

STEVE HALL
REGISTER OF DEEDS
KNOX COUNTY

THIS INSTRUMENT WAS PREPARED BY

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AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS, COVENANTS
AND EASEMENTS
AND ESTABLISHMENT OF HOMEOWNERS ASSOCIATION
FOR
FALCON POINTE SUBDIVISION

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS AND ESTABLISHMENT OF HOMEOWNERS ASSOCIATION FOR FALCON POINTE SUBDIVISION is made, published, and declared as of this ___ day of August 2006, by and between Landview, LLC, a Tennessee limited liability company ("Landview"), and Michael C. Rhodes, LLC, a Tennessee limited liability company ("A"), M&M Homes, LLC, a Tennessee limited liability company ("B"), Meridian, LLC, a Tennessee limited liability company ("C"), and Malachi, LLC, a Tennessee limited liability company ("D") (A, B, C, and D together with the definitional provision below collectively to be referred to as "Builder"), and any and all Persons, as defined herein, hereafter acquiring any of the within described property.

WHEREAS, Landview and Builder subjected certain real property described on Instrument No. 200308200021542 and further described as Falcon Pointe Unit 1, of record in Instrument No. 200409100021975, as amended by Instrument No. 200504210083583, and as further amended by Instrument No. 200502100063543, all the above in the office of the Register of Deeds of Knox County, Tennessee, to the Restrictive Covenants for Falcon Pointe Subdivision, which appear on Instrument No. 200509160025047 in the office of the Register of Deeds of Knox County (hereinafter the "Initial Covenants"); and

WHEREAS, Landview and Builder desire to modify the Initial Covenants and subject additional real property as contemplated in Section 2.2 of the Initial Covenants, such property to referred to as Phase II being the same property described on Instrument No. 200508310020505 in the office of the Register of Deeds of Knox County; and

WHEREAS, Landview desires to subject that real property described on the Plat, as defined hereinafter, including without limitation, all Lots, all Common Areas reflected thereon, and Additional Properties, all as hereinafter defined (the "Properties"), to the conditions, restrictions, covenants, reservations and easements set forth herein; and

WHEREAS, Landview and Developer (as defined hereinafter) desires to provide for the preservation of the values and amenities in said community and common areas, and to this end, desires to subject the Properties together with such additions as may hereinafter be made (as provided for in this Declaration) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof and



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H. TAX: \$0.00 T. TAX: \$0.00

WHEREAS, Landview and Developer have deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer has incorporated, or will incorporate, under the laws of the State of Tennessee a non-profit corporation to be known as FALCON POINTE HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Landview and Developer hereby declare that the Properties shall be subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall inure to the benefit of the Developer and the Owners and the Association and shall be binding upon the Owners, the Association, and their respective heirs, personal representatives, successors, assigns, transferees, mortgagees, licensees, lessees, employees, agents and invitees and any other user of the Properties, and shall be conditions, restrictions, covenants, reservations and easements running with the land, including without limitation each Lot and all Common Areas.

ARTICLE I DEFINITIONS

Any definitions herein provided and except where it is clearly evidenced from the context that a different meaning is intended, the following terms shall have the following meanings when used in this Declaration, any supplemental or restated declaration, any recorded plat of the lands covered hereby, and any other documents related to the Properties.

- (a) **"Additional Property"** shall mean those portions of land located near or adjacent to the Properties, as may be declared by Landview or Developer from time to time to be a part of the Properties under an instrument executed by Developer and recorded in the office of the Register of Deeds of Knox County, Tennessee.
- (b) **"Advisory Committee"** shall mean the Advisory Committee as provided in Article XI.
- (c) **"Annual Assessment"** shall have the meaning provided for in Section 5.3.
- (d) **"Annual Lawn and Leaf Service Contract"** shall mean any contract entered into by Developer or the Association for the purpose of performing the required maintenance in accordance with providing the Lawn and Leaf Service, with such contract not to exceed a one-year term.
- (e) **"Assessment"** or **"Assessments"** shall mean cumulatively the following: (i) Annual Assessments, (ii) Special Assessments; (iii) Special Capital Assessments, (iv) Special

Condo Capital Assessments, (v) Lawn and Leaf Service Assessments, (vi) Condo Assessments, and (vii) the Initiation Fee.

- (f) **"Association"** shall mean and refer to The Falcon Pointe Homeowners Association, Inc., a non-profit, non-stock homeowners' association created under this Declaration, its successors and assigns.
- (g) **"Board"** or **"Board of Directors"** shall mean the Directors of the Association appointed or elected in accordance with the Association's bylaws who shall serve as the Board under this Declaration and shall operate and manage the Association as a Board of Directors.
- (h) **"Builder"** shall mean the companies defined as Builder hereinabove in addition to such Person who purchases a Lot for the express purpose of promptly constructing a Living Unit, as contemplated herein, and reselling the same without residing in, or permitting others to reside in, the Living Unit. Developer reserves the exclusive right to designate whether a Person is a Builder.
- (i) **"Common Areas"** shall mean cumulatively all Condo Common Areas and all General Common Areas.
- (j) **"Condo Assessment"** shall have the meaning provided for in Section 5.3.
- (k) **"Condo Common Areas"** shall mean any real properties and improvements owned by the Association and held for Condo Unit owners' exclusive use and any additional real property or improvements designated by Landview or Developer, from time to time, for the use of Condo Units.
- (l) **"Condo Unit"** shall mean one Living Unit located upon (i) any Lot designated by Landview or Developer for condominium development from time to time, or (ii) any Lot designated for condominium development on the Plat.
- (m) **"Conveyance Event"** shall mean that point in time when all of the following have occurred: (i) the Developer has sold 100 % of the Lots and Condo Units (including those in any Additional Properties regardless of whether such Additional Property has been subjected to this Declaration), (ii) all builders have sold all Lots or Condo Units they own, (iii) Developer has determined not to subject further Additional Properties to this Declaration. Notwithstanding the foregoing, the Developer may, by written notice to the Association, declare the occurrence of the Conveyance Event at any time prior to the date such Conveyance Event would otherwise occur.
- (n) **"Declaration"** shall mean this instrument as amended, modified, extended, restated or supplemented from time to time in the manner herein provided.
- (o) **"Developer"** shall mean Landview, LLC, its successors and assigns.

- (p) **"Family"** shall mean (i) one or more persons related by blood, marriage or adoption who are living, sleeping, cooking and eating at a Living Unit as a single housekeeping unit, or (ii) not more than two persons unrelated by blood, marriage or adoption who are living, sleeping, cooking and eating at a Living Unit as a single housekeeping unit. The term "Family" shall exclude any person or group of persons where three or more persons are not related as described in this subparagraph.
- (q) **"General Common Areas"** shall mean any real property and improvements owned by the Association and any additional real property which Landview or Developer may hereafter designate and/or convey and transfer to the Association intended to be devoted to the common use and enjoyment of the Owners and shall expressly include any portion of any Lot constituting a detention basin easement as reflected on the Plat.
- (r) **"Improvement"** shall mean and include any structure placed on, or improvement to any portion of the Properties, regardless of whether such structure or improvement is temporary or permanent in character and regardless of the intended use of such structure or improvement, including without limitation, any and all of the following: building, outbuilding, shed, booth, garage, car-port, and storage facility; exterior lighting or electric fixture; antennae; tower; pole; bug control device; satellite dishes; transmission devices; and computer devices; fence, retaining or other wall; fountain; swimming or wading pool; pond; plantings; driveway, sidewalk and walkway; pet kennels and run lines; screened or other type of porch, patio, deck or gazebo; tree house or other exterior play equipment including skateboard ramps; berms and swales; and any other type of equipment or facility for any decorative, recreational or functional purpose of any kind; and all additions or alterations to or deletions from any of the foregoing. Any structure or improvement located entirely within the exterior perimeter walls of a Living Unit shall not be included within the term "Improvement".
- (s) **"Initiation Fee"** shall have the meaning provided for in Section 5.7.
- (t) **"Landscape Plan"** shall mean the landscape plan, if any, prepared for the Properties by Developer now or at some time in the future, which among other things, may provide certain standards, guidance and recommendations for landscaping within the Properties. The Landscape Plan, if any, and as amended by Developer from time to time, are hereby incorporated into and made a part of this Declaration and copies of the Landscape Plan, if any, may be obtained from the Developer until a Conveyance Event occurs and thereafter, from the Association.
- (u) **"Lawn and Leaf Service"** shall have the meaning set forth in Section 5.6.
- (v) **"Lawn and Leaf Service Assessment"** shall have the meaning provided for in Section 5.6.
- (w) **"Living Unit"** shall mean (i) in the case of a Single Family Lot, a single residential building designed and used as a dwelling for one Family; or (ii) in the case of a Condo Unit, a single residence designed and used as a dwelling for one Family

