

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE RESIDENTIAL LOTS OF
THE CORDOVA CLUB**

&

**BYLAWS OF
The Cordova Club Owner's Association**

With Amendments

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE RESIDENTIAL LOTS OF
THE CORDOVA CLUB**

THIS DECLARATION is made and entered into this ___ day of April, 1991, by ESSENJAY AND ASSOCIATES, a California Limited Partnership, hereinafter referred to as the "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property situated in the County of Shelby, State of Tennessee which is defined hereinafter as the Property, and known as THE CORDOVA CLUB, P.D. number 88-337CC consisting of residential lots which may include single-family detached, single-family attached, zero-lot line and multi-family lots, general office and commercial acreage, common areas, Golf Course and amenities; and

WHEREAS, Declarant will convey the Property, or portions thereof, to Owners (as hereinafter defined), subject to certain protective covenants, conditions, easements, restrictions, uses, reservations, limitations, liens and obligations as hereinafter set forth.

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations, liens and obligations shall be deemed to run with the land encompassing the Property and shall be a burden upon and a benefit to Declarant and any Person acquiring or owning an interest in the Property and improvements thereon which is subject to this Declaration, their grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I

DEFINITIONS

Definitions. As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

- 1.1 "Architectural Committee". The committee created pursuant to Article VI hereof.
- 1.2 "Architectural Committee Rules". The rules and regulations adopted by the Architectural Committee, as they may from time to time be in effect, pursuant to the provisions of Article VI hereof.
- 1.3 "Association". The Cordova Club Owner's Association, Inc.
- 1.3 "Beneficiary". A mortgagee under a mortgage as well as a beneficiary under a deed of trust.
- 1.4 "Common Area". That portion of the Property designated as "Common Area" on any plat or plans of record filed hereafter or on any amendment hereto, such being intended to relate back to this Declaration and to be governed hereby. The Common Area so described does not include the Golf Course or any tennis court, pool, club house or auxiliary properties attendant to the operation thereof, hereinafter sometimes together referred to as "The Golf Course, Etc."

Any reference to "Common Open Space" contained in The Cordova Club P.D. plans or plats, whether of record or not, is for identification only and is not intended to create or evidence a commonality of use or ownership. No Lot Owner shall have any interest whatsoever in the Golf Course, club house, tennis courts, pool, or other recreational facilities. All of such facilities and the real and personal property attendant thereto are exclusively owned by Essenjey and Associates, Ltd. and any successor or assign of Essenjey's choosing.

- 1.5 "Common Expenses". Those expenses incurred in furtherance of the duties of the Association in its lawful operations, including but not limited to, the maintenance and upkeep of the Feature Areas.

1.6 "THE CORDOVA CLUB P.D." The planned development known as THE CORDOVA CLUB P.D. bearing number 88-337CC with the Office of Planning and Development of Shelby County, Tennessee along with all plats, maps, documentation and amendments thereto duly, legally and properly created upon such being filed in the Office of the Register of Shelby County, Tennessee either at the time of the recording of this instrument or thereafter. As of the time of the recording of this instrument, CORDOVA CLUB P.D. is recorded at Plat Book 131, Page 68 and at Plat Book 133, Page 43.

1.7 "Declarant". The Declarant named herein or its assigns or such successor or successors who or which succeed to the interests of the Declarant, either in whole or in part, including but not limited to a successor acquiring an interest (i) upon foreclosure of a Mortgage upon the Property under which the Declarant is a grantor or (ii) as grantee under a deed in lieu of such foreclosure.

1.8 "Declaration". This Declaration of Covenants, Conditions and Restrictions together with any validly executed and authorized supplement or amendment hereto recorded in the Register's Office of Shelby County, Tennessee.

1.9 "Dwelling Unit". A structure situated upon a Lot designed for use and occupancy for residential purposes and for ancillary uses as garages or storage sheds.

1.10 "Exhibit". An attachment to this Declaration so labeled, each of which shall be deemed incorporated in this Declaration as though set forth in full in the Section in which each such Exhibit is referred to.

1.11 "Family". One or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than four (4) persons not all so related, together with their domestic servants, who maintain a common household in a Dwelling Unit.

1.12 "Feature Areas". (a) The Common Area, (b) all landscape, fences, walls and hardscape areas situated in The Cordova Club P.D. within the Common Area or any easement area devoted to such areas and (c) all roadway median strips or areas within Cordova and Appling Roads located on The Cordova Club P.D. Such areas do not include private drives or common areas established by Owners within a private area.

1.13 "Guest". Any agent, servant, employee, contractor, tenant, guest, licensee or invitee of an owner.

1.14 "Golf Course". The Golf Course situated on the Project.

1.15 "Improvements". All structures and appurtenances of every kind, whether above or below the land surface, including but not limited to, buildings, outbuildings, roads, driveways, parking areas, fences, screening walls, walkways, utility systems, landscaping improvements, retaining walls, stairs, decks, hedges, windbreaks, exterior fixtures, plantings, planted trees and shrubs, poles, signs and any other structures or landscaping improvements of every type and kind built or placed on the Lots. It is intended that the Improvements reasonably meant for the Owner of a particular Lot will lie entirely within said Lot.

1.16 "Lot". One of the subdivided residential lots, whether improved or unimproved, designated by arabic number owned in fee simple and situated in Shelby County, Tennessee as set out on THE CORDOVA CLUB P.D. as defined herein and hereafter amended and all improvements thereon and all appurtenances and hereditaments appertaining thereto.

For purposes of Section 4.2 hereof, the Lots are assigned the following designations and definitions:

A Lot - Any Lot which is greater than eighty (80) feet in width when measured along its front building setback line. Such lots may also be referred to as "90' Lots."

A-1 Lot - Any Lot among Lots 1 through 14, inclusive, and Lots 20-30, inclusive, and Lots 41, 42, 46, 47, 48, 49, 57, 58, 59, 60, of Phase I of the Project and all Lots adjoining the Golf Course.

C Lot - Any lot which is fewer than fifty (50) feet in width when measured along its front building setback line. Such Lots may also be referred to as "45' Lots."

B Lot - Any Lot which is neither an A Lot or C Lot. Such Lots may also be referred to as "67.5' Lots."

1.17 "Mortgage". Any mortgage, deed of trust or other assignment, pledge or security instrument creating a lien or encumbrance intended to secure a debt on any Lot, and "Mortgagee" means any grantee, beneficiary or assignee of a Mortgage.

1.18 "Owner". The Person or Persons, being the owner or owners of record of a Lot in fee simple including the Declarant so long as any Lot, as hereinafter defined, is owned by Declarant. Such definition specifically excludes, however, that Person or Persons having such interest as security for the performance of an obligation.

1.19 "Person". An individual, corporation, partnership, combination, association, trustee or any other legal entity.

1.20 "Project". The Property together with all Improvements made thereon.

1.21 "Property". All that real property situated in Shelby County, Tennessee described on Exhibit A attached hereto and incorporated herein by reference, along with all the appurtenances and hereditaments thereunto belonging or in anywise appertaining.

1.22 "Public Purchaser". A purchaser of a Dwelling Unit and/or Lot who is unrelated to Declarant or to any corporation, partnership, joint venture, or other business entity in which Declarant has an ownership or beneficial interest or over which Declarant exercises contractual or other control relating to the improvement, development or sale of the Property.

1.23 "Single-Family Residential Area". All of the Property designated as a single family residential area (or any reasonable variation thereof) as shown on The CORDOVA CLUB P.D. and any validly executed and authorized amendments thereto, filed in the said register's office.

1.24 "Single-Family Residential Use". The occupancy and use of a single-family Dwelling Unit in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state or municipal laws, ordinances and/or regulations.

1.25 "Tenant". The Person that is the tenant occupying a "Lot" under a bona fide, permitted lease with the Owner.

1.26 "Unbuildable Natural Drainageways". Those areas within the Property which are designated "unbuildable natural drainage ways" (or any reasonable variation thereof) on any plat or map of THE CORDOVA CLUB P.D. recorded in the Office of the Register of Shelby County, Tennessee at any time before or after the recording hereof in which construction within or alteration of water drainageways is either forbidden or restricted by statute, ordinance, regulation, rule or agreement.

1.27 "Zero Lot Line Unit". Two single family attached dwellings situated on two (2) separate legal parcels having one (1) side yard for each parcel meeting the definition of "Dwelling", Single Family Attached" in Memphis and Shelby Zoning Ordinance of January 1981.

1.28 "Zero Lot Line Lot". A residential building Lot on which is situated a Zero Lot Line Unit.

ARTICLE II

PROPERTY SUBJECT TO RESTRICTIONS

2.1 The Project. All of the Lots in the Single Family Residential Area shall be subject to this Declaration and shall constitute the Project. Declarant hereby declares that all of the Property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved

subject to all of the covenants, conditions and restrictions contained in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the Property and are established and agreed upon for the purpose of contributing to the enhancement of the value, desirability and attractiveness of the Property and every part thereof. This Declaration shall run with the Property and shall be binding upon and inure to the benefit of the Declarant, each Owner of a Lot in the Project and each successor in interest of such Owner. Each and all of the covenants, conditions, restrictions, limitations, easements, uses and obligations contained herein shall be deemed to be and shall be construed as equitable servitudes enforceable by Declarant, and the Owner of any Lot against other Owners, tenants, or occupants of the Property, or any portion thereof.

The Project does not include the Golf Course, club house, tennis courts, pool or other recreational facilities. The name "The Cordova Club" is simply the identifying name given to the Project and no intent, agreement, promise or representation to construct, maintain, or continue in existence the Golf Course, club house, tennis courts, pool or other recreational facilities shall be implied by the use of such name or by any other action or failure to act of the Declarant.

2.2 Separate Taxation. Each Lot shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing body and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. No forfeiture or sale of any Lot for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Lot or to the Common Area.

2.3 Title. A Lot may be held and owned by more than one Person as joint tenants, tenants in common, tenants by the entirety, or in any real property tenancy relationship recognized under the laws of the State of Tennessee.

2.4 Liens Against Lots -- Removal From Lien -- Effect of Part Payment.

(a) No labor performed or materials furnished, with or without the consent, or at the request of an Owner of a particular Lot, or his agent, shall be the basis for the claim or perfection of a lien of any kind, statutory, equitable, legal or contractual against a Lot, Common Areas or improvements of another Owner not expressly consenting to or requesting the same. No lien shall lie or be enjoyed by any Person for labor performed or materials furnished for the Common Areas and the non-payment for same shall not be the basis for the establishment of a lien pursuant to law, or equity or contract against any of the Lots or Common Areas. Any Person undertaking to perform labor for or furnish materials to the Common Areas shall be bound by this prohibition against liens.

(b) Each Owner shall indemnify and hold each of the other Owners harmless from and against liability or loss arising from the claim of any lien against the Lot of that Owner, or any part thereof for labor performed on or for materials furnished to such Owner's Lot.

(c) The provisions of Section 2.4(a) and (b) shall not, however, in any manner affect rights established elsewhere in this instrument with respect to liens in favor of the Association or the Declarant.

ARTICLE III

VARIOUS RIGHTS AND EASEMENTS

3.1 Easements Reserved. Easements are reserved and granted as shown on and in accordance with the Subdivision Plats, P.D. plans and other instruments of record in the Register's Office of Shelby County, Tennessee, including this Declaration.

