

THIS INSTRUMENT PREPARED BY:
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CLEVELAND HALL**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made this 1st day of November, 1999, by CLEVELAND HALL, LLC, a Tennessee limited liability company (hereinafter referred to as "Declarant");

W I T N E S S E T H:

WHEREAS, Declarant owns the real property described in Exhibit A (the "Properties"), which is attached hereto and incorporated herein by reference, and Declarant intends by this Declaration to impose upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Properties;

NOW, THEREFORE, Declarant hereby declares that all of the Properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the Properties, which shall run with the Properties, and which shall be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner of the Properties.

Article I

Definitions

The terms of this Declaration and the Bylaws shall be construed to have their ordinary, generally accepted meanings unless otherwise specifically defined herein or in the Bylaws. In addition, the following definitions shall apply:

Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area, together with (i) those areas located

along or about the public right of way of Cleveland Hall Boulevard between Old Hickory Boulevard and the Lots, (ii) the easements beneficial and/or appurtenant to the Properties and/or the real property described in Exhibit C, which is attached hereto and incorporated herein by reference and (iii) those areas, if any, which by the terms of this Declaration or by contract or agreement with the Association become the responsibility of the Association.

Section 2. "Association" shall mean and refer to Cleveland Hall Homeowners Association, Inc., a Tennessee nonprofit corporation, its successors or assigns. The Board of Directors of the Association (the "Board") shall be the elected body having its normal meaning under Tennessee corporate law. The use of the term "association" or "associations" in lower case shall refer to any other owners association having jurisdiction over any part of the Properties.

Section 3. "Bylaws" shall mean and refer to the Bylaws of Cleveland Hall Homeowners Association, Inc., a copy of which is, attached hereto as Exhibit B and incorporated herein by reference, as they may be amended from time to time.

Section 4. "Cleveland Hall" shall mean and refer to the Properties, as developed in accordance with the Plat.

Section 5. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board, as specified in Article III, Section 2, of the Bylaws.

Section 6. "Common Area" shall mean all real and personal property that the Association now or hereafter owns or otherwise holds for the common use and enjoyment of the Owners.

Section 7. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws and/or the Charter of the Association.

Section 8. "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined and set forth by the Board and the Architectural Review Committee.

Section 9. "Declarant" shall mean and refer to Cleveland Hall, LLC, a Tennessee limited liability company, or its successors, successors-in-title or assigns who take title to any

portion of the undeveloped or unsold Properties for the purpose of development or sale and who are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Section 10. "General Assessment" shall mean and refer to assessments levied to fund expenses for the benefit of all Members of the Association.

Section 11. "Lot" shall mean any plot of land designated on the Plat as a numbered lot and intended for development, use and occupancy as a residence for a single family. The term shall include all portions of the lot owned including any structure thereon.

Section 12. "Member" shall mean and refer to a Person entitled to membership in the Association, as herein provided.

Section 13. "Mortgage" shall mean and refer to a mortgage, deed of trust, deed to secure debt or other security deed.

Section 14. "Mortgagee" shall mean and refer to a beneficiary or holder of a mortgage, deed of trust, deed to secure debt or other security deed.

Section 15. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 16. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot that is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 17. "Person" means a natural person, a corporation, a partnership, a trustee or other legal entity.

Section 18. "Plat" shall mean and refer to the plat of Phase One Cleveland Hall, as recorded in Plat Book 11700, page 51, Register's Office for Davidson County, Tennessee, as the same may be subsequently revised or amended, together with the plat or plats of such additional real property as is hereafter subjected to this Declaration by subsequent amendment, which plat or plats are placed of record in the Register's Office for Davidson County, Tennessee, as the same may be subsequently revised or amended.

Section 19. "Properties" shall mean and refer to the real property described in Exhibit A, which is attached hereto and incorporated herein by reference, together with such additional real property as is hereafter subjected to this Declaration by subsequent amendment.

Section 20. "Special Assessment" shall mean and refer to assessments levied in accordance with Article IX, Section 3, of this Declaration.