- (x) **"Lot"** shall mean a platted lot within the Properties identifiable by reference to a lot number, regardless of whether such Lot is currently platted or platted at some future time. The term "Lot" shall include, without limitation, each Lot shown on the Plat.
- (y) **"Member"** shall mean and refer to all those who are members of the Association, as provided for in Section 3.1.
- (z) **"Owner"** shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot situated within the Properties or any Condo Unit situated within the Properties but shall not include the holder(s) of any leasehold interest or refer to any mortgagee or secured creditor unless and until such mortgagee or secured creditor has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. Owner shall not include Landview, Developer or any Builder.
- (aa) **"Person"** shall mean a natural person, as well as a corporation, partnership, limited liability company, firm, association, trust, or other legal entity.
- (bb) **"Plat"** shall mean Unit 1, as hereinafter defined, together with Unit 2, as hereinafter defined.
- (cc) **"Single Family Lot"** shall mean all Lots other than those Lots designated by Landview or Developer, from time to time, for other use or as designated on the Plat.
- (dd) **"Special Assessment"** shall have the meaning provided for in Section 5.5.
- (ee) **"Special Capital Assessment"** shall have the meaning provided for in Section 5.5.
- (ff) **"Special Condo Capital Assessment"** shall have the meaning provided for in Section 5.5.
- (gg) **"Unit 1"** shall mean the plat of the first phase of Falcon Pointe Subdivision, recorded as Falcon Pointe Unit 1, of record in Instrument No. 200409100021975, as amended by Instrument No. 200504210083583, and as further amended by Instrument No. 200502100063543, in the office of the Register of Deeds of Knox County, Tennessee, as such plat may be modified, amended, supplemented or expanded from time to time.
- (hh) **"Unit 2"** shall mean the plat of the second phase of Falcon Point Subdivision, recorded as Falcon Point Unit 2, of record in Instrument No. 200508310020505, in the office of the Register of Deeds of Knox County, Tennessee, as such plat may be modified, amended, supplemented or expanded from time to time.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS THERETO

Section 2.1 Existing Property. The existing real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in Knox County, Tennessee, and is the Properties.

Section 2.2 Additions to Existing Property.

(a) Landview or Developer, in their sole discretion, shall have the right, but not the obligation, to bring additional properties within the plan of this Declaration in future stages of development.

(b) The additions authorized hereunder shall be made by filing of record a supplemental declaration or an amended and restated declaration with respect to the additional property which shall extend the plan of this Declaration to such property, and the Owners, Builders, Landview and Developer, in such additions shall immediately be entitled to all privileges herein provided.

(c) Such supplement to this Declaration, or such amended and restated declaration, if any, may contain such additions and modifications of the covenants, conditions, restrictions or other provisions contained in this Declaration as may be necessary or convenient in the sole discretion of Landview or Developer. Except as provided or permitted herein, such supplement to this Declaration shall not revoke, modify or add to the covenants, conditions and restrictions established by this Declaration or any Supplemental Declaration with respect to the then existing property.

Section 2.3 Limitation on Additions. No one other than Landview or Developer shall have the right to subject additional lands to this Declaration unless the Developer shall indicate in writing to the Association that such additional lands shall or may be included hereunder.

**ARTICLE III
MEMBERSHIP, INITIATION FEE, BOARD OF DIRECTORS AND
VOTING RIGHTS IN THE ASSOCIATION**

Section 3.1 Membership. Developer and every Owner who is an individual shall be a member of the Association. No religious groups, organizations, associations, or any other entity, regardless of type, owning a Lot or Condo Unit shall be a member of the Association. Membership shall commence on the date such Owner becomes the record owner of a fee or undivided fee interest in a Lot or Condo Unit and expires upon the transfer or release of said ownership interest. The Association shall adopt by-laws to govern its affairs and Member activities.

Section 3.2 Voting Rights. The Association shall have three classes of voting memberships:

(a) CLASS A. Class A Members shall be those Owners described in Section 3.1 who own a Lot. For purposes of this paragraph, the term "Lot" shall exclude any Lot containing a Condo Unit. Except as otherwise provided herein, Class A Members shall be entitled to one vote for each Lot they own. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote of such Lot shall be exercised as they, among themselves, determine but in no event shall more than one vote be cast with respect to any such Lot.

(b) CLASS B. Class B Members shall be those Owners described in Section 3.1 who own a Condo Unit. Except as otherwise provided herein, Class B Members shall be entitled to one vote for each Condo Unit they own. When more than one person holds such interest or interests in any Condo Unit, all such persons shall be Members, and the vote of such Condo Unit shall be exercised as they, among themselves, determine but in no event shall more than one vote be cast with respect to any such Condo Unit.

(c) CLASS C. The Class C Member shall be the Developer. The Class C Member shall be entitled to three votes for each Lot and Condo unit in the Properties whether owned buy it or by others it being the intent that Developer have full and complete control of the Association until the Conveyance Event. Notwithstanding anything to the contrary contained in this Declaration or covenants and restrictions or in the charter or by-laws of the Association, the Class C Member shall be entitled to exercise veto power at any time and for any reason, so long as Class C membership continues to exist as provided herein. Said veto power shall entitle the Class C Member to override and/or nullify any vote taken by Class A and/or Class B Members regardless of whether the Class C Member attended the meeting at which such action was taken. The Class C membership shall remain in the Developer until the occurrence of the Conveyance Event. Upon the occurrence of the Conveyance Event, Class C membership shall cease to exist and from and after such time there shall only be Class A and Class B memberships.

Section 3.3 Board of Directors. The Association shall be governed by a Board of Directors to be elected by the membership as provided by the Association's by-laws.

ARTICLE IV PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 4.1 Easements of Enjoyment.

(a) General Common Areas. Except as otherwise set forth in this Declaration, all General Common Areas shall be used as open space for the common benefit of the Owners, their agents, servants, tenants, family members, invitees, and licensees for access, ingress and egress from their respective Lots and for other purposes as may be authorized by the Association and this Declaration. Subject to the provisions of the Associations by-laws and Section 4.3, every Member shall have a right and easement of enjoyment in and to the General Common Areas and such easement shall be appurtenant

to and shall pass with the title to every Lot and Condo Unit. Unless approved by the Developer or the Board, which approval may be granted or withheld in the Developer's or the Board's sole discretion, the General Common Areas shall not be used for recreational or other activities.

(b) Condo Common Areas. Except as otherwise set forth in this Declaration, all Condo Common Areas shall be used as open space for the common benefit only for the owners of Condo Units, for access, ingress and egress from their respective Condo Units, and for other purposes as may be authorized by Class B or Class C Members of the Association. Subject to the provisions of the Associations by-laws and Section 4.3, every Condo Unit owner, their agents, servants, tenants, family members, invitees, and licensees shall have a right and easement of enjoyment in and to the Condo Common Areas and such easement shall be appurtenant to and shall pass with the title to every Condo Unit. Unless approved by the Developer or, after the occurrence of a Conveyance Event, the Board, which approval may be granted or withheld in the Developer's or the Board's sole discretion, the Condo Common Areas shall not be used for recreational or other activities.

Section 4.2 Title to Common Areas. Landview or Developer may retain the legal title to the Common Areas during the time the Developer is a Class C Member of the Association. Upon the occurrence of the Conveyance Event, all right, title and interest of Landview or Developer to the Common Areas shall automatically vest in the Association without need of any further document, instrument or action of Landview or Developer or the Association. By acceptance of a deed to a Lot, each Owner, Member and the Association agrees that upon the occurrence of the Conveyance Event, the Association is deemed to have accepted delivery of all of Landview's and Developer's right, title and interest in and to the Common Areas. Notwithstanding the foregoing, Landview and Developer shall have the right, but not the obligation, at Landview's or Developer's option and in Landview's or Developer's sole discretion, to convey all right, title and interest of Landview or Developer in the Common Areas to the Association, upon recording in the office of the Register of Deeds of Knox County, Tennessee, of a document of conveyance of the Common Areas by Landview or Developer to the Association. In such event, each Owner, Member and the Association agree that upon the recording of such conveyance, the Association shall be deemed to have accepted delivery of all of Landview's and Developer's right, title and interest in and to the Common Areas. The conveyance of the Common Areas to the Association prior to the Conveyance Event shall not be and shall not be deemed to be a Conveyance Event hereunder.