3.2 Owner's Easements for Access and Utilities: To the extent that such may be necessary, each Owner and his Guests shall have a non-exclusive easement across the Common Areas which are devoted to streets, roads, drives or pathways for access between his Lot and the roads and streets adjacent to the Property. To the extent that such may be necessary, each Owner shall have a non-exclusive easement in, on and over the Common Areas, for utility service to his Lot, including but not limited to, water, sewer, gas, electricity, telephone and cable television service.

3.3 Easements Deemed Appurtenant: The easements, uses and rights herein created for an

Owner shall be appurtenant to the Lot of that Owner and all deeds, grants and conveyances of and other instruments affecting title to a Lot shall be deemed to grant or reserve the easements, uses and rights as are provided for herein, even though no specific reference to such easements, uses and rights appears in any such conveyance.

3.4 Easement: A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies, services or Persons, and to U.S. Postal Service persons, and garbage collection, now or hereafter servicing the Property, to enter upon all streets, roads and driveways located in the Property, and upon the Property, in the performance of their duties.

3.5 Ingress and Egress. Should any utility company request a specific easement by separate, recordable document, Declarant shall have the right, without joinder by any other party, to grant such easement on, and over any of the Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easements on said premises.

3.6 Easements of Enjoyment in Common Area. Every Owner shall have a right and easement of use and enjoyment in and to the Common Area, including, but not limited to easements for pedestrian use, utility lines, pipes, wires and conduits, which shall be appurtenant to and shall pass with the title to each Lot, subject, however to the following:

- (a) The provisions of this Declaration, and Architectural Committee Rules (as the same may from time to time be adopted and amended);
- (b) The rights and easements granted and reserved as set forth elsewhere in this Article;
- (c) The right of the Declarant to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility, tax assessing body, maintenance body or special district, for such purposes and subject to such conditions as may be agreed upon in Declarant's sole discretion.
- (d) No Lot Owner shall have any interest whatsoever, real, personal, tangible or intangible, in the Golf Course, club house, tennis courts, pool or other recreational facilities. All such facilities and the real and personal property attendant thereto are exclusively owned by Essenjay and Associates and any successor or assign of Essenjay's choosing.

3.7 Easements to Benefit Golf Course.

(a) A permanent easement or easements are declared and reserved in favor of Essenjay and Associates, its successors and assigns over, under and across all and any portion of the Property where a private or public drive is contiguous with the Golf Course: i.e. "Parcel 7 and Cordova Club Drive (Future) (68' R/W)" as so described in "Final Plan for Phase II, The Cordova Club" recorded at Plat Book 133, Page 43 in the Register's Office of Shelby County, Tennessee. Such easement or easements shall be for the purpose of unrestricted ingress, egress and access by Essenjay and Associates, its successors, assigns, and designees, to and from those portions of the golf course immediately adjacent thereto and for water lines and irrigation machinery, their maintenance and repair. This easement shall be permanent and shall not be terminable by any party other than Essenjay and Associates or the then owner of the Golf Course.

(b) A permanent easement or easements are declared and reserved in favor of Essenjay and Associates, its successors and assigns over, under and across all and any portion of the Property for the purpose of installation, maintenance, and repair of utilities, drainage, and irrigation serving or intended to serve the Golf Course. In furtherance of such easements, the easement or easements shall include a right of ingress and egress of maintenance persons and their equipment, where necessary, for installation, inspection and repair purposes. No Dwelling Unit, structure, planting or other Improvements of any kind shall be built, erected or maintained upon a Lot which will damage or interfere with or change the direction of flow of drainage onto the Golf Course without the prior written approval of the then owner of the Golf Course. This easement shall be permanent and shall not be terminable by any party other than Essenjay and Associates or the then owner of the Golf Course.

3.8 Reciprocal Appurtenant Easements. Most Lots will be served by utilities and drainage facilities

which are located on or under another Lot or Lots. Easements for the installation and maintenance of such utilities and drainage facilities are shown on the recorded plat or plats of the Property, and there are hereby created appurtenant easements for the use and benefit of the respective Lots served, as dominant tenements, on, under and across the Lots burdened thereby, as servient tenements, for ingress and egress of maintenance persons and their vehicles for inspection and repair purposes, and for utility and telephone lines, conduits or cables, sewer and drainage pipes, sprinkler systems, culverts, and utility meters. No Dwelling Unit, structure, planting or other Improvements of any kind shall be built, erected or maintained upon any such easement, reservation, or right-of-way which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with or change the direction of flow of drainage facilities, and said easements, reservations and rights-of-way shall at all times be open and accessible to utilities, and to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, under and upon such locations to carry out any of the purposes for which said easements, reservations, and rights-of-way are hereby granted.

3.9 Easements for Encroachments. Each Zero Lot-Line-Lot is hereby declared to have an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of Improvements, or any other similar cause, including without limitation any encroachment due to building or balcony overhang or projection. There are further declared hereby valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. In no event shall said easement for encroachment be in excess of twelve (12) inches.

3.10 Appurtenant Easements. Each of the easements provided for in this Declaration shall be deemed to be established upon the recordation of this Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Lots and the Common Area, as the case may be, superior to all other encumbrances applied against or in favor of any portion of the Property. In furtherance of the easements provided for in this Declaration, the individual grant deeds to Lots may, but shall not be required to, set forth said easements. Any conveyance of any such easement unaccompanied by a like conveyance of a corresponding interest in a Lot shall be void.

3.11 Utility and Drainage Easements. Notwithstanding anything herein expressly or impliedly to the contrary, all easements shall be subject to this Declaration and/or any validly executed and authorized supplements or amendments thereto recorded in the Register's Office of Shelby County, Tennessee.

ARTICLE IV

PROPERTY RIGHTS: SINGLE-FAMILY RESIDENTIAL LOTS RESTRICTIVE COVENANTS AND OBLIGATIONS

4.1 Lots within the Single-Family Residential Area shall be for the exclusive use and benefit of the Owners thereof and shall be restricted to Single-Family Residential Use, subject, however, to all of the following limitations and restrictions, in addition to those elsewhere herein set forth.

4.2 Dwelling Size.

(a) A-1 Lots. The living area of the main structure on any A-1 Lot exclusive of basement, garage, patios, porches which are not totally enclosed and outbuildings, shall not be less than 2,600 square feet. For a Dwelling Unit of more than one story, the ground floor shall not be less than 1,800 square feet.

(b) A Lots. The living area of the main structure on all A Lots (other than A-1 Lots) exclusive

of basement, garage, patios, porches which are not totally enclosed and outbuildings, shall not be less than 2,400 square feet. For a Dwelling Unit of more than one story, the ground floor shall not be less than 1,600 square feet.

(c) B Lots. The living area of the main structure of any B Lot exclusive of basement, garage, patios, porches which are not totally enclosed and outbuildings, shall not be less than 2,000 square feet. For a Dwelling Unit of more than one story, the ground floor shall not be less than 1,200 square feet.

(d) C Lots. The living area of the main structure of any C Lot exclusive of basement, garages, patios, porches which are not totally enclosed and outbuildings, shall not be less than 1,800 square feet. For a Dwelling Unit of more than one story, the ground floor shall not be less than 1,100 square feet. C Lots may conform to Zero Lot Line Lots, as "Dwelling, Single Family Attached" in Memphis and Shelby County Zoning Ordinance of January 1981.

No construction of a Dwelling Unit shall be commenced prior to the approval of the plans and specifications therefor by the Architectural Committee pursuant to Article VI hereof. The construction of any Dwelling Unit shall be completed (as evidenced by the issuance of a Certificate of Occupancy therefor) within one (1) year following the date of the commencement of the construction thereof. For purposes of this Declaration, the "commencement of construction" of a Dwelling Unit shall be deemed to be the date on which any work is performed on a Lot in preparation for the construction of a Dwelling Unit, except for routine cleaning of such Lot. The maximum one year period provided for completion of construction, may be extended by the Architectural Committee upon receipt of a written request detailing circumstances prohibiting completion within the one year period. Any construction of a Dwelling Unit not completed within one year from commencement of construction or by the expiration of the extension period, if any, (date as determined by the Architectural Committee), may be subject to the following remedies of the Declarant:

(a) Declarant may file a civil complaint in a court of competent jurisdiction requesting a court ordered mandatory injunction;

(b) Declarant may enter the Lot and demolish the Improvement with all cost of demolition to be borne by the Lot Owner secured by a lien against the Owner's Lot hereby granted, conveyed and reserved;

(c) Declarant may enter the Lot and complete the Improvement with all cost of completion to be borne by the Lot Owner secured by a lien against the Owner's Lot hereby granted, conveyed and reserved;

(d) Declarant may repurchase the Lot and the incomplete Improvement thereon at a price to be determined by an MAI real estate appraiser of Declarant's choosing, the appraisal of whom shall be determinative and final.

The Declarant is not limited to the foregoing remedies and may, at its option, choose any one or more of the foregoing remedies or any other remedy available to it in law or at equity.

4.3 Building Height Restrictions. Building Height Restrictions shall conform to Definition Section 202, and Modification 402.2.1 of Standard Building Code (attached as Exhibit B) and Clarification of Memphis and Shelby County Office of Code Enforcement, December 4, 1990, to letter of Cordova Club of November 29, 1990, (attached as Exhibit B-1) and Official Illustrations Page 189 of Memphis and Shelby County Zoning Ordinance, Figure 1 "Illustration of Building Height", (attached as Exhibit C).

4.4 Building Lines. Minimum building setback lines for all Lots shall be as follows and as illustrated in attached Exhibit D, "Illustration of Required Yards".

(a) Front: Thirty feet (30') as measured from all points along the Front Lot line from any Alternate Design Minor Local Street and forty feet (40') from any Collector or Arterial Roadway.

(b) Side: Sideyard setback areas shall, at a minimum, total twenty percent (20%) of the area of

the Lot; provided that no sideyard setback shall be less than five feet (5') as measured from all points along any side Lot line. Side yards shall be calculated for areas from front to rear lot lines, and for the purpose of calculation of 20% of the lot area, side yard shall include those areas within the required rear lot clearance from the rear lot line and front lot clearance from the front lot line.

(c) Rear: All "A" Lots and any Lot abutting or adjoining the Golf Course shall have a rear setback of not less than twenty feet (20') measured from all points of the rear lot line. All other Lots shall have rear setback lines not less than twenty five feet (25') from rear lot line as required by Memphis and Shelby County Zoning Ordinance.

(d) Exceptions: On other than Lots adjoining or abutting the Golf Course, Accessory Buildings, approved by the Architectural Committee for design and location, may be constructed in strict accordance with Chapters 27, 28, and 29 of the above mentioned Zoning Ordinance.

In no event, however, shall building setback lines (front, rear and side) be (i) less than those required by applicable ordinances and regulations or (ii) no less than those shown on The Cordova Club P.D., as amended from time to time. The Declarant reserves unto itself, its successors and assigns, and the Architectural Committee the right to control, absolutely, the precise location of any structure upon all Lots with particular emphasis on front setbacks to create various setbacks on adjoining lots. Such location shall be determined only after reasonable opportunity has been afforded to an Owner to recommend a specific location.

4.5 Windows. No building shall be erected on any Lot wherein there shall be installed any window or window framing fabricated in whole or in part of metal which shall have other than a matte finish.

(a) Window frames and framing other than wood will be either anodized or electrostatically painted. Window frames and framing will be in color harmony with the exterior color and texture of the residence. No natural aluminum color or any other silver tone will be permitted for window framing.

(b) Wood frames and framing will be painted, sealed or stained or shall have shop manufactured metal or vinyl cladding, colors of which shall conform to Paragraph 4.5(a).

