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Pamela L. Whitaker, Register  
Sumner County Tennessee

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This instrument prepared by:  
Boul, Cummings, Conners & Berry, PLC (PLA)  
1600 Division Street, Suite 700  
Nashville, Tennessee 37203

Res.

### DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (the "Declaration") is made and executed by OAKBROOK REALTY & INVESTMENTS II, LLC, an Illinois limited liability company ("Oakbrook"), and FOXLAND DEVELOPMENT CORPORATION, a Tennessee corporation ("Foxland").

#### WITNESSETH:

WHEREAS, Oakbrook is the holder of legal title to certain real property in Sumner County, Tennessee, being a portion of the property commonly known as the "Foxland" property, such real property being more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Foxland is the holder of equitable title to the Property as evidenced by that certain Memorandum of Purchase Agreement, dated as of October 4, 2005, between Oakbrook and FMP Investment LLC, of record in Record Book 2355, page 788, Register's Office for Sumner County, Tennessee, that certain Memorandum of Partial Assignment of Purchase Agreement, dated as of October 4, 2005, by and among Oakbrook, FMP Investment LLC and TLP DevCo LLC, of record in Record Book 2355, page 797, said Register's Office, and that certain Memorandum of Partial Assignment of Purchase Agreement, dated as of May 5, 2006, by and among Oakbrook, FMP Investment LLC, TLP DevCo LLC and Foxland, of record in Record Book 2501, page 286, said Register's Office; and

WHEREAS, Foxland intends to subdivide the Property into lots and intends to develop such lots as a residential development (the "Development"); and

WHEREAS, it is the intent of Oakbrook and Foxland to establish a general plan and uniform scheme of development and improvement of the Property; and

WHEREAS, Oakbrook and Foxland wish to provide for the preservation and enhancement of property values, amenities and opportunities within the Development in order to contribute to the personal and general health, safety and welfare of the property owners and residents therein, and to maintain the land and improvements therein, and to this end wish to subject the Property to the covenants, restrictions, easements, reservations, assessments, charges, liens and other provisions hereinafter set forth.

NOW THEREFORE, Oakbrook and Foxland hereby declare that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, reservations, assessments, charges, liens and other provisions hereinafter set forth in this Declaration of Covenants and Restrictions, and the provisions of the zoning ordinances of

the City of Gallatin, Tennessee, as same may now exist, or hereafter be amended, insofar as same are applicable to the Development.

NOW, THEREFORE, Oakbrook, as the holder of legal title to the Property, and Foxland, as the holder of equitable title to the Property, and for the purposes set forth above and further hereinafter set forth, declare as follows:

**ARTICLE 1 - DEFINITIONS.**

The following terms, as used in this Declaration, shall have the following meanings:

1.1 "ADDITIONAL PROPERTY" shall have the meaning set forth in Section 2.2.

1.2 "ARCHITECTURAL REVIEW BOARD" or "A.R.B." shall mean and refer to that permanent committee of the Association, created for the purpose of establishing and enforcing criteria for the construction of Improvements on the Property, and any modifications to Improvements, and reviewing and approving the plans for the same.

1.3 "ASSESSMENT" shall mean and refer to those charges made by the Association or, as to Neighborhood Assessments, by a Neighborhood Association, as applicable, from time to time, against Owners, for the purposes, and subject to the terms, set forth herein, including, without limitation, General Assessments (as defined in Section 6.2), Special Assessments (as defined in Section 6.3.1), emergency Special Assessments (as described in Section 6.3.2), Neighborhood Assessments (as described in Section 6.4) and Individual Assessments (as defined in Section 6.5).

1.4 "ASSOCIATION" shall mean and refer to Foxland Homeowners Association, Inc., a Tennessee corporation, not-for-profit, its successors and assigns, created or to be created to govern and for the purpose of providing maintenance services and owning and managing Common Property for the Development.

1.5 "BOARD" or "BOARD OF DIRECTORS" shall mean and refer to the Board of Directors of the Association.

1.6 "BY-LAWS" shall mean and refer to the By-Laws of the Association as attached hereto as Exhibit B as the same may be hereafter amended.

1.7 "CHARTER" shall mean and refer to the Charter of the Association as it may exist from time to time.

1.8 "CITY" shall mean the City of Gallatin.

1.9 "CLUB" shall mean the Owner of the Club Property, its successors, assigns and affiliates.

1.10 "CLUB PROPERTY" shall mean all of that portion of the Development designated on the Development Plan for recreational and social facilities constructed thereon, that will be operated by the Club, including, without limitation, the golf course, golf practice facilities and the club house. The Club Property is not Common Property.

1.11 "COMMON EXPENSES" shall mean and refer to all expenses incurred by the Association in connection with its ownership, maintenance and other obligations set forth herein.

1.12 "COMMON PROPERTY" shall mean and refer to all portions of the Property which are intended for the common use and enjoyment of the Owners and which either are identified as such on any recorded subdivision plats of the Property or are conveyed to the Association pursuant to any such subdivision plat, by deed, in this Declaration or in any other declaration of covenants and restrictions that may hereafter be recorded in the County. Common Property includes Exclusive Common Property, unless the context otherwise requires.

1.13 "COMMUNITY" shall mean and refer to the Development.

1.14 "COMMUNITY-WIDE STANDARDS" shall mean and refer to the standards of conduct, maintenance or other activity generally prevailing throughout the Community. Such standards may be more specifically determined by the Board of Directors and the A.R.B.

1.15 "COUNTY" shall mean and refer to Sumner County, Tennessee.

1.16 "DECLARATION" shall mean and refer to this instrument and all exhibits hereto, as the same may be amended and supplemented from time to time.

1.17 "DEVELOPER" shall mean and refer to Foxland for as long as Foxland owns legal or equitable title to any portion of the Property and thereafter shall mean and refer to Oakbrook for as long as Oakbrook owns legal or equitable title to any portion of the Property.

1.18 "DEVELOPMENT" shall mean and refer to the planned residential development project which is located in Sumner County, Tennessee and is now known as "Foxland", as the same is legally described in the zoning applications and approvals of the City of Gallatin Planning Commission; plus any additional property added by Developer, or by any other Person with the consent of Developer as provided herein, and made subject to this Declaration or substantially similar covenants and restrictions.

1.19 "DEVELOPMENT PLAN" or "MASTER PLAN" shall mean the master development plan of the Development, as amended and changed from time to time, which is approved by all applicable governmental authorities, specifically including, but not limited to, the City of Gallatin Planning Commission. Developer reserves the right for as long as Developer owns legal or equitable title to any portion of the Property to amend the Development Plan, to change the configuration of Lots, to change the number of Lots, to change the mix of Lot types within the Development and to increase or decrease the Common Property as determined by Developer in its sole and absolute discretion without the approval or the joinder by any other Person, including, without limitation, any Owner.

1.20 "EASEMENT BENEFICIARY" shall mean and refer to Developer for as long as Developer owns legal or equitable title to any portion of the Property and thereafter shall mean and refer to the Association.

1.21 "EXCLUSIVE COMMON PROPERTY" shall mean and refer to certain portions of the Common Property, including any improvements and fixtures thereon, the use of which has

been granted exclusively or primarily to one or more, but less than all, of the Lots for the common use and enjoyment of the Owners of such Lots. Such Exclusive Common Property shall be designated by a supplement or amendment to this Declaration.

1.22 "FOXLAND" shall mean and refer to Foxland Development Corporation, a Tennessee corporation, and its successors and assigns.

1.23 "IMPROVEMENTS" shall mean and refer to all structures of any kind, including, without limitation, any building, fence, wall, sign, paving, grading, parking and building addition, pool, alteration, screen enclosure, sewer, draining, disposal system, satellite dish, antenna, electronic and other signaling device, decorative building, landscaping or landscape device (including, existing and planted trees and shrubbery) or object.

1.24 "INSTITUTIONAL MORTGAGEE" shall mean and refer to (i) any Person who holds a first priority deed of trust lien of public record on a Lot, and (ii) any Person who holds any deed of trust lien of public record on a Lot given or assumed by Developer, whether a first priority deed of trust lien or otherwise, and their successors and assigns.

1.25 "LOT" shall mean and refer to any portion of the Property, whether developed or undeveloped, intended for development, use and occupancy as a residence located within the Development designated on the Development Plan or any amendment or supplement to the Development Plan, and shown on the plats of the Property. A parcel of vacant land shall be deemed to contain the number of Lots designated for residential use for such parcel on the Development Plan approved by Developer until such time as a subdivision plat has been recorded in the public records of the County. Each unit of a condominium or horizontal property regime shall be a separate Lot.

1.26 "MEMBER" shall mean and refer to a Person entitled to membership in the Association. Each Owner shall be a Member; provided, however, that there shall be no more than one Member for each Lot. Developer shall also be a Member of the Association, as provided in this Declaration and the By-Laws.

1.27 "NEIGHBORHOOD" shall mean and refer to any Lots that are designated as a Neighborhood by Developer in an amendment or supplement to this Declaration, in which Owners have common interests other than those to all Owners, such as a common theme, entrance feature, development name and/or Common Property and facilities that are not available for use by all Owners.

1.28 "NEIGHBORHOOD ASSESSMENTS" shall mean and refer to assessments levied by either the Association or a Neighborhood Association against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses.

1.29 "NEIGHBORHOOD ASSOCIATION" shall mean and refer to any property owners' association, or such other entity, its successors and assigns, that shall be responsible for administering any Neighborhood. A Neighborhood will not be required to have a Neighborhood Association.

1.30 "NEIGHBORHOOD DECLARATION" shall mean and refer to the protective covenants, conditions, restrictions and other provisions, if any, imposed by a recorded instrument upon one or more Neighborhoods. Except as may be required by applicable law with respect to a Neighborhood constituting a condominium or horizontal property regime, a Neighborhood will not be required to have a Neighborhood Declaration.

1.31 "NEIGHBORHOOD EXPENSES" shall mean, refer to and include those actual and estimated expenses incurred or to be incurred by the Association or by a Neighborhood Association, as applicable, primarily for the benefit of a Neighborhood or Neighborhoods as specifically authorized by the Board of Directors of the Association or the applicable Neighborhood Association, including, without limitation, expenses for lawn care and landscaping installation, maintenance, repair and replacement relating to the Lots within such Neighborhood.

1.32 "OAKBROOK" shall mean and refer to Oakbrook Realty & Investments II, LLC, an Illinois limited liability company, and its successors and assigns.

1.33 "OWNER" shall mean and refer to the record owner of the fee simple title to any Lot or other portion of the Property, other than the Association; provided, however, (i) any mortgagee or holder of a deed of trust lien shall not be an Owner unless and until such mortgagee or holder of a deed of trust lien has acquired fee simple title to a Lot or other portion of the Property pursuant to foreclosure or any proceeding in lieu of foreclosure, and (ii) as long as Foxland has legal or equitable title to a Lot or other portion of the Property, Foxland shall be the Owner as to such Lot or other portion of the Property.

1.34 "PERSON" shall mean and refer to any individual, corporation, partnership, trust, limited liability company or other legal entity.

1.35 "PROPERTY" shall mean and refer to that real property legally described in Exhibit A attached hereto and incorporated herein by reference and such additional property as may be subjected to this Declaration from time to time pursuant to Article 2 of this Declaration. The term "Property" includes "Additional Property" from and after the subjection of such Additional Property to this Declaration.

1.36 "RESIDENTIAL UNIT" shall mean and refer to each separate portion of the Property intended for use and occupancy as a residence by a single family. All Residential Units shall be shown and identified as numbered lots or units upon the recorded plats of the Property.

1.37 "STREET" shall mean and refer to any street, highway or other thoroughfare which is constructed within the Development and is dedicated to the Association by deed or on any plat of the Property, whether the same is designated as a street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, walk or other similar designation, and shall also include all drives that are designated as "driveway-common area" on the recorded plats.

1.38 "SURFACE WATER MANAGEMENT SYSTEM" shall mean and refer to those lakes, canals and other facilities created and used for drainage of the Property.

1.39 "TRAFFIC REGULATIONS" shall have the meaning set forth in Section 4.4.

## ARTICLE 2 - PROPERTY SUBJECT TO THIS DECLARATION

2.1 Existing Property. The initial property which shall be subject to this Declaration upon the recordation hereof in the Register's Office of the County is the Property.

2.2 Additional Property. Additional property may, at any time and from time to time, be subjected to this Declaration (the "Additional Property") by Developer or by any other Person, with the written consent and approval of Developer, by recording in the Register's Office of the County an amendment or supplement to this Declaration, describing such Additional Property. Except for an amendment or supplement subjecting property to this Declaration not owned by Developer, which must be signed by the owner of such property, such amendments and supplements to this Declaration may be made by Developer in its sole and absolute discretion without the approval of any Owners or the joinder of any Person. Additional Property will be shown on the Development Plan, as amended and supplemented, and will be developed in a manner compatible with the Development Plan.

2.3 Property Subject to this Declaration and Bylaws. The Property and the Additional Property shall be subject to the provisions of this Declaration and the Bylaws. This Declaration shall constitute covenants running with the land and binding upon all parties now owning or hereafter having or acquiring any right, title or interest in the Property, the Additional Property or any part thereof, and shall inure to the benefit of the Developer and each Owner. Every Person hereafter acquiring a Lot or any portion of the Property or the Additional Property, by acceptance of a deed to any interest in a Lot or any portion of the Property or the Additional Property, shall accept such interest subject to the terms of this Declaration, and by acceptance of the same shall be deemed to have consented to and agreed to be bound by the terms, conditions and covenants of this Declaration, including, without limitation, modifications or amendments to this Declaration made in accordance with the terms of this Declaration after the acquisition by such Person of such Person's Lot or any portion of the Property or the Additional Property.

2.4 Neighborhoods. Developer may, but is not required to, group Lots together into residential Neighborhoods. Developer may, but is not required to, record instruments subjecting a Neighborhood to a Neighborhood Declaration, upon which event that portion of the Property will then be subject to both this Declaration and such Neighborhood Declaration. A Neighborhood Declaration may also create a Neighborhood Association. A Neighborhood Association may have the same, additional or different rights, powers, duties or privileges with respect to such Neighborhood as the Association, in which event such Neighborhood may be subject to the jurisdiction of both the Neighborhood Association and the Association, and may cause the Owners of Lots within the Neighborhood to be members of the Neighborhood Association under such terms and conditions as may be provided therein, which may be the same or different from the terms and conditions of membership in the Association. When in conflict, this Declaration, the Charter and the By-Laws will prevail over the Neighborhood's constituent documents.

## ARTICLE 3 - THE FOXLAND OWNERS ASSOCIATION

3.1 Formation. At or about the time of the recording of this Declaration, Developer has caused the Association to be formed by the filing of the Charter in the Office of the Secretary of State of Tennessee and recording same in the Register's Office of the County. The

Association is formed to operate, maintain and own the Common Property and to enforce the covenants, conditions, restrictions and other provisions set forth in this Declaration, and for the enforcement of the rules and regulations, including traffic regulations, promulgated by the Association. The Association shall have such other specified rights, obligations, duties and functions as are set forth in this Declaration and in the Charter and the By-Laws of the Association. Subject to the additional limitations provided herein and in the Charter and By-Laws, the Association shall have all of the powers and be subject to all of the limitations of a not-for-profit corporation as contained in the Tennessee statutes in existence as of the date of recording this Declaration. The purposes and powers of the Association shall be all of the purposes and powers set forth in this Declaration and in its Charter and By-Laws. The Association shall provide an entity for the execution, performance, administration and enforcement of all terms and conditions of this Declaration. Developer, by including Additional Property within the Development, and subjecting the Additional Property to this Declaration, may cause additional membership in the Association and may designate the ownership basis for such additional membership.

3.2 Membership. Each Owner of a Lot, upon the acquisition of the Lot, shall automatically become a member of the Association and shall remain a member for so long as such Owner remains the Owner of the Lot. Such membership shall be mandatory and may not be terminated by any Owner. No Person who holds any type of interest whatsoever in a Lot as security for the performance of any obligation shall be a member of the Association.

3.3 Voting. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a Member, a Member's spouse, an officer or representative of an entity owner or by proxy. When more than one person holds an interest in any Lot, the vote(s) for such Lot shall be exercised as those Owners of such Lot themselves determine and advise the Secretary or an Assistant Secretary of the Association in writing prior to any meeting. In the absence of such advice, the vote(s) appurtenant to such Lot shall be suspended in the event more than one person seeks to exercise it. Such voting weight provided in the Charter and By-Laws shall continue upon the addition of all or a portion of the Additional Property to the Development. Each Owner, by acceptance of a deed or other conveyance for a Lot, consents and agrees to the dilution of Owner's voting interest in the Association by virtue of the submission from time to time of the Additional Property or any portion thereof to the terms of this Declaration as provided herein.

3.4 Administration of the Association. The affairs of the Association shall be administered by the Board of Directors in accordance with this Declaration, the Charter and the By-Laws of the Association. The Charter and By-Laws may be amended in the manner set forth therein; provided, however, that no such amendment shall conflict with the terms of this Declaration or adversely affect the rights of Developer, without Developer's prior written approval; and provided further that no amendment, alteration or rescission may be made which affects the rights or privileges of any Institutional Mortgagee, without the express prior written consent of the Institutional Mortgagee so affected. Any attempt to amend contrary to these prohibitions shall be of no force or effect.

3.5 Suspension of Membership Rights. No Member shall have any vested right, interest or privilege in or to the assets, functions, affairs or franchises of the Association, or any right, interest or privilege which may be transferable, or which shall continue after the Member's

membership in the Association ceases, or while the Member is not in good standing. A Member shall be considered "not in good standing" during any period of time in which the Member is delinquent in the payment of any Assessment or in violation of any provision of this Declaration, any rules or regulations promulgated by the Association or the Traffic Regulations. All such determinations shall be made by a majority of the Board of Directors. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of membership of the Association.

3.6 Control by Developer. Developer shall have the right to appoint three (3) members of the Board of Directors. Directors appointed by Developer need not be a Member of the Association, a member of any Neighborhood Association or an Owner. In the event that Developer shall enter into any contracts or other agreements for the benefit of Owners or the Association, Developer may, at its option, assign its obligations under the agreements to the Association, and in such event, the Association shall be required to accept such obligations.