Article II

Property Rights

Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate such Owner's right of enjoyment to the members of such Owner's family, lessees and social invitees subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases such Owner's Lot shall be deemed to have delegated all such rights to the lessee of such Lot.

As the owner thereof, or if not the owner thereof, with the consent of the owner thereof, Declarant, without the consent or approval of any of the Owners or the Association, from time to time and at any time until ten (10) years from the date of this Declaration, shall have the unilateral right to subject to the provisions of this Declaration all or any portion of the real property described in Exhibit C, which is attached hereto and incorporated herein by reference, by filing in the Register's Office for Davidson County, Tennessee an amendment or amendments annexing all or any portion of such real property, whereupon the annexed portion of such real property shall be included within the meaning of the Properties. Any such annexation shall be effective upon the filing of such amendment or amendments in the Register's Office for Davidson County, Tennessee unless otherwise provided in the amendment or amendments.

Declarant reserves the right to amend this Declaration unilaterally at any time during the Class "B" Control Period for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration, without prior notice and without the consent of any Person other than the Owner thereof, to the extent such property was included originally in error or as a result of any changes whatsoever in the plans for Cleveland Hall desired to be effected by the Declarant, provided such

withdrawal is not unequivocally contrary to the overall, uniform scheme of development for Cleveland Hall.

Declarant, without the consent or approval of any of the Owners or the Association, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Properties, to qualify the Properties or any of the Lots and improvements thereon for Mortgages or improvement loans. made, insured or guaranteed by a governmental agency, or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or the state of Tennessee, regarding the purchase or sale of such Lots and improvements or Mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency including, without limitation, the Veterans Administration, the United states Department of Housing and Urban Development, the Federal Housing Administration or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

Article III

Membership and Voting Rights

Section 1. Membership. Every Owner shall be deemed to have a membership in the Association. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Lot owned by a corporation or partnership shall be exercised by the individual designated in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the Bylaws.

Section 2. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Members, if any. Class "A"

Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under Section 1 hereof; provided, no Owner shall be entitled to a vote for any Lot until such time as the Lot is subject to the full annual assessment under Article IX, Section 6 of this Declaration. There shall be only one (1) vote per Lot. Unless otherwise specified in this Declaration or the Bylaws, the vote for each Lot shall be exercised by the Member representing the Lot.

In any situation where a Member is entitled personally to exercise the vote for such Member's Lot and more than one (1) Person holds the interest in such Lot required for Membership, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the Bylaws, are specified elsewhere in the Declaration and the Bylaws. The Class "B" Member shall be entitled to one (1) vote per Lot owned and, in addition, whether or not any Lots are owned, shall be entitled to appoint a majority of the members of the Board during the Class "B" Control Period, as specified in Article III, Section 2 of the Bylaws. The Class "B" membership shall terminate and be converted to Class "A" membership three (3) years after the expiration of the Class "B" Control Period.

Article IV

Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, (i) maintenance, repair and replacement of all landscaping and other flora, equipment, pipes, lines, detention areas, swales, structures and improvements situated upon the Area of Common Responsibility, landscaping on medians and rights-of-way of all public roads, and landscaping of any buffers; (ii) all recreational facilities and other structures located upon the Common Areas; and (iii) all equipment, pipes, lines and structures providing water for landscaping within the Area of Common Responsibility.

Section 2. Owner's Responsibility. Each Owner shall maintain such Owner's Lot and all structures, parking areas, landscaping, sidewalks and other improvements comprising the Lot in a manner consistent with the Plat, the Community-Wide Standard and all applicable covenants. If any Owner fails properly to perform such Owner's maintenance responsibility, then the Association may perform it and assess all costs incurred by the Association plus a fee equal to ten (10%) percent of such costs against the Lot and the Owner in accordance with Article IX, Section.. 3 of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Article V

Insurance and Casualty Losses

Section 1. Insurance. The Association's Board or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for the Area of Common Responsibility. If blanket all-risk coverage is not reasonably available, then at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses of the Association and shall be included in the General Assessments, as defined in Article I, Section 10, and as more particularly described in Article IX, Section 1. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

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

All insurance coverage obtained by the Board shall be written in the name of the Association. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Tennessee which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) Exclusive authority to adjust losses under policies in force on the Area of Common Responsibility obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

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

(d) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one (1) or more qualified Persons, at least one (1) of whom must be in the real estate industry and familiar with construction in the Davidson County, Tennessee area.