(c) The use of reflective glass will be restricted to those types with less than 10% outdoor reflectance and be of gray, bronze or neutral shades. No silver, gold, blue, green or highly mirrored-surfaced glass will be allowed.

(d) Windows situated in any garage wall facing a public or private street shall be covered by interior grade draperies, shutters or blinds.

4.6 Building Materials. All exposed flashing materials shall be of copper or copper colored material. All exposed roofing materials shall be "architectural style" shingles. All other exterior building materials shall be strictly controlled by the Architectural Committee and must be approved as to composition, usage and facade coverage ratios.

4.7 Garage. (a) Each dwelling unit must have a private, fully enclosed garage for not less than 2 nor more than 4 automobiles each to be equipped with a sliding or roll-up garage door with automatic opener. No garage may have an entrance which may be seen from the Golf Course. No garage shall be constructed having its garage door-face generally parallel to the front setback line of its Lot unless such garage door is sixty feet (60') or more from that front setback line at all points; UNLESS the Lot is a down hill gradient lot and the garage floor at the door-face is not less than five feet, four inches (5'4") below the level of the main living floor, in which case such garage door may be forty feet (40') from the front setback line. Houses constructed on uphill lots shall not have a garage door-face closer than forty feet (40'0") from the front property line or ten feet (10") behind the front setback line and be not more than seven feet (7') below the main floor elevation.

(b) Garages having garage doors located essentially at right angles to the front setback line, and not less than forty five degrees to the nearest front setback line, will be considered as not fronting on the street, provided that Lots situated on a corner of intersecting streets may be relieved of such restriction upon the written approval of the Architectural Committee.

(c) Garages entered from private alleys shall have their garages entered from the garage side at right angles to the line of the rear lot line whenever possible.

Each Owner shall keep his garage doors closed and shall not leave the interior of his garage open to public view, except when necessary for movement of motor vehicles and other permitted items stored therein. This prohibition against allowing a garage door to remain open shall be strictly construed. Each Owner shall keep his garage in a neat and orderly condition with all storage areas completely enclosed. Garages shall be used only for the parking of motor vehicles, storage and hobby workshop purposes.

4.8 Landscape Design. Appropriate construction procedures should be followed to protect and preserve desirable trees, shrubs and other landscaping which may exist on the construction site or on adjacent or nearby sites. Mature vegetation should, whenever practical, be preserved to give the landscape design an established appearance.

(a) Stockpiling of any building materials shall not be allowed within the drip line of trees. Cutting, filling or any ground disturbances shall not be allowed within the drip line of existing trees.

(b) Temporary erosion control shall be required on site during construction. hay bales, silt fences, and/or overseeding annual grasses will be required when necessary in the sole discretion of the Declarant.

(c) Burning shall not be allowed. Damaged plant materials on a Lot shall be replaced by Owner with plant materials comparable to those damaged.

(d) Irrigation systems are preferred to be underground.

4.9 Landscape Installation. Each Owner shall be required to maintain his Lot in a consistently neat and attractive manner beginning from the date of purchase. Permanent and complete landscaping for each Lot not initially landscaped by Declarant, shall be installed, planted and completed by each Owner within ninety (90) days (weather permitting), after the Dwelling Unit on such Lot has been completed in accordance with the building plans as approved by the Architectural Committee. Each Owner shall maintain all landscaping located on his Lot in a neat and orderly condition and shall replace any diseased or dead lawn, trees, or ground cover and shall keep the lawn area neatly mowed. Nothing herein shall obligate the Declarant to landscape any portion of the Property.

4.10 Landscape Maintenance. Grass, weeds and other ground cover on each Lot shall be kept mowed and cleared at regular intervals by the Owner thereof so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines and plants shall be pruned, clipped, cut and maintained so as to keep such landscaping consistent with other developed and landscaped Lots on the Property and with the custom of the majority of the Lot Owners. Dead vegetation of any kind shall be promptly removed from a lot. Until a residence is constructed on a Lot, Owner may maintain his in its natural state consistent with this Article IV. No hedge or shrub shall be allowed to exceed six (6) feet in height.

4.11 Tree Cutting. No trees which are six (6") inches or more in diameter (when measured by caliper at a point on its trunk which is 24 inches from the ground at its base), shall be severed from the Property without the prior written approval and consent of the Architectural Committee. Any tree of 6" caliper or larger cut down without the prior approval and consent of the Architectural Committee shall be replaced, by the Owner at his expense, with a tree of like species, of equal quality and size.

4.12 Maintenance of Lot Drainage. Slope areas within any Lot shall be maintained continuously by the Owner thereof in a neat, orderly, and safe condition and in such a manner as to enhance their appearance, maintain established drainage courses (as delineated on the approved grading plans), prevent erosion and sliding problems, and to facilitate the orderly discharge of water through drainage systems. No structure, planting, or other material shall be placed or permitted to remain or other activities undertaken on any Lot which might damage or interfere with established drainage courses, create erosion or sliding problems, or interfere with established drainage courses, functions or facilities.

4.13 Hard Surface Paving Materials. Driveways and walkways shall be composed of exposed aggregate concrete, "Bomanite" (or similar material) or individual pavers no larger than one square foot

in area. Concrete, Bomanite, pavers or other hard surfaces shall not be of white or near white color. Asphalt shall not be allowed for driveway or walkway surfaces.

On all hard surface paving materials requiring expansion joints, such joints shall be 1" x 4" or 2" x 4" treated wood or other rigid material of equal or better quality

4.14 Fences. All fences, and walls are to be made of wood, masonry, stucco or ornamental metal material. No fence shall be erected nearer to a street than the applicable building setback line. Fence surfaces shall be of finished materials on all sides.

(a) With respect to all Lots adjoining the Golf Course, no fence, wall, berm, mound, shrub or plant (other than trees) exceeding thirty inches (30") in height from the undisturbed soil on which it rests may be situated on such Lots closer to the rear Lot line than any point along the building setback line of such Lot.

(b) No fence, wall, berm, mound, shrub, hedge or plant (other than trees) or other structure intended as a full or partial visual or physical barrier shall be erected or maintained on any Lot, other than as may be initially installed by Declarant, unless first approved, in writing, by the Architectural Committee.

(c) No fence, wall, berm, mound, shrub, hedge, or plant (other than trees which are not intended to create a visual barrier) which obstructs sight lines at elevations between 2 and 6 feet above the roadways will be placed or permitted to remain in any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines (unless a greater distance is prescribed by ordinance), or in the case of a rounded property corner, from the intersection of the street lines extended. No corner Lot shall have a driveway closer to the intersection than 25 feet unless a greater distance is prescribed by ordinance. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

(d) Nothing herein contained, however, shall prohibit Declarant from erecting any fence, wall or other structure or planting required or suggested by the CORDOVA CLUB P.D. or any governmental authority or regulatory body or which Declarant deems desirable from time to time, including, but not limited to, the erection of earthen berms and fencing along those Lots which are situated along Cordova Road within the ten foot (10') planting and landscape easement along Cordova Road.

(e) Except for such structures erected by the Declarant, no fence, wall, berm, mound or plant (except trees) intended as a full or partial visual or physical barrier shall be erected or maintained on any Lot when such can be seen from any point within Cordova Road.

(f) Nothing herein contained, however, shall prohibit the erection and maintenance of a wall or fence which shall be necessary at any point along those Lots containing or immediately contiguous with a "security" gate structure maintained with respect to private streets established or to be established in accordance with the CORDOVA CLUB P.D.

4.15 Swimming Pools.

(a) All swimming pools must be sunken into and be an integral part of the yard and the deck surrounding the pool. No pool shall have its upper level more than twelve inches (12") above the adjacent grade. No above ground pools are permitted. Swimming pools, hot tubs, spas and other similar structures and all equipment attendant thereto (e.g. mechanical, diving boards) shall be shielded from view so that they may not be seen from public and/or private streets and the Golf Course. Slides and other recreational pool entry equipment are allowed only with prior written consent of the Architectural Committee.

(b) Any fencing which may be required by governmental or regulatory authority shall be approved by the Architectural Committee. No chain link fence of any design or finish will be permitted. With respect to any Lot adjoining the Golf Course, no pool, hot tub, spa or other similar structure may be erected or maintained closer than (i) twenty-five feet (25') to any point on the rear property line of such Lot without the prior written consent of the Architectural Committee. All Lot Owners upon taking title to

any lot adjoining the golf course, understand and agree that every effort shall be made by such Lot Owners to maintain a quiet and noise free Golf Course, especially in teeing and green areas. Therefore, the Architectural Committee is hereby granted maximum latitude and discretion in approving or denying the proposed location and use of any pool, hot tub or spa to be situated on any Lot adjoining the Golf Course. No action of the Architectural Committee with regard to pools, spas or hot tubs shall subject the Architectural Committee to any liability whatsoever, no representation as to the right to build or maintain a pool, hot tub or spa being granted or implied hereby.

(c) With respect to all Lots in Phase I, Section A and Section B of the CORDOVA CLUB P.D., only hot tubs, spas, and pools commonly known as lap pools shall be permitted. The determination as to whether a particular structure is a hot tub, spa or lap pool shall rest solely with the Architectural Committee, the decision of which shall be final and no such determination shall have a precedential effect upon a future determination.

4.16 Fire Escapes. Exterior fire escapes shall not be allowed. Exterior stairs which are a part of the architectural design approved by the Architectural Committee shall be permitted.

4.17 Proximity to Road. Excluding mail boxes, vegetation and light posts or other similar structures, all of which shall have been approved by the Architectural Committee, no permanent vegetation or structure of any kind shall be allowed within ten (10') feet of any public or private roadway directly contiguous with any Lot.

4.18 Improvements, Alterations and Repairs. No improvements, repair, excavation or other work which in any way alters the exterior appearance of any Dwelling Unit, Lot, or the Improvements located thereon from its natural or improved state, shall be made or done without the prior approval of the Architectural Committee pursuant to the terms of Article VI hereof.

4.19 Single-Family Residential Use. No Lot shall be used for other than private residential purposes.

4.20 Rental of Dwelling Units. An Owner shall be entitled to rent the Dwelling Unit situated on his Lot to a single Family, provided that such rental shall not be for a term less than ninety (90) days nor more than three (3) years and provided further that no Owner may lease less than his entire Dwelling Unit. Any rental or lease of a Dwelling Unit shall be subject to this Declaration. Each tenant or lessee shall be provided with a copy of this Declaration by the Owner. An Owner renting or leasing a Dwelling Unit shall at all times be responsible for his tenant's or lessee's compliance with all of the provisions of this Declaration in the occupancy and use of the Dwelling Unit.

4.21 Insurance. Nothing shall be done or kept on any Lot or the Common Area which shall increase the rate of insurance relating thereto without the prior written consent of the Declarant and no Owner shall permit anything to be done or kept on his Lot or the Common Area which would result in the cancellation of insurance on any Dwelling Unit or on any part of the Common Area or which would be in violation of any law. No Owner shall store any dangerous explosives or flammable liquids in his Dwelling Unit or other Improvements on his Lot or in the Common Area except that five (5) gallons or less of gasoline may be kept for lawn mower use so long as it is maintained in a spill-proof container which is consistent with applicable laws and regulations.