#### ARTICLE 4 - COMMON PROPERTY AND CLUB PROPERTY

4.1 Common Property. The Common Property is intended for the use and enjoyment of the Owners and their guests and invitees. Unless previously conveyed to the Association, on the date that Commencement of Association Meetings occurs, as such date is defined in the By-Laws, Developer and Oakbrook, if Oakbrook is not Developer and has any remaining interest in the Common Property, shall convey title to the Common Property to the Association. Notwithstanding the manner in which fee simple title is held, the Association shall be responsible for the management, maintenance and operation of the Common Property and for the payment of all property taxes and other assessments which are liens against the Common Property, from and after the date of recordation of this Declaration.

4.2 Maintenance of Common Property. The Association is authorized to and shall, either by virtue of the appointment of a real estate management agent or through its own personnel, be responsible for the maintenance and repair of the Common Property, including the performance of obligations which may be placed upon the Common Property by applicable regulatory agencies. This maintenance obligation shall commence upon Developer's designation of the completion of any property or facility or portion thereof, which designation may be made solely at the discretion of Developer. Specifically, the property the Association shall maintain and be responsible for shall include, but not be limited to, the following:

4.2.1 Security Facilities. Such security system(s), guardhouse(s) and other security facilities which shall be operated and maintained for the benefit of the Lots within the Development.

4.2.2 Streets. All streets within the Development which are dedicated to the Association on any plat of any portion of the Property and which are deemed complete by Developer. The Association may also maintain and repair streets located within the Development which have been dedicated as public streets by plat or otherwise, including, without limitation, cutting grass and installing landscaping within the right of way of such streets.



4.2.3 Surface Waters. The Surface Water Management System, which shall be maintained as required by regulatory agencies.

4.2.4 Landscaping. All landscaping of the Common Property including, without limitation, all sodding, irrigation and the planting and care of trees and shrubbery. Although not included within the general definition of "Common Property", said irrigation system shall include the water withdrawal surface pump and transmission lines.

4.2.5 Signs. All signs located on the Common Property.

4.2.6 Maintenance Structures. All maintenance buildings located or to be located on the Common Property.

4.2.7 Fences. All fencing located on the Common Property and all perimeter fencing for which the Association holds an easement for construction and maintenance.

4.2.8 Historical Structures. All historical buildings that may be located on Common Property and dedicated to the Association.

4.2.9 Recreational Facility. The recreational related facilities, if any, located on real property owned by the Association.

4.2.10 Contracts. Developer, its affiliates, successors or assigns, may be the management agent for the Association and may hire such employees, including, but not limited to: attorneys, accountants, bookkeepers, gardeners, and laborers, as Developer may deem necessary in order to maintain the Common Property. No agreement between the Association and Developer, its successors or assigns, shall be held invalid solely for the reason that at the time of entering into the agreement, employees, officers or agents of Developer or its affiliates, successors or assigns are officers, directors and/or employees of the Association.

4.3 Rules and Regulations Governing Use of the Common Property. The Association, through its Board of Directors, shall regulate the use of the Common Property by its Members and Owners and may from time to time promulgate such rules and regulations consistent with this Declaration, governing the use thereof as it may deem to be in the best interest of its Members. Without limiting the foregoing, the Association shall have the right to promulgate rules and regulations governing use of golf carts within the Property by Owners, their guests and employees. No rules or regulations may be adopted which would adversely affect the rights of any Institutional Mortgagee, without prior written consent of such Institutional Mortgagee. A copy of all rules and regulations established hereunder and any amendments thereto shall be made available to all Members.

4.4 Traffic Regulations. The Association, through its Board of Directors, shall have the right to post motor vehicle speed limits throughout the Development, and to promulgate traffic regulations (the speed limits and traffic regulations are collectively referred to herein as the "Traffic Regulations") for use of the Streets. A copy of all Traffic Regulations established hereunder and any amendments thereto shall be made available to all Members at the office of the Association. The Association, through its Board of Directors, shall also have the right to establish enforcement mechanisms for violation of the Traffic Regulations, including without

limitation, the assessment of fines which shall be collected as an individual Assessment from Owners, the removal of vehicles from the Property, and the suspension of an Owner's rights and easements of enjoyment, as provided hereinbelow. Those who violate the Traffic Regulations shall be entitled to notice and a hearing before the Board of Directors, prior to the imposition of any fine, the removal of any vehicle, the deprivation of any rights or the enforcement of any other penalty for violation of the Traffic Regulations.

4.5 Owner's Easement of Enjoyment. Subject to the provisions hereinbelow, each Owner shall have a right and easement of enjoyment in and to the Common Property, which easement shall be appurtenant to, and shall pass with, the title to each Lot.

4.6 Extent of Owner's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

4.6.1 Borrowing and Mortgaging. The right of Developer and the Association to borrow money for the purpose of improving the Common Property and in connection therewith, to mortgage the Common Property, provided that no such loan or mortgage shall be effective unless approved by a two-thirds (2/3) vote of the total membership at duly called meeting of the Association, and unless written notice of the proposed agreement and action thereunder is sent to all Members at least ninety (90) days in advance of any action, and provided further, that any such loan or mortgage is approved in advance in writing by Developer during such time Developer owns any property within the Development.

4.6.2 Protection of Common Property. The right of Developer and the Association to take such steps as are reasonably necessary to protect the Common Property.

4.6.3 Suspension. The right of the Association to suspend the enjoyment rights and easement of any Owner for any period during which an Assessment remains unpaid by the Owner, and for any period during which the Owner is in violation of this Declaration or any of the rules and regulations promulgated by the Association or the Traffic Regulations.

4.6.4 Maintenance. The right of the Association to properly maintain the Common Property.

4.6.5 Standards of Conduct. The rules and regulations and the Traffic Regulations covering the use and enjoyment of the Common Property, as promulgated by the Association, as the same may be amended from time to time.

4.6.6 Restrictions of Record. Restrictions contained on any plat, or other instrument filed separately, with respect to all or any portion of the Property.

4.6.7 Constituent Documents. All of the provisions of this Declaration, the Charter and By-Laws of the Association and all exhibits thereto, and all rules and regulations adopted by the Association and the Traffic Regulations, as same may be amended from time to time.

4.6.8 Dedication or Transfer. The right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such

dedication, transfer or determination as to the purposes or conditions thereof shall be effective unless approved by a two-thirds (2/3) vote of the total membership at a duly called meeting of the Association, and unless written notice of the proposed agreement and action thereunder is sent to all Members at least ninety (90) days in advance of any action, and provided further, that any such dedication or transfer is approved in advance in writing by Developer during such time Developer owns legal or equitable title to any property within the Development.

4.6.9 Developer's Development Rights. The right of Developer to develop the Development. As a material condition for ownership of a Lot in the Development, each Owner releases Developer from any claim that the Owner might have for interference with such Owner's quiet enjoyment of the Common Property due to the development of the Development, whether or not the construction operations are performed on the Common Property, Property or Additional Property, or on any Lots in which Developer owns any legal or equitable interest, and each Owner acknowledges and agrees that Developer, as long as Developer owns legal or equitable title to any portion of the Property, shall have the sole right of design, construction, development and improvement of the Common Property, Property and Additional Property and the Lots owned by Developer.

4.6.10 Easements. The right of Developer to dedicate nonexclusive mutual access and utility easements across the Common Property to other properties within the Development, including additions to the Development.

For so long as Developer owns or has any use rights to any property subject to this Declaration, Developer shall have the right to transact any business necessary to consummate sales of property throughout the Development, including, but not limited to, the right to maintain office(s) on the Common Property in location(s) to be selected by Developer, to have employees in such offices, to construct and maintain other structures or appurtenances which are necessary or desirable for the development and sale of the Property throughout the Development including without limitation, sales models and parking lots; to post and display a sign or signs on any Lots owned by Developer or the Common Property; and to use the Common Property and to show Lots. Sales office signs and all other structures and appurtenances pertaining to the sale or development of property within the Development shall not be considered Common Property and shall remain the property of Developer.

After turnover of control of the Association, and regardless of whether Developer owns or has any use rights to any property in the Development, Developer or its assignee shall have the right, but not the obligation, to continue to exercise the rights granted to Developer under Section 12.6 hereinbelow at no cost or charge of any kind except its pro rata share of utility expenses and real estate taxes and payment of a rental for use of property based on the current market rate for commercial space in the County. This office shall be used as a real estate brokerage office to assist Owners in the sale or lease of their Lots and obtaining necessary approvals for such transfers. No other commercial or real estate offices shall be located on the Common Property after turnover of control of the Association.

4.7 Continual Maintenance. In the event of a permanent dissolution of the Association, the Members shall immediately thereupon hold title to the Common Property as tenants in common and shall collectively provide for the continued maintenance and upkeep thereof. In no event shall the County/City be obligated to accept any dedication offered to them

by the Association or the Members pursuant to this section, but said County/City may accept such a dedication and any such acceptance must be made by formal resolution of the then empowered governing board of the County/City.

4.8 Exclusive Common Property. Certain portions of the Common Property may be designated on the Development Plan, as amended and supplemented, as Exclusive Common Property and reserved for the exclusive use of Owners and occupants of certain designated Lots and/or Lots within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Exclusive Common Property may include recreational facilities intended for the exclusive use of Owners within a particular Neighborhood or Neighborhoods, and supported by Neighborhood Assessments.

4.9 Disclaimer of Warranties. The Association and the Owners agree that the Common Property is and will be received in its "as is, where is" condition and without recourse; that Developer disclaims and makes, and Oakbrook, to the extent Oakbrook is not Developer and conveys any interest in the Common Property, disclaims and makes, no representations, warranties or other agreements, express or implied, with respect to any of the Common Property, including, without limitation, warranties of merchantability or fitness for any purpose; and that no claim can be made by the Association, any Neighborhood Association or any Owner relating to the Common Property or for incidental or consequential damages arising therefrom.

4.10 Club Property. The Club Property will be privately owned and operated by the Club. The Club Property is not a part of the Common Property. The Club has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Club Property will be used. By way of example, but not limitation, the Club has the right to approve users and determine eligibility for use, to reserve use rights for future purchasers of Lots within the Community, to terminate any or all use rights, to change, eliminate or cease operation of any or all of the Club Property, to transfer any or all of its rights to the Club Property or the operation thereof to anyone and on any terms which it deems appropriate, to limit the availability of use privileges, and to require the payment of a purchase price, initiation fee, membership deposit, dues and other charges for use privileges. OWNERSHIP OF A LOT OR ANY PORTION OF THE PROPERTY AND/OR MEMBERSHIP IN THE ASSOCIATION AND ANY NEIGHBORHOOD ASSOCIATION DOES NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE THE CLUB PROPERTY, OR TO ACQUIRE A MEMBERSHIP IN THE CLUB AND DOES NOT GRANT ANY OWNERSHIP OR MEMBERSHIP INTEREST IN THE CLUB OR THE CLUB PROPERTY. Any entry upon the Club Property without permission of the Club will be deemed a trespass, and each Owner shall refrain from, and will cause all occupants of such Owner's Lot, their guests and invitees to refrain from, any unauthorized entry upon the Club Property. The proximity of Lots and Common Property to the Club Property results in certain foreseeable risks, including the risk of damage or injury from errant golf balls. Each Owner's use and enjoyment of the Owner's Lot and the Common Property may be limited as a result. NEITHER THE ASSOCIATION, ANY NEIGHBORHOOD ASSOCIATION, DEVELOPER, FOXLAND (IF FOXLAND IS NOT DEVELOPER), OAKBROOK (IF OAKBROOK IS NOT DEVELOPER) NOR THE CLUB WILL HAVE ANY OBLIGATION TO TAKE STEPS TO REMOVE OR ALLEVIATE SUCH RISKS, NOR WILL THEY HAVE ANY LIABILITY TO ANY OWNER OR OCCUPANT OF

ANY LOT, THEIR GUESTS OR INVITEES, FOR DAMAGE OR INJURY FROM GOLF BALLS BEING HIT UPON ANY LOT OR COMMON PROPERTY.

#### ARTICLE 5 - EASEMENTS

5.1 Easements. The following easements are hereby reserved, granted, established and/or created, as applicable, over, across and through the Property.

5.1.1 Utilities. Easements for the installation and maintenance of utilities are reserved, granted, established and/or created for the benefit of the Easement Beneficiary across the front, side and rear Lot lines of each Lot, in the dimensions set forth below, or as otherwise shown on the recorded subdivision plats of the Property, for present and future utility services to the Development, including, but not limited to, water lines, sanitary sewer lines, storm drainage culverts, sprinkler lines, natural gas lines, security wires, street lights, communication lines, communication devices, and other services. The easements shall run along the entire length of each front, rear and side Lot line for a width of (10) feet, unless a different width is shown on the recorded subdivision plat for a particular Lot, in which case such recorded subdivision plat shall control.

Within these easement areas, no structure, planting or other material (other than sod) which may interfere with the installation and maintenance of utility facilities shall be placed or permitted to remain unless such structure, planting or other material was installed by Developer or the installation of such structure, planting or other material was approved by Developer or the A.R.B. The Easement Beneficiary and its successors and assigns (or such other entity as is indicated on the plats of the Property), are hereby granted access to all easements within which such facilities are located for the purpose of operation, maintenance and replacement thereof.

In the event that Lots are recombined or reconfigured with the joiner of Developer, then the easements reserved, granted, established and/or created herein or pursuant hereto shall run along the newly established Lot lines and the easements along the old Lot lines shall be abolished, unless some easement is expressly reserved.

5.1.2 Drainage. Easements for the installation and maintenance of drainage facilities are reserved, granted, established and/or created for the benefit of the Easement Beneficiary to run along the entire length of each front, rear and side Lot line of Lots for the same widths set forth in Section 5.1.1 above or as otherwise shown on the recorded subdivision plats of the Property. In addition, an easement for the impoundment of waters is reserved upon each lake-front Lot for a width necessary to accommodate an increase in the elevation of any lake waters one (1) foot above its spill-way elevation.

Within these easement areas, no structure, planting or material (other than sod) which may interfere with the installation and maintenance of drainage facilities or which may obstruct or retard the flow of water through lakes, streams or drainage channels shall be placed or permitted to remain unless such structure, planting or other material was installed by Developer or the installation of such structure, planting or other material was approved by Developer or the A.R.B. The Easement Beneficiary and its successors and assigns shall have access to all such drainage easements for the purpose of operation and maintenance of the lakes, streams and Surface Water Management System.

In the event that Lots are recombined or reconfigured with the joinder of Developer, then the easements reserved, granted, established and/or created herein or pursuant hereto shall run along the newly established Lot lines and the easements along the old Lot lines shall be abolished, unless some easement is expressly reserved.

5.1.3 Maintenance and Operation. The Common Property is hereby declared to be subject to a perpetual, non-exclusive easement in favor of the Association in order that the employees and agents of the Association and of any management entity engaged by the Association may carry out the obligation of the Association to maintain the Common Property.

5.1.4 Development. Easements are hereby reserved, granted, established and/or created through the Common Property, including, without limitation, the Streets and the easements shown on the recorded subdivision plats of the Property, to Developer, for Developer's use and the use of Developer's agents, employees, licensees and invitees, for all purposes in connection with the development of the Property.

5.1.5 Access. A non-exclusive easement is hereby reserved, granted, established and/or created for ingress and egress over, across and through all Streets to Developer. This easement is subject to all reasonable rules and regulations promulgated by the Association from time to time.

5.1.6 Relocation of Existing Easements and Creation of Additional Easements. There is hereby reserved to the Easement Beneficiary and its successors and assigns the right, without the consent or approval of any other Person, including, without limitation, any Owner, being required, to grant such additional easements or to relocate existing easements on any portion of the Common Property, as the Easement Beneficiary shall deem necessary or desirable for the proper operation and maintenance of the Development, any portion thereof, or any addition thereto, or for the general health and welfare of the Owners, provided such additional easements or relocation of existing easements will not prevent or unreasonably interfere with the use or enjoyment of the Lots, and provided further, that the Property and the Improvements constructed thereon will not be structurally weakened thereby.

5.1.7 Easement of Entry. There is hereby reserved, granted, established and/or created for the Easement Beneficiary and its successors and assigns a special easement for the right to enter upon any Lot or Common Property, such entry to be made by personnel with tractors or other suitable devices, for the purposes of mowing, removing, cleaning, cutting or pruning underbrush, weeds or other unsightly growth, and for the purpose of building or repairing any land contour or other earth work, which in the opinion of the Easement Beneficiary detracts from or is necessary to maintain the overall beauty, ecology, setting and safety of the Property. Any such entrance shall be in compliance with the provisions of Section 10.1.9 hereof, and shall not be deemed a trespass. The Easement Beneficiary and its successors and assigns may likewise enter upon any Lot or Common Property to remove any trash which has collected and to remove any unauthorized Improvement, vehicle or other object, without such entrance and removal being deemed a trespass. The provisions in this paragraph shall not be construed as an obligation on the part of the Easement Beneficiary to undertake any of the foregoing.

5.1.8 Perimeter Fence Easement. There is hereby reserved, granted, established and/or created for the Easement Beneficiary and its successors and assigns an easement and

right, without the consent or approval of any other Person, including, without limitation, any Owner, being required, to construct a perimeter fence or wall on part or all of the perimeter of the Property depicted upon the Development Plan, as same may be amended from time to time, or upon any recorded subdivision plat of the Property, such easement attaching to the Property within twenty feet (20') of the outside edge of the Property and applying without distinguishing between Common Property and individual Lots, and includes the right to usual and necessary access to any such wall or fence constructed for purposes of maintenance, repair, removal and replacement. No gate or other opening in any fence or wall may be made by the Owner of any Lot without the consent of the Easement Beneficiary. The provisions in this paragraph shall not be construed as an obligation on the part of the Easement Beneficiary to undertake any of the foregoing.

5.1.9 Cost of Construction or Maintenance. There is hereby reserved, granted, established and/or created for the Easement Beneficiary and its successors and assigns the power and authority, without the consent or approval of any other Person, including, without limitation, any Owner, being required, to levy and collect from any non-Owner the cost of construction or maintenance, or both, of any easement or right of way of whatever nature, that the non-Owner uses or claims a right to use.