(e) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

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

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

(iii) that no policy may be cancelled, invalidated or suspended on account of anyone or more individual Owners;

(iv) that no policy may be cancelled, invalidated or suspended on account of the conduct on any director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter

within which the defect may be cured by the Association, its manager, any Owner or Mortgagee;

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

(vi) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, directors' and officers' liability coverage, and, if reasonably available, a fidelity bond or bonds on directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification or non-renewal.

Section 2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on such Owner's Lot and structures constructed thereon meeting the same requirements as set forth for insurance in Section 1 of Article V. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures comprising such Owner's Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article X of this Declaration, and the Owner shall pay any costs of any repair or reconstruction that are not covered by insurance proceeds, such repairs or reconstruction to be completed within one hundred eighty (180) days of the date of the occurrence of the damage or destruction. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall, within thirty (30) days of the date of the damage or destruction, clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

The Association may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lots and the standard for returning the Lots to their natural state in the event the structures are not rebuilt or reconstructed.

Section 3. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Area of Common Responsibility or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

Section 4. Damage and Destruction. Immediately after the damage or destruction by fire or other casualty to all or any part of the Area of Common Responsibility covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Area of Common Responsibility. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Area of Common Responsibility to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in the applicable building code.

Any damage or destruction to the Area of Common Responsibility shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the Area of Common Responsibility damage or destruction shall be repaired or reconstructed.

In the event that it should be determined in the manner described above that the damage or destruction to the Area of Common Responsibility shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Area of Common Responsibility shall be restored to its natural state and maintained by the Association in a neat and attractive condition, consistent with the Community-Wide Standard.

Section 5. Repair and Reconstruction. If the damage or destruction to the Area of Common Responsibility for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners on the same basis as provided for General Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VI

No Partition

Except as is permitted in this Declaration or amendments hereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition thereof unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Article VII

Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least two-thirds (2/3) of the total Association vote and the Declarant, as long as the Declarant owns any of the Properties) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty

(60) days after such taking the Declarant, so long as the Declarant owns any of the Properties, and Members representing at least seventy-five percent (75%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, if there is a decision made not to repair or restore, or if there are no funds remaining after any such restoration or replacement is completed, then such award or net funds shall be used for such purposes as the Board shall determine.

Article VIII

Rights and Obligations of the Association

Section 1. Common Area and Area of Common Responsibility. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive and sanitary condition, order and repair in accordance with the provisions of this Declaration. Furthermore, the Association shall be responsible for maintaining, repairing and replacing the Area of Common Responsibility in accordance with the provisions of this Declaration.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within or about the Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. The Association, through its Board, may make and enforce reasonable rules and regulations governing the use of the Properties and/or the Area of Common Responsibility, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances.

Imposition of sanctions shall be as provided in the Bylaws of the Association.

Section 4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Article IX

Assessments

Section 1. Creation of Assessments. There are hereby created assessments for Common Expenses as may from time to time specifically be authorized by the Board to be commenced at the time and in the manner set forth in Section 6 of this Article. There shall be two (2) types of assessments: (1) General Assessments to fund expenses for the benefit of all Members of the Association; and (2) Special Assessments as described in Section 3 below.

General Assessments shall be levied equally on all Lots. Special Assessments shall be levied as provided in Section 3 below. Each Owner, by acceptance of such Owner's deed or recorded contract of sale, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate not to exceed the highest rate allowed by Tennessee law as computed from the date the delinquency first occurs, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid.

The Association may require the advance payment of a processing fee not to exceed Fifty (\$50.00) Dollars for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board, which may include, without limitation, acceleration of the annual General Assessment for delinquents. Unless the Board otherwise provides, the General Assessment shall be paid in monthly installments.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by abandonment of the Lot. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or the Board to take some action or perform some function required to be taken or performed by the Association or the Board under this Declaration or by the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

Unless assessments have commenced, pursuant to Section 6 below, on all Lots subject to this Declaration as of the first day of any fiscal year, the Declarant shall be obligated for the difference between the amount of assessments levied on all Lots subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses. All "in kind" contributions of services or materials shall be valued at the reasonable market value of such services or materials.