(a) All Owners shall maintain a policy or policies of insurance which shall insure such Owner(s) against loss occasioned by fire, earthquake and other hazards which are commonly covered by such policies of insurance issued in Shelby County, Tennessee, such coverage to be in an amount of not less than the replacement value of the improvements on an Owner's Lot. Unless otherwise required by the holder or beneficiary of a first Mortgage in connection with any Lot, all proceeds of such insurance shall be used for the repair and replacement of the improvements which suffer a loss covered by such insurance. In the event that the insurance proceeds are insufficient to complete such repair and/or replacement, the Owner shall pay in advance such additional sums as may be necessary to complete such repair and/or replacement. In the event said Owner does not commence such repair or replacement within a reasonable time, such reasonable time not to exceed three (3) months, the Declarant, and/or the Association, may:

(i) file a civil complaint in a court of competent jurisdiction requesting a court ordered mandatory injunction;

(ii) enter the Lot and demolish the Improvement with all cost of demolition to be borne by the Lot Owner secured by a lien against the Owner's Lot hereby granted, conveyed and reserved in favor of the Declarant and the Association;

(iii) enter the Lot and complete the Improvement with all cost of completion to be borne by Lot Owner secured by a lien against the Owner's Lot hereby granted, conveyed and reserved in favor of the Declarant and the Association;

(iv) may repurchase the Lot and the incomplete Improvement thereon at a price to be determined by an MAI real estate appraiser of Declarant's or the Association's choosing, the appraisal of whom shall be determinative and final.

The Declarant and/or Association is not limited to the foregoing remedies and may, at its option, choose any one or more of the foregoing remedies or any other remedy available to it in law or at equity.

(b) Owners may carry other insurance for their benefit and at their expense.

4.22 Declarant's Facilities. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant to maintain, during the period of the sale of said Lots, upon such portion of the Property as Declarant deems necessary or desirable, such facilities, as in the sole opinion of Declarant may be reasonably required for or convenient or incidental to the sale of Declarant's Lots, including, but without limitation, a business office, storage area, construction yard, signs and sales office.

4.23 No Noxious, Offensive, Hazardous or Annoying Activities: No noxious or offensive activity shall be carried on upon any part of the Property which is or may become a nuisance or cause disturbance or annoyance to others. No sound shall be emitted on any part of the Property which is unreasonably loud or annoying. This prohibition shall include but shall not be limited to noise and annoyance created by sport activities which take place on any Lot. No odor shall be emitted on any part of the Property which is noxious or offensive to others.

Without limiting the scope of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security alarm devices with timer reset switches used exclusively for security purposes, shall be located, used or placed on a Lot or any structure thereon constructed.

4.24 No Unsightliness. No unsightliness shall be permitted on any part of the Property. Without limiting the generality of the foregoing, no Owner shall keep or store anything on or in any of the Property, nor shall any Owner hang, erect, affix, mount or place anything upon any of the Property, and nothing shall be placed on exterior walls or roofs or in windows or on doors of the Improvements which would create an unsightly appearance.

4.25 Exterior Lighting. All outdoor lighting shall be directed so as to avoid glare and excessive light spillage on adjacent property and fronting streets. All questions pertaining to "glare" and/or "excessive light spillage", shall be determined in the sole discretion of the Architectural Committee.

(a) A lighting plan describing exterior illumination layout and fixture selection must be approved through the Architectural Committee prior to construction.

(b) Exterior building lighting shall have concealed sources of illumination and maintain lighting levels consistent with the recognized standards of the lighting industry for residential lighting.

(c) All light sources shall have a white color within the color temperature range of 2700 degrees to 4500 degrees. Golden, yellow, blue, or reddish light sources shall not be permitted except for "bug lights". "Bug lights" shall be permitted in backyards only.

(d) Exterior lights on poles or mounted on buildings shall direct light downward and not

horizontally.

(e) No lighting of a patio, pool or other recreation area will be installed without the written approval of the Architectural Committee and if approved, will be designed for recreation character so as to buffer surrounding residences from all lighting.

(f) Security lighting fixtures shall not project above the fascia or roof line of the building and are to be shielded. The shields shall be painted to match the surface to which it is attached or be a part of an approved color scheme. Light source shall be directed downward.

(g) Mountings and locations of all exterior lighting fixtures shall be approved by the Architectural Committee prior to construction and/or modifications.

(h) No exterior light will be installed or maintained on any Lot which light is found to be objectionable by the Architectural Committee. Upon being given notice by the Architectural Committee that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or have it shielded in such a way that it is no longer objectionable.

(i) Holiday decorative lighting shall not be installed or maintained earlier than Thanksgiving Day and must be removed by the next following January 8.

4.26 Signs. No signs whatsoever (including but without limitation, commercial, political and similar signs) which are visible from neighboring property shall be erected or maintained on any Lot or any other area of the Project, except the following:

(a) Such signs as may be required by legal proceedings;

(b) Name and address signs, subject to the approval of the Architectural Committee as to suitability;

(c) During the time of construction or marketing of a newly constructed Dwelling Unit or other Improvements by individual Builders, identification signs regarding financing and construction and Project marketing signs;

(d) Not more than one double faced "for sale" or "for rent" sign not exceeding five (6) square feet in size per side. Any such signs shall be attractive and compatible with the design of the Project (to be determined in the sole discretion of the Architectural Committee), and shall comply with all applicable laws and ordinances.

(e) Lighting for all signs shall be indirect with the source of light concealed from direct view.

(f) Declarant shall be exempt from the this Paragraph, 4.25.

4.27 Motor Vehicles, Trailers, Boats; Storage Structures.

(a) No motorized or non-motorized vehicle of any kind may be parked, stored or kept upon any Lot except within an enclosed garage; provided that the following exceptions shall apply:

(1) A third (in the case of two car garages), or fourth (in the case of three car garages) or fifth (in the case of four car garages) personal sedan or coupe automobile which is owned and/or used by a Lot owner or a member of that person's immediate family residing in the Dwelling Structure on such Lot, shall be permitted to be parked wholly within a paved parking space, on the Lot, which is suitable for such parking; and

(2) Motor vehicles of social guests of a Lot Owner may be temporarily parked upon a paved portion of that Owner's Lot or in a legal manner upon the streets of the Project.

(b) No motor home, boat, aircraft, land conveyance, trailer, permanent tent, or similar structure, permanent storage structure, truck camper or recreational motor vehicle shall be kept, placed, maintained, constructed, reconstructed or repaired, upon any Lot or street within the Project in such a manner as shall be visible from other Lots, public or private streets, Common Areas or the Golf

Course.

(c) No motor vehicle, boat, trailer, aircraft or other vehicle shall be constructed, reconstructed or repaired within the Project in such a manner as will be visible from other Lots, public or private streets, Common Areas or the Golf Course; provided, however, that the provisions of this section shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any work or Improvement approved by the Architectural Committee.

(d) No commercial, industrial, or trade vehicles, of any nature, shall be parked or stored on any Lot or on the streets of the Project, except for commercial, industrial, or trade vehicles providing services to the Owners of Lots and in that event only for the duration necessary to provide such services, except that a trade vehicle owned or used by a Lot owner or a member of his immediate family may be parked wholly within an enclosed garage.

4.28 Trash, Garbage, Waste. All garbage, gardening materials, accumulated waste, dead or severed plant material and trash shall be placed in and kept in covered containers. All trash, garbage, waste and materials of a similar nature and containers for the containment thereof, used on a particular Lot shall not be visible from other Lots, public and private streets and Common Areas and the Golf Course except as may be required for public or private collection services. All rubbish, trash, debris or garbage shall be regularly removed from each Lot and the Common Area and shall not be allowed to accumulate thereon.

4.29 Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot within the Single-Family Residential Area or within the Common Area except that two (2) generally recognized domestic (e.g., dog or house cat) household pets may be kept, but not bred, on a Lot within the Single-Family Residential Area but only if they are kept, or raised solely as household pets for private use, are not maintained for any commercial purposes and are of reasonable size considering the size of the Project and the proximity of the Dwelling Units. No household pet shall be allowed to make an unreasonable amount of noise, to create an unsanitary condition, or otherwise become a nuisance. No pet shall be permitted outside of the Lot of the Owner of the pet, unless the pet is under the control of a reasonable person by means of a leash or other reasonable restraint which shall be no longer than six (6) feet in length. Each Owner shall prevent its pet from soiling walks, paths, other Lots, and all portions of the Common Area and, if so soiled, shall immediately clean and properly dispose of such waste.

4.30 Structures for Animals. All structures for the care, housing, fencing, and/or confinement of any household pet shall be maintained so as to render same invisible from other Lots, public and private streets, Common Areas and the Golf Course.

4.31 Storage Areas. All equipment, permitted outbuildings or sheds, garbage cans, woodstacks, brick stacks and storage areas shall be kept screened by adequate planting or fencing so as to conceal them from view from public and private streets, other Lots, Common Areas and the Golf Course.

4.32 Antennae, Dishes, etc. Without prior written approval and the authorization of the Architectural Committee no exterior television or radio antenna, dish or other similar device may be erected, placed, allowed or maintained upon any portion of the Property or Improvements to be located upon the Property nor upon any structure situated upon the Property. The Architectural Committee shall be empowered to decide upon and dictate particular placement and structure of such device as a condition to approval, subject to the provisions of applicable laws, codes, ordinances and regulations. In the event that approval for such structures is granted, all such structures shall be completely screened from view from other Lots, public and private streets, Common Areas and the Golf Course.

4.33 Storage of Building Material. No building material of any kind or character shall be placed or stored upon any portion of a Lot until the Owner of the Lot has commenced the construction of Improvements. Such building materials shall not be placed or stored in the public or private streets, upon any Common Area or upon the Golf Course. In the event that the construction of Improvements shall cease for a period of fifteen (15) days for reasons other than weather conditions, all such building materials shall be forthwith removed by Owner, and if not promptly removed by Owner, then by Declarant, at Owner's expense.

4.34 Gardening. Vegetable gardening will be allowed only in rear yards of Lots; except that no vegetable gardening will be allowed on (i) those Lots which shall be contiguous with the Golf Course (ii) those Lots which have rear yards visible from the Golf Course or (iii) those Lots abutting Applying or Cordova Roads.

4.35 Lawn Ornaments. No lawn ornaments of any kind will be permitted in yards facing public or private streets, Common Areas or the Golf Course without the written consent of the Architectural Committee. The design and location of fountains and other landscaping features must be approved by the Architectural Committee.

4.36 Utility Service. No Lot owner shall erect lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, anywhere in or upon any Lot unless the same are contained in conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings or any other approved structures. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved buildings.

4.37 Clothes Drying Facilities. No outside clothes lines or other outside clothes drying or airing facilities or devices shall be maintained on any Lot, unless the Architectural Committee finds such facilities to be adequately concealed so as not to be visible from other Lots, Common Areas, public or private streets and the Golf Course. All such installations must have prior approval by the Architectural Committee.

4.38 Barbecues and or Gas Firepits. There shall be no exterior fires whatsoever except wood or gas fueled barbecue fires wholly contained within receptacles designed for such purposes and equipped with burners for such purpose. All such devices shall be situated in such a way as to render them invisible from other Lots, public and private streets.

4.39 Mailboxes. There shall be no exterior newspaper tubes or freestanding mailboxes, except as may be approved by the Architectural Committee.

4.40 Basketball Standards. No basketball standards, backboards or goals, or other fixed sports apparatus shall be attached to any Dwelling Unit or garage or erected on any Lot without the prior approval of the Architectural Committee. In no event shall any of the above be constructed closer to the street than the building set back line. Sports apparatus on any Lot shall not be utilized in a way, or at such times, so as to create excessive noise and/or annoyance to neighboring Lots, public and private streets Common Areas or to persons utilizing the Golf Course.