Section 4.3 Duty to Repair and Maintain. Regardless of whether the Common Areas have been conveyed to the Association, the Association shall maintain and repair all Common Areas and the Improvements located thereon so that the Common Areas and Improvements located thereon are in good condition and repair, neat and attractive in appearance and in compliance with the Landscape Plan, if any. Developer and the Association shall have the right, but not the obligation, to construct and install Improvements in the Common Areas as they deem necessary and appropriate, including without limitation, signs, monuments and structures and any such Improvements constructed by Developer or the Association on any Common Areas shall be maintained, repaired and replaced solely by the Association.

Section 4.4 Improvements to the Public Rights of Way. Any Improvements located in any public right-of-way or future public rights-of-way lying contiguous to or within the Properties are Common Areas and shall be constructed, installed and maintained by the Association and may be removed by the Association at any time, at its option.

Section 4.5 Limitation of Use of Common Areas. No Owner and no other Person, other than Developer or the Association, shall construct or install any Improvement in a Common Area. No Owner and no other Person, other than Developer and the Association, shall store or leave any personal property of any kind whatsoever in any Common Area at any time. There shall be no activity conducted by any Owner or any other Person in any Common Area, which would endanger the property or lives of any persons. There shall be no hunting on the Common Areas.

Section 4.6 Extent of Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the terms and provisions of the Declaration and to the following:

(a) The Association's right to take reasonable action to protect and preserve the rights and interests of the Association, its Members and Owners on and to the Common Areas, including but not limited to, rights to prevent the sale or foreclosure of the Common Areas by creditors or lien holders of the Association or Owners;

(b) The Association's right, as provided in its charter and by-laws, to suspend the enjoyment of rights of any Owner for the period during which any Assessment for such Owner remains unpaid, for any infraction of its published rules and regulations, or for violation of this Declaration;

(c) The right of the Association to charge reasonable admission and other fees for the use of the Common Areas; and

(d) The right of the Association to dedicate or transfer all or any part of the Common Areas or areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Board and Members; provided, however, that no such dedication or transfer shall be effective or permitted unless approved by the Board and the Members pursuant to the by-laws of the Association.

Section 4.7 Parking Rights. The Developer shall have the absolute authority to determine the type, location and number of parking spaces in the Common Areas and to regulate and develop said parking until the Conveyance Event. After the Conveyance Event, the Association shall have the absolute authority to regulate the maintenance and use of same.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENT

Section 5.1 Creation of the Lien and Personal Obligation of Assessments. Except as otherwise provided herein, Landview and/or Developer for each Lot or Condo Unit owned by either of them within the Properties hereby covenants, and each Owner and Builder by acceptance of a deed, whether or not it shall be so expressed in any such deed, shall be deemed to covenant and agree to pay to the Association:

- (a) Annual Assessments as provided for in Section 5.3;
- (b) Special Assessments, Special Capital Assessments and Special Condo Capital Assessments as provided for in Section 5.5;
- (c) Lawn and Leaf Service Assessments as provided for in Section 5.6;
- (d) Condo Assessments as provided for in Section 5.3;
- (e) The Initiation Fee as provided for in Section 5.7; and
- (f) The fines provided for in Section 7.6.

Such Assessments together with the interest thereon and costs of collection thereof shall be a charge on the land and shall be a continuing lien upon the property and shall also be a personal obligation of the Person who was the Owner of the property at the time the Assessment becomes payable;

Section 5.2 Purpose of Assessment.

(a) **General Common Areas.** Except for Condo Assessments and Special Condo Capital Assessments, Assessments levied by the Association for the General Common Areas shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties, and in particular for the improvement, maintenance and beautification of services and facilities devoted to this purpose and related to the use and enjoyment of the General Common Areas (excluding the Condo Common Areas) including but not limited to the payment of taxes and insurance thereon and repair, replacement and addition thereto, and for the cost of utilities, labor, equipment, materials, management and supervision thereof and for the removal of household refuse produced through normal daily living provided the same is placed in a container in a manner satisfactory for pick-up by waste removal companies or approved by the local government authority or the Association. The Assessments shall not be specifically limited to the General Common Areas, but shall extend to and include the right to maintain and repair the streets and access ways and the lighting, traffic signals and signs pertaining to the Properties. The cost, if any, of the operation and maintenance of street lights and lighting regardless of the location within the Properties and the proximity to the individual Lots or Condo Units shall be borne equally by all Lots and Condo Units, it being the intent of this requirement to insure the safety, enjoyment and security of the entire Properties.

(b) Condo Common Areas. The Assessments levied by the Association for the Condo Common Areas ("Condo Assessment") shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Condo Units, and in particular for the improvement, maintenance and beautification of services and facilities devoted to this purpose and related to the use and enjoyment of the Condo Common Areas including but not limited to the payment of taxes and insurance thereon and repair, replacement and addition thereto, and for the cost of utilities, labor, equipment, materials, management and supervision thereof.

Section 5.3 Annual and Condo Assessments.

(a) Annual Assessments. The Developer shall have the right to determine and set the Annual Assessment until the occurrence of a Conveyance Event or until such time as developer notifies the Association in writing that Developer will no longer set the Annual Assessment, whichever occurs first. The Assessment shall be a sum reasonably necessary as determined by the Developer, and thereafter the Board, in the Developer's or Board's sole discretion, to defray the expenses of the Association (excluding expenses covered by Condo Assessments) and the Assessment may be adjusted upward or downward by Developer, and thereafter the Board. Such Annual Assessment shall be payable on an annual basis. The current Annual Assessment for Unit 1 is \$650.00 and the current Annual Assessment for Unit 2 is \$850.00.

(b) Condo Assessments. The Condo Assessment shall be assessed only upon the owners of Condo Units and shall be in addition to any other Assessments levied upon Owners. The Developer shall have the right to determine and set the Condo Assessment until the occurrence of a Conveyance Event, or until such time as Developer notifies the Association in writing that Developer will no longer set the Condo Assessment, whichever occurs first. The Condo Assessment shall be a sum reasonably necessary as deemed by the Developer to defray the expenses of the Association for the Condo Common Area and the Assessment may be adjusted upward or downward by Developer, and thereafter the Board. Such Condo Assessment shall be prorated and payable on a quarterly basis.

Section 5.4 Date of Commencement of Annual and Condo Assessments.

(a) Annual Assessments. As each Person becomes an Owner, such new Owner's Assessment for the current year shall be a pro-rata part of the Annual Assessment, calculated on a calendar year, and shall be due in equal installments beginning on the first day of the month following the day such Person becomes an Owner.

(b) Condo Assessments. As each Person becomes an owner of a Condo Unit, such new Owner's Assessment for the current year shall be a pro-rata part of the Condo Assessment and shall be due on the first day of the month following the day such Person becomes an owner of a Condo Unit. Upon such owner of a Condo Unit's ceasing to be a Owner, such owner of a Condo Unit shall not be entitled to any refund of the Condo Assessment.

It shall be the duty of the Board to notify each affected Owner of any change in the Assessments and the due date of such Assessments. The requirement of notice shall be satisfied if such notice is given by regular deposit in the United States Mail to the last known address of each such Owner as provided in the Association's by-laws.

The due date of any Assessment under Section 5.5 hereof shall be fixed in the resolution authorizing such Assessment.

Section 5.5 Special Assessments, Special Capital Assessments, and Special Condo Capital Assessments.

(a) Special Assessments. The Association may establish and collect Special Assessments from time to time as provided for in Section 6.4. The Special Assessments together with the interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and shall also be a personal obligation of the person who was the Owner of the property at the time the Special Assessment becomes payable.

(b) Special Capital Assessments. In addition to the Annual Assessments, the Association may levy a Special Capital Assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the General Common Areas including the necessary fixtures and personal property related thereto, provided that any such Assessment shall be approved by the Board and Members pursuant to the Association's by-laws. Such Special Capital Assessment shall be assessed equally against all Owners

(c) Special Condo Capital Assessments. In addition to the Annual Assessments, the Association may levy a Special Condo Capital Assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the or the Condo Common Areas including the necessary fixtures and personal property related thereto, provided that any such Assessment shall be approved by the Board and Class B and Class C Members pursuant to the Association's by-laws. Such Special Condo Capital Assessment shall be assessed equally against all owners of the Condo Units.