5.2 No Easement for View. Each Owner acknowledges that neither the Association, any Neighborhood Association, Developer, Foxland (if Foxland is not Developer), Oakbrook (if Oakbrook is not Developer), the Club nor any other Person, has made or is authorized to make, any representation or commitment that any view or vista will be preserved, protected or remain unobstructed, and that there are no express or implied easements for view purposes appurtenant to any Lot.

5.3 Golf Course Easement. There is hereby reserved, granted, established and/or created for the benefit of the Club a perpetual easement over the portion of each Lot adjacent to the Club's golf course as described herein for the construction, installation, operation, maintenance, repair and replacement of such golf course including, without limitation, (i) the right of individuals playing the golf course to go into such easement area for the purpose of searching for any ball which may have been hit into such easement area and, if the ball can be played without endangering any person or property, playing such ball, (ii) the right of the Club to install, maintain and replace trees, shrubs, plants, flowers, grass, sod and other landscaping and related improvements within such easement area as deemed appropriate by the Club, including, without limitation, the right to apply fertilizer and other chemicals, (iii) the right of the Club to construct, install, operate, maintain, repair and replace within such easement area irrigation systems for watering such trees, shrubs, plants, flowers, grass, sod and other landscaping and/or the Club's golf course and utilities needed for the operation and maintenance of such irrigation systems, and (iv) the right of the Club to install or place "out of bounds" signs or markers and/or other signs or markers within such easement area (but any such signs or markers shall not be deemed to indicate the boundary of such easement area which shall be as set forth herein). Further, no buildings, fences or improvements of any nature and no trees, shrubs, plants, flowers or other landscaping and no fertilizer or other chemicals shall be placed within such easement area by the Owner of such Lot without the prior written approval of the Club, and no trees, shrubs, plants, flowers grass, sod, other landscaping or related improvements existing within such easement area and no signs, markers, trees, shrubs, plants, flowers, grass, sod, other

landscaping or related improvements installed or placed within such easement area by the Club shall be destroyed, removed, disturbed or altered in any manner without the prior written approval of the Club. The golf course easement described herein shall exist on, over, across and under each Lot adjacent to the Club's golf course parallel and adjacent to the boundary between each such Lot and the Club's golf course for the entire length, or portion thereof, as applicable, as is adjacent to the Club's golf course and into each such Lot a distance equal to the greater of (i) fifteen feet (15') or (ii) the distance for the "golf course easement" set forth on any subdivision plat with respect to such Lot recorded in the Register's Office for Sumner County, Tennessee or (iii) the distance set forth in any other golf course or similar easement recorded in the Register's Office for Sumner County, Tennessee.

5.4 No Rights Established for the General Public. Except for rights created in the general public pursuant to a recorded subdivision plat of the Property or other instrument recorded in the Register's Office for Sumner County, Tennessee, no rights in the general public are intended to be created hereby.

## ARTICLE 6 - ASSESSMENTS AND LIEN

6.1 Authority of Association. The Association, through its Board of Directors, shall have the power and authority to make and collect Assessments as hereinafter set forth.

6.2 General Assessments. General Assessments (the "General Assessments") shall be assessed equally among all Members for each Lot and shall be determined annually for the purpose of maintenance and management of the Association, the Common Property and for the purpose of promoting the safety and welfare of the Owners. General Assessments shall be used for the payment of: operation, maintenance, and management of the Common Property; operations and maintenance of the Surface Water Management System; property taxes and assessments against and insurance coverage for the Common Property; legal and accounting fees; maintenance of the Streets and streets located within the Development which have been dedicated as public streets by plat or otherwise; security costs; management fees, normal repairs and replacements to the Common Property; charges for utilities used upon the Common Property; cleaning services for the Common Property; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against Members, Owners or others; maintenance of vacant Common Property; the creation of reasonable reserves; and all other expenses deemed by the Board of Directors of the Association to be necessary and proper for management, maintenance, repair, and operation of the Common Property and enforcement of this Declaration.

6.3 Special Assessments and Emergency Special Assessments. The Association shall have the power and authority to levy and collect special assessments as follows:

6.3.1 Special Assessments. The Association shall have the power and authority to levy and collect Special Assessments (the "Special Assessments") from the individual Lot Owners. Without limiting the foregoing, Special Assessments shall be used for the payment of the cost of construction of capital improvements to the Common Property; the cost of construction, reconstruction, unexpected repair or replacement of a capital improvement to the Common Property, including the necessary fixtures and personal property related thereto, and the



expense of indemnification of each director and officer of the Association and each member of the A.R.B. Special Assessments shall be assessed equally among all Owners.

6.3.2 Emergency Special Assessments. The Association may levy an emergency Special Assessment when, in the sole determination of the Board of Directors, there is potential danger of damage to persons or property. Such emergency Special Assessments may be utilized to pay for preventative, protective or remedial construction, reconstruction, improvements, repairs or replacements. Events justifying emergency Special Assessments include, but are not limited to hurricanes, tornados, floods, and fires. Emergency Special Assessments shall be collectible from individual Lot Owners in such manner as the Board of Directors shall determine.

6.4 Neighborhood Assessments. The Association or a Neighborhood Association, as applicable, shall have the power and authority to levy and collect Neighborhood Assessments from the individual Lot Owners within the applicable Neighborhood to fund Neighborhood Expenses. Neighborhood Assessments shall be assessed equally among all Lot Owners within the applicable Neighborhood, except as otherwise provided in this Declaration. Neighborhood Assessments shall be payable in such manner as determined by the Association or the Neighborhood Association, as applicable, levying such Neighborhood Assessments.

6.5 Individual Assessments. The Association shall have the power and authority to levy and collect an Individual Assessment (the "Individual Assessments") against a particular Lot for the cost of maintenance, repairs or replacements to the Lot or Improvements located thereon which the Owner thereon has failed or refused to perform, and which failure or refusal has, in the opinion of the Association, endangered or impaired the use or value of other portions of the Property. The Association shall have a right of entry onto the Property to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance, which right of entry shall be exercised only after the giving of reasonable prior notice and opportunity on the part of the Owner to abate or eliminate any non-emergency nuisance. The Individual Assessment may include an administrative fee charged by the Association in an amount to be determined by the Board of Directors in its discretion from time to time. All Individual Assessments shall be collectible in such manner as the Association shall determine. All Association By-Laws and Declarations shall provide for such Individual Assessment by the Association. In addition to the foregoing power and authority to levy and collect an Individual Assessment, the Association shall have the power and authority to levy and collect an Individual Assessment against any particular Lot for the cost of construction of sidewalks and planting any sod or other plantings based on community-wide standards in the event that residential improvements have not been completed on such Lot within twelve (12) months following the date that the particular Lot was transferred by Developer and/or Oakbrook (if Oakbrook is not Developer).

6.6 Effect of Non-Payment of Assessments. All notices of Assessments from the Association to the Lot Owners shall designate when the Assessment is due and payable. If any Assessment is not paid on the date when due, the Assessment shall then become delinquent, with a late charge and interest as determined by the Board of Directors, from the date when due until paid. The Assessment, together with interest thereon and the costs of collection thereof, including attorney's fees, shall be a continuing lien against all Lots owned or governed by, and all property owned by, the Lot Owner against which the Assessment is made. The Association may also record a claim of lien in the Register's Office of the County against all Lots owned or

governed by and/or all property owned by the delinquent Lot Owner against all Lots, setting forth the amount of the unpaid Assessment, the rate of interest due thereon, and the costs of collection thereof. If any Assessment, or any installment thereof, shall not be paid within thirty (30) days following the due date, the Association may declare the entire Assessment immediately due and payable.

6.7 Certificate of Assessments. The Association shall prepare a roster of the Owners and the Assessments applicable thereto, which roster shall be kept in the office of the Association and shall be open to inspection by all Owners. The Association shall prepare a Certificate of Assessments signed by an officer of the Association, setting forth whether the Assessments of an Owner have been paid and/or the amount which is due as of the date of the Certificate. As to parties without knowledge of any error who rely thereon, such Certificate shall be presumptive evidence of payment or partial payment of any Assessment therein stated as having been paid or partially paid.

6.8 Subordination of Lien to Mortgages. Regardless of the effective date of the lien of any Assessments made by the Association, such Assessment lien shall be subordinate and inferior to the lien of the mortgage or deed of trust of any Institutional Mortgagee. The Assessment lien shall also be subordinated to the lien of any mortgage or deed of trust securing a loan or loans made to Developer, whether a first mortgage or deed of trust or otherwise. Such subordination shall, however, apply only to the Assessments which have become due and payable prior to a final sale or transfer of the mortgaged Lot pursuant to decree of foreclosure, or in any other proceeding or conveyance in lieu of foreclosure of the mortgage or deed of trust. No sale or other transfer relieves any Owner from liability for any Assessment becoming due thereafter, nor from the lien of any such subsequent Assessment. Any delinquent Assessments which are extinguished pursuant to a sale or transfer in connection with the foreclosure of a mortgage or deed of trust or any proceeding or deed in lieu of foreclosure shall be allocated and assessed equally to all Lots. The written opinion of the Association that the Assessment lien is subordinate to a mortgage or deed of trust lien shall be dispositive of any questions of subordination; provided, however, that such opinion shall have no effect upon the priority of a mortgage or deed of trust securing a loan or loans made to Developer.

6.9 Exempt Property. The following property shall be exempt from the payment of all Assessments by the Association.

6.9.1 All Common Property.

6.9.2 Any portion of the Property dedicated or conveyed to any municipal corporation.

6.9.3 Any portion of the Property exempted from ad valorem taxation by the law of the State of Tennessee.

6.9.4 Property owned by Developer until, at Developer's option, (i) the Commencement of Association Meetings, or (ii) Developer chooses to pay regular and special assessments for Lots owned by Developer rather than funding any shortfall between the annual budget for the Association and the actual cost of operating and maintaining the Common Property.

6.9.5 At the sole discretion of Developer, property owned by a builder until the earlier of (i) the date such property is no longer owned by such builder or a successor in title thereto approved by Developer, or (ii) the date such property, if owned by Developer, would no longer be exempt from the payment of Assessments pursuant to subparagraph 6.9.4 above.

6.10 Developer's Obligation for Assessments. Until the Commencement of Association Meetings, Developer will pay the difference, if any, between the amount of the Assessments payable by the Owners other than Developer and the actual Common Expenses incurred by the Association for each Assessment period unless Developer otherwise elects to pay Assessments on the Lots owned by Developer, as provided above.

## ARTICLE 7 - MAINTENANCE OF PROPERTY

7.1 Owner Responsibilities: Lots. The Owner of any Lot shall be responsible for all maintenance and repair of such Lot, including, without limitation, the Improvements located thereon. If any Improvements are damaged by casualty, the Owner must immediately clear the site of casualty. If reconstructed, the reconstruction must be substantially in accordance with the original plans and specifications of the Improvements, or if not, then according to plans and specifications approved by the Architectural Review Board. Notwithstanding the foregoing, the Association or a Neighborhood Association, as applicable, may determine to perform lawn care and landscaping installation, maintenance, repair and replacement relating to Lots within a Neighborhood or Neighborhoods, which may include cutting of grass, edging, weeding, fertilizing, pest control, maintenance of that portion of the irrigation system serving such Neighborhood or Neighborhoods, and installing, maintaining, repairing and replacing trees, landscaping and other flora on such Lots.

7.2 Association Responsibilities. The Association shall be responsible for the maintenance of all Common Property, pursuant to Section 4.3 of this Declaration.

7.3 Individual Assessment. Notwithstanding anything contained in this section to the contrary, the expense of any maintenance, repair or reconstruction of any portion of the Common Property, or any other property to be maintained by the Association, necessitated solely by the negligent or willful acts of any Owner or his invitees, licensees, family or guests shall be born solely by such Owner, and such Owner's Lot shall be subject to an Individual Assessment for such expense by the Association. No Owner shall have the right to repair, alter, add to, replace, paint or in any other way maintain the Common Property or any other property to be maintained by the Association.

7.4 Architectural Review Board. All repairs and replacements which are to be made by an Owner pursuant to the provisions set forth hereinabove, shall be subject to the approval of the Architectural Review Board, as set forth in Article 9 of this Declaration.

## ARTICLE 8 - INSURANCE

The Association is hereby authorized to purchase property and casualty insurance and title insurance on the Common Property as well as liability, indemnity and fidelity insurance, in such amounts and with such companies as the Board of Directors shall deem appropriate.

**ARTICLE 9 - ARCHITECTURAL AND LANDSCAPING CONTROLS**

9.1 Architectural Review Board. It is the intent of Oakbrook and Foxland to create a general plan and uniform scheme of development of the Property and to create within the Property a residential community of high quality and harmonious Improvements. The location, construction and modification of Improvements and landscaping on a Lot must have the prior written approval of the Architectural Review Board (the "A.R.B."), and must comply with the general plan for development of all Lots within the Property, this Declaration and all applicable building, zoning or other governmental codes. The A.R.B. may, in its sole discretion, adopt and impose architectural and design standards and guidelines. EACH OWNER ACKNOWLEDGES THAT PRIOR TO SUBMITTING AN APPLICATION FOR A BUILDING PERMIT FOR ANY CONSTRUCTION OR LANDSCAPING OR MODIFICATION THEREOF ON ANY LOT, A SITE PLAN AND THE PLANS FOR SUCH CONSTRUCTION, LANDSCAPING OR MODIFICATION MUST HAVE RECEIVED THE WRITTEN APPROVAL OF THE A.R.B. For those Lots bordering on a lake, river or creek, the provisions of this paragraph shall apply to all Improvements within such lake, river or creek or on property between the Lot and such lake, river or creek, such as, without limitations, boat docks and piers, so that the location, construction and modifications of all such Improvements, even though not on a Lot, must have the prior written approval of the A.R.B. and must comply with the general plan for development of all Lots within the Property (including Improvements within any bordering lake, river or creek or on property between any such lake, river or creek and the Property), this Declaration and all applicable building, zoning or other governmental codes.

9.2 Creation Succession and Quorum. The A.R.B. shall be a permanent committee of the Association and shall administer and perform the architectural and landscape review and control functions of the Association. The initial A.R.B. shall consist of five (5) persons who shall initially be named by Developer and who shall hold office at the pleasure of Developer. Until Developer no longer owns legal or equitable title to any portion of the Property or at such earlier time as Developer may decide, Developer shall have the right to change the number of members on the A.R.B.; provided, however, that the A.R.B. shall at all times consist of at least three (3) members; to appoint all members of the A.R.B.; to remove and replace all members appointed to the A.R.B.; to fill any vacancy on the A.R.B.; and to determine which member of the A.R.B. shall serve as its Chairman; provided, that in the event that Developer fails to fill any such vacancy within thirty (30) days of such occurrence, the remaining members of the A.R.B. shall fill such vacancy by appointment. At such time as Developer no longer owns legal or equitable title to any portion of the Property or at such earlier time as Developer may decide, Developer shall assign to the Association the rights, powers, duties and obligations of Developer with respect to the A.R.B., whereupon the Board of Directors shall determine how many persons shall serve on the A.R.B. (provided that the A.R.B. shall at all times consist of no less than three (3) members), shall appoint the members of the A.R.B., shall remove and replace all members appointed to the A.R.B., shall fill any vacancy on the A.R.B. and shall determine which member of the A.R.B. shall serve as its Chairman. There shall be no requirement that any of the members of the A.R.B. be a member of the Association or any Neighborhood Association or an Owner within the Development. Any three (3) members of the A.R.B. shall constitute a quorum to transact business at any meeting, and the action of the majority present shall constitute the action of the A.R.B.

9.3 Construction and Alteration of Improvements. No Improvements shall be constructed, erected, removed or planted, nor shall any addition to or any change, replacement or alteration be made, unless and until the approval thereof shall be obtained in writing from the A.R.B.

9.4 Applications for Approval. Each applicant shall submit a preliminary application to the A.R.B. with respect to any proposed Improvement or Improvements that may be contemplated. The preliminary application shall include such information as may be required by the application form promulgated by the A.R.B. Prior to the commencements of any work on such Improvement, the plans and specifications therefor, including the identity of each contractor and subcontractor which is intended to be engaged for the construction of same, shall be subject to a final review and approval by the A.R.B. At that time, the applicant shall submit to the A.R.B. such additional information as the A.R.B. may reasonably require, which may include, without limitation, two (2) sets of plans and specifications (including a site plan) for the proposed Improvements sealed by an architect licensed in the State of Tennessee so that the A.R.B. may be able to adequately make the determinations required of it pursuant to this Declaration, surface water drainage plan showing existing and design grade and/or contours relating to the predetermined ground floor finish elevation as established by Developer, the landscaping design plan and irrigation system showing all proposed Improvements, including their site locations, two (2) copies of a detailed tree survey, showing all existing trees of four (4) inches or more in diameter and vegetation stands, and a written application on such form and together with such fees, as may be provided or required by the A.R.B. The A.R.B. may also require, without limitation, submission of samples of building materials and colors proposed to be used, as well as requiring the location of the proposed Improvements to be staked out on the ground.

9.5 Resubmittal. In the event the information submitted to the A.R.B. is, in the A.R.B.'s opinion, incomplete or insufficient in any manner, the A.R.B. may request and require the submission of additional or supplemental information.

9.6 Final Approval. No later than sixty (60) days after receipt of all information required by the A.R.B. for final review (unless the applicant waives this time requirement), the A.R.B. shall respond to the applicant in writing. The A.R.B. shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the A.R.B.'s sole discretion, for aesthetic or any other reasons. In approving or disapproving such plans and applications, the A.R.B. shall consider the suitability of the proposed Improvements, and the material of which the same are to be built, the site upon which such Improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. Further, the A.R.B. shall have the right to refuse to approve the contractor or any subcontractor intended to be engaged for construction of any Improvements in the A.R.B.'s sole and absolute discretion and to designate a list of contractors from which the applicant must choose the contractor to construct such applicant's Improvements. In the event the A.R.B. fails to respond within said sixty (60) day period (or such additional time as may be allowed by the applicant, pursuant to a written waiver), the plans and specifications shall be deemed approved by the A.R.B.