4.41 Mineral Exploration. No portion of the Property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any other earth substance or other mineral of any kind except in connection with the preparation of a Lot for approved construction thereon.

4.42 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or any other area of the Project, except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Dwelling Unit or appurtenant Improvements in the Project.

4.43 Diseases, Insects and Pests. No Owner shall permit any thing or condition to exist upon his Lot which shall induce, breed, or harbor infectious plant diseases, noxious insects or pests.

4.44 Temporary Occupancy. No trailer, basement of any incomplete building, shack, garage, and no temporary building or structure or other temporary Improvement of any kind shall be used at any time for a residence, either temporary or permanent or situated on a Lot for any other purpose without the prior approval of the Architectural Committee. Temporary buildings or structures used during the construction or improvement of a Dwelling Unit shall be expressly approved by the Architectural Committee and shall be removed immediately after the completion of construction. No Dwelling Unit shall be occupied until a Certificate of Compliance has been issued by the Architectural Committee, recorded by the Owner and a Certificate of Occupancy has been issued by Memphis/Shelby County Regulatory

Authorities.

4.45 Restrictions on Further Subdivision. No Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof. No easement shall be conveyed, granted or reserved without the prior written approval of the Architectural Committee. Without limiting the scope of the foregoing, Declarant shall be exempt from the restrictions of this Paragraph 4.45. Nothing herein contained in this paragraph 4.44 shall be construed as preventing an Owner from transferring a portion of a legal interest in the whole of a Lot.

4.46 Additional Deed Restrictions. Declarant reserves unto itself the right to impose additional and separate restrictions at the time of sale of any of the Lots sold by the Declarant which said restrictions may not be uniform, but may differ from Lot to Lot.

4.47 Right of Entry. Upon forty-eight (48) hours written notice (emergencies excepted) and during reasonable hours Declarant or any member of the Architectural Committee, or any authorized representative of any of the foregoing, shall have and is hereby granted the right and such right is hereby reserved to enter upon and inspect any building site, Dwelling Unit, Lot and the Improvement thereon as necessary in connection with construction, maintenance or emergency repair for the benefit of the Property, and such persons shall not be deemed guilty of, or liable for, trespass by reason of such entry.

4.48 Maintenance and Repair. No Improvement on any Lot shall be permitted to fall into disrepair. All Dwelling Units and Improvements, including without limitation structures, buildings, outbuildings, walls and fences situated on a Lot shall at all times be maintained in good condition and repair by the Lot Owner and shall be well and properly painted or stained. Prior written consent of the Architectural Committee shall be obtained before any exterior painting or refinishing of a Dwelling Unit or exterior appurtenances thereto is performed. No Owner shall do any act or work that will impair the structural soundness of any Dwelling Unit or Improvements or the safety of the Property.

4.49 Failure to Maintain. In the event that an Owner shall fail to maintain his Lot either in whole or in part, the Declarant and/or the Association through its Architectural Committee shall provide to Owner written notice of such non-compliance and shall afford Owner a reasonable time, not to exceed thirty (30) days from the date of such notice, within which Owner must take all necessary actions to comply with the requirements. Such actions may include, but are not limited to, alteration, addition, modification or demolition of a structure, re-painting or removal of non-conforming objects, signs, fences, etc. Should Owner fail to complete such corrective action within the reasonable time allotted, the Declarant or the Association through its Architectural Committee may, without further notice, through its agents, contractors and employees, enter upon said Lot and take all reasonable corrective actions and the expense for same shall be borne by the Owner and secured by the lien against the Owner's interest in the Lot and improvements thereon provided herein, the provisions of such Articles to be applicable hereto.

4.50 Golf Course Maintenance; Waiver. Declarant and all Lot Owners acknowledge and agree that the Lot or Lots owned by them abut or are located near a Golf Course which currently consists of eighteen holes and usual amenities thereto. It is further acknowledged and agreed that certain activities of golf play, related recreation, maintenance, repair, redesign and refurbishing will take place upon and around such Golf Course facility; that, by necessity, such activities may take place at early or late hours of each day and may create periodic episodes of noise and adverse conditions which may affect the Lots and the Owners thereof. Declarant, its successors and assigns shall, within the normal and customary requirements and constraints of Golf Course management, use reasonable effort to minimize, if possible, the effects of such activities upon the Lots and the Lot Owners. By acceptance of delivery of its deed upon the Lot or Lots owned by it, each Owner relieves Declarant, its successors and assigns and all employees thereof and contractors therewith of any and all liability in the conduct of such activities (except for personal injury or property damage proximately caused by such activities) and waives all rights such Lot Owner may have, now or in the future, to legal or equitable relief with regard to such activities.

4.51 Errant Golf balls. Each and every Lot Owner acknowledges that, due to the proximity of many of the Lots to the Golf Course, there is a probability that errant golf shots may result in occasional or frequent golf balls striking a Lot or Lots or the improvements thereon. By acceptance of delivery of its

deed upon the Lot or Lots owned by it, each Owner relieves Declarant, its successors and assigns of any and all liability relative to golf play including property damage and personal injury.

4.52 General Contractors. Dwelling Units shall be constructed only by general contractors who, at all times during such construction, (a) are fully licensed and in good standing with the State of Tennessee and (b) can provide evidence that such contractor is capable of furnishing a payment and performance bond with a corporate surety company doing business in the State of Tennessee.

ARTICLE V

PROPERTY COMMON AREA

5.1. Common Area Ownership. The Common Area shall be maintained by the Association. Declarant retains ownership of the Common Areas but may, at any time, convey all or any part of the Common Areas to the Association or to the Lot Owners in common ownership relative to ownership. Such ownership of the Common Areas shall be in trust for the Lot Owners and in the best interests of the Project. Upon the purchase of a Lot, a Lot Owner automatically agrees to accept such pro-rata share of the Common Areas.

Upon the transfer of the Common Areas, Declarant shall use its best efforts to effect the easements and subordinations which may be necessary in the best interests of the overall Project. To that end, all Lot Owners do, upon their taking title to a Lot or Lots, irrevocably appoint Declarant as their attorney-in-fact to grant all such easements and to do those things and execute those instruments required to give effect to the intent of this Declaration.

5.2 Use of Common Areas. Each Owner may use the Common Areas in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other Owners. Each Owner, by the acceptance of his deed or other instrument of conveyance or assignment, agrees to accept and be bound by rules and regulations, adopted by the Association irrespective of when the same are promulgated, either before or after such party shall become an Owner.

ARTICLE VI

ARCHITECTURAL COMMITTEE

6.1 Organization. There shall be an Architectural Committee of the Association consisting of not less than three (3) and not more than five (5) persons. There shall also be one alternate member who may act as substitute on the Architectural Committee in the event of absence or disability of any member of the Architectural Committee.

6.2 Designation of Members and Term of Office. The initial members of the Architectural Committee shall be appointed by Declarant acting as a Director of the Association, prior to the conveyance of the first Lot to a Public Purchaser. Declarant shall designate at least one member to serve a term of one (1) year, one member to serve a term of two (2) years and one member to serve a term of three (3) years from the date of appointment. The alternate member shall serve a term of three (3) years. Each of said members shall serve the length of said terms unless they have resigned or have been removed from office. Thereafter, the term of all Architectural Committee members appointed shall be three (3) years. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have been expired may be reappointed; however, no person shall serve as a member of the Architectural Committee, either regular or alternate, for a period in excess of six (6) years in any ten (10) year period. Members of the Architectural Committee shall, after the initial appointment by Declarant, be elected by the Board of Directors of the Association.

6.3 Resignations. Any member or alternate member of the Architectural Committee may at any time resign from the Architectural Committee upon written notice delivered to Declarant its successors or assigns.

6.4 Vacancies. Vacancies on the Architectural Committee, however caused, shall be filled by the

Board of Directors of the Association.

6.5 Duties. It shall be the duty of the Architectural Committee to consider and act upon proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Committee Rules, to perform other duties delegated to it by the Board of Directors of the Association, and to carry out all other duties imposed upon it by this Declaration.

6.6 Meetings. The Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a simple majority of the members of the Architectural Committee shall constitute an act by the Architectural Committee unless the unanimous decision of its members is otherwise required by this Declaration. The Architectural Committee shall keep and maintain a record of all actions taken by it at such meetings or otherwise. The Architectural Committee and its members shall be entitled to reimbursement from the Association for reasonable out-of-pocket expenses incurred by them in the performance of any Architectural Committee function.

6.7 Architectural Committee Rules. The Architectural Committee may, from time to time and in its sole discretion, adopt, amend and repeal, by unanimous vote, the Architectural Committee Rules. The Architectural Committee Rules shall interpret and implement the provisions hereof by setting forth the standards and procedures for Architectural Committee review and guidelines for the architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Project; provided, however, that the Architectural Committee Rules shall not be in derogation of the minimum standards required by this Declaration and shall have no effect upon any final consent or approval of which an applicant has been notified in writing.

6.8 Hiring of Employee(s). With the approval of the Board of Directors of the Association, the Architectural Committee shall have the right to engage the services of employees or independent contractors necessary to insure the smooth and efficient functioning of Architectural Committee business.

6.9 Architectural Control. No improvement or change including, but not limited to, the construction, alteration or erection of any building, structure, sign, fence, wall, driveway, walkway, landscape screening, mailbox, outdoor lighting fixture, sanitary and/or storm sewer system, underground wiring, swimming pool, pool deck, change in terrain or topography or the removal of any existing tree or trees which are six (6") inches or more in diameter (when measured by caliper at a point on its trunk which is 24 inches from the ground at its base), shall be commenced, erected, placed or permitted on any Lot until the plans, specifications and specific location (including elevation) of said improvement or change (i) has been approved in writing by the Architectural Committee, or (ii) the Architectural Committee fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it and received by it in the final form and content reasonably acceptable to the Architectural Committee. In the event of (ii) above, no such approval will be required and this Article VI will be deemed to have been fully complied with.

(a) If any improvement or change requiring approval shall be undertaken on a Lot and said approval has not been obtained from the Architectural Committee or if any improvement or change which is not in conformity with plans and specifications approved by the Architectural Committee shall be undertaken on a Lot, said improvement or change shall be deemed to have been undertaken in violation of these covenants and upon written notice from the Architectural Committee, any such improvement or change deemed to be in violation shall be removed by Owner or altered so as to cure such violation. If thirty (30) days after the notice of such violation the Owner or Owners of the Lot in violation shall not have taken bona fide steps reasonably calculated to effect the timely removal or alteration of same, so as to render the Lot in conformity herewith, Declarant and/or the Association through its Architectural Committee shall have the right, through its agent, (i) to apply for appropriate injunctive relief to a court of competent jurisdiction and/or (ii) to enter said Lot and to take such steps as may be necessary to cure such violation and costs thereof shall be a binding obligation of the Owner by a lien on the Lot granted, conveyed and reserved hereby enforceable in accordance with Article X hereof, and subordinate to the Lien of any Mortgage. See Article 4.47 for provisions providing for right of entry.

(b) Failure on the part of the Declarant or the Architectural Committee to require the curing of such violation within one hundred twenty (120) days after any member thereof shall have actual

knowledge as to the violation shall be deemed a waiver of the rights of the Declarant or the Architectural Committee contained herein as to the particular violation.

(c) The Architectural Committee shall strive to minimize repetition of exterior appearance or elevations of homes (if practicable in its sole discretion) to create residential areas which present a custom home impression. In no event shall two homes of the same or essentially similar exterior elevation or appearance be permitted on the same street within 500 feet of each other.