Section 5.6 Lawn and Leaf Service. Developer or the Association may, but shall not be required to, offer a Lawn and Leaf Service to members of the Association. If Developer and/or the Association offer a Lawn and Leaf Service to the Owners, then such Lawn and Leaf Service shall be mandatory, and included in the Annual Assessment, for all Lots on Unit 2 upon which a Living Unit exists. If Developer and/or the Association offer a Lawn and Leaf Service to the Owners, then the Owners of Living Units on Unit 1 shall have the option to elect Lawn and Leaf Service pursuant to Section 5.6(b). Such Lawn and Leaf Service shall provide for the

mowing and trimming of yards and the removal of leaves for each Single Family Lot desiring such service upon the terms and conditions below:

(a) Eligibility. Any Single Family Lot is eligible for the Lawn and Leaf Service upon the election of the Owner of said Lot.

(b) Election of Lawn and Leaf Service. To elect Lawn and Leaf Service for a Single Family Lot, the Owner shall notify the Board in writing that he/she desires that the Association provide Lawn and Leaf Service for his/her Lot be deemed. Provided the Association or the Developer is offering Lawn and Leaf Service, and further provided said Owner makes such designation at least sixty (60) days prior to the Association's entering into an Annual Lawn and Leaf Service Contract, such designation will take effect upon the commencement date of the next Annual Lawn and Leaf Service Contract. If any Owner of a Single Family Lot elects the Lawn and Leaf Service less than sixty (60) days prior to the Association's entering into an Annual Lawn and Leaf Service Contract and such Owner desires to have such designation take effect prior to the commencement of the next Annual Lawn and Leaf Service Contract, then the Association, at the Association's sole discretion, may permit said Owner to make such election effective provided that such Owner shall be solely responsible for any increase in the cost of the Annual Lawn and Leaf Service Contract incurred as a result of such Owner's election of Lawn and Leaf Service.

(c) Duty of Association to Maintain. Upon such election of Lawn and Leaf Service, and upon completion of construction on the Lot upon which election has been made, including but not limited to final installation of the landscaping, the Association shall provide for the mowing and trimming of the grass and the removal of leaves upon such Lot. The Association shall maintain the Lots electing the Lawn and Leaf Service in a neat and attractive appearance. Such maintenance shall include regular mowing, trimming, the removal of trash and debris related thereto, and the removal of leaves.

(d) Lawn and Leaf Service Assessment. In addition to the Annual Assessments, the Association may levy a Lawn and Leaf Service Assessment for the purpose of defraying the cost of the Annual Lawn and Leaf Service Contract. Such Lawn and Leaf Service Assessment shall be assessed equally against all Owners electing the Lawn and Leaf Service for their Lots. All fees, costs and expenses arising from the Annual Lawn and Leaf Service Contract shall be apportioned among the Owner's of the Lots then participating in the Annual Lawn and Leaf Service Contract on a pro rata basis with each Lot being deemed of equal share. Such amount shall be assessed against each Lot electing the Lawn and Leaf Service and will be due and payable as provided for in this Section 5.6.

(e) Withdrawal of Designation. All Unit 2 Owners electing Lawn and Leaf Service must notify the Association in writing of their desire to withdraw from such service and any such change in designation may be refused by the Association if such notice of change in designation is not received by the Association at least sixty (60) days prior to the expiration of the Annual Lawn and Leaf Service Contract. If timely notice is

given to the Association by Owner, the withdraw will be effective at the expiration of the then current Annual Lawn and Leaf Service Contract. If timely notice is not given, then the time that withdrawal will be effective shall be the earlier of (i) the expiration of the following Annual Lawn and Leaf Service Contract, or (ii) such time as the Developer or Board deems appropriate in the Developer's or Board's sole discretion.

Section 5.7 Initiation Fee. Every Person who purchases a Lot or Condo Unit in the Properties shall pay to the association an initiation fee of \$500.00 at the time of the purchase of the Lot or Condo Unit; provided however, said initiation fee shall be due only from the Person who purchases the Lot or Condo Unit for use as a personal residence and not for the Developer or Builder. The initiation fee is a permanent amount and cannot be raised or lowered, notwithstanding anything to the contrary contained herein.

Section 5.8 Non-Payment of Assessment; Personal Obligation of Owner; Lien; Remedies. If Assessments are not paid on the date due, then such Assessment shall become delinquent and shall, together with interest thereon and the cost of collection, as hereinafter provided, become a continuing lien on the property. If the Assessment is not paid within thirty (30) days after the delinquency date, the Assessment shall bear interest from the date of the delinquency at the rate equal to the lesser of (i) ten percent (10%) per annum or (ii) the maximum rate permitted by law and the Association may bring an action at law against the Owner personally obligated to pay the same to foreclose the lien against the Lot or Condo Unit, and there shall be added to the amount of such Assessment all cost, fees and expenses of collection, including without limit, preparing and filing the complaint in such action, and any judgment shall include interest on the Assessment and a reasonable attorney fee together with the costs of the action.

Section 5.9 Subordination of the Lien to Mortgages. The lien for Assessments provided for herein shall run with the land. However, such liens shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Properties subject to Assessment. Provided, however, such subordination shall apply only to Assessments which have become due and payable prior to the sale or transfer of such Property pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessments whether then due or thereafter becoming due or from the lien of such prior or subsequent Assessments. An Assessment shall not be subordinate to a mortgage held by a prior owner who was the Owner at the time the Assessment accrued.

Section 5.10 Exempt Property. The following property subject to this declaration shall be exempted from the Assessments, charge and lien created herein:

- (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local authority and devoted to public use;
- (b) all Common Areas;
- (c) all properties exempted from taxation by the laws of the State of Tennessee or United States upon the terms and to the extent of such legal exemption;

(d) all properties owned by Landview, Developer or Builder.

Section 5.11 No Landview/Developer/Builder Liability. Notwithstanding anything contained in this Declaration to the contrary, Landview, Developer and Builder shall not be required to pay any Assessments or other amount levied by the Association on Lots or Condo Units owned by Landview, Developer or any Builder.

ARTICLE VI DIVISION AND USE OF LOTS AND CONDO UNITS

Section 6.1 Residential Use. Each Single Family Lot and Condo Unit shall be used solely for residential purposes by one Family, except that business activities may be conducted in or from any Living Unit if confined solely to the transaction of business by telephone or computer. The term "residential purposes" shall include only those activities necessary for or normally associated with the use and enjoyment of a home site as a place of residence and limited recreation. Except for Lots initially purchased from Landview or Developer by Builders, Lots shall not be purchased in the Properties solely for the purpose of investment or resale. Notwithstanding the foregoing, nothing herein shall be construed to prohibit or prevent Landview, Developer or Builder from using any Lot owned by Landview, Developer or Builder for the purpose of carrying on business related to the development, improvement and sale of Lots in the Properties.

Section 6.2 One Living Unit. Unless the Lot has been designated by Developer to contain a condominium or other such structure as Developer may so designate from time to time, only one Living Unit may be constructed on each Lot and no garage, tent, or other Improvement (except for the Living Unit) shall be used for temporary or permanent living or sleeping for any Person, including without limitation, family or guests, without the prior approval of the Board, which may be granted or withheld in the Board's sole discretion.

Section 6.3 Lot Subdivision. No Lot shown on said map may be subdivided or reduced in size by any method such as voluntary alienation, partition, judicial sale, or other process of any kind by any Owner or Builder; however, if permitted by all governmental authorities having jurisdiction, an Owner or Builder may purchase two or more adjoining Lots and treat the two or more Lots as one Lot for the purposes of construction of a Living Unit on the combined Lots, but the Living Unit (including the size of the Living Unit) and the location of the Living Unit on the combined Lots must otherwise comply with all terms and conditions of this Declaration. For construction and improvement purposes, the two or more adjoining Lots will be deemed to be one Lot, but for all other purposes of the Declaration, including without limitation, membership in the Association, voting rights and Assessments, the owner of the two or more adjoining Lots will be deemed to own the original number of Lots purchased, as designated on the Plat.

Section 6.4 Duty to Maintain. Except to the extent provided for in Section 5.6 for Owners electing Lawn and Leaf Service for their Lot, each Owner shall maintain and repair his/her Lot, Living Unit and all Improvements thereupon, all open spaces and all front, side, and

rear yards, so that the Lot and Improvements thereto are, at all times, in good condition and repair and neat in appearance when viewed from any street or other Lot and, if not properly maintained and repaired, the Association may perform such maintenance, repairs and replacements as it deems necessary or appropriate and charge the costs thereof to the Owner and levy a Special Assessment, as provided for in Section 5.5, for such costs against the Lot. Developer may, but shall not be obligated to, improve any areas of the Properties other than those Lots owned by Owners with grass, mature trees, shrubs, foliage and other plantings and cut grass, trees, hedges, foliage and other plantings as Developer sees fit in Developer's sole discretion and Association shall be responsible for any costs or expenses so incurred.

Section 6.5 No Nuisance. No Lot, Condo Unit, Improvement, Living Unit, or any other part of the Properties shall be used in whole or in part for conducting any unlawful activity or for any unlawful purpose. Further, Owners covenant that:

(a) No unlawful, noxious or offensive activities shall be carried on in any Lot, Improvement, Condo Unit, or upon the Common Areas, nor shall anything be done therein or thereon which constitutes a nuisance, causes unreasonable noise or disturbance to others, or unreasonably interferes with other Owners' use of their Lots, Living Units, and/or the Common Areas.

(b) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of a Lot, Condominium Complex, or Living Unit so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Properties. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Lots or any portion thereof

(c) All alarms or security systems with a siren, bell or other auditory warning device shall have an automatic device to stop the siren, bell or other device from sounding after a ten (10) minute period of time.

(d) No motor vehicle, including without limitation automobiles, trucks, recreational vehicles, boats, all terrain vehicles, and motorcycles, or other vehicle shall be continuously or habitually parked on any street or right-of-way in the Properties. No semi-tractor trailers, or other large trucks, vans or other large vehicles shall be permitted in the Properties except for limited periods for moving vans being utilized by residents for moving in and out of a residence, and except for such construction, delivery or other vehicles as may be permitted and approved.

ARTICLE VII ADVISORY COMMITTEE

Section 7.1 Establishment. Until the occurrence of the Conveyance Event, the Developer shall be the sole member of the Advisory Committee. Upon the occurrence of the

Conveyance Event, the Advisory Committee shall be composed of not less than three (3), nor more than five (5), individuals appointed by the Board. A majority of the Advisory Committee may designate a representative to act for the Advisory Committee. In the event of the death or resignation of any member of the Advisory Committee, the remaining members of the Advisory Committee shall constitute the Advisory Committee until such time as a replacement member is appointed by the Board. Neither the members of the Advisory Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

Section 7.2 Required Approval. NO LIVING UNIT OR IMPROVEMENT SHALL BE ERECTED, PLACED, ALTERED, OR PERMITTED TO REMAIN ON ANY LOT UNTIL A PLAN SHOWING THE LOCATION OF THE LIVING UNIT, INCLUDING ANY LANDSCAPING, AND IMPROVEMENTS HAVE BEEN APPROVED IN WRITING BY THE ADVISORY COMMITTEE, including without limit, the quality of workmanship and materials, harmony of the exterior design with existing structures, the location with respect to topography and finish grade level and elevation, and such other matters as the Advisory Committee may deem appropriate from time to time in its sole discretion. OWNERS AND BUILDERS MUST RECEIVE WRITTEN APPROVAL FROM THE ADVISORY COMMITTEE PRIOR TO THE BEGINNING CONSTRUCTION ON ANY LOT. Notwithstanding anything to the contrary contained herein, the Advisory Committee is not obligated to approve any plan, even if said plan complies with all of the restrictions set forth herein. Furthermore, the Advisory Committee is not required to disapprove a plan even if it fails to meet one or all of the restrictions set forth herein. All approvals are at the sole discretion of the Advisory Committee and plans may be rejected for purely aesthetic reasons.

Section 7.3 Failure to Act. In the event the Advisory Committee or its designated representative fails to approve or disapprove such plans or specifications within thirty (30) days after the plans have been submitted to it, such approval shall be automatically granted without further action. Plans shall not be deemed submitted to the Advisory Committee until the Person or Persons submitting such plans have received signed confirmation from the Advisory Committee that the plans have been received for review. Further, upon approval, a set of plans shall be furnished to and retained by the Advisory Committee. The Living Unit, Improvements, and landscaping shall be constructed consistent with the approved plans.

Section 7.4 Modification. In keeping with the purpose of this Declaration, the Developer recognizes that the restrictions set forth herein are not inclusive or totally comprehensive for a quality and aesthetically pleasing neighborhood development. Accordingly, notwithstanding anything to the contrary herein as to the design of the Living Units, Improvements, and any landscaping on the Lots, the Advisory Committee may, in its sole discretion, make exceptions to the design criteria set forth in this Declaration and approve other types of architecture and design requirements.

Section 7.5 Final Decision. The Advisory Committee shall be the sole and final arbiter of all plans for Living Units, Improvements, and landscaping and may withhold approval for any reason, including purely aesthetic reasons. The decision of the Advisory Committee in the performance of its duties under this Declaration hereof shall be final and conclusive in all

respects and shall not be subject to review by any authority, Owner, or the Association. Neither the Advisory Committee nor any of its members shall be liable to any person for damages or otherwise resulting from the performance of their duties hereunder and the exercise of the authority and discretion granted to it herein. Powers and duties of the Advisory Committee shall cease on or after January 1, 2036. Thereafter, the approval required in this covenant will not be necessary unless prior to said date and effective thereon, a written instrument shall be executed by the then Owners of a majority of the Lots and Condo Units and duly recorded, appointing a representative or representatives to thereafter exercise the powers previously executed by the Advisory Committee.

Section 7.6 Enforcement and Remedy.

(a) **Enforcement.** Upon violation of this Declaration by any Owner or Builder, Landview, Developer, or Advisory Board shall issue notice to the Owner committing the violation. The offending Owner shall have thirty (30) days to obtain Advisory Committee approval, remove the source of the violation, or repair the violation in a manner satisfactory to the Advisory Committee, such manner to be presented and approved by the Advisory committee prior to the expiration of the initial thirty (30) day notice period. For purposes of this Section 7.6(a), failure of the Advisory Committee to issue notice within one (1) year from the completion of the Improvement shall be deemed acceptance of the improvement by the Advisory Committee. Failure to correct the violation in accordance with this paragraph shall result in a fine, such fine to be levied in accordance with Section 7.6(c) or Section 7.6(d), whichever shall apply.

(b) **Continuing Violation.** Upon the expiration of the initial thirty (30) day period provided in Section 7.6(a) above, and the expiration of each thirty (30) day period thereafter shall each be deemed an additional violation resulting in the assessment of an addition fine, pursuant to Section 7.6(c) or Section 7.6(d) hereinbelow, for each occurrence. The initial notice provided for in Section 7.6(a) shall serve as the only notice to the offending Owner and no additional notice shall be required for any additional assessment or fine resulting from a continuing violation. For purposes of this Section 7.6, any notice to be given to Owner shall be in writing and shall be deemed to have been given, (i) when received if given in person, (ii) on the date sent if sent by telex, facsimile or other wire transmission, or (iii) three days after being deposited in the U.S. mail, certified or registered mail, postage prepaid, to the address of the Lot or Condo Unit owned by Owner.

(c) **Fine for Failure to Obtain Advisory Committee Approval.** FAILURE TO OBTAIN ADVISORY COMMITTEE APPROVAL PRIOR TO THE COMMENCEMENT OF ANY IMPROVEMENT UPON A LOT SHALL SUBJECT THE OWNER TO A FIVE HUNDRED DOLLAR (\$500.00) FINE PER OCCURRENCE, SUCH FINE OR FINES TO BE LEVIED AS A LIEN UPON THE PROPERTY.

(d) **Fine for Failure to Comply with this Declaration.** FAILURE TO COMPLY WITH THIS DECLARATION ON MATTERS OTHER THAN THOSE

DESCRIBED IN SECTION 7.6(c) HEREINABOVE SHALL SUBJECT THE OWNER OF SUCH LOT FAILING TO COMPLY TO A FIVE HUNDRED DOLLAR (\$500.00) FINE PER OCCURRENCE, SUCH FINE OR FINES TO BE LEVIED AS A LIEN UPON THE PROPERTY.