9.7 Expiration of Approval. In the event commencement of construction of the proposed Improvements does not occur within one hundred twenty (120) days of approval by the

A.R.B. (or the Board of Directors, in the event the decision of the A.R.B. is appealed to the Board of Directors), the approval of the A.R.B. and/or the Board of Directors will terminate and the Improvements will be treated as if originally disapproved.

9.8 Appeals. Upon approval by the A.R.B. of any plans and specifications submitted to the A.R.B., the A.R.B. shall notify the applicant in writing, which notification shall set forth any qualifications or conditions of approval. In the event that the A.R.B. disapproves any plans and specifications submitted to the A.R.B., the A.R.B. shall so notify the applicant in writing, stating the grounds upon which such disapproval is based. Any applicant may request a formal meeting with the A.R.B. to review the plans and specifications disapproved, said meeting to take place no later than thirty (30) days after written request for such meeting is received by the A.R.B. (unless applicant waives this time requirement in writing). The A.R.B. shall make a final written decision no later than thirty (30) days after such meeting. In the event the A.R.B. fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed approved. Upon continued disapproval, the applicant may appeal the decision of the A.R.B. to the Board of Directors of the Association within thirty (30) days of the A.R.B.'s written review and disapproval. Review by the Board of Directors shall take place no later than thirty (30) days subsequent to the receipt by the Board of Directors (unless applicant waives this time requirement in writing). If the Board of Directors fails to hold such a meeting within thirty (30) days after receipt of request of such meeting, then the plans and specifications shall be deemed approved. The Board of Directors shall make a final decision no later than thirty (30) days after such meeting. In the event the Board of Directors fails to provide such written decision within said sixty (60) days of the A.R.B.'s decision, such plans and specification shall be deemed approved. The decision of the Board of Directors shall be final and binding upon the applicant, his heirs, legal representatives, successors and assigns; provided, however, that no Improvements shall be erected or shall be allowed to remain which violate any of the covenants conditions or restrictions contained in this Declaration, or which violate any zoning or building ordinance or regulation.

9.9 Modifications of Plans and Specifications. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to the plans and/or specifications and/or the contractor to be engaged for the construction of the proposed Improvements approved by the A.R.B. shall be subject to the approval of the A.R.B. in the same manner as is required for approval of original plans and/or specifications and/or the contractor to be engaged for the construction of the proposed Improvements.

9.10 Enforcement. There is specifically reserved unto the A.R.B., and to any agent or member of the A.R.B., the right of entry and inspection upon any portion of the Property for the purpose of determination by the A.R.B. whether there exists any construction of any Improvement which violates the terms of any approval by the A.R.B. or terms of this Declaration, or any amendments thereto, or of any other covenants, conditions and restrictions to which any deed or other instrument of conveyance makes reference. If any Improvement of any nature shall be constructed or altered without the prior written approval of the A.R.B., the Owner shall upon demand of the Association, cause such Improvement to be removed, or restored in order to comply with the plans and specifications originally approved by the A.R.B. The Owner shall be liable for the payment of all costs of such removal or restoration, including all costs and attorney's fees incurred by the Association. Such costs may also be the basis for an Individual

Assessment. The A.R.B. is specifically empowered to enforce the architectural and landscaping provisions of this Declaration, and, if necessary and upon obtaining approval from the Board of Directors, is empowered to impose reasonable monetary fines and/or to file suit at law or in equity to enforce such provisions. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement or to remove any unapproved Improvement or restore any tree or natural area, the Association shall be entitled to the recovery of court costs, expenses and attorney's fees in connection therewith. All costs, expenses and attorney's fees of the A.R.B., including those incurred in connection with its enforcement or other powers, as provided herein, shall be borne by the Association; provided, however, that nothing herein shall be deemed to negate the Association's right to an award of the Association's and the A.R.B.'s attorney's fees and costs if the Association is the prevailing party in any administrative or judicial proceeding. In the event that any Owner fails to comply with the architectural and landscape provisions contained herein or any rules and regulations promulgated by the A.R.B., the A.R.B. may, in addition to all other remedies contained herein, record against that Owner's Lot a Certificate of Non-Compliance stating the Improvements on the Lot fail to meet the requirements of the A.R.B.

9.11 Design Guidelines. The A.R.B. shall publish or modify from time to time, design and development standards (the "Design Guidelines") for the entire project, including, but not limited to, the following:

- Roof and roof design
- Fences, walls and similar structures.
- Exterior building materials and colors.
- Exterior landscaping.
- Signs and graphics, mailboxes, address numbers and exterior lighting.
- Building set backs, side yards and related height, bulk and design criteria.
- Driveways, sidewalks, pedestrian and bicycle ways, pathways and trails.
- Plumbing and wastewater fixtures and systems.
- Minimum square footages, which may vary among Phases.
- Garage placement and design.
- Design styles

9.12 Developer Exemption. Anything contained herein to the contrary notwithstanding, any Improvements of any nature made or to be made by Developer, including, without limitation, Improvements made or to be made to the Common Property, shall not be subject to the review of the A.R.B.

9.13 Fees and Consultants. The A.R.B. may adopt a schedule of reasonable fees for processing requests for approval. Such fees, if any, shall be payable to the Association at the time that the plans and specifications and other documents are submitted to the A.R.B. The payment of such fees, as well as other expenses of the A.R.B. required to be paid, shall be deemed to be an Individual Assessment, enforceable against the Owner and the Lot as provided hereinabove. The A.R.B. is expressly reserved the right and power, exercisable in its sole discretion, to procure the services of a consultant of its own choosing for purposes of assisting the A.R.B. in its review of any plans or specifications, and the cost of such consulting services shall be the responsibility of the respective applicant or Owner of the Lot.

9.14 Exculpation and Indemnity. Neither Developer, Foxland (if Foxland is not Developer), Oakbrook (if Oakbrook is not Developer), the Association, the directors or officers of the Association, the members of the A.R.B., nor any Person acting on behalf of any of them, shall be liable for any costs or damages incurred by any Owner or the Association or any other party whatsoever, due to any mistakes in judgment, negligence or any action of the A.R.B. in connection with the approval or disapproval of plans and specifications. Each Owner and occupant of any property within the Development agrees, as do their successors and assigns by acquiring title thereto or an interest therein, or by assuming possession thereof, that they shall not bring any action or suit against Developer, Foxland (if Foxland is not Developer), Oakbrook (if Oakbrook is not Developer), the Association, the directors or officers of the Association, or the members of the A.R.B. in connection with the approval or disapproval of plans and specifications and/or the contractor to be engaged for the construction of any proposed Improvements. The Association shall indemnify, defend and hold the A.R.B. and each of its members harmless from all costs, fees and expenses (including attorneys' fees and the expenses of expert consultants) which the A.R.B. or its members may incur on account of any claim in connection with the approval or disapproval of plans and specifications and/or the contractor to be engaged for the construction of any proposed Improvements. Neither Developer, Foxland (if Foxland is not Developer), Oakbrook (if Oakbrook is not Developer), the Association, the directors or officers of the Association, the members of the A.R.B., nor any Person acting on behalf of any of them, shall be responsible for any plans or specifications, nor for any defects in any Improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

## ARTICLE 10 - USE RESTRICTIONS

10.1 Restrictions on use of Lots. The following restrictions shall apply to Lots as indicated. The term "Lots" indicates applicability to all.

10.1.1 Lot Restrictions. One (1) Lot, as shown on the plats for the Lots, shall be the minimum land area upon which a Residential Unit, may be constructed, with the exemption of condominium and multifamily units, which shall indicate lot times total number of units.

10.1.2 Floor Area. Minimum square footage of each Residential Unit shall be outlined in the Design Guidelines.

The design of all floor areas are subject to A.R.B. approval. The calculation of square footage shall not include garages, covered walks, open and/or screen porches, patios and pool areas. Square footage measurements shall be taken from outside exterior walls of Residential Units. The A.R.B. may grant variances as regards first floor minimum footage for designs to fit the particular topography of any building site.

10.1.3 Garages. Each Residential Unit shall have sufficient enclosed garage space for any and all family-owned or leased vehicles, and each garage shall contain at least two (2) spaces for said vehicles. Garage doors shall be kept in closed position when garage is not being used. No carports will be permitted, provided the A.R.B. may, in its sole discretion, permit a porte-cochere. The A.R.B. shall be the sole judge of whether detached or attached garages shall be permitted in each case. The A.R.B. may waive the requirements of this Section where the



topography of the particular building site make compliance therewith impracticable, or where condominium or multifamily residential units apply. Any work on, or servicing of, vehicles must be performed within the garage. Vehicles may not be assembled, disassembled, serviced or worked on in plain view on any Lot.

10.1.4 Clearing and Removal of Trees. In reviewing building plans, the A.R.B. shall take into account the natural vegetation, such as trees and shrubs, located on or near a Lot, and shall encourage the Owner to incorporate them in such Owner's landscaping plan. No Lot may be cleared for any reason without the prior written approval of the A.R.B. No trees of four (4) or more inches in diameter at two (2) feet above the natural grade shall be cut or removed without the prior written approval of the A.R.B. When such a tree is removed the Owner will replace it with a similar tree of equal value on another portion of the Lot, if so directed by the A.R.B.

10.1.5 Landscaping. The A.R.B. must approve all landscaping plans for all Property, including Lots. Vegetable and herb gardens are not allowed in front or side yards without the prior written approval of the A.R.B.

10.1.6 Accessory Buildings. No accessory building of any kind will be permitted on any Lot, but cabanas, gazebos, pool houses and similar structures will be permitted within the prescribed setbacks with the prior written approval of the A.R.B.

10.1.7 Construction Phase. During construction of a Residential Unit or other Improvement, the Lot shall be kept in a neat and orderly condition so as not to cause an unsightly condition of the Lot. In the event the Owner or his agent or employee (including, without limitation, any contractor or subcontractor) shall fail to maintain the construction site as specified herein and such failure continues for at least seven (7) days following delivery of written notice thereof from the Association, the Association shall have the right, exercisable in its sole discretion, to remove any rubbish, refuse, unsightly debris and/or growths from the Lot. In the event the Association, after such notice, causes the subject work to be done, then, and in that event, the costs of such work, together with interest thereon at the maximum rate permitted by the usury laws of the State of Tennessee, shall be charged to the Owner as an Individual Assessment, and shall become a lien on the subject Lot, which lien shall be effective, have priority and be enforceable pursuant to the procedures set forth in Article 6 of this Declaration.

10.1.8 Temporary Structures; Decorations. No structure or object of a temporary character, such as, but not limited to, trailers, construction trailers, tents, shacks, sheds and garages, barns, or other temporary or other outbuildings shall be erected, kept or maintained on any Lot for any use whatsoever, either temporarily or permanently, except that a temporary construction office may be used on a Lot when approved, in advance, by the A.R.B. The architectural site plan shall indicate the location of such temporary structure and shall include drawings reflecting the appearance of same. Holiday decorations must be removed within sixty (60) days of the holiday.

10.1.9 Maintenance of Lots. All Lots shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. All Lots and all areas between Lot lines and pavements shall be maintained by the Owners in the manner required by the Association. In the event an Owner fails to maintain such Owner's Lot as aforesaid, the Association shall have the right, exercisable in its sole discretion, to mow,

burn or clear any weeds, grass, underbrush or unsightly debris and/or growths from any Lot deemed by the Association to be a health menace, fire hazard or a detraction from the aesthetic appearance of the Development; provided, however, that at least seven (7) days prior notice shall be given by the Association to the Owner of such Lot before such work is done by the Association. In the event the Association, after such notice, causes the subject work to be done, then, in that event, the costs of such work, together with interest thereon at the maximum rate permitted by the usury laws of the State of Tennessee, shall be charged to the Owner and shall become a lien on the subject Lot, which lien shall be effective, have priority and be enforceable pursuant to the procedures set forth in Article 6 of this Declaration. Such entry by the Association shall not be deemed a trespass. The Association may also, at the request of any Lot Owner, including Developer, and for an agreed charge to the Lot Owner, maintain any undeveloped Lots, so as to prevent such undeveloped Lots for becoming unsightly as defined hereinabove. The costs of such work, together with interest thereon at the maximum rate permitted by the usury laws of the State of Tennessee, shall be charged to the Owner and shall become a lien on the subject Lot, which lien shall be effective, have priority and be enforced pursuant to the procedures set forth in Article 6 of this Declaration.

10.1.10 Setbacks. All setbacks will be as shown on the recorded plats. However, the A.R.B. may impose additional requirements as each individual case may necessitate during the A.R.B.'s approval process.

10.1.11 Fences, Walls, and Hedges. The composition, location and height of any fence, wall or hedge to be constructed on any Lot shall be approved in advance by the A.R.B. The A.R.B. shall require the composition of any fence, wall or hedge to be consistent with the material used in the surrounding Residential Units and other fences, if any. Chain link fencing may not be used except as permitted by the A.R.B. in its sole and absolute discretion.

10.1.12 Swimming Pools. Any swimming pool, hot tub or Jacuzzi to be constructed on any Lot shall be constructed in the ground and subject to the requirements of the A.R.B., which shall include, but not be limited to, the following:

- (1) Composition to be of material thoroughly tested and accepted by the industry for such construction.
- (2) Swimming pools, pool decks, fencing, screen enclosures and patio and terrace slabs may not extend into the minimum yard setback areas, except by special permit from A.R.B.
- (3) Landscape, pool, recreation and security lightings shall be designed so as to not be an annoyance to the surrounding residents. Such lighting shall not be controlled by light sensitive switches. Time clock controls may be used but in no event shall such lighting (other than low level lighting) be permitted to be on after ten-thirty (10:30) p.m. Central Standard or Daylight Savings Time.
- (4) If an Owner elects to purchase two (2) adjoining Lots and to use one (1) of those Lots for recreational purposes, the Lot used for recreational purposes must be adequately screened by landscaping and/or walls or fences on both the front and

sides, as required by the A.R.B. It shall be the intent of the A.R.B. to screen any such recreational facilities from the public view.

- (5) Pools may be heated only through methods approved by the A.R.B.
- (6) Pools must be located in the rear of the house unless otherwise approved by the A.R.B.

10.1.13 Swales. Each Lot Owner shall refrain from altering or interfering with the functioning of all swale areas abutting such Owner's Lot.

10.1.14 Driveway. All driveways and parking areas shall have hard impervious, dustless surfaces, such as concrete, brick or uncrushed stone. However, in no event will asphalt be permitted. Driveways may connect to Streets at only two (2) points for each Lot and such connection shall provide continuity of any drainage swale or curb and shall blend into the Street pavement. No curbside parking areas may be created by extending any portion of Street pavement. The design and location of all driveways shall be approved in advance by the A.R.B.

10.1.15 Utilities. The central water and sanitary sewage system provided for service of the Property shall be used by all Owners. Each Owner shall connect such Owner's water line to the water distribution main serving such Owner's Lot and shall connect such Owner's sanitary sewer line to the sanitary sewage collection line serving such Owner's Lot and shall pay all availability charges, connection charges, periodic charges and the like in connection therewith. Each Owner shall maintain and repair such Owner's water and sanitary sewer lines up to the point of delivery and collection. No individual water supply system shall be permitted. No water shall be obtained from any lake, stream or water body. No septic tank or drain field shall be allowed on any Lot.

10.1.16 Lot Filling. No Lot may be cleared, graded, cut or filled for any reason until the A.R.B. has reviewed and approved the preliminary application for the Residential Unit. The site plan, along with the tree survey and other documents required by the A.R.B., must clearly delineate the extent of clearing, grading, cutting and filling.

10.1.17 Lots Bordering on Lakes. Lots bordering on lakes shall be required to provide shoreline gradings, using swale and earthen berm design, to detain a minimum of one (1) inch of surface water run-off from all impervious paved surfaces. Such design shall appear on the landscaping plan for the Lot, and shall be evidenced by grade elevations and profile drawings showing typical cross-sections. A combination of the above alternatives shall be responsible for providing to the A.R.B. sedimentation control plans and devices to insure that the development of all Improvements shall not cause filling or damage to the lakes.

10.2 Restrictions on Lots and the Property. The following restrictions shall apply to all Lots and the Property, as indicated.

10.2.1 Residential Use. Except as otherwise specifically provided in this Declaration, all residences shall be used only as private residential dwellings and for no other purpose. No business or commercial buildings may be erected on any Lot and no business may be conducted on any part thereof, except as specifically reserved herein. Garage, yard and estate

sales are not permitted on any Lot. No Residential Unit may be rented or leased for use as a dwelling by someone other than the Owner of the Residential Unit for an initial term of less than six (6) months. All owners, by purchase of a Lot in the Development, acknowledge that all social and recreational structures and activities located on the Common Property and permitted under the rules and regulations of the Association are allowed under the terms of this paragraph.

10.2.2 Clotheslines. No clothesline or outside drying area shall be located on any Lot.

10.2.3 Residential Graphics: Signs. The size and design of all signs and the numbering for the Lots, mailboxes and other such materials shall be approved by the A.R.B. and shall display continuity and conformity throughout the Development. Except in connection with development or sales of property throughout the Development by Developer, no signs, billboards, advertisements or notices of any kind, including, without limitation, "For Sale" or "For Rent" signs, shall be displayed for public view on any Lot or on the Property, without the prior written approval of the A.R.B., or except as may be required by legal proceedings, it being understood that the A.R.B. will not grant permission for signs unless their erection is reasonably necessary to avert serious hardships to the Owner. If such permission is granted, the A.R.B. reserves the right to restrict size, color, content and location of such sign(s). Notwithstanding the foregoing, political signs in yards can be put up no more than thirty (30) days before the election and must be taken down no later than seven (7) days after the election; provided, the A.R.B. may adopt rules concerning the size and location of such signs. No sign shall be nailed or attached to any tree. The A.R.B. shall have the right to adopt reasonable rules regarding signs to be used during construction of residences and other buildings, such as Owner identification, name of contractor or architect, etc.

10.2.4 Garbage and Trash Containers. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers and except as required during trash collection, all containers shall be kept within an enclosure which the A.R.B. shall require to be constructed on each Lot.