6.10 Application for Approval of Improvements. Any Owner, proposing to perform any work of any kind whatever which requires the prior approval of the Architectural Committee pursuant to Article VI, or any other provision of this Declaration, shall apply to the Architectural Committee for approval by notifying the Architectural Committee of the nature of the proposed work in writing, by submitting to the Architectural Committee plans and specifications for the proposed work and by furnishing such additional information as the Architectural Committee may require. Minimum requirements for such submittal shall include:

(a) Site Plan with building location using topographic one foot (1') interval contour map supplied by Declarant; overall dimensions together with delineation of percentage of Lot coverage and floor area ratio including one copy at one-twentieth inch (1/20th") equals one foot (1') for positioning of all Lot improvements on overall Master Plan to be maintained by Declarant.

(b) Paving locations and materials.

(c) Tree protection/preservation; notation of all 6" caliper or larger trees to be removed or to remain.

(d) Trash collection area(s).

(e) Mailbox location.

(f) Floor plans including room names and overall dimensions; tabulation of square foot area per floor and total area in square feet of structure excluding basement, garages, patios, open porches, and outbuildings.

(g) Foundation Plan including coordinates at a scale of one eighth inch (1/8") per foot or in lieu thereof, a reduced print of one twentieth inch (1/20") per foot.

(h) Foundation survey

(i) Elevations and overall height from finished ground level on all cardinal points and indicating exterior materials and their colors. In addition, there shall be provided a colored front elevation and a colored rear elevation for Golf Course abutting Lots at a scale of 1" equals 20'.

(j) Roof Plan and color and samples if requested by the Architectural Committee.

(k) Perspective (optional)

(l) Exterior wall materials and colors and samples if requested by the Architectural Committee.

(m) Grades, existing and proposed.

(n) Buffers, screening for parking, transformers, trash, antenna, etc.

(o) Landscape areas (existing/proposed hardscape and softscape).

(p) Site lighting plan.

(q) Any alternative reductions shall be of photographic quality and shall be accurate to the scale the original document is reduced.

Three complete copies of all plans, at a scale of not less than one quarter inch (1/4") equals one

foot (1'), shall be submitted to the Architectural Committee for its review along with a fee to be set from time to time by the Architectural Committee of not less than \$50.00 and not more than \$150.00. One complete copy of all materials submitted shall be returned to the Owner. The other two complete copies will not be returned and shall become the property of the Architectural Committee and held as a record together with the submissions required by 6.10(a) through (q), inclusive for a period determined from time to time by the Architectural Committee.

6.11 Public Approvals. All pertinent requirements of public agencies must be followed in the development of the Property, and all plans must be approved by the appropriate departments in the City of Memphis. Each Owner must verify that code requirements have been met at the time of purchase and development. Although based on local zoning and subdivision regulations, Declarant's criteria may be more restrictive in land use, site development standards, landscape requirements, or in other matters. In every case in which this criteria is at variance with public agency requirements, the more restrictive regulations shall govern. Final legal approvals permitting development and occupancy of the Property will be made by the appropriate governmental regulatory authorities.

6.12 Certificate of Compliance. Upon completion of any improvement or change on a Lot undertaken and completed in accordance with plans and specifications approved by the Architectural Committee and upon written request of the Owner of such Lot, a certificate of compliance ("Certificate of Compliance"), shall be issued in a form suitable for recordation. Preparation and recording of such certificate shall be at the expense of the Owner of such Lot. Any Certificate of Compliance issued in accordance with the provisions of this Article shall be prime facie evidence of the facts therein stated as to the Owner, any purchaser or encumbrancer in good faith and for value and as to any title insurer such Certificate of Compliance shall be conclusive evidence that all improvements and changes described therein comply with all requirements of the Association or of this Article VI. No Dwelling Unit shall be occupied until the recording of such Certificate of Compliance.

6.13 Liability for Defective Plans and/or Respective Work Performed. Neither Declarant its successors and assigns, nor the Architectural Committee, its agents, nor any architect or agent thereof, shall be liable or responsible in any way for any defects in any plans or specifications submitted, revised, or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications. Every person who submits plans or specifications to the Architectural Committee for approval agrees by submission of such plans or specifications, and every Owner agrees, that he will not bring any action or suit against the Declarant, the Association or assigns, the Architectural Committee, its agents or any member thereof to recover any such loss or damage.

6.14 Proceeding with Work. Upon receipt of approval from the Architectural Committee or the failure of the Architectural Committee to reject such work pursuant to paragraph 6.9 above, the Owner shall, as soon as practicable, satisfy all conditions hereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations and excavations pursuant to said approval. Said commencement shall be, in all cases, within one year from the date of such approval and (except for Lots which may be initially improved with a Dwelling Unit by Declarant), all construction shall be completed and a Certificate of Occupancy for any Dwelling Unit shall be issued no later than one year following the date of the commencement of the construction thereof, and all landscaping initially installed on any Lot shall be completed within 90 days following the issuance of the Certificate of Occupancy for the Dwelling Unit on such Lot. If the Owner shall fail to comply with this section, any approval given pursuant to paragraph 6.9 above, shall be deemed revoked unless the Architectural Committee, upon written request of the Owner made prior to the expiration of the applicable period, extends the time for such commencement. No such extension shall be granted except upon a finding by the Architectural Committee that there has been no change in the circumstances upon which the original approval was granted.

6.15 Failure to Complete Work. Except as otherwise provided herein, the Owner shall in any event complete the construction, reconstruction, refinishing, or alteration of any such Improvement within one (1) year after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his agents. If an

Owner fails to comply with this Section 6.15, the Architectural Committee shall notify the Owner of such failure, and the Architectural Committee shall proceed in accordance with the provisions of Section 6.16 below, as though the failure to complete the Improvement were a noncompliance with approved plan.

6.16 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(a) Notice of Completion. Upon the completion of any construction or reconstruction or the alteration or refinishing of the exterior of any Improvements, or upon the completion of any other work for which approved plans are required under this Declaration, the Owner shall give written notice thereof to the Architectural Committee ("Notice of Completion").

(b) Right to Inspect. Within sixty (60) days after receipt of Notice of Completion, the Architectural Committee, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the Architectural Committee finds that such construction, reconstruction, alteration or refinishing was not done in substantial compliance with the approved plans, in its sole discretion, it shall notify the Owner in writing of such non-compliance within such sixty (60) day period, specifying particulars of non-compliance, and shall require the Owner to remedy such non-compliance.

(c) Failure to Notify. If for any reason the Architectural Committee fails to notify the Owner of any noncompliance within ninety (90) days after receipt of the Notice of Completion from the Owner, the Improvement shall be deemed to be in accordance with said approved plans.

6.17 Application for Preliminary Approval. Any Owner proposing to construct Improvements requiring the prior approval of the Architectural Committee may apply to the Architectural Committee for preliminary approval by submission of preliminary drawings of the proposed Improvements in accordance with the Architectural Committee Rules. The purpose of the preliminary approval procedure is to allow an Owner proposing to make substantial Improvements an opportunity to obtain guidance concerning design considerations before expending substantial sums for plans and other exhibits required to apply for final approval. Applications for preliminary approval shall be considered and disposed of as follows:

(a) Architectural Committee Action. Within thirty (30) days after proper application for preliminary approval, the Architectural Committee shall consider and act upon such request. The Architectural Committee shall grant the approval only if the proposed improvement, to the extent its nature and characteristics are shown by the application, would be entitled to a final approval on the basis of a full and complete application. Failure of the Architectural Committee to notify the applicant within said thirty (30) day period shall constitute an approval. In granting or denying approval, the Architectural Committee may give the applicant such directions concerning the form and substance of the final application for approval as it may deem proper or desirable for the guidance of the applicant.

(b) Duration of Preliminary Approval. Any preliminary approval granted by the Architectural Committee shall be effective for a period of one hundred twenty (120) days from the date of the issuance thereof. During said period, any application for final approval which consists of proposed Improvements in accordance with the provisions of the preliminary approval, and is otherwise acceptable under the terms of this Declaration, shall be approved by the Architectural Committee.

(c) No Construction on Preliminary Approval. In no event shall any preliminary approval be deemed to be an approval authorizing commencement of construction of the proposed Improvements.

6.18 Waiver. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

6.19 Special Situations-No Precedent Set. In order to meet special situations which may not be foreseen, it may be desirable for the Architectural Committee to allow variances of certain requirements. Any variance thus granted shall not be considered to be precedent setting since the decision is being

made with the welfare of the overall Project in mind.

6.20 Two Years to Commence. The Lots are offered for sale for the purpose of construction of Dwelling Units thereon and not for speculation or investment purposes. Therefore, it is mandatory that construction of a Dwelling Unit be commenced within two (2) years after acquisition of a Lot and continued to completion.

ARTICLE VII

DECLARANT'S DEVELOPMENT RIGHTS

7.1 Limitations of Restrictions. Declarant is undertaking the work of improving Lots for Single-Family Residential Use, constructing incidental Improvements within the Project and may construct on improved Lots Single-Family Dwelling Units. The completion of that work and the sale, rental and other disposal of said Lots and any Dwelling Units that may be constructed thereon by Declarant is essential to the establishment and welfare of said Project as a residential community. In order that said work may be completed and said project may be established as a residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors, or subcontractors, from doing on the Project or any Lot therein, whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant from conducting on any part of the Project, including property annexed thereto, its business of completing said work and of establishing the Property as a residential community and of disposing of the Property in parcels or Lots by sale, lease or otherwise; or

(c) Prevent Declarant from maintaining such sign or signs on any portion of the Project as may be necessary for the sale, lease or disposition thereof; or, prevent Declarant or its representatives, contractors, or subcontractors, from using any portion of the Project for ingress, egress, sales, development and construction purposes and all other purposes incidental thereto.

ARTICLE VIII

RIGHTS OF BENEFICIARY

8.1 Protection of Encumbrancer. No violation, or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair, the lien of any first Mortgage, if such Mortgage is (i) taken for value and (ii) perfected by recording in the Register's Office of Shelby County, Tennessee, prior to the time of recording in said office of an instrument describing the Lot and listing the name or names of the Owner or Owners of fee simple title to the Lot and giving notice of such violation, breach or failure to comply.

Such violation, breach, failure to comply or action to enforce shall not affect, defeat, render invalid or impair the title or interest of the holder of any such first Mortgage, or of the title or interest acquired by any purchaser upon foreclosure of any such first Mortgage or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure shall, however, take title subject to this Declaration.

ARTICLE IX

MISCELLANEOUS

9.1 Amendment and Duration of Declaration. The covenants, conditions and restrictions of this Declaration shall run with the land, shall inure to the benefit of and be enforceable by the Declarant, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten

(10) years, unless terminated by the consent of all the Owners of 90% of the Lots at such time. The covenants, conditions and restrictions of this Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than all the Owners of ninety (90%) percent of the Lots and thereafter by an instrument signed by not less than all of the Owners of seventy-five (75%) percent of the Lots. Any such amendment must be properly recorded in the Register's Office of Shelby County, Tennessee in order to be effective.

Notwithstanding anything herein contained to the contrary, Declarant reserves the right for a period of five (5) years from the date hereof or until seventy-five percent (75%) of the Lots are sold, whichever shall later occur, to amend this Declaration in whole or in part, unilaterally and without the consent of any other Owner, to conform this Declaration to the requirements of any governmental agency, Federal, state or local, and to meet the requirements of any lender or guarantor, including but not limited to the FHA, VA, FNMA or FHLMC.