ARTICLE VIII LIVING UNIT RESTRICTIONS

Section 8.1 Design Restrictions. Subject to Article 7, no Living Unit or Improvement shall be erected, placed, altered or permitted to remain on any Lot without prior written approval of the Advisory Committee and it must also conform to the following requirements unless the Advisory Committee waives any requirement in writing in advance:

(a) The design of each Living Unit must be approved by the Advisory Committee prior to the commencement of construction of such Living Unit. No building or other structure shall be erected, altered or permitted to remain on any Single Family Lot other than:

(i) one (1) single-family residential dwelling of not less than 2000 square feet of heated area on a single story dwelling (exclusive of areas situated in a garage, attic, breezeway, or basement); or

(ii) one (1) single-family residential dwelling of not less than 2400 square feet of heated area on a two story dwelling (exclusive of areas situated in a garage, attic, breezeway, or basement) and shall not exceed two and one-half (2 1/2) stories in height (with the exception of basement homes which may not have more than two and one-half (2 1/2) stories above ground).

Each dwelling may have an attached private garage for not less than two (2) cars, which shall not exceed the main dwelling in height.

Notwithstanding anything to the contrary contained in this Section 8.1(a)(i) or Section 8.1(a)(ii), for those Single Family Lots on Unit 2, the minimum living area square footage shall be determined by the Advisory Committee on a case by case basis and shall be within the sole discretion of the Advisory Committee; however, except for special circumstances justifying an exception, a one-story Living Unit having less than 2000 square feet of heated living area, or a two-story Living Unit having less than 2000 square feet of heated living area, with not less than 1300 square feet of heated living area on the main floor, will not be approved.

(b) All windows and related trim of each Living Unit shall be of vinyl, wood or wood with metal clad construction. No window frame or sash shall be of any metallic construction except for wood windows with metal cladding.

(c) Each Living Unit shall have a minimum roof pitch of 7/12 and the roof shall be covered with 25 year or better dimensional shingles.

(d) The Advisory Committee shall have the authority to approve the types and forms of exterior siding for each Living Unit on a case-by-case basis. The following restrictions are indicative of the Advisory Committee's criteria for approving a particular design; however, the Advisory Committee may modify and amend the criteria from time to time based on new technologies entering the marketplace. The entire front of each Living Unit shall be constructed of brick, stone or stucco with vinyl accents being permissible on a case-by-case basis as approved by the Advisory Committee. Brick, stone, stucco, or a combination thereof shall compose a minimum of fifty percent (50%) of all living unit exteriors. All brick shall be genuine full size brick, properly laid in mortar and forming 4-inch minimum thick walls. No "glue on" or synthetic brick of any type shall be permitted. No "glue on" or synthetic stone shall be permitted. Synthetic stucco made from foam, plaster or coloring or similarly acceptable material shall not be permitted. Wire lathe and stucco shall be permitted on a case-by-case basis. Aluminum soffits may be permitted on an individual basis upon the approval of the Developer or the Advisory Committee. All vinyl siding must meet the minimum standards set forth by the Advisory Committee and shall not be less than .045 inches in thickness and shall have an insulating foam backing.

(e) The above ground exterior foundation walls of each Living Unit shall be veneered with brick, stone, or stucco or a combination thereof, or other materials approved by the Advisory Committee.

(f) The chimneys of each Living Unit shall be specifically approved on an individual basis by the Advisory Committee.

(g) The exterior colors of each Living Unit shall be approved on an individual basis by the Advisory Committee prior to application of such colors.

(h) The outside wiring for all Living Units, buildings and any other structure shall be placed underground. No overhead wiring of any type shall be permitted. Outside light poles, etc., shall be approved by the Advisory Committee.

(i) All Living Units shall not have less than a two-car attached garage capable of accommodating two automobiles. Garage door location shall be approved by the Advisory Committee. Carports shall not be permitted. The driveway shall provide a minimum of two additional off-street parking spaces. All driveways shall be paved with concrete or other surface approved by the Advisory Committee. Notwithstanding the foregoing, this paragraph shall not apply to the Condo Units.

(j) The heating and air conditioning systems of each Living Unit shall be concealed from view by appropriate screening, subject to approval of the Advisory Committee. Unless the prior approval of the Advisory Committee has been obtained, no window air conditioning units shall be installed in any side of any building.

(k) Every Living Unit shall be connected to the sanitary sewer and public water systems serving the Lots,

(l) Each Living Unit may have one or more utility areas, subject to the approval of the Advisory Committee. Each utility area shall be appropriately screened to hide from view all materials inside and the entrance thereto shall be screened, using materials and styling that is compatible with the materials, style, and general landscape of the Lot and the Properties.

(m) Except by approval of the Advisory Committee, no occupancy of any Living Unit shall be permitted until such time as the living unit, yard, and landscaping are completed.

(n) The Association shall be responsible for the maintenance of the storm water retention basins and/or any ponds located within the Properties and any costs incurred by the Association for such retention areas and/or ponds shall be levied upon all Owners as provided for in Article V.

(o) The finished grading for all Lots shall be completed in conformity with the recorded plat for the Properties and in such manner as to retain all surface water drainage from said Lot or Lots in "property line swale" designed to direct the flow of all surface waters into drainage easements as created by the overall drainage plan for the Properties, as approved by the municipal authority having jurisdiction over the Properties.

(p) Mail boxes, outside lighting and other post structures of each Living Unit shall be of a design consistent with the overall character and appearance of the house and as approved by the Advisory Committee. All mailboxes and paper boxes or other receptacles of any kind used in the delivery of mail, newspapers, or magazines shall be of uniform design and must be approved by the Advisory Committee and shall comply with the requirements of the United States Postal Service and shall not be erected or located on the Common Areas unless approved by the Advisory Committee.

(q) All landscaping shall be of the usual and customary design and materials that are, in the Advisory Committee's opinion, suitable for the architectural character of the Living Unit to be built on the Lot. No wall, hedge, or shrub planting which obstructs sight lines between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by three (3) points, the first being the street intersection at the street curb and two (2) points, one (1) each twenty-five (25) feet along each street curb from the first point (parallel to the street and in a direction away from the intersection). The same sight line limitations shall apply on any Lot within ten (10) feet of the intersection of the street curb line with the edge of a driveway. No trees shall be permitted to remain within such sight distances of the intersection unless the foliage line is maintained at a sufficient height to prevent obstruction of sight lines. Notwithstanding the foregoing, any government regulation requiring additional sight lines shall take precedence over this Section 8.1(q).

(r) No non-living structures, adornments, art, flagpoles, or any other item which is manufactured, created, or comes into being in its current state through some interaction with Person or machine, may be placed in, around, over or on the landscaping of any Lot without the consent of the Advisory Committee.

(s) All owners of Lots shall be responsible for the installation and maintenance of a sidewalk parallel to all streets adjacent to the Lot in a location to be determined by the Advisory Committee. All such sidewalks shall be constructed to meet or exceed the minimum standards required by the City of Knoxville and the County of Knox and the requirements of the Advisory Committee. The Advisory Committee has the sole discretion to determine whether said sidewalk construction is in accordance with this Paragraph.

Section 8.2 Variance. Any Owner may request a variance from the Design Restrictions contained in Section 8.1 hereinabove by submitting a written request with the Advisory Committee containing the specific variance sought. Any request for a variance shall be deemed to be disapproved for the purpose hereof in the event of either (i) written notice of disapproval from Developer or the Advisory Committee, or (ii) failure by the Advisory Committee to respond to the request for variances.

ARTICLE IX GENERAL COVENANTS AND RESTRICTIONS

Section 9.1 Common Areas. The General Common Areas shall be used only by the Owners and their agents, servants, tenants, family members, invitees, and licensees for access, ingress and egress from their respective Lots and for other purposes as may be authorized by the Association and this Declaration. The Condo Common Areas shall be used only by the owners of Condo Units and their agents, servants, tenants, family members, invitees, and licensees for access, ingress and egress from their respective Condo Units and for other purposes as may be authorized by the Association and this Declaration.

Section 9.2 Erosion Control. No Owner may undertake any activity that may create erosion or siltation problems on any Lot without the prior written approval by the Advisory Committee of plans and specifications for the prevention and control of such erosion or siltation. The Advisory Committee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water; special precautions in grading and otherwise changing the natural landscape, and required landscaping, as provided for in Section 8.2.

Section 9.3 Landscaping. No Owner may undertake any construction or alteration to the existing landscaping without the prior written approval of the Advisory Committee of plans and specifications for landscaping to accompany such construction or alteration. No trees, shrubs or evergreens on any Lot may be removed without the prior approval of the Advisory

Committee. Excepted herefrom are damaged or dead trees and trees that must be removed due to an emergency.