Section 2. Computation of Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Members, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital

contribution establishing a reserve fund in accordance with a capital budget separately prepared. The General Assessment to be levied for the coming year against each Lot subjected to assessment under Section 6 below shall be computed by dividing the total operating budget by the total number of Lots subject to this Declaration as of sixty (60) days before the end of the current fiscal year. The Board shall cause a copy of the budget and the amount of the General Assessments to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessment shall become effective unless disapproved at the meeting by a vote of Members or their alternates representing at least a majority of the total Class "A" vote in Association, and the approval of the Class "B" member, so long as the Class "B" membership exists.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 3. Special Assessments. In addition to the assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments in any year applicable to that year; provided, such assessment shall have the affirmative vote or written consent of Members or their alternates representing fifty-one (51%) percent of the Class "A" vote in the Association held by Members other than Declarant and the approval of the Class "B" Member, so long as the Class "B" membership exists.

The Association may levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his or her Lot into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws, and the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 4. Lien for Assessments. A lien for unpaid assessments and other charges provided for herein shall exist and shall be perfected, without any further action on the Association's part, on all Lots on the due date of any such assessment or charge. The Association may, but shall not be required to, record a notice of lien on any Lot to evidence its lien on such Lot. The lien shall be prior and superior to all other liens, except (i) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (ii) the lien

or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. After notice and an opportunity for a hearing, the Board may temporarily suspend the voting rights of a Member who is in default in payment of any assessment.

Section 5. Capital Budget and Contribution. The Board shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution shall be fixed by the Board and included within and distributed with the budget and assessment, as provided in Section 2 of this Article.

Section 6. Date of Commencement of Assessments. The assessments provided for herein shall commence as to each Lot on the first day of the first month following the closing of the purchase of the Lot from Declarant. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

Section 7. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Tennessee law), and the costs (including attorneys' fees) provided for herein, shall be subordinate to the lien of any first priority Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first priority Mortgage shall

extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first priority Mortgage of record or other purchaser of a Lot obtains title thereto, its successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Lots, including such acquirer, its successors and assigns.

Section 8. Capitalization of Association. Upon acquisition of record title to a Lot by the first purchaser thereof other than the Declarant or an Owner who purchases solely for the purposes of constructing a dwelling thereon for resale, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the amount of the annual General Assessment per Lot for that year as determined by the Board. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in meeting unforeseen expenditures, purchasing equipment deemed necessary or desirable, or otherwise covering operating expenses properly incurred by the Association. Such contributions shall not be considered an advance payment of regular assessments.

Section 9. Exempt Property. Notwithstanding anything to the contrary herein, the Common Area and all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets and public parks, shall be exempt from payment of General Assessments and Special Assessments.

Article X

Architectural Standards

The Board shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committee established in Section 1 of this Article x. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any property subject to this Declaration.

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no planting or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article,

until the requirements thereof have been fully met, and until the approval of the appropriate committee has been obtained.

Section 1. Architectural Review Committee. The Architectural Review Committee (the "ARC") shall have exclusive jurisdiction over all original construction, modifications, additions and alterations on any portion of the Properties. The ARC shall prepare and, on behalf of the Board, shall promulgate design and construction guidelines and application and review procedures, which design and construction guidelines and application and review procedures shall be incorporated herein by reference as if copied verbatim herein, and shall be deemed to be covenants and restrictions herein subject to the enforcement provisions for covenants and restrictions contained herein. Such design and construction guidelines and application and review procedures may set forth various items, including by way of illustration and not by way of limitation, minimum square footage requirements for Lots constructed in Cleveland Hall. Copies of the guidelines and procedures shall be available from the ARC for review. The guidelines and procedures shall be those of the Association, and the ARC shall have sole and full authority to prepare and to amend the guidelines and procedures. The ARC shall have no obligation to record any amendments or revisions to the guidelines and procedures. The ARC shall make the guidelines and procedures available to Owners, builders and developers who seek to engage in development of or construction upon all or any portion of the Properties and such Owners, builders and developers shall be required to conduct their operations strictly in accordance with the guidelines and procedures as latest revised and amended. Until one hundred percent (100%) of the Properties have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the ARC, which shall consist of at least three (3), but no more than five (5), persons. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board shall appoint the members of the ARC.

