by the owners of two-thirds of the tracts in this subdivision and duly recorded, appointing a representative or representatives, which may include or be the Association, who shall thereafter exercise the same powers previously exercised by Developer. This restriction shall not apply to the cutting or removal of damaged trees which pose an imminent danger to the safety of persons or property. Failure to follow an approved

plan or failure to submit a plan may subject the owner of the tract to the requirement by the Developer, or their designee, that such owner replace all trees cut or removed without approval with healthy trees, a minimum of fifteen feet in height, of like varieties as those cut or removed, such replacement to be completed within six months of the demand by Developer, or their designee.

Section 16. Easements. There is reserved a perpetual easement, as noted on the subdivision plat, for utility installation, maintenance, drainage, footpaths and roads. The Developer, for themselves and their successors and assigns, hereby reserves and is given a perpetual, alienable and reasonable easement, privilege and right on, over and under the ground to erect, maintain and use electric wires, cables, conduits, drainage lines or drainage ditches, and other suitable equipment for drainage and for the installation, maintenance and transmission and use of electricity, telephone, lighting, heating, drainage and other conveniences or utilities on, in, over and under all of the easements shown on said subdivision plat (whether such easements are shown on said plat to be for drainage, utilities or other purposes) and on, in, over and under a five-foot strip inside all property lines, and 20 feet on either side of the center line of all roads built on property lines; and the Developer shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements and rights referred to in this paragraph until the same is transferred by Developer to the Association.

Section 17. Foundations. All dwellings shall have solid foundations of brick, stone or concrete block faced with brick, stone, stucco or wood.

Section 18. Occupancy and Rental. No residence constructed on any tract in this subdivision may be occupied prior to its substantial completion. No building situated on any tract in the subdivision shall be rented or leased separately from the rental or lease of the entire property; and no part of such building shall be used for the purpose of a bed and breakfast, boardinghouse, hotel, motel, tourist or motor court or other transient accommodation. (A residence and accompanying lot of the subdivision may be rented in its entirety for any length of time including overnight rentals.) No duplex residences or apartment houses shall be erected

or allowed to remain on any lot of the subdivision, and no building in this subdivision shall be converted into a duplex or apartment house.

ARTICLE VI Architectural Control

Section 1. Architectural Review Committee. An Architectural Review Committee comprised of 3 members shall be initially appointed by the Developer and thereafter during the Developer Control Period. All building plans must be submitted to the Committee for review prior to the commencement of construction. In the event the Committee, or its designated representative fails to approve or disapprove plans or specifications within 30 days after the same have been submitted, such approval shall be implied and this covenant shall be deemed to be within compliance. Furthermore, if no suit to enjoin the construction has been filed prior to the completion thereof, approval will not be required and this covenant shall be deemed to have been fully met. In the event of the death or resignation of any member of the Committee, the Developer, their heirs or assigns, shall have the exclusive authority to designate a successor. The Developer, their heirs or assigns, likewise may remove or replace any member of the Committee with or without cause. Submitted and approved plans must remain with the Committee.

Section 2. Committee Duties. The Committee shall view and approve or disapprove the following: placement of home on the tract, out buildings, all exterior elevations including contours of land and grading details, exterior color schemes, exterior material specifications including types and samples, driveway and landscaping plans, location of garage doors and other restrictions as set forth herein. In order to preserve property values in Thunder Mountain Subdivision this Committee reserves the right to employ a professional designer or architect to review such plans. In that event, a fee not to exceed \$300.00 shall be paid by the tract owner to the Association for such service.

ARTICLE VII Developer Control Period

During the Developer control period as defined herein, the Developer shall be a member of the Association, shall hold 75% of the voting power of the membership of the Association and shall be entitled to cast 75% of all votes cast in the affairs of the Association. During the Developer control period the Developer shall be entitled to, among other things, appoint and remove the officers and trustees of the Association and the Architectural Review Committee. Upon the expiration of the Developer Control Period, the Developer shall relinquish all rights to which they may directly or indirectly control or direct to modify or veto any action of the Association or the Architectural Review Committee or a majority of tract owner's and control and appointment of the Association and Committee shall pass to the members. The Developer Control Period (as such term is used herein) shall commence on the date of the recording of these covenants and restrictions and shall expire upon the later of the following:

1. Three (3) years from the date following the first conveyance to a tract purchaser.
2. The sale of the last of the tract in the development.
3. The foregoing notwithstanding, the Developer Control Period shall not exceed five (5) years.

Provided, however, that following the transfer of control, nothing herein shall be construed to limit the Developers rights to exercise the votes allocated to the tracts which they own.

ARTICLE VIII Home Owners Association

Section 1. Formation. A Home Owners Association shall be initially formed by the Developer, and after such formation the Developer shall transfer and assign any and all assessments held in escrow along with Developers rights and obligations pursuant to this Declaration to the Association.

Section 2. Association Responsibilities. The Association shall at the time of transfer and assignment be responsible for the following: collecting and

accounting for all assessments, entrances signs, landscaping and any common lighting, mowing and cleaning, appointing Architectural Review Committee members and following, enforcing and adhering to the covenants and restrictions of Thunder Mountain Subdivision.

Section 3. Management. The affairs of the Association shall be managed by a board of 3 Trustees who must be members of the Association.