Section 9.4 Temporary Buildings and Residences. No bus, mobile home, trailer, camping unit, camping vehicle, motor home, or other vehicle, or outbuilding, basement, tent, shed, shack, garage or barn, or any vehicle or structure of any kind or type other than the main Living Unit erected on a Lot, shall at any time be used as a residence, temporarily or permanently, on any Lot or otherwise within the Properties. No Builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot without the prior written approval of the Advisory Committee. Notwithstanding the foregoing, temporary structures may be used by Developer (and/or Builder, with Developer's consent) as construction and/or sales offices and for related purposes during the construction period.

Section 9.5 Signs.

(a) No sign, advertisement, billboard or similar advertising or promotional material whatsoever (including but not limited to for rent, commercial and/or similar signs) shall, without the Advisory Committee's prior written approval of plans and specifications thereof; be installed, altered or maintained on any Lot, Condo Unit, or Living Unit, or on any portion of an Improvement visible from the exterior thereof; except:

(i) such signs as may be required by legal proceedings;

(ii) a sign indicating the builder, architect, and/or the bank providing the financing for the construction of the Living Unit on the Lot;

(iii) not more than one "For Sale" sign; provided, however, that in no event shall any such sign be larger than four square feet in area;

(iv) directional signs for vehicular and pedestrian safety in accordance with the plans and specifications approved by the Advisory Committee; and

(v) signs installed by Developer and/or Landview.

(b) Following the consummation of the sale of any Lot, Condo Unit, or Living Unit, the "For Sale" sign located thereon, if any, shall be removed immediately.

Section 9.6 Setbacks. All Buildings shall meet or exceed the minimum setback restrictions of the local municipal authorities having authority over the Lots. Furthermore, no Building shall be located on any Lot nearer to the front boundary than (30) thirty feet unless special permission coupled with a waiver is granted by the Advisory Committee. In the case of a Lot located at the intersection of two streets, the front of the Lot shall be deemed to be that side or portion of the Lot containing the driveway entrance. All other rear and side set back requirements shall comply with any rules established from time to time by the Advisory Committee, or if none, then with the regulations of the appropriate governmental authority or

agency and said authority or agency shall have exclusive authority to permit or deny variances in hardship cases for rear and side setback requirements. For the purpose of this covenant, eaves, steps, and open porches shall not be considered a part of the building, provided however, that this provision shall not be construed to permit any portion of the building to encroach on another Lot.

Notwithstanding the foregoing, in approving plans and specifications for any proposed structure, the Advisory Committee may establish further or additional setback requirements for the location of the structure which are more restrictive than those established by the Plat or this Declaration. No structure shall be erected or placed on any Lot unless its location is consistent with such setbacks.

Section 9.7 Fences and Walls. In general, fences and walls are not permitted within the Properties except for constructed by Developer or the Association. Hedges, berms, and other landscape alternatives are preferred provided, however, that such hedge, berm, or other landscape alternative shall not exceed forty-two (42) inches in height. No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the Advisory Committee of the plans and specifications for such fences and walls. No fence or wall shall be of a height of more than five (5) feet. Chain link fences are specifically prohibited. No fence or wall shall extend forward of the rear corners of the house. If the Lot is located on a corner, then no fence or wall shall be constructed forward of the front corners of the house or towards an adjacent road from any corner of the house. Notwithstanding the foregoing, all fences, if constructed, shall have a gate with a minimum inside clearance of sixty (60) inches.

Section 9.8 Roads and Driveways. No road, parking space or driveway, other than the original driveway provided by the Developer shall be constructed or altered on any Lot without the prior written approval of the Advisory Committee.

Section 9.9 Antennae. No Owner may erect, use, maintain, or permit to be erected any antenna, satellite dish or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation on the exterior of any Living Unit, Improvement, or any other structure without the prior written approval of the Advisory Committee. Notwithstanding the foregoing, an Owner may install one (1) eighteen (18) inch dish antenna for receiving analog or digital television signals provided said satellite dish is placed upon a pole, the top of said pole not to extend more than three (3) feet from the ground, and further provided that said satellite is not placed forward of the front face of the house or in the front yard. All said satellite dishes must be mounted on the main Living Unit or appropriate approved out-building. In no event shall freestanding transmission or receiving antenna or towers be permitted. No solar panels are permitted.

Section 9.10 Clotheslines. Clotheslines and other devices or structures designed and customarily used for the drying and airing of clothes, blankets, bed linen, towels, rugs or any other type of household ware shall not be permitted. Articles or items of any description or kind shall be strictly prohibited from being displayed or placed on or in any yard, Lot, or on the exterior of any Living Unit for the purpose of drying, airing or curing of said items.

Section 9.11 Vehicle Restrictions and Parking. In order to maintain the harmony and integrity of the Properties, residents are strongly encouraged to park vehicles in their garages. No bus, mobile home, motor home, trailer, truck (over one ton), motorcycle, commercial vehicle, camper, camper trailer, camping unit, camper vehicle, boat, boat trailer or recreational vehicle (which shall include without limitation, snowmobiles, trail bikes, travel trailers, vans, dune buggies, go carts and other off-street motorized vehicles of any kind and other vehicles as defined by the Board) shall be parked or kept on any undeveloped area in the Properties, any Common Area or any Lot at any time unless housed in a closed garage, except on such parking areas as may be specified and approved in writing in advance by the Advisory Committee. Each Owner and resident in the Properties is advised that any other vehicle determined to be objectionable and unsightly by the Advisory Committee must, upon notice from the Advisory Committee, be thereafter kept in a closed garage or removed from the Properties. No vehicle which is inoperable shall be habitually or repeatedly parked or kept on any Lot (except in a garage) or on any street in the Properties. No trailer, boat, truck, inoperable vehicle or any other vehicle shall be parked on any street in the Properties for a continuous period in excess of twenty-four (24) hours. No motor vehicle or other vehicle shall be continuously or habitually parked on any street or right-of-way in the Properties. No semi-tractor trailers, or other large trucks, vans or other large vehicles shall be permitted in the Properties except for limited periods for moving vans being utilized by residents for moving in and out of a residence, and except for such construction, delivery or other vehicles as may be required by Developer or Builders or as otherwise permitted and approved by the Advisory Committee.

Section 9.12 Recreational Equipment. No swimming pools, tennis courts, basketball courts or other recreational and/or playground equipment of any kind or type shall be erected, installed, maintained, or altered on any Lot without the prior written approval of the Advisory Committee. Above ground pools are strictly prohibited. The application for approval by the Advisory Committee shall include landscape plans for the area affected. If playground or recreational equipment is approved by the Advisory Committee, said playground or recreational equipment shall be located in the rear of the property. If a pool or tennis court is approved by the Advisory Committee, said pool or tennis court shall be located in the rear of the property and shall have a perimeter enclosure.

Section 9.13 Animals. No animals, including reptiles, livestock, or poultry of any kind, shall be raised, bred or kept on any Lot, except that a reasonable number of dogs, cats, or other traditional household pets may be kept in the residence on the Lot, provided they are not kept, bred or maintained for any commercial or breeding purpose. No dog or other pet houses, kennels, pens or runs are permitted on any Lot. No animal shall be allowed to become a nuisance. All animals shall be kept confined or on a leash. The Owners keeping any pets shall keep the Lot free of pet waste and feces, and any Person in charge of a dog, cat or other pet in the Common Area shall dispose of any feces dropped by the pet, in a prompt and sanitary manner, provided that the foregoing shall not be construed to permit any Person in charge of a pet or other animal to take the pet or animal on private property for said soiling purposes without the consent of the property Owner.

Section 9.14 Lease Provisions. No Lease of a Lot, Living Unit, Improvement, or Condo Unit shall be valid without the express written consent of the Advisory Committee.

No lease will be approved unless the term of such lease is at least six (6) months, it provides that it may never be deemed a month to month lease, and it requires the lessee to comply with the provisions of this Declaration, the Associations by-laws and any rule or regulations of the Association, all as in effect from time to time. Prior to the commencement of any lease, the lessor or lessee thereunder shall give notice in writing to the Secretary of the Homeowner's Association, stating the name and address of the lessee and the lease term, together with a copy of the lease. Such notice shall be executed by both the lessor and the lessee and shall contain a statement in favor of the Association that the lessee acknowledges that he or she has received and read this Declaration and the Association's by-laws and any rules and regulations of the Association and the lessee understands that he or she is bound by their provisions. Notwithstanding the foregoing, the Advisory Committee shall not be required to approve any lease, regardless of its terms. Approval will be at the Advisory Committee's sole and absolute discretion.

Section 9.15 Storage Tanks, Rubbish, and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for trash or rubbish. Trash, garbage and other waste shall not be kept except on a temporary basis and in concealed sanitary covered containers. No exposed above-ground tanks or receptacles shall be permitted for the storage of fuel, water, or any other substance, except for household refuse produced through normal daily living and of a nature satisfactory for pick-up by waste removal companies approved by the local government authority or the Association. Incinerators for garbage, trash, or other refuse shall not be used or permitted to be erected or placed on any Lot. All equipment, coolers, garbage cans, or other refuse containers shall be concealed from view of neighboring lots, roads, streets, and open areas. Notwithstanding the foregoing, nothing herein shall be interpreted to limit Developer or Builder, with Developer's approval, from placing, using, and maintaining upon any Lot a container deemed appropriate for construction refuse in Developer's sole opinion.

Section 9.16 Outside Lighting. Outside lights at eaves and door entrances shall be permitted, but no exterior flashing, or high intensity lights, floodlights, or spotlights on the exterior of any building shall be permitted, except with the prior written approval of the Developer and/or Advisory Committee. No color lens or lamps are permitted. All exterior lighting shall be consistent with the character established for the Subdivision and be limited to the minimum necessary for safety and identification. Exterior lighting of buildings for security and/or decorative purposes shall be limited to concealed up-lighting or down-lighting.

ARTICLE X EASEMENTS

Easements and other restrictions in conformity with the Plat are expressly reserved for the overall development of the Properties, and, except as otherwise provided on the Plat or herein, no easements, rights of way or rights of access shall be deemed granted or given to any Person or entity over, across, upon, or through any Lot in the Properties unless prior written permission is granted by Developer. Easements to each individual Lot for the installation and maintenance of utilities, for the installation and maintenance of communication and television lines, and for any drainage facilities are reserved on each Lot. Easements to each individual Lot

for the maintenance of the yard and flowerbeds are reserved on each Lot, regardless of whether said lot has now elected into the Lawn and Leaf Service. Nothing in this Article 10 shall be interpreted to imply that the existence of the easement to maintain creates a duty to maintain.

ARTICLE XI COMMISSION OF WASTE AND UNSIGHTLINESS

At no time shall any Lot or parcel be stripped of its topsoil or trees or allowed to go to waste or waste away by being neglected, excavated, or having refuse or trash thrown, dropped or dumped upon it. No lumber, brick, stone, cinder block, concrete block or other materials used for building purposes shall be stored upon any Lot for more than a reasonable time required for the completion of construction of the structure or structures in which they are to be used. Before or after construction, no Person shall place or leave on any Lot in the Properties, refuse, stumps, rock, concrete blocks, dirt, debris or building materials or any other undesirable materials. Any Person doing so shall within five days after notice is mailed by Developer or the Association, correct said condition and if the condition is not corrected within said time period, Developer or the Association shall have the right to injunctive relief against the Owner of the affected Lot and the contractor or agent of the Owner and the right to correct said condition at the Owner's expense. The cost of correcting any such condition shall be a lien upon the affected Lot.

ARTICLE XII MISCELLANEOUS

Section 12.1 Term. These covenants shall take effect immediately and shall be binding on all parties and all Persons claiming under them until the first day of January, 2036, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by a vote of the majority of the then Owners it is agreed to change said covenants in whole or in part.

Section 12.2 Enforcement. If the parties hereto or any of their heirs and assigns shall violate or attempt to violate any of the covenants, restrictions or provisions herein, it shall be lawful for the Association or any Owner to prosecute any proceeding at law or in equity against the Person(s) violating or attempting to violate any such covenants, restrictions or provisions and either to prevent the violation or recover damages or other dues for such violation and there shall be assessed against such Person(s) all cost, fees and expenses of collection, including without limit, preparing and filing the complaint in such action, and any judgment shall include interest and a reasonable attorney fee together with the costs of the action.

Section 12.3 Severability. Invalidation of any of these covenants by judgment or Court order shall not in any way affect any of the other provision, which shall remain in full force and effect.

Section 12.4 Waiver and Modification. Developer hereby reserves the right in its sole and absolute discretion, for any reason and at any time to annul, waive, change, supplement,

amend and/or modify any of the restrictions, conditions, provisions or covenants contained herein as to any part of the Properties subject to this Declaration. Developer shall have the right at any time and for any reason to change the size or location or to eliminate or relocate any of the Lots, parcels, streets or roads whether or not shown on any of the recorded plats of the Properties. Developer further reserves the right in its sole and absolute discretion, for any reason and at any time, to impose additional and separate restrictions on any Lot in the Properties until such Lots have been sold by Developer. Said restrictions need not be uniform, but may differ as to each Lot.

Section 12.5 Assignment or Transfer. Any and all of the rights, powers, duties and/or obligations, titles, easements and estates reserved or given to Developer in this Declaration may be assigned or transferred by Developer to any one or more Persons who will agree to assume and to carry out and perform said rights, powers, duties and obligations. Any such assignment or transfer shall be made in writing by appropriate instrument in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights, duties and/or obligations, and such assignee or transferee shall thereupon have the same sights and powers and be subject to the same obligations and duties as are herein given to and/or imposed upon Developer. Developer shall thereupon be released therefrom and shall have no further responsibilities to anyone in connection with said rights, powers, duties and/or obligations.

Section 12.6 Insurance. The Board, or its duly authorized agent, shall obtain such insurance policies upon the Common Areas as the Board deems necessary or desirable in its sole discretion. The named insured and loss payee on all policies of the insurance shall be the Developer and the Association until the occurrence of the Conveyance Event. Thereafter, the loss payee shall be the Association.

Section 12.7 Notice.

(a) **To Landview or the Developer.** Any notice, request, instruction or other document to be given hereunder to Landview or the Developer shall be in writing and shall be deemed to have been given, (i) when received if given in person, (ii) on the date of acknowledgment of receipt if sent by telex, facsimile or other wire transmission, or (iii) three days after being deposited in the U.S. mail, certified or registered mail, postage prepaid, at the following address or to such other individual or address as Landview, Developer, or the Association may designate by notice given as herein provided.

130 N. MARTINWOOD RD
KNOXVILLE TN 37923-5118

(b) **To Owner.** Any notice, request, instruction or other document to be given hereunder to Owner shall be in writing and shall be deemed to have been given, (i) when received if given in person, (ii) on the date sent if sent by telex, facsimile or other wire transmission, or (iii) three days after being deposited in the U.S. mail, certified or registered mail, postage prepaid, to the address of the Lot or Condo Unit owned by Owner.

c) To the Advisory Committee, or the Association. Any notice, request, instruction or other document to be given hereunder to the Advisory Committee or the Association shall be in writing and sent to the address provided below or to such other individual or address as the Advisory Committee or Association may designate by notice given as herein provided and shall be deemed to have been given when written notice of receipt is provided by the Advisory Committee or the Association.

AIMEE LEGGETT
108-2 GLENLEIGH COURT
KNOXVILLE, TN 37922

Section 12.8 Waiver. The failure of Landview, Developer, or the Association at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by Landview, Developer, or the Association of any condition or of any breach of any term, covenant, representation or warranty contained in this Declaration shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instances or a waiver of any other condition or breach of any other term, covenant, representation or warranty. No waiver of any term, covenant, representation or warranty contained in this Declaration shall create or imply a waiver of the same term as to another Person.

Section 12.9 Headings. The headings preceding the text of Articles and Sections of this Declaration are for convenience only and shall not be deemed part of this Declaration.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LANDVIEW PROPERTIES, LLC,
a Tennessee Limited Liability Company

By: _____

Title: _____

MICHAEL C. RHODES, LLC,
a Tennessee limited liability company

By: [Signature]
Title: Chief Manager

M&M HOMES, LLC,
a Tennessee limited liability company

By: [Signature]
Title: Chief Manager

MERIDIAN, LLC,
a Tennessee limited liability company

By: [Signature]
Title: Chief Manager

MALACHI, LLC,
a Tennessee limited liability company

By: [Signature]
Title: Chief Manager

3560/ DEED RESTRICTIONS FALCON POINTE