10.2.5 Antenna and other rooftop accessories. No radio, television or other electronic antenna, aerial or satellite receiving dish, or other reception or transmission device may be erected or maintained anywhere on the Property or on the exterior of any residence (unless installed by Developer or the Association), without the prior written approval of the A.R.B.

10.2.6 Nuisances. No use or practice which is either an annoyance to Owners or an interference with the peaceful possession and use of the Property by Owners shall be allowed. No Owner shall commit or permit any nuisance or any immoral or illegal activity on or about the Property. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of the Owners, or allow any such noise or disturbance to be made on or about his Lot.

10.2.7 Boats, Trailers and Motor Vehicles. Except as specifically allowed and approved in advance by the Association, no commercial vehicles, boats, boat trailers, buses, house trailers, motor homes, trucks, camping trailers, vans, motorcycles, motor scooters, go-carts, motorbikes or other similar vehicles ("Nonpermitted Vehicle"), whether of a recreational

nature or otherwise, with the exception only of four-wheel passenger automobiles and pickup trucks, shall be placed, parked or stored upon any Lot. The Association shall grant an Owner permission to bring onto the property a Nonpermitted Vehicle upon application by the Lot Owner if the Association finds that an A.R.B. approved garage is available for storage of the Nonpermitted Vehicle and the Nonpermitted Vehicle is owned by the Lot Owner. Upon showing written evidence of such approval at the entry, the Owner may bring such Nonpermitted Vehicle onto the property and park it inside the approved garage. The Owner shall be permitted to have a boat outside for up to, but no more than, seventy-two (72) hours preparing it for storage. For those Lots bordering on a lake, river or creek, whether with or without Improvements such as a boat dock or pier in such lake, river or creek, the mooring or storage of boats, jet skis and similar water craft either within such lake, river or creek or on property between a Lot and such lake, river or creek shall be subject to such rules and regulations relating thereto as the Association shall promulgate from time to time.

Vehicles of repairmen, delivery men, moving vans, temporary guests or vehicles owned or leased by member of the Owner's family may be parked at curbside or on the driveways and private parking areas of a Lot for no longer than eight (8) hours in a twenty-four (24) hour period. In no event shall any vehicles be allowed to block traffic flow. Furthermore, guests of an Owner, visiting for an extended period of time, may park their vehicles on the driveways and private parking areas of a Lot for the duration of their stay. The Association shall have the right to authorize the towing of any vehicles which are in violation of these provisions, or the Traffic Regulations promulgated by the Association, and to collect the cost thereof from Owners, as an Individual Assessment.

10.2.8 Single Family Occupancy. The residents of each Residential Unit shall be limited to the members of one (1) family. For purposes of this section, "family" shall mean and refer to a group of persons, each of whom is related to each other member of the group through blood or through marriage or similar committed relationship either as husband and wife or equivalent designation or as siblings or in direct lines of ancestry or descent. This residency limitation shall not be construed to prohibit the temporary occupancy of a residence by nonfamily members for a period not exceeding thirty (30) consecutive days, provided that any such periods of occupancy of a Residential Unit by nonfamily members shall not exceed the periods of occupancy solely by family members during any measured period of sixty (60) consecutive days.

10.2.9 Location of Improvements and Access. All Residential Units shall be constructed wholly within the applicable Lot, and legal access to all Lots shall be exclusively by way of the Streets and public roads and driveways shown on the Development Plan or as dedicated on the recorded plats of the Property.

10.2.10 Home Occupation. Home occupations may be practiced in any Residential Unit subject to the following limitations:

- (1) The home occupation shall be located and conducted inside dwelling units only;
- (2) The principals and any other persons employed on the property in furtherance of the home occupation shall be residents of the dwelling unit in which it is located; provided, however, that where the A.R.B. finds that a hardship exists, one (1)

- nonresident of the property may be employed on the property in furtherance of the home occupation on a temporary basis for a period not to exceed twelve (12) months;
- (3) Not more than ten percent (10%) of the total floor area in the dwelling unit shall be devoted to the home occupation;
  - (4) The dwelling unit shall not be used as a primary or incidental storage facility for a business, industrial, commercial or agricultural activity conducted elsewhere;
  - (5) No articles, materials, goods or equipment indicative of the home occupation shall be visible from any Street or public road or driveway or stored outside the dwelling unit;
  - (6) The home occupation shall not be advertised by the display of goods or signs on the Lot on which it is located;
  - (7) The proposed uses shall not generate noise, odor, fumes or smoke, nor create a nuisance of any kind which would adversely affect the residential character of the Development;
  - (8) No traffic shall be generated by the home occupation in greater volume than would normally be expected in a residential neighborhood;
  - (9) Teaching, including but not limited to tutoring and art, music and dance lessons, shall be permitted provided that it is limited to one (1) pupil at any given time;
  - (10) Barber shops, beauty shops, gift shops, gun sales, florist shops or other retail activities that are traditionally conducted in a commercial zoning district shall not be permitted under any circumstances;
  - (11) The following home occupations, when deemed to be non-traffic generating uses posing no threat to the health, safety and welfare of the residents of the Development, shall be permitted subject to application by the occupant and approval by the A.R.B.:
    - (a) artist, sculptor, author and song writer;
    - (b) designer, planner, architect, engineer, draftsman and graphic artist; and,
    - (c) accountant, lawyer, information processing, traveling salesperson, manufacturer's representative, insurance agent and financial consultant; and
  - (12) No business transaction shall occur on any Lots other than through telecommunication devices.

10.3 Additional Protective Covenants. Developer may include, in any contract, plat or deed for any Lot, additional protective covenants and restrictions not inconsistent with those contained herein.

10.4 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or on the Common Property. However, dogs, cats and other common household pets may be kept on Lots subject to such rules and regulations as may be adopted by the Association, so long as they are not kept, bred or maintained for commercial purposes. No animals shall be allowed to run loose on the Common Property at any time.

10.5 Rules and Regulations. No person shall use the Common Property, or any Lot, or any other Property, in any manner contrary to, or not in accordance with, such rules and regulations as may be promulgated by the Association or such Traffic Regulation as may be promulgated by the Association from time to time, as same may be hereafter amended.

10.6 Storage, Accessory Buildings, Utility Enclosures, and Waste Receptacle on the Property. The Property shall not be used for the outdoor storage of anything, including but not limited to construction materials, vehicles, waste and maintenance equipment and supplies. Waste receptacles will not be kept out-of-doors except as specifically approved by the A.R.B. Storage, maintenance and accessory buildings shall not be constructed or maintained on the Property except in locations specifically approved by the A.R.B. Except as may be otherwise approved by the A.R.B., all cable, electric, gas, telephone and other utilities must be maintained underground, except telephone and electrical junction boxes and electrical transformers, may be installed above ground in utility boxes as approved by the A.R.B.

#### **ARTICLE 11 - INDEMNIFICATION OF OFFICERS AND DIRECTORS OF THE ASSOCIATION AND MEMBERS OF THE A.R.B.**

Every officer and director of the Association and member of the A.R.B. shall be indemnified by the Association against all expenses and liability, including attorneys' fees, incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer, director, or member of the A.R.B. or the Association, whether or not he is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, however, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the officer, director or member of the A.R.B. or Association seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such officer, director or member of the A.R.B. or Association may be entitled.

#### **ARTICLE 12 - GENERAL PROVISIONS**

12.1 Assignment. Any or all of the rights, powers and obligations, easements and estates reserved by or granted to Developer or the Association may be assigned by Developer or the Association as the case may be. Any such assignment or transfer shall be made by an appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its consent to such assignment and its acceptance of the rights and powers, duties and

obligations herein contained. Such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to Developer and/or the Association. After such assignment, Developer and/or the Association shall be relieved and released of all obligations with respect to such rights, powers, obligations, easements or estates.

12.2 Amendment. This Declaration may be amended upon the recordation of an appropriate instrument in the Register's Office of the County, subject however, to the following provisions:

12.2.1 By Owners. Except as provided hereinbelow, an amendment initiated by any party other than Developer must obtain the approval of at least eighty percent (80%) of the votes of Members; provided, however, that until such time as Developer no longer owns any Lots, all amendments must include the express written joinder and consent of Developer.

12.2.2 By Developer. This Declaration may be amended upon the initiation of Developer, at any time, upon approval of at least fifty-one percent (51%) of the votes of the Members; provided, however, that (i) if at the time Developer possesses more than fifty-one percent (51%) of the voting interest in the Association and the recitals to any such amendment reflect such voting interest of Developer, no formal vote of the Members shall be required and such amendment shall be effective upon execution by Developer, and (ii) the Declaration may be amended by Developer, at any time, for the purpose of subjecting additional real property to the provisions hereof, for the purpose of removing real property that is subject to this Declaration from the provisions of this Declaration, for the purpose of designating the basis of voting, membership and assessment for such additional real property, for the purposes of granting easements over any portion of the Common Property, for the purpose of modifying or terminating any easements previously granted over any portion of the Common Property, for the purpose of designating a Neighborhood, for the purpose of abolishing any previously designated Neighborhood or removing any real property within a designated Neighborhood from such Neighborhood, for the purpose of designating Exclusive Common Property, for the purpose of abolishing any previously designated Exclusive Common Property or removing any real property designated as Exclusive Common Property from such designation, and for the purpose of complying with the requirements of government authorities and lenders, without the joinder or consent of Owners, the Association, Institutional Mortgagees, or any other party, except that when additional real property is subjected to this Declaration which is not owned by Developer and when real property not owned by Developer that is subject to this Declaration is removed from this Declaration, the joinder of the owner of such additional property or removed property, as applicable, shall also be required.

12.2.3 Effect on Owners. Each Owner, by acceptance of a deed or other conveyance for such Owner's Lot, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided herein.

12.2.4 Effect on Institutional Mortgagee. No amendment or change to this Declaration or to the exhibits hereto shall be effective to affect or impair the validity or priority of a first mortgage or deed of trust held by an Institutional Mortgagee encumbering a Lot, or to affect or impair the rights granted herein to Institutional Mortgagees, without the written consent thereto by the Institutional Mortgagee owning and holding the mortgage or deed of trust



encumbering the Lots, which consent shall be executed with the formalities required for deeds and recorded with the amendment.

12.2.5 Duration of Amendments. Any duly adopted amendment to this Declaration shall run with and bind the Property for the same period and to the same extent as do the covenants and restrictions set forth herein.

12.3 Duration of Declaration. All of the covenants, restrictions and other provisions of this Declaration shall run with and bind the Property for an initial term of fifty (50) years from the date of recordation of this Declaration, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument executed by at least seventy-five percent (75%) of the votes of the Members then existing, and by all Institutional Mortgagees, has been recorded, agreeing to change or terminate these covenants and restrictions.

12.4 Covenants Running with the Property. The agreements, covenants, conditions, restrictions, Assessments, liens and other provisions contained herein shall constitute a servitude upon the Property and each portion thereof, and shall inure to the benefit of Developer, the Association and the Owners.

12.5 Enforcement. Enforcement of the covenants, restrictions, conditions, reservations, rights, powers, Assessments, liens and other provisions contained herein shall be by a proceeding at law or in equity against any persons or entities violating or attempting to violate same and/or against the Property subject thereto to enforce any lien created by this Declaration. In the event that Developer and the Association fail to enforce the terms of this Declaration, then any Member may do so. The failure or refusal of Developer, the Association or any Member to enforce any of the provisions of this Declaration shall in no event be deemed to constitute a waiver of the right to do so thereafter. The cost of any such litigation shall be borne by the Owner in violation, provided that such proceeding results in a finding that such Owner was in violation of the covenants and restrictions contained herein.

12.6 Developer's Rights. Any other provision in this Declaration to the contrary notwithstanding, Developer is irrevocably empowered to sell or lease Lots, improved or unimproved, on any terms to any purchasers or lessees, for so long as it owns legal or equitable title to any property in the Development. Also, for as long as Developer owns legal or equitable title to any Lots in the Development, Developer shall have the right to transact any business necessary to consummate sales of property throughout the Development including, but not limited to, the right to maintain office(s) on any portion of the Property as to which Developer owns legal or equitable title and/or Common Property in location(s) to be selected by Developer, to have employees in such offices, to construct and maintain other structures or appurtenances which are necessary or desirable for the development and sale of property throughout the Development, including without limitation, sales models and parking lots; to post and display a sign or signs on any Lots as to which Developer owns legal or equitable title or on the Common Property; and to use the Common Property and to show Lots. Sales office signs and all other structures and appurtenances pertaining to the sale or development of property within the Development shall not be considered Common Property and shall remain the property of Developer.

12.7 Notice to Developer. Any notice required or permitted to be given by this Declaration to Developer shall be given or made in writing by personal delivery or by certified mail addressed:

Foxland Development Corporation  
130 Maple Drive North  
Hendersonville, TN 37075

As Additional Property is subjected to this Declaration by amendment to the Declaration, the address of the governing Association shall be set forth in such amendment. Any notice given in accordance with the provisions of this subsection shall be deemed to be effective, if personally delivered, on the date of such delivery, or if mailed by registered or certified mail, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be. Each party may give notice to each of the other parties of a change of its address for the purposes of giving notice under this subsection, which thereafter, until changed by like notice, shall be the address of such party for all purposes of this Declaration.

12.8 Plats. In addition to this Declaration and any subsequent declarations and amendments, the Property shall be subject to the additional covenants, restrictions, reservations and other terms and provisions set forth in the plats of portions of the Property, which are recorded or to be recorded in the Register's Office of the County. Also, each Owner must abide by all applicable laws, regulations and ordinances of the federal government, the County, the City and the State of Tennessee.

12.9 Gender and Number. The use of the singular herein shall include the plural, and the use of any gender shall include all genders.

12.10 Severability. Invalidation of any one of the covenants or restrictions contained herein by judgment or court order shall in no way affect any other provision hereof, which shall remain in full force and effect.

12.11 Captions. The captions used in this Declaration and the exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text of this Declaration or any exhibits hereto.

12.12 Effective Date. This Declaration shall become effective upon its recordation in the Register's Office of the County.

(signatures on following page)

IN WITNESS WHEREOF, Oakbrook and Foxland have executed this Declaration on the date(s) set forth herein.

**SELLER:**

**OAKBROOK REALTY & INVESTMENTS II, LLC**

By: *Donna J. Krilich*  
Donna J. Krilich, Manager

Date: 5/11/06

By: *Kim M. Plencner*  
Kim M. Plencner, Manager

Date: 5/11/06

**PURCHASER:**

**FOXLAND DEVELOPMENT CORPORATION**

By: *Leon Moore*  
Leon Moore, President

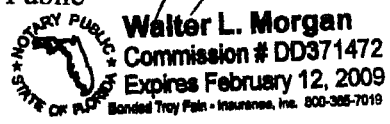
Date: May 5, 2006

STATE OF Florida )  
COUNTY OF Broward )

Before me, Walter L. Morgan, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Donna J. Krilich, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself to be a manager of Oakbrook Realty & Investments II, LLC, the within named bargainor, a limited liability company, and that she as such manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by herself as such manager.

WITNESS my hand and seal at office in FT Lauderdale Florida, this the 11<sup>th</sup> day of May, 2006.

*Walter L. Morgan*  
Notary Public

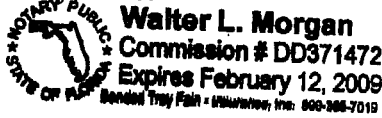


My Commission Expires: \_\_\_\_\_

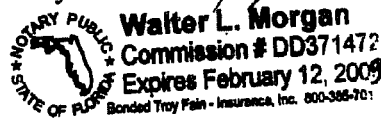
STATE OF Florida )  
COUNTY OF Broward )

Before me, Walter L. Morgan, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Kim M. Plencner, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a manager of Oakbrook Realty & Investments II, LLC, the within named bargainor, a limited liability company, and that he as such manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as such manager.

WITNESS my hand and seal at office in FLauderdale Florida, this the 11<sup>th</sup> day of May, 2006.



Walter L. Morgan  
Notary Public



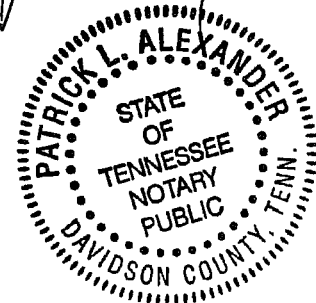
My Commission Expires:  
\_\_\_\_\_

STATE OF TENNESSEE )  
COUNTY OF SUMNER )

Before me, Patrick L. Alexander, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Leon Moore, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of Foxland Development Corporation, the within named bargainor, a Tennessee corporation, and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such President.

WITNESS my hand and seal at office in Gallatin, Tennessee, this the 5th day of May, 2006.

Patrick L. Alexander  
Notary Public



My Commission Expires:  
November 22, 2008  
\_\_\_\_\_

**EXHIBIT A****PARCEL ONE: Foxland Phase 1, Section 1**

Being two tracts of land in the Fourth Civil District of Sumner County, City of Gallatin, Tennessee, representing proposed new Douglas Bend Road north and south of U.S.A. Property and being more particularly described as follows:

**Tract 1**

Beginning at the point of intersection of the westerly margin of existing Douglas Bend Road with the easterly margin of proposed Douglas Bend Road, said point being southerly 352.0 feet, more or less, along the easterly margin of Douglas Bend Road from the southerly margin of Nashville Pike;

THENCE, with the easterly margin of proposed Douglas Bend Road the following calls:

With a curve concave to the west having a central angle of  $04^{\circ} 25' 37''$ , a radius of 530.00 feet and a chord of  $S 03^{\circ} 11' 16'' E$ , 40.94 feet for an arc length of 40.95 feet to a point,

$S 00^{\circ} 58' 26'' E$ , 165.42 feet to a point,

With a curve concave to the west having a central angle of  $15^{\circ} 37' 24''$ , a radius of 570.00 feet and a chord of  $S 08^{\circ} 47' 09'' E$ , 154.95 feet for an arc length of 155.43 feet to a point in the west line of U.S.A. Property;

THENCE, with said U.S.A.,  $S 07^{\circ} 23' 48'' W$ , 123.77 feet to a point in the west margin of proposed Douglas Bend Road;

THENCE, with said margin the following calls:

$N 24^{\circ} 31' 40'' W$ , 26.41 feet to a point,

With a curve concave to the east having a central angle of  $23^{\circ} 33' 13''$ , a radius of 630.00 feet and a chord of  $N 12^{\circ} 45' 03'' W$ , 257.16 feet for an arc length of 258.98 feet to a point,

$N 00^{\circ} 58' 26'' W$ , 90.61 feet to a point,

With a curve concave to the west having a central angle of  $15^{\circ} 30' 22''$ , a radius of 470.00 feet and a chord of  $N 08^{\circ} 43' 38'' W$ , 126.81 feet for an arc length of 127.20 feet to a point,

$N 16^{\circ} 28' 50'' W$ , 121.28 feet to a point in the south line of Texas West Property of record in Book 1077, page 648, Register's Office for Sumner County, Tennessee;

THENCE, with said Texas West, N 73° 18' 00" E, 43.40 feet to a point in the west margin of existing Douglas Bend Road;

THENCE, with said margin and a curve concave to the east having a central angle of 04° 30' 20", a radius of 1,271.64 feet and a chord of S 26° 30' 20" E, 153.52 feet for an arc length of 153.61 feet to the Point of Beginning.

Containing 33,926 square feet or 0.78 acres, more or less.

## **Tract 2**

BEGINNING at a point in the east boundary of U.S.A. Property, said point being southerly 1,010.89 feet along the easterly margin of proposed Douglas Bend Road from the southerly margin of Nashville Pike;

THENCE, with the easterly margin, proposed Douglas Bend Road the following calls:

S 24° 31' 40" E, 221.90 feet to a point,

With a curve concave to the east having a central angle of 88° 21' 52", a radius of 25.00 feet and a chord of S 68° 42' 53" E, 34.85 feet for an arc length of 38.56 feet to a point,

With a curve concave to the south having a central angle of 07° 08' 30", a radius of 690.00 feet and a chord of N 70° 40' 30" E, 85.95 feet for an arc length of 86.01 feet to a point in the west margin of existing Douglas Bend Road;

THENCE, with said west margin and a curve concave to the west having a central angle of 04° 23' 06", a radius of 1,306.67 feet and a chord of S 04° 02' 15" E, 81.93 feet for an arc length of 81.95 feet to a point;

THENCE, with a curve concave to the south having a central angle of 05° 42' 18", a radius of 610.00 feet and a chord of S 69° 49' 48" W, 60.71 feet for an arc length of 60.74 feet to a point;

THENCE, with a curve concave to the south having a central angle of 91° 30' 43", a radius of 25.00 feet and a chord of S 21° 13' 22" W, 35.82 feet for an arc length of 39.93 feet to a point in the east margin of proposed Douglas Bend Road;

THENCE, with said margin S 23° 52' 16" E, 49.49 feet to a point;

THENCE, with a curve concave to the south having a central angle of 11° 33' 07", a radius of 625.00 feet and a chord of S 18° 48' 46" E, 125.80 feet for an arc length of 126.01 feet to a point in the easterly margin of Douglas Bend Road;

THENCE, with a curve concave to the south having a central angle of  $01^{\circ} 29' 07''$ , a radius of 1,306.67 feet and a chord of  $S 08^{\circ} 49' 17'' W$ , 33.88 feet for an arc length of 33.88 feet to a point;

THENCE,  $S 08^{\circ} 49' 17'' W$ , 272.27 feet to a point;

THENCE,  $N 81^{\circ} 10' 43'' W$ , 5.07 feet to a point in the west margin of proposed Douglas Bend Road;

THENCE, with said margin the following calls:

$N 08^{\circ} 49' 17'' E$ , 73.46 feet to a point,

With a curve concave to the west having a central angle of  $35^{\circ} 27' 03''$ , a radius of 575.00 feet and a chord of  $N 08^{\circ} 54' 15'' W$ , 350.12 feet for an arc length of 355.77 feet to a point,

$N 26^{\circ} 37' 46'' W$ , 110.46 feet to a point,

$N 24^{\circ} 31' 40'' W$ , 225.07 feet to a point in the east boundary of U.S.A. Property;

THENCE, with said U.S.A. Property,  $N 28^{\circ} 20' 56'' E$ , 75.25 feet to the Point of Beginning.

Containing 40,832 square feet or 0.94 acres, more or less.

Tracts 1 and 2 combined total 74,758 square feet or 1.72 acres, more or less.

Parcel One being a part of Tract III and Tract IV of the property conveyed to Oakbrook Realty & Investments II, LLC by Quitclaim Deed recorded in Record Book 2246, page 780, Register's Office for Sumner County, Tennessee.

PARCEL TWO: Foxland Phase 1, Section 2

Being a parcel of land in the Fourth Civil District of Sumner County, City of Gallatin located on the southerly bank of Station Camp Creek east of Douglas Bend Road and being more particularly described as follows:

BEGINNING at a point in the north margin of proposed Foxland Boulevard, said point being southerly 1271 feet, more or less, along the easterly margin of Douglas Bend Road from the southerly margin of Nashville Pike;

THENCE, with the northeasterly margin of proposed Foxland Boulevard the following calls:

With a curve concave to the south having a central angle of  $71^{\circ} 33' 05''$ , a radius of 690.00 feet and a chord of  $S 66^{\circ} 37' 22'' E$ , 806.77 feet for an arc length of 861.68 feet;

With a curve concave to the east having a central angle of  $79^{\circ} 40' 24''$ , a radius of 25.00 feet and a chord of  $S 70^{\circ} 41' 01'' E$ , 32.03 feet for an arc length of 34.76 feet to a point;

With a curve concave to the south having a central angle of  $04^{\circ} 10' 49''$ , a radius of 215.00 feet and a chord of  $N 71^{\circ} 34' 15'' E$ , 15.68 feet for an arc length of 15.69 feet to a point;

S  $16^{\circ} 20' 20'' E$ , 50.00 feet to a point;

With a curve concave to the south having a central angle of  $03^{\circ} 58' 14''$ , a radius of 165.00 feet and a chord of  $S 71^{\circ} 40' 28'' W$ , 11.43 feet for an arc length of 11.43 feet to a point;

With a curve concave to the south having a central angle of  $93^{\circ} 18' 56''$ , a radius of 15.00 feet and a chord of  $S 23^{\circ} 02' 02'' W$ , 21.82 feet for an arc length of 24.43 feet to a point;

With a curve concave to the west having a central angle of  $07^{\circ} 29' 54''$ , a radius of 690.00 feet and a chord of  $S 19^{\circ} 52' 30'' E$ , 90.23 feet for an arc length of 90.30 feet to a point;

With a curve concave to the east having a central angle of  $85^{\circ} 45' 46''$ , a radius of 15.00 feet and a chord of  $S 59^{\circ} 00' 27'' E$ , 20.41 feet for an arc length of 22.45 feet to a point;

S  $15^{\circ} 40' 37'' E$ , 30.07 feet to a point;

With a curve concave to the south having a central angle of  $89^{\circ} 45' 13''$ , a radius of 15.00 feet and a chord of  $S 33^{\circ} 37' 53'' W$ , 21.17 feet for an arc length of 23.50 feet to a point;

With a curve concave to the west having a central angle of  $06^{\circ} 15' 25''$ , a radius of 690.00 feet and a chord of  $S 08^{\circ} 07' 01'' E$ , 75.31 feet for an arc length of 75.35 feet to a point;

With a curve concave to the east having a central angle of  $78^{\circ} 15' 29''$ , a radius of 25.00 feet and a chord of  $S 44^{\circ} 07' 00'' E$ , 31.55 feet for an arc length of 34.15 feet to a point;

S  $03^{\circ} 37' 34'' E$ , 50.47 feet to a point;

With a curve concave to the south having a central angle of  $83^{\circ} 08' 10''$ , a radius of 25.00 feet and a chord of  $S 40^{\circ} 10' 01'' W$ , 33.18 feet for an arc length of 36.28 feet to a point;

S  $01^{\circ} 24' 04'' E$ , 70.00 feet;

With a curve concave to the east having a central angle of  $87^{\circ} 45' 40''$ , a radius of 25.00 feet and a chord of  $S 45^{\circ} 16' 54'' E$ , 34.66 feet for an arc length of 38.29 feet to a point;

S  $00^{\circ} 10' 51'' E$ , 30.00 feet to a point;

With a curve concave to the south having a central angle of  $86^{\circ} 28' 28''$ , a radius of 25.00 feet and a chord of  $S 41^{\circ} 39' 26'' W$ , 34.25 feet for an arc length of 37.73 feet to a point;

S  $01^{\circ} 24' 04'' E$ , 70.00 feet to a point;



With a curve concave to the east having a central angle of  $80^{\circ} 09' 38''$ , a radius of 25.00 feet and a chord of S  $41^{\circ} 28' 54''$  E, 32.19 feet for an arc length of 34.98 feet to a point;

S  $00^{\circ} 00' 53''$  E, 50.00 feet to a point;

With a curve concave to the south having a central angle of  $77^{\circ} 05' 28''$ , a radius of 25.00 feet and a chord of S  $39^{\circ} 08' 07''$  W, 31.16 feet for an arc length of 33.64 feet to a point;

S  $02^{\circ} 30' 37''$  W, 70.16 feet to a point;

With a curve concave to the east having a central angle of  $59^{\circ} 49' 18''$ , a radius of 25.00 feet and a chord of S  $27^{\circ} 24' 10''$  E, 24.93 feet for an arc length of 26.10 feet to a point;

S  $01^{\circ} 24' 05''$  E, 34.96 feet to a point;

THENCE, leaving said margin of Foxland Boulevard with the following calls;

With a curve concave to the south having a central angle of  $13^{\circ} 14' 09''$ , a radius of 25.00 feet and a chord of N  $81^{\circ} 58' 46''$  E, 5.76 feet for an arc length of 5.78 feet to a point;

N  $88^{\circ} 35' 56''$  E, 111.56 feet to a point;

S  $23^{\circ} 53' 17''$  E, 71.86 feet to a point;

S  $42^{\circ} 11' 43''$  E, 65.13 feet to a point;

S  $64^{\circ} 59' 38''$  E, 89.31 feet to a point;

S  $69^{\circ} 42' 35''$  E, 79.17 feet to a point;

S  $60^{\circ} 33' 00''$  E, 133.88 feet to a point in the westerly margin of Reynard Drive;

THENCE, with said terminus of Reynard Drive, S  $61^{\circ} 03' 02''$  E, 50.00 feet to a point in the easterly margin of Reynard Drive;

THENCE, with said easterly margin S  $28^{\circ} 56' 58''$  W, 17.87 feet to a point;

THENCE, leaving said margin, S  $52^{\circ} 25' 51''$  E, 236.17 feet to a point;

THENCE, S  $36^{\circ} 54' 12''$  W, 145.19 feet to a point in the northerly margin of Foxland Boulevard;

THENCE, with said margin and a curve concave to the north having a central angle of  $11^{\circ} 48' 14''$ , a radius of 575.00 feet and a chord of S  $69^{\circ} 01' 03''$  E, 118.25 feet for an arc length of 118.46 feet to a point;

THENCE, leaving said margin N  $32^{\circ} 14' 04''$  E, 157.75 feet to a point;

S  $75^{\circ} 54' 19''$  E, 183.62 feet to a point;

S  $82^{\circ} 16' 00''$  E, 113.60 feet to a point;

N  $31^{\circ} 46' 07''$  E, 121.76 feet to a point;

N  $47^{\circ} 25' 13''$  E, 107.67 feet to a point;

N  $47^{\circ} 58' 45''$  E, 200.00 feet to a point;

N  $45^{\circ} 22' 00''$  E, 95.00 feet to a point;

N  $37^{\circ} 27' 07''$  E, 95.00 feet to a point;

N 29° 22' 51" E, 95.00 feet to a point;  
N 21° 18' 38" E, 95.00 feet to a point;  
N 13° 14' 24" E, 95.00 feet to a point;  
N 05° 10' 11" E, 95.00 feet to a point;  
N 01° 40' 23" W, 95.00 feet to a point;  
N 05° 25' 44" W, 85.26 feet to a point;  
N 36° 22' 15" W, 75.17 feet to a point;  
N 27° 03' 33" E, 154.38 feet to a point in the southerly margin of Albatross Way;

THENCE, with said margin, N 46° 11' 25" W, 141.85 feet to a point;

With a curve concave to the south, having a central angle of 18° 38' 41", a radius of 255.00 feet and a chord of N 55° 30' 46" W, 82.61 feet for an arc length of 82.98 feet to a point;

THENCE, with the terminus of Albatross Way, N 25° 09' 53" E, 50.00 feet to a point in the northerly margin of said Albatross Way;

THENCE, leaving said margin N 25° 09' 53" E, 164.65 feet to a point;

THENCE, S 46° 11' 25" E, 488.79 feet to a point;

S 18° 34' 38" E, 203.67 feet to a point;  
S 01° 29' 54" W, 265.29 feet to a point;  
S 85° 21' 51" E, 189.89 feet to a point;  
N 45° 03' 16" E, 369.71 feet to a point;  
N 47° 42' 59" E, 314.90 feet to a point;  
S 66° 18' 45" E, 269.97 feet to a point;  
S 27° 11' 48" E, 499.43 feet to a point;  
S 62° 48' 12" W, 150.00 feet to a point in the easterly margin of Boardwalk Place;

THENCE, with said margin, S 27° 11' 48" E, 53.64 feet to a point;

THENCE, crossing Boardwalk Place, S 62° 48' 12" W, 200.00 feet to a point;

N 27° 11' 48" W, 300.00 feet to a point;  
N 63° 07' 54" W, 32.96 feet to a point;  
S 44° 50' 53" W, 355.74 feet to a point;  
N 44° 59' 01" W, 172.25 feet to a point in the southerly margin of Boardwalk Place;

THENCE, with said margin and a curve concave to the north having a central angle of 42° 55' 17", a radius of 350.00 feet and a chord of S 72° 25' 56" W, 256.10 feet for an arc length of 262.19 feet to a point;

THENCE, leaving said margin, S 41° 46' 34" W, 175.21 feet to a point;

N 75° 37' 02" W, 67.93 feet to a point;  
S 28° 31' 39" W, 121.34 feet to a point;  
S 43° 42' 47" W, 152.11 feet to a point;  
S 44° 35' 36" W, 147.12 feet to a point;

S 47° 58' 45" W, 260.00 feet to a point;  
 S 15° 03' 49" W, 124.83 feet to a point;  
 S 45° 04' 50" E, 46.34 feet to a point;  
 S 26° 59' 58" E, 174.96 feet to a point;  
 S 70° 44' 53" W, 150.04 feet to a point in the easterly margin of Foxland Boulevard;

THENCE, with said margin and a curve concave to the west having a central angle of 00° 38' 29", a radius of 500.00 feet, a chord of S 18° 55' 39" E, 5.60 feet for an arc length of 5.60 feet;

S 18° 36' 38" E, 176.83 feet;

With a curve concave to the east having a central angle of 90° 00' 00", a radius of 36.00 feet and a chord of S 63° 36' 38" E, 50.91 feet for an arc length of 56.55 feet to a point;

S 18° 36' 38" E, 50.00 feet;

With a curve concave to the south having a central angle of 90° 00' 00", a radius of 36.00 feet and a chord of S 26° 23' 22" W, 50.91 feet for an arc length 56.55 feet to a point in the easterly margin of Foxland Boulevard;

THENCE, crossing said Foxland Boulevard, S 71° 23' 22" W, 50.00 feet;

THENCE, with a curve concave to the west having a central angle of 90° 00' 00", a radius of 36.00 feet and a chord of N 63° 36' 38" W, 50.91 feet for an arc length of 56.55 feet to a point in the southerly margin of Vinings Boulevard;

THENCE, with said Vinings Boulevard, S 71° 23' 22" W, 61.18 feet to a point;

With a curve concave to the north having a central angle of 16° 45' 00", a radius of 400.00 feet, and a chord of S 79° 45' 53" W, 116.52 feet for an arc length of 116.94 feet to a point;

THENCE, crossing Vinings Boulevard, N 01° 51' 48" W, 196.07 feet to a point;

N 11° 06' 51" W, 45.67 feet to a point;  
 N 24° 31' 09" W, 85.36 feet to a point;  
 N 40° 16' 49" W, 81.08 feet to a point;  
 N 64° 01' 48" W, 168.95 feet to a point;  
 N 75° 54' 19" W, 200.00 feet to a point;  
 N 62° 33' 40" W, 148.92 feet to a point;  
 N 20° 43' 13" E, 120.61 feet to a point in the southerly margin of Foxland Boulevard;

THENCE, with said margin, and a curve concave to the north having a central angle of 19° 13' 08", a radius of 625.00 feet and a chord of N 59° 40' 13" W, 208.67 feet for an arc length of 209.65 feet to a point;

N 50° 03' 39" W, 49.38 feet to a point;

THENCE, leaving said margin, S 39° 56' 21" W, 100.02 feet to a point;

N 67° 41' 24" W, 184.01 feet to a point;  
N 70° 40' 30" W, 123.89 feet to a point;  
N 56° 43' 14" W, 133.94 feet to a point;  
N 40° 20' 21" W, 132.92 feet to a point;  
N 27° 18' 51" W, 139.79 feet to a point;  
N 72° 26' 20" E, 148.34 feet to a point in the westerly margin of Foxland Boulevard;

THENCE, with said margin the following calls:

With a curve concave to the east having a central angle of 08° 58' 05", a radius of 350.00 feet and a chord of N 13° 04' 38" W, 54.73 feet for an arc length of 54.78 feet to a point;

N 08° 35' 36" W, 93.50 feet to a point;  
N 05° 18' 44" W, 88.64 feet to a point;  
N 01° 24' 04" W, 362.89 feet to a point;

With a curve concave to the west having a central angle of 102° 03' 38", a radius of 610.00 feet and a chord of N 52° 25' 52" W, 948.52 feet for an arc length of 1,086.59 feet to a point in the easterly margin of Douglas Bend Road;

THENCE, with said margin and a curve concave to the west having a central angle of 03° 26' 33", a radius of 1,346.67 feet and a chord of N 04° 21' 33" W, 80.90 feet for an arc length of 80.91 feet to the Point of Beginning;

Containing 1,788,665 square feet or 41.06 acres, more or less.