Section 2. No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatsoever subsequently or additionally submitted for approval or consent.

Section 3. Variance. The ARC may authorize variances from compliance with any of the provisions of this Article when

circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not necessarily be considered a hardship warranting a variance.

Section 4. Obligation to Construct and Option to Repurchase. Following the closing of the purchase of a Lot from the Declarant, the Owner of such Lot shall commence and complete construction of a residence on such Lot within three (3) years from the date of the closing of the purchase of the Lot from the Declarant. Such construction shall be in accordance with the proposals, plans, specifications and/or drawings therefor that have been approved by the ARC. The issuance or non-issuance, as the case may be, and the date of a certificate of use and occupancy or similar governmental approval for such residence by the appropriate governmental authority shall be conclusive in determining whether or not the construction of such residence has been completed within the period of time prescribed above; however, it shall not be conclusive in determining whether or not the construction of such residence has been completed in accordance with the proposals, plans, specifications and/or drawings therefore that have been approved by the ARC. In the event the Owner of a Lot has not completed construction of a residence on such Lot within three (3) years from the date of the closing of the purchase of such Lot from the Declarant, the Declarant shall have the option to purchase such Lot from such Owner for an amount equal to the purchase price paid to the Declarant for such Lot. In order to exercise the option to purchase the subject Lot from the Owner thereof, the Declarant must provide such Owner with written notice of such exercise within six (6) months from the expiration of three (3) years from the date of the closing of the purchase of such Lot from the Declarant. The closing of the purchase of the subject Lot by the Declarant from the Owner thereof shall be consummated within thirty (30) days from the date upon which the Declarant provides the Owner with notice that the Declarant is exercising its option to purchase the subject Lot. The conveyance of the subject Lot from the Owner thereof to the Declarant shall be made by a general warranty deed in form and substance reasonably acceptable to the Declarant, which shall be subject only to those matters listed as exceptions or encumbrances in the deed to such Lot from the Declarant to the initial purchaser of such Lot, regardless of the fact that the current Owner of the subject Lot may not have

been the initial purchaser of such Lot. The foregoing notwithstanding, the general warranty deed to the subject Lot from the Owner thereof to the Declarant shall not list as an exception thereto the real property taxes on such Lot for the year in which such Lot was conveyed from the Declarant to the initial purchaser of such Lot. Instead, such general warranty deed shall list as an exception thereto real property taxes on such Lot for the year in which such Lot is conveyed from the Owner thereof to the Declarant unless such real property taxes have already been paid. In any event, the real property taxes on the subject Lot for the year which such Lot is conveyed from the Owner thereof to the Declarant shall be prorated between the Owner and the Declarant as of the date of the closing of the purchase of such Lot by the Declarant from the Owner thereof, and all unpaid real property taxes on the subject Lot for prior years shall be satisfied by the Owner of the subject Lot prior to the closing. The obligation to commence and complete construction contained in this Section shall not apply to an Owner who has been designated as the Declarant pursuant to Article I, Section 9, of this Declaration.

Article XI

Use Restrictions

The Properties shall be used only for residential, recreational and related purposes as may more particularly be set forth in this Declaration, amendments hereto or subsequently recorded declarations creating associations subject to this Declaration. The declaration or other creating document for any other association may impose stricter standards than those contained in this Article. The Association, acting through the Board, shall have standing and the power to enforce such standards. The foregoing notwithstanding, a new home constructed on a Lot may be used as a model home by the Person who built such home and as an office for such Person and/or such Person's sales agents so long as such use terminates within two (2) years from the date of completion of such home. Furthermore, the Declarant shall be and hereby is permitted to place construction trailers, other temporary facilities or structures and construction supplies, materials and equipment on or about the Properties during the development of the Properties.