9.2 Effect of Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest, in the Property or any part thereof shall:

(a) be deemed incorporated in each deed or other instrument by which any right, title or interest in the Property or in any Lot is granted, devised or conveyed, whether or not set forth or referred to in such deed or instrument;

(b) by virtue of acceptance of any right, title or interest in the Property or in any Lot by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and, as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representatives, successors and assigns and shall be deemed a personal covenant to, with and for the benefit of the Declarant its successor and assigns but not to, with or for the benefit or any other non aggrieved Owner;

(c) be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, and each case, as a burden with and upon the land and title to the property and each Lot and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of the Property and each Lot.

9.3 Compliance With Provisions of this Declaration. Each Owner shall comply strictly with, and shall cause each of its Guests or Tenants to comply strictly with, all of the provisions of this Declaration, as the same may be amended from time to time. Failure to comply with any of the same shall be grounds for an action or actions at law or in equity to recover sums due and for damages or injunctive (including mandatory injunctive) relief or both, along with costs of suit and reasonable attorneys' fees for which each Owner hereby agrees to be liable.

9.4 Violations and Nuisance. Every act or omission whereby a covenant, condition or restriction of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, its successor and assigns, the Architectural Committee, or an owner or Owners and their respective, duly authorized agents.

9.5 Violation of Law. Any violation of any federal, state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures herein set forth.

9.6 Enforcement. The Declarant, its successors and assigns, the Association or any Owner, shall have the right to enforce those covenants, conditions and restrictions by any proceeding at law or in equity, against any Person violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and/or to recover damages against a Lot to enforce any lien created by these covenants and failure by the Declarant its successors and assigns, the Association, or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a

waiver of the right to do so thereafter unless otherwise provided herein. However, any other provision in this Declaration notwithstanding, only Declarant, its successors and assigns, the Association, or their respective, duly authorized agents, may enforce by self-help, any covenant, condition, or restriction herein set forth. The expense of enforcement shall be chargeable to the Owner of the Lot violating these covenants and restrictions and secured by a lien on the Lot hereby granted, conveyed and reserved.

9.7 Remedies Cumulative. Each remedy provided by this Declaration is cumulative and not exclusive.

9.8 Nonwaiver. Except as otherwise stated explicitly to the contrary herein, the failure to enforce, or to timely enforce the provisions of any covenant, condition or restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provisions of this Declaration.

9.9 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

9.10 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Declarant, each Owner, and the grantees, successors, heirs, executors, administrators, devisees and assigns of each of them.

9.11 Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

9.12 Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of any survivor of the now living descendants of the President of the United States, whoever that person shall be on the date this document is executed, and/or the Governor of Tennessee, whoever that person shall be on the date this document is executed.

9.13 Applications, Approvals, etc. Whenever there shall appear herein a time limit within which the Architectural Committee shall be permitted to act, it is understood that such committee shall, however, use its best efforts to render an expeditious approval or notification to an Owner or other applicant. Nothing herein shall, however, be construed as a waiver of any right of Declarant or the Architectural Committee should such committee fail to use its best efforts.

9.14 No Reversion of Title. Violation of the covenants and restrictions herein contained shall not cause forfeiture or reversion of title.

9.15 Effect of Headings. Except as to definitions contained in Article I hereof, the article, section, paragraph and subparagraph headings herein are for convenience only and shall not affect the interpretation or construction hereof.

9.16 Attorney Fees. In the event that an attorney at law is engaged to enforce the provisions of this Declaration, the Lot Owner against whom enforcement is sought shall pay all costs of collection and litigation of the party successfully seeking enforcement, together with reasonable attorney fees, and the same shall be a lien on the Lot of such Owner, such lien being granted, conveyed and reserved hereby in favor of such party.

9.17 Additional Assignment Areas. Declarant may, at any time prior to the sale of ninety percent (90%) of the Lots establish association or assessment areas within the Property for the purpose of providing for special maintenance, ongoing repair and maintenance of private roads or for any other purpose or purposes not inconsistent with this Declaration.

ARTICLE X

LIEN

10.1 Lien. If any Owner shall fail or refuse to make any payment of any indebtedness incurred by such Owner to Declarant or to the Association as set out in this Declaration, when due, the amount thereof together with interest thereon at the lesser of the rate of ten percent (10%) per annum or the maximum interest rate then permitted under the laws of the State of Tennessee (the "Lien Indebtedness"), after such indebtedness becomes due and payable, shall constitute a lien on the Lot of such defaulting Owner, such Lien being granted, conveyed and created hereby.

10.2 Enforcement of Lien. FOR AND IN CONSIDERATION of the privileges, protections, mutual enjoyment and use of the Common Area and the premises contained herein, and for other good and valuable consideration, and One Dollar paid in cash, the receipt and adequacy of which are hereby acknowledged, and any assumption of the obligations by transferees as required hereunder, and to secure the payment of Lien Indebtedness, principal, interest and attorney fees, a lien is expressly retained by the Declarant on each and every Lot for the benefit of all other Lot Owners, the Association, the Declarant, their successors and assigns.

Further, for the purposes of securing the payment of the Lien Indebtedness and rendering unnecessary court proceedings for the enforcement of said lien in the event of the non-payment of the Lien Indebtedness as they become due, the Owners, their heirs, administrators and assigns ("Trustors"), hereby transfer and convey and by becoming an Owner subject to this Declaration do thereby transfer and convey unto Robert Jones and Robert Pinstein, both residents of Shelby County, Tennessee, as Trustees ("Trustees"), their successors and assigns, all Lots and each and every Lot with the appurtenances, estate, title and interest thereto for the following uses and trusts:

Upon failure of a Trustor to make timely payment of the Lien Indebtedness, then the Trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty (20) days' notice by three publications in any newspaper published daily or weekly in Shelby County, Tennessee, to enforce the lien and sell the Lot at any door of the Courthouse in said county to the highest bidder for cash at public outcry, free from the equity of redemption, statutory right of redemption, homestead, dower and all other exemptions of every kind, which are hereby expressly waived, and the Trustee, or his successor in trust, is authorized and empowered to execute and deliver a valid deed to the purchaser of such Lot. The Trustor may bid at any sale under this trust conveyance. The Trustee may, at any time after default in the payment of the Lien Indebtedness, enter and take possession of the Lot and shall only be liable to account for the net rents actually received by him, if any. It is further agreed that, in the event the Trustee fails, before selling the Lot, as herein provided, to enter and take possession thereof, the purchaser of the Lot shall nonetheless be entitled to immediate possession thereof upon delivery to him by the Trustee of a deed for said Lot. In the case of sale hereunder, the proceeds will be applied by the Trustee in the following order:

- (1) To the payment of all costs, charges and expenses of executing this trust and conveyance and enforcing said lien as herein provided, including, but not limited to, reasonable attorney's fees for advice in the premises, or for instituting or defending any litigation which may arise on account of this conveyance, or the enforcement of said lien.
- (2) To the payment of all real property taxes which may be unpaid.
- (3) To the payment of all liens and Mortgages senior to the lien established herein.
- (4) To the payment of all unpaid Lien Indebtedness and any and all sums expended in the protection of the Lot and the Improvements thereon.
- (5) The residue, if any, will be paid to the foreclosed Trustor, representatives or assigns.

In the case of death, absence, resignation, inability or refusal to act of a Trustee at any time when action under the foregoing power and trusts may be required or for any other reason, the Declarant or his successors or assigns is hereby authorized and empowered to name and appoint a successor to execute this trust by an instrument in writing to be recorded in the Register's Office of Shelby County, Tennessee, and the title herein conveyed to the above named Trustees shall be vested in

either of them and such successor.

The word "Trustor" when used herein shall apply to parties both singular and plural, as the context may require.

10.3 Lien Subordinate to Mortgage. All liens herein established, including but not limited to, the lien for Lien Indebtedness payable by an Owner, shall be subordinate to the lien of a recorded first Mortgage on the interest of such Owner. This Article 10.3 shall not be amended, changed, modified or rescinded without the prior written consent of all beneficiaries who are at the time owners of first Mortgages.

10.4 Multiple Trustees. Either of the Trustees herein named shall have the full power to act when action hereunder is required and the term "Trustee" shall be construed to mean "Trustees". In the event that the substitution of a Trustee shall become necessary or advisable for any reason, the substitution of one trustee in the place of the two named herein shall be sufficient.

10.5 Notice. Nothing herein contained shall be construed to require any Trustee or beneficiary of the trust to enforce the lien herein established either by sale or otherwise. In addition to all other remedies available to the Trustees, Declarant or the Association, any one of them may file a written notice of the lien created hereunder in the Register's Office of Shelby County, Tennessee after failure of any Lot Owner to make a timely payment required by this Declaration and/or the Association. Such filing shall provide constructive notice of the existence of the lien and shall establish thereby a priority over those liens filed after the filing date of this Declaration when so permitted by applicable law, except as otherwise stated in Section 10.3 hereof. Any notice of lien so filed shall be effective if it substantially states the following: a) that a lien exists in favor of the claimant, b) the amount of the lien, c) the legal description of the real property subjected to the lien and d) the record owner of such property.

ARTICLE XI

THE ASSOCIATION

11.1 General Purposes and Powers. There shall be established an Association of the Owners for the purpose of promoting the goals of this Declaration for the mutual benefit of the Owners. The Association, through its Board of Directors, shall perform functions and manage the Property as provided in this Declaration so as to further the interests of the Owners. It shall have all powers necessary or desirable to effectuate such purposes.

11.2 Membership. The Owner of a Lot shall, upon becoming an Owner, become a member of the Association. Said membership shall automatically pass with fee simple title to a Lot. Each Owner shall be entitled to the benefits (subject to an Owner's complying with the dictates of this Declaration, the Articles and Bylaws) and shall be subject to the burdens relating to membership. If the fee simple title to a Lot is held, of record, by more than one Person, each such Person shall be a member of the Association.

Membership shall be appurtenant to and may not be separated from ownership of any Lot, such ownership being the only qualification for membership.

11.3 Voting of Owners. The Owner (aggregate of all Persons owning a Lot) of each Lot shall be entitled to one vote per Lot owned. Therefore, the one vote attendant to a particular Lot so owned must be voted as a single vote and may not be divided among the individual Persons who comprise the ownership of the same Lot. Notwithstanding the above, the Declarant shall have 2.5 votes per Lot owned by it until such time as seventy percent (70%) of the total number of Lots projected by Declarant to be developed have been conveyed to Persons other than the Declarant, or January 1, 1997, whichever shall first occur.

11.4 Board of Directors. The affairs of the Association shall be managed and governed by a Board of Directors which may by resolution delegate any portion of its responsibility to an executive committee, or to a member of the Board, or to a manager for the Association. There shall be not less than three (3) nor more than twenty-five (25) members of the Board of Directors, the specific number to be set forth from time to time in the Bylaws, all of whom shall be Owners, except those appointed by the Declarant in accordance with this Declaration.

All members of the Board of Directors shall be appointed by Declarant until such time as more than 70% of the total number of Lots by Declarant projected to be developed have been conveyed to Persons other than the Declarant, or January 1, 1997, whichever shall first occur. Therefore, the Owners may not elect or remove a member of the Board until either of such events has occurred.

The Board shall, in addition to all other duties and responsibilities, be empowered to promulgate reasonable and non-discriminatory rules and regulations for the use of the Property and Common Areas.