Less and except a tract of land being more particularly described as follows:

BEGINNING at a point in the westerly margin of proposed Foxland Boulevard, said point being 279.30 feet along said margin from the easterly margin of Douglas Bend Road;

THENCE, crossing the proposed Foxland Boulevard, N 89° 56' 39" E, 214.33 feet to a point in the easterly margin of proposed Foxland Boulevard;

THENCE, with said margin and a curve concave to the south having a central angle of 28° 44' 26", a radius of 690.00 feet and a chord of S 45° 13' 34" E, 342.50 feet for an arc length of 346.12 feet to a point;

THENCE, crossing proposed Foxland Boulevard, S 88° 18' 21" W, 93.57 feet to a point in the westerly margin of said Boulevard;

THENCE, with said margin and a curve concave to the west having a central angle 42° 05' 04", a radius of 610.00 feet and a chord of N 56° 11' 04" W, 438.05 feet to the Point of Beginning.

Containing 30,764 square feet or 0.706 acres more or less.

Such excluded tract of land being a part of the property conveyed from Oakbrook Realty and Investments II, LLC to TLP DevCo LLC by Warranty Deed of record in Record Book 2355, page 818, Register's Office for Sumner County, Tennessee.

Parcel Two being (i) a part of the same property conveyed to Oakbrook Realty & Investments II, LLC by Quitclaim Deed recorded in Record Book 2246, page 770, Register's Office for Sumner County, Tennessee, and by Quitclaim Deed recorded in Record Book 2248, page 734, said Register's Office, and (ii) a part of Tract I of the property conveyed to Oakbrook Realty & Investments II, LLC by Quitclaim Deed recorded in Record Book 2246, page 780, said Register's Office.

PARCEL THREE: Foxland Phase 3, Section 2

Being a parcel of land in Fourth Civil District of Sumner County, City of Gallatin, Tennessee, located on the west bank of Station Camp Creek south of Nashville Pike and being more particularly described as follows:

BEGINNING at a point in the west boundary of U.S.A. Property (Old Hickory Lake), said point being S 27° 11' 48" E, 499.43 along said boundary from U.S.A. corner designated as E509-10 and being the northeast corner of herein described tract;

THENCE, with the west boundary of U.S.A. Property, S 27° 11' 48" E, 1,350.44 feet to a point;

THENCE, S 30° 05' 19" W, 110.55 feet to a point;

THENCE, leaving said U.S.A. boundary, N 75° 24' 36" W, 247.00 feet to a point in the east margin of proposed Boardwalk Place;

THENCE, with said margin and a curve concave to the south having a central angle of 14° 14' 53", a radius of 500.00 feet and a chord of S 21° 42' 50" E, 124.02 feet for an arc length of 124.34 feet to a point;

THENCE, crossing Boardwalk Place, N 61° 09' 44" W, 210.00 feet to a point;

THENCE, N 20° 23' 16" E, 85.23 feet to a point;

THENCE, N 03° 29' 17" E, 85.23 feet to a point;

THENCE, N 13° 27' 55" W, 85.77 feet to a point;

THENCE, N 19° 41' 55" W, 85.87 feet to a point;

THENCE, N 27° 11' 48" W, 800.00 feet to a point;

THENCE, N 62° 48' 12" E, 200.00 feet to a point in the east margin of Boardwalk Place;

THENCE, with said margin, N 27° 11' 48" W, 53.64 feet to a point;

THENCE, leaving said margin, N 62° 48' 12" E, 150.00 feet to the Point of Beginning,

Containing 481,451 square feet or 11.05 acres, more or less.

Parcel Three being a part of the same property conveyed to Oakbrook Realty & Investments II, LLC by Quitclaim Deed recorded in Record Book 2246, page 770, Register's Office for Sumner County, Tennessee, and by Quitclaim Deed recorded in Record Book 2248, page 734, said Register's Office.

PARCEL FOUR: Foxland Phase 4

Being a parcel of land in the Fourth Civil District of Sumner County, City of Gallatin, Tennessee located on the west bank of Station Camp Creek south of Nashville Pike and being more particularly described as follows:

BEGINNING at a point in the west boundary of U.S.A. Property (Old Hickory Lake), said point being S 30° 05' 19" W, 110.55 feet along said boundary from U.S.A. corner designated as E509-20 and being the northeast corner of herein described tract;

THENCE, with said U.S.A. boundary the following calls:

S 30° 05' 19" W, 152.88 feet to a point,  
 S 43° 04' 23" W, 459.57 feet to a point,  
 S 79° 03' 55" W, 649.98 feet to a point,  
 S 38° 58' 17" E, 648.61 feet to a point at the northeast corner of Lot No. 1 of Station Camp Landing Subdivision of record in Plat Book 3, page 37, Register's Office for Sumner County, Tennessee;

THENCE, leaving U.S.A. property with said Lot No. 1, S 79° 10' 12" W, 210.00 feet to a point;

THENCE, S 06° 52' 12" W, 66.73 feet to a point;

THENCE severing subject property the following calls:

N 75° 39' 14" W, 179.29 feet to a point,  
 N 43° 57' 25" W, 200.76 feet to a point,  
 N 68° 48' 25" W, 82.65 feet to a point,  
 S 21° 11' 35" W, 213.61 feet to a point,  
 S 13° 38' 14" W, 389.45 feet to a point,  
 N 80° 35' 39" W, 168.59 feet to a point in the east margin of proposed Boardwalk Place;

THENCE, with said margin and a curve concave to the east having a central angle of 00° 06' 28", a radius of 2,950.00 feet and a chord of S 09° 20' 49" W, 5.55 feet for an arc length of 5.55 feet to a point;

THENCE, crossing Boardwalk Place, N 80° 42' 05" W, 201.86 feet to a point;

THENCE, severing subject property the following calls:

N 10° 23' 53" E, 105.05 feet to a point,  
N 12° 15' 36" E, 105.05 feet to a point,  
N 14° 13' 16" E, 105.03 feet to a point,  
N 16° 13' 21" E, 105.03 feet to a point,  
N 17° 55' 57" E, 105.02 feet to a point,  
N 20° 00' 53" E, 105.00 feet to a point,  
N 21° 46' 43" E, 105.00 feet to a point,  
N 23° 07' 34" E, 193.26 feet to a point,  
N 23° 56' 09" E, 106.65 feet to a point,  
N 33° 46' 22" E, 124.53 feet to a point,  
N 43° 30' 53" E, 124.50 feet to a point,  
N 55° 09' 18" E, 124.61 feet to a point,  
N 65° 34' 25" E, 124.70 feet to a point,  
N 75° 48' 47" E, 411.11 feet to a point,  
N 63° 49' 07" E, 87.82 feet to a point,  
N 54° 11' 17" E, 85.23 feet to a point,  
N 37° 17' 17" E, 85.23 feet to a point,  
S 61° 09' 43" E, 210.00 feet to a point in the easterly margin of Boardwalk Place;

THENCE, with said margin and a curve concave to the north having a central angle of 14° 14' 53", a radius of 500.00 feet and a chord of N 21° 42' 50" E, 124.02 feet to a point;

THENCE, leaving said margin, S 75° 24' 36" E, 247.00 to the Point of Beginning.

Containing 1,045,448 square feet or 24.00 acres, more or less.

Parcel Four being a part of the same property conveyed to Oakbrook Realty & Investments II, LLC by Quitclaim Deed recorded in Record Book 2246, page 770, Register's Office for Sumner County, Tennessee, and by Quitclaim Deed recorded in Record Book 2248, page 734, said Register's Office.

The interest of Foxland Development Corporation in and to the foregoing property (Parcels One, Two, Three and Four) being evidenced by the Memorandum of Purchase Agreement, of record in Record Book 2355, page 788, Register's Office for Sumner County, Tennessee, the Memorandum of Partial Assignment of Purchase Agreement, of record in Record Book 2355, page 797, said Register's Office, and the Memorandum of Partial Assignment of Purchase Agreement, of record in Record Book 2501, page 286, said Register's Office.

**EXHIBIT B**  
**BY-LAWS**  
**OF**  
**FOXLAND HOMEOWNERS ASSOCIATION, INC.**

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**I - IDENTITY**

1. NAME

The name of the corporation is Foxland Homeowners Association, Inc. (the "Association").

2. REGISTERED OFFICE

The registered office of the Association is at 130 Maple Drive North, Hendersonville, Tennessee 37075.

3. ADOPTION

These By-Laws have been adopted by the Board of Directors as the By-Laws of the Association.

4. DEFINITIONS

Terms used in these By-Laws which are defined in the Declaration of Covenants, Conditions and Restrictions (the "Declaration") have the same meaning in these By-Laws as in the Declaration.

**II - POWERS AND DUTIES OF THE ASSOCIATION**  
**AND THE EXERCISE THEREOF**

The Association will have all powers granted to it by Tennessee law, the Declaration, the Charter and these By-Laws. All granted powers will be exercised by the Board of Directors unless the exercise thereof is otherwise restricted in the Declaration, the Charter, these By-Laws, the Tennessee Nonprofit Corporation Act (the "Act") or by applicable law.

**III - MEMBERSHIP**

1. MEMBERSHIP; VOTING

The Association will have two (2) classes of membership, Class "A" Membership and Class "B" Membership, as follows:

(1) Class "A" Membership. Class "A" Members will be all Owners of fee title to Lots other than Developer and other than Oakbrook (if Oakbrook is not Developer). Class "A" Members will be entitled to one (1) vote for each Lot in which they hold fee title.



(2) Class "B" Membership. The Class "B" Member will be Developer. The Class "B" Member will be entitled to four (4) votes for each Lot as to which Developer owns legal or equitable title. The Class "B" Member will also be entitled to appoint all of the members of the Board of Directors prior to the Commencement of Association Meetings. Upon Commencement of Association Meetings, members of the Board of Directors will be elected or appointed as provided herein.

Voting rights may be exercised by a Member or the Member's spouse. In any situation where more than one Person holds an interest in a Lot, the vote for the respective Lot will be exercised by any such Person; provided, however, the Persons holding the interest in the Lot will notify the Secretary of the Association, in writing, prior to or during any meeting of the manner in which the vote for the Lot is to be exercised and, in the absence of such notice, the Lot's vote will be suspended if more than one Person seeks to exercise it. The voting rights of a Member that is a corporation or other form of legal entity will be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary.

## 2. COMMENCEMENT OF ASSOCIATION MEETINGS

The Commencement of Association Meetings will occur within sixty (60) days after the occurrence of the earlier of the following conditions:

- (1) the sale to Persons other than Developer of more than eighty percent (80%) of all of the Lots intended to be developed within the Property including the Additional Property; or
- (2) such earlier date as determined by the Class "B" Member, in its sole and absolute discretion.

## IV - MEMBERS' MEETINGS

### 1. DATE AND PLACE OF MEETINGS

Meetings of the Members will be held on the date and at such place in Sumner County, Tennessee or such other place as may be designated by the Board of Directors from time to time.

### 2. ANNUAL MEETINGS

Each year after the Commencement of Association Meetings, an annual meeting will be held for the purpose of receiving reports of officers, committees and others, to elect members of the Board of Directors and to conduct such other business as may be properly brought before the meeting.

### 3. SPECIAL MEETINGS

The President of the Association or the Board of Directors may call special meetings of the Members. In addition, it will be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or, if after the Commencement of Association Meetings, upon a petition signed by fifteen percent (15%) of the total votes of the Members of the Association. The notice of any special meeting

will state the date, time and place of such meeting and the purpose thereof. No business will be transacted at a special meeting except as stated in the notice.

4. NOTICE OF MEETINGS

Written or printed notice stating the place, day and hour of any meeting of the Members will be delivered, either personally, by mail or any other manner permitted by applicable law, to each Member, not more than forty-five (45), nor less than ten (10), days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

If mailed, the notice of a meeting will be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association.

Waiver of notice of a meeting of the Association will be deemed the equivalent of proper notice. Any Member may, in a signed writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting by a Member, either in person or by proxy, will be deemed a waiver by such Member of notice of the time, date, place and purpose thereof, unless such Member or his or her proxy, as the case may be, specifically objects to lack of proper notice at the time the meeting is called to order.

5. QUORUM

Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of at least fifty percent (50%) of the votes eligible to be cast by Members will constitute a quorum at any meeting of the Association. However in the event of the absence of a quorum at such meeting, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting will be the presence in person or by proxy of members having twenty-five percent (25%) of the votes eligible to be cast by Members of the Association. No such reduced quorum meeting can be held more than sixty (60) days following the preceding meeting.

6. VOTE REQUIRED

When a quorum is present at any meeting, a majority of the votes present, whether in person or by proxy, will decide any question brought before the meeting, unless the Declaration, the Charter, these By-Laws or any applicable law provides otherwise.

7. PROXIES

Members may vote by proxy. Proxies must be in writing, dated, signed and filed with the Secretary at the time of or before the appointed time of a meeting of the Members. Every proxy will be revocable and will automatically cease upon conveyance by the Member of his Lot, upon receipt by the Secretary of notice of the death or judicially declared incompetence of a Member or of written revocation, or upon the expiration of eleven (11) months from the date, of the proxy. The Board of Directors may, from time to time, establish such other or additional requirements for proxies as the Board of Directors may determine.

8. CONDUCT OF MEETINGS

The President will preside over all meetings of the Association. The Secretary will keep the minutes of the meeting and record in a minute book all resolutions adopted and all transactions and proceedings occurring at the meeting.

9. ACTION WITHOUT A MEETING OR BY WRITTEN BALLOT

Any action required to be taken at a meeting of the Members or any action which may be taken at a meeting of the Members may be taken without a meeting by written consent or by written ballot in accordance with the Act.

**V - BOARD OF DIRECTORS**

1. NUMBER OF DIRECTORS

The governance and administration of the affairs of the Association will be vested in a Board of Directors. The number of directors of the Association will not be less than one (1) nor more than nine (9). The initial Board will consist of the person or persons named in the Charter.

2. ELECTION OR APPOINTMENT OF DIRECTORS

Prior to the Commencement of Association Meetings, the Class "B" Member will appoint all of the members of the Board of Directors. Immediately prior to the Commencement of Association Meetings, Developer will call a special meeting of the Members at which the existing director(s) will resign and Developer will set the number of directors at nine (9). On and after the Commencement of Association Meetings, the Class "B" Member will be entitled to appoint three (3) directors. Developer, may, in its sole and absolute discretion, permit the Members to elect directors earlier than the conditions set forth above. Further, Developer may, in its sole and absolute discretion, by written notice to the Association, waive either permanently or for such time period as may be specified therein, the right of Developer to appoint three (3) directors, from and after which such directors which would otherwise be appointed by Developer shall be elected as other directors.

3. DESIGNATION OF TERM

Of the nine (9) directors, three (3) directors will be designated to serve on the Board of Directors commencing on the Commencement of Association Meetings for a term of three (3) years, three (3) directors will be designated to serve on the Board of Directors commencing on the Commencement of Association Meetings for a term of two (2) years and three (3) directors will be designated to serve on the Board of Directors commencing on the Commencement of Association Meetings for a term of one (1) year. The initial three (3) directors appointed by the Class "B" Member shall serve staggered terms consistent with the preceding sentence so that initially one (1) such director shall serve for a term of three (3) years, one (1) such director shall serve for a term of two (2) years and one (1) such director shall serve for a term of one (1) year. Each year after the Commencement of Association Meetings, the Members will elect (and/or the Class "B" Member will appoint) the number of directors necessary to replace those directors whose terms have expired. These newly elected directors will serve for a term of three (3) years.

Directors elected by a vote of the Members will be elected by a plurality of the votes cast, such that those candidates receiving the largest number of votes will be elected. In the case of a tie vote, the winner will be determined by a run-off election between those candidates which are tied. Cumulative voting is not permitted.

4. QUALIFICATIONS FOR ELECTION

Except with respect to directors appointed by Developer, all directors will be Members.

5. NOMINATION OF DIRECTORS

Immediately prior to any election by the Members, nominations for election to the Board of Directors will be made by a Nominating Committee. The Nominating Committee will consist of a Chairman, who will be a member of the Board of Directors, and at least three (3) Members of the Association. The Nominating Committee will be appointed by the Board of Directors not less than ninety (90) days prior to each annual meeting of the Members. The members of the Nominating Committee serve for a term of one (1) year or until their successors are appointed, and such appointment will be announced at each such annual meeting. The Nominating Committee will make as many nominations for election to the Board of Directors as it, in its sole discretion, determines appropriate, but in no event less than the number of positions to be filled. At least sixty (60) days prior to the annual meeting, the Nominating Committee will recommend the names of Members selected by a majority vote of the Nominating Committee to be submitted to the Members for election to the Board of Directors.

Ten percent (10%) or more of the total votes eligible to be cast by Members who are not members of the Nominating Committee may also nominate candidates for election to the Board of Directors by petition signed by them and filed with the Secretary at least thirty (30) days prior to the annual meeting. The names of any nominees, after having been certified by the Secretary or any other officer, that they are qualified for election and have been nominated in accordance with the provisions of these By-Laws will be included in any proxy mailing to the Members. All candidates will have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Nominations may also be made from the floor at the annual meeting of Members.

6. REMOVAL OF DIRECTORS AND VACANCIES

Any director appointed by Developer may be removed, with or without cause, only by Developer. Any director elected by the Members may be removed, with or without cause, by the vote of the Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought will be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor will be appointed by Developer, or elected by the Members, as the case may be, to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three (3) consecutive unexcused absences from Board meetings, as determined by the Board, or who is delinquent in the payment of any Assessment or other charges due the Association for more than thirty (30) days may be removed

by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the remaining directors. In the event of the death, disability, removal or resignation of a director elected by the Members, the members of the Board may elect a successor to fill the vacancy for the remainder of the term of such director. In the event of the death, disability, removal or resignation of a director appointed by Developer, Developer may appoint a successor to fill the vacancy for the remainder of the term of such director.