The Association, acting through the Board, shall have authority to make, to modify and to enforce standards and restrictions governing the use of Lots and the Area of Common Responsibility in addition to those herein contained. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, cancelled or modified in a regular or special meeting of the Association by Members

representing a majority of the total Class "A" Members' votes in the Association and by the vote of the Class "B" Member, so long as such membership shall exist.

Section 1. Signs. The Board and the Declarant shall have the right to erect signs on or about the Properties as they, in their discretion, deem appropriate. Without limiting the foregoing, the Declarant shall have the right (i) to erect signs on or about the Properties and/or the Area of Common Responsibility advertising Cleveland Hall and/or the Lots and (ii) to erect signs on the Lots indicating the lot numbers for such Lots. Persons conducting construction activities on the Lots shall be permitted to erect signs indicating the lot numbers for such Lots and signs identifying the Persons conducting such construction activities, provided such signs are no more than twelve (12) square feet in effective area, no more than four (4) feet in height, and in compliance with all applicable laws, rules, regulations and ordinances. Signs advertising the Lots for sale or rent shall be and hereby are permitted to be placed on the respective Lots, provided such signs are no more than twelve (12) square feet in effective area, no more than four (4) feet in height, and in compliance with all applicable laws, rules, regulations and ordinances, and signs indicating the street address of the Lots and/or the names of the Owners of such Lots shall be and hereby are permitted to be placed on the respective Lots, provided such signs are in accordance with the Community-Wide Standard and in compliance with all applicable laws, rules, regulations and ordinances. Otherwise, no sign of any kind shall be erected within the Properties without the written consent of the ARC unless such sign is in strict compliance with regulations adopted by the ARC.

Section 2. Parking and Garages. Vehicles shall be parked only in the garages or in the driveways serving the Lots or appropriate spaces or designated areas in which parking mayor may not be assigned and then subject to such reasonable rules and regulations as the Board may adopt. All commercial vehicles, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers must be parked entirely within a garage or within the side yard or back yard of a Lot totally screened from view unless otherwise permitted by the Board. No garage may be altered in such a manner that the number of automobiles that may reasonably be parked therein after the alteration is less than the number of automobiles that could have reasonably been parked in the garage as originally constructed unless an additional garage is constructed in connection with such alteration that is large enough, when combined with the remaining portion, if any, of the original garage, to accommodate

the same number of automobiles that could have reasonably been parked in the original garage.

Section 3. Occupants Bound. All provisions of the Declaration, Bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Lot.

Section 4. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, kept or permitted on any Lot, except that dogs, cats or other usual and common household pets not to exceed a total of four (4) may be permitted on a Lot. Pets shall not be permitted to roam free, and if they do, or, in the sole discretion of the Association if they endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Properties, any animal, livestock or poultry shall be removed upon request of the Board. If the Owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash held by a responsible Person.

Section 5. Nuisance and Hazardous Substances. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any Hazardous Substance (as herein defined), substance, thing or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants or surrounding property. No Hazardous Substance shall be incorporated in the construction of any improvement on any Lot. Hazardous Substances shall mean: Any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous or toxic substance, or other similar term, by any federal, state, or local environmental statute, regulation or ordinance presently in effect or that may be promulgated in the future, as such statutes, regulations, and ordinances may be amended from time to time, including, without limitation, asbestos in friable form and petroleum products. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous,

unsightly, and unpleasant or of a nature as may diminish or destroy the enjoyment of Properties.

Section 6. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on such Owner's Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any part of the Properties.

Section 7. Antennas. No exterior antennas, aerials, satellite dishes or other apparatus for the transmission of television, radio or other signals of any kind shall be placed, allowed or maintained upon any portion of the Properties, including any Lot, without the prior written consent of the Board or its designee; provided, however, that satellite dishes measuring two (2) feet or less in diameter shall be and hereby are permitted to be placed on the Lots if the same are screened from the view of neighboring Lots.

Section 8. Clotheslines, Garbage Cans, Tanks, Etc. All garbage cans, above-ground tanks, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Lot. All rubbish, trash and garbage shall be regularly removed from Lot and shall not be allowed to accumulate thereon. No clotheslines shall be permitted on any Lot.

Section 9. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board. Declarant, however, hereby expressly reserves the right to re-plat any Lot or Lots that it owns prior to conveyance by Declarant. Any such division, boundary line, change or re-platting shall not be in violation of the applicable subdivision and zoning regulations.

Section 10. Guns. The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

Section 11. Pools. No above-ground pools shall be erected, constructed or installed on any Lot.

Section 12. Irrigation. No sprinkler or irrigation systems of any type that draw upon water from creeks, streams, rivers, lakes, ponds, canals or other waterways within the Properties

shall be installed, constructed or operated within the Properties unless prior written approval has been received from the ARC. All sprinkler and irrigation systems shall be subject to approval in accordance with Article X of this Declaration and shall draw water only from city or county water supplies or wells, unless otherwise approved.

Section 13. Trailers and Temporary Structures. Except as provided above in this Article XI or as may be permitted by the ARC during initial construction of Lots, no utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or any part of the Properties.

Section 14. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. Declarant hereby reserves a perpetual easement across the Properties for the purpose of altering drainage and water flow.

Section 15. Minimum Square Footage and Siding. All one story residences constructed on any of the Lots shall contain a minimum of 2,500 square feet of heated and cooled living space prior to occupancy, exclusive of basements, whether finished or not, garages, porches, decks and patios. All two-story residences constructed on any of the Lots and all story and a half residences constructed on any of the Lots shall contain not less than 2,700 square feet of heated and cooled living space prior to occupancy, exclusive of basements, whether finished or not, garages, porches, decks and patios. The exterior siding of all residences constructed on the Lots shall be finished with exterior building materials to the finished yard grade, and at least fifty percent (50%) of the exterior siding of each such residence (exclusive of gables) shall be finished with brick, brick veneer, stone, stone veneer or a combination of the foregoing. The remaining portion of the exterior siding of each such residence may be finished with other types of exterior building materials, such as wood or synthetic siding. Recognizing that other exterior building materials, such as drivit or stucco, and/or new and innovative building materials may be attractive and consistent with the Community-Wide Standard, other and/or new and innovative exterior building materials may be used in finishing at least fifty percent (50%) of the exterior siding of the respective residences (exclusive of gables) constructed on the Lots if such exterior building materials are approved by the ARC. Furthermore, recognizing that finishing something less than fifty percent (50%) of the exterior siding of the respective residences (exclusive of gables) constructed on the Lots with the

exterior building materials listed above and/or approved by the ARC in accordance with the foregoing may be attractive and consistent with the Community-Wide Standard, something less than fifty percent (50%) of the exterior siding of the respective residences (exclusive of gables) constructed on the Lots may be finished with such exterior building materials if approved by the ARC.

Section 16. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 17. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 18. Air Conditioning Units. Except as may be permitted by the ARC, no window air conditioning units may be installed on any Lot.

Section 19. Lighting. Except for seasonal Christmas decorative lights, which may be used between December 1 and January 10 only, all exterior lights must be approved in accordance with Article X of this Declaration.

Section 20. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculptures, fountains, flags and similar items must be approved in accordance with Article X of this Declaration.

Section 21. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARC pursuant to Article X hereof.

Section 22. Mail boxes. All mailboxes shall satisfy applicable postal regulations and shall conform to specifications established by the ARC.

Section 23. Fences. No fences of any kind shall be permitted on any Lot except as approved in accordance with Article X of this Declaration.

Section 24. Business Use. No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve Persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which includes the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether; (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this Section.

Article XII

General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. Prior to the conveyance of the first Lot, Declarant may unilaterally amend this Declaration. After

such conveyance, the Declarant may amend this Declaration so long as it still owns property described in Exhibit A for development as part of the Properties, and so long as the amendment has no material adverse effect upon any right of any Owner; thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five (75%) percent of the total votes of the Association. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under the clause. Any amendment must be recorded in the Register's Office for Davidson County, Tennessee.

If an Owner consents to any amendment to this Declaration or by Bylaws, it will be conclusively presumed that such Owner has the authority to so consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Notwithstanding the foregoing, nothing contained in this Section 2 of Article XII shall limit the rights of the Declarant contained in Article II, above.