Section 4. Election and Term of Office. The initial Trustees shall be chosen by the Developer and shall serve for a period of one (1) year. Thereafter the members of the Association shall elect one Trustee for a term of one (1) year, one Trustee for a term of two (2) years and one Trustee for a term of (3) years, and at each annual meeting thereafter, the members shall elect Trustees for terms not to exceed three (3) years. Each Trustee shall be entitled to one vote and the result will be determined by the majority of the votes cast.

Section 5. Conflict With Developer Control Period. The foregoing notwithstanding, nothing contained herein shall diminish or lessen the powers, rights and duties reserved by the Developer in Article VII herein.

ARTICLE IX

Additional Land and Annexation

Section 1. Additional Land. Developer reserves the right to add property to Thunder Mountain Subdivision whether now owned by Developer or hereafter acquired by Developer individually or with other persons. Therefore, the Developer reserves the right, at their sole option and sole discretion, to amend this Declaration so as to commence the enlargement of the subdivision and to submit such additional land, in whole or in part, to its terms and provisions.

Section 2. Procedure for Adding Additional Land. The following procedures shall be followed aside from the approvals required pursuant to the terms hereof:

(a) A subdivision plat, survey or site plan of the additional land to be added, containing such details and particulars as did the subdivision map of Thunder Mountain Subdivision shall be placed of record in the Sevier County

Register's Office and shall be included in (or referred to by reference) an amendment to this Declaration to be recorded in said Register's Office.

(b) An amendment to this Declaration shall be recorded in the Sevier County Register's Office. The amendment to the Declaration shall: (i) describe the portion of the additional land to be added and (ii) state that all the covenants, conditions and restrictions of this Declaration shall apply to the additional land added to the subdivision in the same manner as if it were original covered by this Declaration.

ARTICLE X General Provisions

Section 1. Duration. The Covenants and Restrictions set forth herein shall run with and bind all of the land included in the Property described in Article II hereof, and shall insure to the benefit of and be enforceable by the Developer, the Association, and the owners of any land subject to this Declaration, their respective successors, assigns, heirs, and personal representatives, for a period of twenty (20) years from the date hereof, at the end of which period such Covenants and Restrictions shall automatically be extended for successive periods of ten (10) years each, unless at least three-fourths of the Owners of the tracts, at any time, shall sign an instrument, or instruments in which they shall agree to change said Covenants and Restrictions in whole or in part, but no such agreement shall become binding unless written notice containing the terms of the proposed agreement is sent to every Owner of every tract at least ninety (90) days in advance of the action taken in authorizing said agreement.

Section 2. Enforcement. Enforcement of these Covenants and Restrictions shall be by any appropriate proceeding in law or equity in any court or administration tribunal having jurisdiction over or against any person or persons, firm or corporation violating or attempting to violate or circumvent any Covenants, to enjoin such violation or threatened violation, and/or to recover damages, and against the land of any Member to enforce any lien created by this Declaration in any covenant herein contained. Failure by the Association or any Owner, or Member, to enforce any covenant or restriction herein contained for any period of

time shall in no event be deemed a waiver or estoppel of the right to thereafter enforce the same.

Section 3. Severability. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court of competent jurisdiction, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

Section 4. Amendment. This Declaration may be amended at any time or times by the recordation of any instrument executed by the Association provided that any such amendment shall have the ascent by the vote in person or by proxy of 3/4 of all the votes eligible to be cast by all of the Members at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty days in advance, which notice shall set forth the purpose of the meeting; provided that:

(a) During the Developer Control Period or so long as the Developer is the owner of any tract or any property affected by this Declaration, as it may then have been amended, the Developer's consent to the Amendment must be endorsed in recordable form on the Amendment Instrument.

(b) No Amendment shall impair any right then existing of the holder of any first mortgage or deed of trust.

Section 5. Developers' Reserved Rights. Notwithstanding any provision herein to the contrary, this Declaration shall be subject to:

(a) The right of the Developer during the Developer Control Period or so long as the Developer is the owner of any tract or any property within the Development to execute all documents and take such actions and do such acts affecting the property as, in the Developer's sole discretion, are desirable or necessary to facilitate the general plan of development, or the actual construction or development of the property including, without limitation, the granting of waivers or variances.

(b) Easements of record on the date hereof and any easements which may hereafter be granted by Developer to any public or private utilities or governmental bodies for the installation and maintenance of electrical and telephone conduits and lines, gas pipes, sewers or water pipes, or any other utility service or drainage facility serving any tract within the Property or any portion thereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year first above written.



GERALD L. MILLER


CHARLES A. MCGINNIS

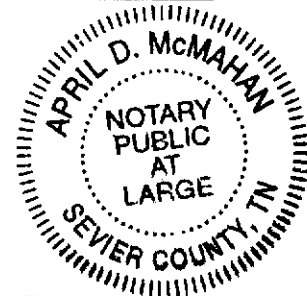
**STATE OF TENNESSEE
COUNTY OF SEVIER**

Before me, the undersigned authority, personally appeared the within named bargainor, **GERALD L. MILLER**, with whom I am personally acquainted and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and official seal at office in said State and County this 15th day of March, 2005.


Notary Public


My Commission Expires: 10/23/07



**STATE OF TENNESSEE
COUNTY OF SEVIER**

Before me, the undersigned authority, personally appeared the within named bargainor, **CHARLES A. MCGINNIS**, with whom I am personally acquainted and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and official seal at office in said State and County this 15th day of March, 2005.


Notary Public

My Commission Expires: 10/23/07