7. COMPENSATION

No director will receive a salary or any other compensation whatsoever from the Association for acting as such, but will be entitled to be reimbursed for expenses reasonably incurred on behalf of the Association

8. FIDUCIARY DUTY

The directors will act in good faith in a manner they reasonably believe to be in the best interests of the "Foxland" residential community (the "Community") and the goals of the Association.

9. POWERS AND DUTIES

The Board of Directors will be responsible for the affairs of the Association and will have all of the powers and duties necessary for the administration of the Association's affairs, and as provided by law, may do all acts other than those acts which may be done and exercised exclusively by the Members. In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board will have the power to and be responsible for the following by way of explanation and not limitation:

- (a) preparation and adoption of an annual budget in which there will be established the contribution of each Owner to the Common Expenses
- (b) making assessments to defray the Common Expenses and other assessments authorized by the Declaration, establishing the means and methods of collecting such assessments and establishing the period of payment for assessments;
- (c) providing for the operation, care, upkeep and maintenance of all areas which are the maintenance responsibility of the Association as determined by the Board, including maintenance or provision of services which are generally provided by a municipality, such as maintenance of grassed or landscaped areas along dedicated rights-of-way, maintenance of street lights and community signage, garbage pick-up and maintenance of roadways within the Community;
- (d) designating, hiring and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it will approve and using the proceeds to administer the Association;

(f) making and amending use restrictions, rules and regulations, and design guidelines;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) enforcing by legal means the provisions of the Declaration, any Neighborhood Declaration, these By-Laws and the use restrictions, rules and regulations and design guidelines adopted pursuant to any of the foregoing, and bringing any proceedings which may be instituted on behalf of or against the Owners or their respective invitees or licensees concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(j) providing services to all areas for which the Association is obligated to provide services;

(k) paying the cost of all services, if any, rendered to the Association or its Members, which are not directly chargeable to Owners of particular Lots;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration and specifying the maintenance and repair expenses and any other expenses incurred;

(m) depositing Association funds into interest bearing accounts; and

(n) contracting with any Person for the performance of various duties and functions.

The Board will have the power to enter into common management agreements and other agreements with associations, Neighborhood Associations, Developer and such other persons as it determines appropriate from time to time. Any and all functions of the Association will be fully transferable by the Board, in whole or in part, to any other entity. To the extent permitted by law, the Board will have the power to delegate its functions to designees of the Board such as, without limitation, a management agent, committees established by the Board and employees and independent contractors of the Association.

## **VI - MEETING OF BOARD OF DIRECTORS**

### **1. ORGANIZATIONAL MEETING**

The organizational meeting of the first elected Board of Directors will be held within ten (10) days after the annual meeting of the Members at which the Directors were elected at such time and place as will be fixed by the Board of Directors.

## 2. REGULAR MEETINGS

Regular meetings of the Board of Directors may be held at such time and place as will be determined from time to time by a majority of the directors, but commencing with the Commencement of Association Meetings. At least four (4) regular meetings will be held during each fiscal year with at least one (1) meeting per quarter; provided, however, that the annual meeting will constitute a regular meeting. Notice of the time and place of any meeting, other than an annual meeting, shall be communicated to the directors not less than ten (10) days prior to the meeting.

## 3. SPECIAL MEETINGS

Special meetings of the Board of Directors or any committee designated thereby will be held when called by written notice signed by the President or by a majority of the directors. The notice will specify the time and place of the meeting and the nature of any special business to be considered. The notice will be given to each director by personal delivery, first class mail or telephone at least five (5) days prior to the date of the meeting, unless the special business is of a nature which, in the President's discretion, requires more immediate action, and then a minimum of twenty-four (24) hours' notice will be deemed sufficient.

## 4. WAIVER OF NOTICE

Any meeting of the Board of Directors, however called and noticed or wherever held, will be as valid as when taken at a meeting duly held after regular call and notice if (a) a quorum is present and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. Notice of a meeting will also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

## 5. QUORUM OF BOARD OF DIRECTORS AND REQUIRED VOTE

At all meetings of the Board of Directors, a majority of the directors will constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present will constitute the decision of the Board of Directors except as otherwise provided in the Declaration, the Charter or these By-Laws. If any meeting of the Board of Directors cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

## 6. CONDUCT OF MEETINGS

The President will preside over all meetings of the Board of Directors and the Secretary will keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

## 7. OPEN MEETINGS

All meetings of the Board will be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested by a director and granted by the President. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board of Directors and reconvene in executive session, excluding Members, when such action is necessary in the reasonable judgment of the President.

## 8. EXECUTIVE SESSION

The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and other business of a similar nature. The nature of any and all business to be considered in executive session will first be announced in open session.

## 9. TELEPHONE MEETINGS

Any regular or special meeting of the Board of Directors may be held by telephone conference, at which each participating director can hear and be heard by all other participating directors.

## 10. ACTION WITHOUT A MEETING

Any action required to be taken at a meeting of the Board of Directors or any action which may be taken at a meeting of the Board of Directors or of a committee of directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors or all of the members of the committee of directors, as the case may be, in accordance with the Act.

# VII - OFFICERS

## 1. OFFICERS

The officers of the Association will be a President, Vice President, Secretary and Treasurer to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it will deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary may not be held by the same person.

## 2. APPOINTMENT, TERM OF OFFICE AND VACANCIES

The officers of the Association will be appointed annually by the Board of Directors at the first meeting of the Board of Directors during a fiscal year. A vacancy in any office arising because of death resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.



3. REMOVAL

Any officer may be removed by a majority vote of the Board of Directors in the sole discretion of the Board and the removal of a director who is also an officer will automatically act as a removal from such director's position as an officer.

4. RESIGNATION

Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation will take effect on the date of the receipt of such notice or at a later time specified in the notice and, unless otherwise specified in the notice, the acceptance of the resignation will not be necessary to make it effective.

**VIII - DUTIES OF OFFICERS**

The officers of the Association will each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as are from time to time specifically conferred or imposed by the Board of Directors.

1. PRESIDENT

The President will be the chief executive officer of the Association and will:

- (a) act as presiding officer at all meetings of the Members and the Board of Directors;
- (b) call special meetings of the Members and the Board of Directors;
- (c) sign, with the Secretary or Treasurer if the Board of Directors so requires, all checks, contracts, promissory notes, leases, subleases and other instruments on behalf of the Association, except those which the Board of Directors specifies may be signed by other persons;
- (d) perform all acts and duties usually required of a chief executive to ensure that all orders and resolutions of the Board of Directors are carried out; and
- (e) act as an ex-officio member of all committees and render an annual report at the annual meeting of Members.

2. VICE PRESIDENT

The Vice President, in the absence or disability of the President, will exercise the powers and perform the duties of the President. The Vice President also will assist the President generally and exercise other powers and perform other duties as will be prescribed by the directors.

3. SECRETARY

The Secretary will have the following duties and responsibilities.

- (a) attend all regular and special meetings of the Members and the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done;
- (b) have custody of the corporate seal, if any, and affix the same when necessary or required;
- (c) attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings and keep membership books; and
- (d) have custody of the minute book of the meetings of the Board of Directors and the meetings of the Members and act as agent for the transfer of the corporate books.

4. TREASURER

The Treasurer will:

- (a) receive monies as will be paid into his hands for the account of the Association and disburse funds as may be ordered by the Board of Directors, taking proper vouchers for disbursements and be custodian of all contracts, leases and other important documents of the Association which he shall keep safely deposited;
- (b) supervise the keeping of accounts of all financial transactions of the Association in books belonging to the Association and deliver the books to his successor;
- (c) prepare and distribute to all of the members of the Board of Directors prior to each annual meeting and whenever else required a summary of the financial transactions and condition of the Association from the preceding year;
- (d) make a full and accurate report on matters and business pertaining to his office to the Members at the annual meeting and make all reports required by law; and
- (e) act as the chairman of the Finance Committee.

The Treasurer may have the assistance of an accountant or auditor, who will be employed by the Association. In the event the Association enters into a management agreement, it will be proper to delegate any or all of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

**IX - COMMITTEES**

1. STANDING COMMITTEES

Each year after the Commencement of Association Meetings, the Board of Directors, by resolution adopted by a majority of the directors in office, may designate and appoint members of each of the following committees, each of which will consist of two (2) or more directors.

(a) Grounds Committee. The Grounds Committee will advise the Board of Directors on matters concerning maintenance of Common Property. No live trees will be moved from Common Property nor will any alteration or improvement be made to Common Property except with the approval of the Board of Directors and in accordance with the Declaration.

(b) Finance Committee. The Finance Committee will in general supervise, direct and control all matters pertaining to Association finances including, but not limited to, the placing of insurance, the filing of tax returns, the payment of taxes, the preparation of the annual operating budget for approval by the Board of Directors, preparation of current reports for the Board of Directors and the Association's financial condition and the issuance to Members of a condensed quarterly operating statement. The Finance Committee will have the power, with the approval of the Board of Directors, to direct the Association, to employ at the expense of the Association, such clerical aid and assistance as may be necessary to handle the accounts.

(c) Newsletter Committee. The Newsletter Committee will supervise and control the preparation of a newsletter for distribution to all Members.

(d) Legal and By-Laws Committee. The Legal and By-Laws Committee will be charged with the publication and interpretation of the rules and regulations, these By-Laws, and the Declaration and, in general, with all matters of a legal nature pertaining to the Association.

## 2. AD HOC COMMITTEES

From time to time, the Board of Directors may appoint such ad hoc committees by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present, with such powers and composition as the Board of Directors will determine.

## 3. ARCHITECTURAL REVIEW BOARD

The A.R.B. shall be a permanent committee of the Association as contemplated in Article 9 of the Declaration.

## 4. POWERS OF COMMITTEES

The several committees will act only as committees and the individual members thereof will have no power or authority to act on behalf of the Board or the Association.

# X - DISCIPLINE

## 1. ENFORCEMENT

The Board of Directors will have the power to impose reasonable fines which will constitute an automatic and continuing lien upon a Lot of the violating Owner, to suspend an Owner's right to use the Common Property, and to preclude contractors, subcontractors, agents and other invitees of an Owner or occupant from the Community for violation of any duty imposed under the Declaration or these By-Laws; provided, however, that nothing herein will authorize the Association or the Board of Directors to limit an Owner's or occupant's ingress and egress to or from a Lot. In the event that any occupant or Owner violates the Declaration or

these By-Laws, and a fine is imposed, the fine will first be assessed against the occupant residing therein; provided, however, that if the fine is not paid by the occupant within the time period set by the Board of Directors, the Owner will pay the fine upon notice from the Association. The failure of the Board of Directors to enforce any provision of the Declaration or By-Laws will not be deemed a waiver of the right of the Board of Directors to do so thereafter.

## 2. NOTICE

Prior to imposition of any sanction hereunder for any reason other than nonpayment of assessments or other charges, the Board of Directors or its delegate will serve the accused with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) a period of not less than ten (10) days within which the alleged violator may present a written request to the Board of Directors for a hearing, and (d) a statement that the proposed sanction will be imposed as contained in the notice unless a challenge has been requested within ten (10) days of the notice.

## 3. HEARING

If a hearing is requested within the allotted ten (10) day period, the hearing will be held in executive session of the Board of Directors at the next regularly scheduled meeting or at a Special Meeting affording the accused a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or agent who delivered such notice. The notice requirement will be deemed satisfied if the accused appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction imposed, if any. The Board of Directors may, but will not be obligated, to suspend any proposed sanction if the violation is cured within the ten (10) day period. Any suspension will not constitute a waiver of the right to sanction future violations of the same or other provisions by any Person.

## 4. ADDITIONAL ENFORCEMENT RIGHTS

Notwithstanding anything to the contrary herein contained, the Association may elect to enforce any provisions of the Declaration or these By-Laws by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought will pay all costs, including reasonable attorneys' fees, actually incurred.

# XI - FISCAL MANAGEMENT

## 1. FISCAL YEAR

The fiscal year of the Association will commence upon the first (1st) day of January and conclude on the thirty-first (31st) day of December.

## 2. DEPOSITORIES

The funds of the Association will be deposited in such accounts as may be selected by the Board of Directors, including checking and savings accounts in one (1) or more banks and/or savings and loan associations, Certificates of Deposit, U.S. Treasury Bills and money market accounts with an investment firm or firms, all in accordance with resolutions approved by the Board of Directors. The funds will be used only for lawful purposes of the Association.

## 3. EXPENSES

The receipts and expenditures of the Association may be credited and charged to accounts as the Board of Directors may determine, in accordance with good accounting practices as set forth in Article XI, Section 7, below.

## 4. RESERVE ACCOUNTS

The Association will establish and maintain an adequate reserve account for the periodic maintenance, repair and replacement of Common Property.

## 5. BUDGET

The Board of Directors will adopt a budget for each fiscal year that will include the estimated funds required to defray the expenses of the Association for the fiscal year and to provide and maintain funds for the accounts established by the Board of Directors (including a capital replacement reserve), in accordance with good accounting practices as set forth in Article XI, Section 7, below.

## 6. FIDELITY BONDS

If determined by the Board, and if such bonds are reasonably available, the Association will purchase blanket fidelity bonds for all directors, officers and employees of the Association and for any management agent who controls or disburses funds of the Association and any contractor handling or responsible for Association funds. The following provisions will govern the Association's purchase of the bonds:

(a) Each fidelity bond purchased by the Association will name the Association as an obligee of the bond.

(b) The premiums for bonds will be paid by the Association.

(c) The fidelity bonds will be in the amount determined from time-to-time by the Board of Directors.

(d) Each bond will include a provision requiring ten (10) days' written notice to the Association before the bond can be canceled or substantially modified for any reason.

7. ACCOUNTS AND REPORTS

The following standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting (exclusive of depreciation and amortization), as defined by generally accepted accounting principles, will be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association will not be commingled with any other accounts;
- (d) no remuneration will be accepted by any officer, director or employee of the Association from vendors, independent contractors or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise; anything of value received will benefit the Association;
- (e) any financial or other interest which any officer, director or employee of the Association may have in any firm providing goods or services to the Association will be disclosed promptly to the Board of Directors; and
- (f) an annual report consisting of at least the following will be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. If determined by the Board of Directors, the annual report referred to above will be prepared on an audited basis by a Certified Public Accountant selected by the Board of Directors. If unaudited financial statements are used, the unaudited financial statements will be certified by an officer of the Association.

8. AGREEMENTS, CONTRACTS, DEEDS, LEASES, CHECKS

All agreements, contracts, deeds, leases, checks and other instruments of the Association will be executed by the President or the Secretary or by such other member of the Board or officer of the Association as may be designated by resolution of the Board of Directors.

9. BOOKS AND RECORDS

The Declaration, Charter, By-Laws, membership register, books of account and minutes of meetings of the Members, the Board and committees will be made available for inspection and copying by any mortgagee, Owner, Member or director or such person's agent, at any reasonable time and for any proper purpose, at the office of the Association. Such records will include a record of receipts and expenditures and accounts for each Owner, which accounts will designate the names and addresses of the Owners, the due dates and amount of each Assessment, the amounts paid upon the account and the balance due. Accounts of Owners will only be available for inspection by the Board, the officers and the Owner or such Owner's mortgagee. Books and records of the Association may be kept at the Association office at the Property, or off-site at an office designated by Developer.

The Board will establish reasonable rules with respect to: (1) notice to be given to the custodian of the records; (2) hours and days of the week when an inspection may be made; and (3) payment of the cost of reproducing copies of documents requested.

Every director will have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

10. INSURANCE

The Association will procure, maintain and keep in full force and effect insurance as may be required by the Declaration to protect the interests of the Association and the Owners.

**XII - MISCELLANEOUS**

1. PARLIAMENTARY RULES

Robert's Rules of Order (then current edition) will govern the conduct of Association proceedings when not in conflict with applicable law, the Charter, the Declaration or these By-Laws.

2. CONSTRUCTION

If there are conflicts between the provisions of Tennessee law, the Charter, the Declaration and/or these By-Laws, the provisions of Tennessee law, the Declaration, the Charter, and these By-Laws (in that order) will prevail.

3. VALIDITY

If any By-Law or rule or regulation is adjudicated to be invalid, such fact will not affect the validity of any other By-Law or rule or regulation.

4. NOTICES

Unless otherwise provided in these By-Laws, all notices, demands, bills, statements or other communications under these By-Laws will be in writing and will be deemed to have been duly given if delivered personally or if sent by United States Mail, first-class, postage prepaid: (a) if to an Owner or Member, at the address which the Owner or Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of the Owner or Member; or (b) if to the Association or the Board of Directors, then at the registered office of the Association or at such other address as will be designated by the Association or the Board of Directors in writing and given to the Owners or Members in accordance with this Section.

5. AMENDMENTS

Until the Commencement of Association Meetings, Developer may amend these By-laws in its sole and absolute discretion. After the Commencement of Association Meetings,

Developer may amend these By-Laws at any time and from time to time, in its sole and absolute discretion, if such amendment is: (a) necessary to bring any provisions hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on a Lot; (c) required by an institutional lender or a government mortgage agency or purchaser of mortgage loans to enable the same to make, insure or purchase mortgage loans on a Lot; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on a Lot subject to the Declaration; or (e) necessary to correct any stenographic, scrivener's or surveyor's error or any error of a like nature; provided however, any such amendment will not adversely affect the title to a Lot, unless the Owner thereof consents thereto in writing.

After the Commencement of Association Meetings and so long as it still owns legal or equitable title to any part of the Property including the Additional Property (as described in the Declaration) for development, Developer may amend these By-Laws in its sole and absolute discretion for any other purpose; provided, however, that such amendment will not materially and adversely affect the rights of any Owner of a Lot without the approval of such Owner.

After the Commencement of Association Meetings, (a) any non-Developer initiated amendment, or (b) any Developer initiated amendment which is not described in the first paragraph under the heading "5. AMENDMENTS" and which has a materially adverse effect upon the rights of an Owner of a Lot will require the affirmative vote (in person or by proxy) or the written consent, or any combination thereof, of Members representing at least sixty-seven percent (67%) of the total votes in the Association, and the consent of Developer, so long as Developer owns legal or equitable title to any portion of the Property or the Additional Property. However, the percentage of votes necessary to amend a specific clause will be not less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

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

Any amendment made prior to or after the Commencement of Association Meetings will conform to the Declaration.