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

and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstruct, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one (1) foot, as measured from any point on the common boundary between said adjacent Lots, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant or the Association.

Section 5. Easements for Utilities. There is hereby reserved unto Declarant and its designees, so long as any of the foregoing own any of the Properties, and to the Association and its designees, (which may include, without limitation, Davidson County, Tennessee, and any utility) blanket easements upon, across, over, and under all of the Area of Common Responsibility and, to the extent shown on any Plat, over the Lots for ingress, egress, installation, replacing, repairing and maintaining cable television systems, master television antenna systems, security and similar systems, walkways, and all utilities, including, but not limited to, water, irrigation water supply systems, sewers, meter boxes, telephones, gas and electricity.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board shall have the right to grant such easement on said Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties. Furthermore, to the extent the easements provided for in this Article conflict with easements shown on the Plat, the easements shown on the Plat shall prevail.

Section 6. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 7. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the Tennessee Uniform Statutory Rule Against Perpetuities, then such provisions shall continue only until the later of twenty-one (21) years after the death of the last survivor of the now living

descendants of Elizabeth II, Queen of England or ninety (90) years after the date of this Declaration.

Section 8. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the Board. In the case of such a vote, and notwithstanding anything contained in this Declaration or the Charter or Bylaws of the Association to the contrary, a Board member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of seventy-five (75%) percent of all Members. Any meeting called for such purpose shall be subject to the same notice and quorum requirements and other procedures as provided in the Bylaws for meetings of the membership. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IX hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 9. Use of the Words "Cleveland Hall". No Person other than the Declarant shall use the words "Cleveland Hall" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the term "Cleveland Hall" in printed or promotional materials where such term is used solely to specify that particular property is located within Cleveland Hall.

Section 10. Security. The Declarant and/or the Association may, but shall not be obligated to, undertake certain measures designed to increase safety or security in the Properties. In such event, NEITHER THE ASSOCIATION NOR THE DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, AND NEITHER THE ASSOCIATION NOR THE DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OF DAMAGES BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE DECLARANT, THE ASSOCIATION AND ITS BOARD, AND THE ARCHITECTURAL REVIEW COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR BURGLAR ALARM SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE ARCHITECTURAL REVIEW COMMITTEE MAY NOT BE COMPRISED OR CIRCUMVENTED, THAT FIRE PROTECTION AND BURGLAR ALARM SYSTEMS WILL PREVENT LOSS BY FIRE,

SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION AND BURGLARY ALARM SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER, TENANT, GUEST, OR INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DECLARANT, THE ASSOCIATION, THE BOARD AND THE ARCHITECTURAL REVIEW COMMITTEE ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGE THAT DECLARANT, THE ASSOCIATION, THE BOARD AND THE ARCHITECTURAL REVIEW COMMITTEE HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASUREMENTS UNDERTAKEN.

Article XIII

Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Lots in Cleveland Hall. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first priority Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss of any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first priority Mortgage held, insured or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first priority Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or" Bylaws of the Association which is not cured within sixty (60) days;

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

(d) any proposed action which would require the consent of a specified percentage of eligible holders.

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

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

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against "an Owner of a Lot;

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

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Area of Common Responsibility losses for other than the repair, replacement or reconstruction of such property.

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

Section 3. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first priority

Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Area of Common Responsibility.

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

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

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

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

Article XIV

Declarant's Rights

Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Register's Office for Davidson County, Tennessee.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on this the 1st day of November, 1999.

DECLARANT:

CLEVELAND HALL, LLC

By: _____
W. Allen Bryan, III,
Chief Manager

[ACKNOWLEDGMENT ON FOLLOWING PAGE]

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, Van P. East, III, a Notary Public, W. Allen Bryan, III, with whom I am personally acquainted, who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is the Chief Manager of Cleveland Hall, LLC, a Tennessee limited liability company, being authorized to execute the foregoing instrument on behalf of Cleveland Hall, LLC.

Witness my hand, at office this 1st day of November, 1999.

Notary Public

My Commission expires: July 12, 2000