11.5 Bylaws and Articles. The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may be and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association. A copy of the Articles of Incorporation and Bylaws of the Association are attached hereto as Exhibits E and F which shall be governed and may be modified pursuant to the laws of the State of Tennessee.

ARTICLE XII

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

12.1 Association as Attorney-in-Fact for Owners. The Association is hereby irrevocably appointed attorney-in-fact for the Owners, and each of them, to manage, control and deal with the interest of each Owner in the Feature Areas so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, including but not limited to the granting of easements through any portion of the Common Areas. The acceptance by any Person of an interest in any Lot (except when such interest shall be derived from a taking of that interest as security for an obligation) shall constitute an appointment of the Association as attorney-in-fact as provided above and hereinafter.

The Association is hereby granted all of the powers necessary to govern, manage, maintain, repair, rebuild, administer and regulate the Feature Areas and to perform all of the duties required of it. Notwithstanding the above, but subject to the provisions hereof, unless all of the first Mortgages of Lots and all of the Owners have given their prior written approval, the Association shall not be empowered or entitled to:

- (a) by act or omission, seek to abandon or terminate any part of the Feature Area(s).
- (b) change the pro-rata interest or obligations of any Owner for the purpose of allocating distributions of insurance proceeds or condemnation awards;
- (c) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer (excluding the granting of easements for public utilities or other public purposes consistent with the intended use of the Feature Areas) any part of the Common Areas; or
- (d) use hazard insurance proceeds paid for loss to the Feature Areas for other than repair, replacement or reconstruction hereof, except as otherwise set out herein.

12.2 Feature Areas. The Association shall provide for the care, operation, management, maintenance, repair and replacement of the Feature Areas. Without limiting the generality of the foregoing, said obligations shall include the keeping of such Feature Areas in good, clean, attractive and sanitary condition, order and repair, the keeping of the Feature Areas attractive and desirable, and the making of necessary or desirable alterations, additions, betterments or improvements to or on the Feature Areas.

12.3 P.D. Required Structures, etc. In addition to other duties of the Association as set out herein and in the By-Laws and under law, the Association shall provide for the care, operation, management, maintenance, repair and replacement of (a) all signage designating the Property as **THE CORDOVA CLUB**, (b) landscaping required by THE **CORDOVA CLUB P.D.**, walls and fences required by The Cordova Club P.D. and (c) any and all other structures or similar requirements of THE CORDOVA CLUB

P.D.

The Association and its employees and contractors shall have a perpetual non-exclusive easement across all lots for the purpose of performing its duties as set forth in this Declaration.

The Association shall collect amounts necessary to perform the duties set forth in this Declaration and shall have, in connection therewith, all powers which are set forth herein relative to the care, operation, management, maintenance, repair and replacement of the Feature Areas including, but not limited to, the lien rights and rights of enforcement set out elsewhere in this Declaration.

12.4 Labor and Services. The Association (i) may obtain and pay for the services of a Manager ("the "Manager") as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are employed directly by the Association or by any Person with whom or which it contracts and (ii) may obtain and pay for legal and accounting services necessary or desirable in connection with the operation and maintenance of the Feature Areas or the enforcement of this Declaration.

12.5 Property of Association. The Association may pay for, acquire and hold or lease real property and tangible and intangible personal property and may dispose of the same by sale or otherwise, in furtherance of its duties and the general purposes contained herein and in the Articles and in the Bylaws.

Subject to the rules and regulations of the Association, each Owner and each Owner's Guests and Tenants may use such property. In the event of dissolution of the Association, if ever, the beneficial interest in any of the herein described property shall be deemed to be owned by the then Owners as tenants in common in the same proportions as their respective interests in the Common Areas. A transfer of a Lot shall transfer to the transferee ownership of the transferor's beneficial interest in such property without the necessity of any specific reference thereto. Each owner may use such property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners. The transfer of title to a Lot under foreclosure shall entitle the purchaser to the beneficial interest in such property associated with the foreclosed Lot.

12.6 Utility Easements. The Association shall have the right to grant utility, telephone, television, cable or other easements under, through or over the Common Areas which are reasonably necessary to the ongoing development and operation of the Property.

12.7 Mortgagee Notification. The Association shall notify each first Mortgagee of which it has written, actual (not constructive) notice of any proposed material amendment of the Association's Articles or Bylaws at least twenty-one (21) days prior to the effective date of such amendment or change. Further, upon the written request of any first Mortgagee, such first Mortgagee shall be entitled to receive the most recent annual financial statement of the Association, if any, and written notice of all meetings of the Association and such first Mortgagee shall have the right to designate a representative to attend any such meeting.

12.8 Enforcement by Association. The Board may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with the Association's rules and regulations, or with any other obligations of such Owner under this Declaration. The Association may also take legal and/or other equitable action at any time and from time to time against any Owner to enforce compliance with such rules, regulations or other obligations herein or in the Bylaws or in any amendments hereto or thereto or to obtain damages for non-compliance therewith, all to the extent permitted by law. The Board may impose a reasonable fine or fines on any Owner for each violation or act of noncompliance by any such Owner or his Guest or Tenant.

12.9 Implied Rights. The Association shall have and may exercise any right or privilege given to it expressly by this Declaration or the Articles or Bylaws, or reasonably implied from the provisions of said documents, or given or implied by law, or which may be necessary to fulfill its duties, obligations, rights or privileges.

ARTICLE XIII

ASSESSMENT FOR COMMON EXPENSES

13.1 Assessment. Each Owner, inclusive of Declarant, provided Declarant is an Owner, shall be obligated to pay a proportionate share of the expenses of the administration and operation of the Association and Feature Areas and of other expenses incurred in conformity with the Bylaws or this Declaration. Assessments for this purpose shall be imposed by the Board of Directors to meet the Common Expenses. The assessments shall be made prorata according to each Owner's voting right in the Association unless, in its reasonable discretion, the Board of Directors shall, by two-thirds vote thereof, determine that another method of proration of an Owner's share of the total assessment is equitable. Assessments for the estimated Common Expenses shall be due monthly, in advance, on the first day of each month. The Manager or Board of Directors shall prepare and deliver or mail to each Owner an itemized annual budget showing the various estimated or actual expenses for which the assessments are made.

The Assessment for Common Expenses includes but is not limited to expenses of management, premiums for insurance of the types and kinds provided for in Section 13.5 hereafter, landscaping and care of grounds, common utilities, repairs and renovations, security, expenses and liabilities incurred by the Manager or Board of Directors under or by reason of this Declaration, deficits remaining from a previous period, and other costs and expenses relating to the Feature Areas. Further, it shall be mandatory for the Board to establish and segregate, out of such monthly assessments, a contingency or reserve fund for the repair, replacement and maintenance of those Feature Areas that must be replaced periodically. The omission or failure of the Board of Directors to fix the assessment for any period of time shall not be deemed a waiver, modification or release of the Owners from their obligation to pay same.

Any Owner or first Mortgagee may inspect the Association's records of receipts and expenditures at any reasonable time during convenient weekday business hours upon ten days' written notice of such intent to the Board of Directors or the Manager, if any. Upon payment of a reasonable fee, not to exceed Fifty Dollars (\$50.00), any Owner or first Mortgagee of such Owner shall be furnished a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner. At the end of any calendar year, the Board of Directors may, but shall not be required to, refund to each Owner his proportionate share of funds then held by the Association which are not deemed to be necessary to meet the Common Expenses.

13.2 Special Assessment. The Board of Directors shall have the right during any calendar year to levy and assess against all of the Owners a special assessment for such purpose or purposes, in accordance with this Declaration, the Articles or Bylaws, as may be necessary to keep the Property as a first class residential subdivision or community, in the Board's discretion. Such special assessment shall be borne by the Owners in accordance with each Owner's voting interest in the Association and shall be due and payable as determined by the Board of Directors.

13.3 Assessment Reserves. The Association may require the Owners to deposit with the Association an amount not exceeding six times the amount of the then estimated monthly assessment, which sum shall be held, without interest, by the Association as a reserve to be used for working capital. Said sum may be required to be added to from time to time to reach the then current six month limit. Such an advance payment shall not relieve an Owner from making the regular monthly payment of the monthly assessment as the same comes due. Upon the transfer of its Lot, an Owner shall be entitled to a credit from its transferee but not from the Association, for any unused portion thereof. Such reserves shall at all times remain as capital of the Association.

13.4 Additions, Alterations and Improvements - Common Areas. There shall be no special assessments for any capital additions, or improvements to or alterations of the Feature Areas by the Association requiring expenditure(s) in excess of Ten Thousand Dollars (\$10,000.00) in the aggregate in any one calendar year without, in each case, prior approval by the Owners holding a majority of the voting rights in the Association, except in the event of an emergency, as deemed by the Board in its reasonable discretion.

13.5 Insurance.

(a) The Board of Directors shall obtain and maintain at all times, to the extent obtainable, policies of insurance, written with financially responsible and able companies licensed to do business in Tennessee, covering the risks set forth below. The types of coverages to be obtained and risks to be covered are as follow, to-wit:

(1) Bodily injury and property damage liability in a minimum amount of not less than \$1,000,000.00 per person or per occurrence covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Common Areas. All liability insurance shall name the Association, the Board, the Manager, the Declarant, first Mortgagees (of which the Association has written notice, mere public filing being insufficient), the Owners and the Officers of the Association, as insureds thereunder. Such policy or policies shall protect each of the insureds as if each were separately insured under separate policies; provided, however, that such policy or policies shall not require the insurers to pay any amount in excess of the maximum limits stated therein.

(2) Worker's Compensation and employer's liability insurance and all other similar insurance with respect to employees, if any, and subcontractors of the Association in the amounts and in the forms now or hereafter required by law.

(3) Fidelity coverage against dishonesty of employees or any other persons handling funds of the Association, destruction or disappearance of money or securities and forgery. Said policy shall also contain endorsements thereto covering any Persons who serve the Association without compensation.

(4) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Property, including insurance for any personal property located thereon and Directors and Officers liability insurance with respect to the actions of the Board of Directors and Officers of the Association.

(b) All policies of insurance, to the extent obtainable, shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least thirty (30) days' prior written notice to first Mortgagees and the Association. The types of coverage and limits of all insurance carried pursuant to these provisions shall not be subject to question or claim against the Board for failure to carry adequate coverage.

ARTICLE XIV
NO OBLIGATION TO DEVELOP

14.1 Nothing herein contained shall be construed as creating or evidencing an obligation on the part of Declarant or any other person or entity to develop or construct, or operate a country club, golf club, tennis courts, racquetball courts, or any other recreational facilities or to maintain the Golf Course as a golf course or in any particular manner. Further, nothing herein contained shall be construed as a prohibition, limit or restraint on the sale, lease or other disposition of the Golf Course, club house, tennis courts, racquetball courts or other similar recreational facilities to any third party.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

ESSENJAY AND ASSOCIATES,
a California Limited Partnership

By: ESSENJAY ASSOCIATES, INC.,
a California Corporation as
Managing General Partner

By: _____
ROBERT H. JONES, President

STATE OF TENNESSEE
COUNTY OF SHELBY

On this 24th day of April, 1991, before me personally appeared ROBERT H. JONES, to me known to be President of ESSENJAY ASSOCIATES, INC., a California corporation, said corporation being general partner of ESSENJAY AND ASSOCIATES, a California limited partnership, and said person to me known to be the person who executed the foregoing instrument on behalf of said limited partnership, and who acknowledged said execution to be the free act and deed of said limited partnership. Witness my hand and official seal.

Notary Public

My Commission expires:
