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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

WINDWARD SLOPES SUBDIVISION

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WINDWARD SLOPES SUBDIVISION**

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

For Windward Slopes Subdivision

THIS DECLARATION is made, published and declared this 24th day of August, 1999, by (the "Declarant" or "Developer") and any and all persons, firms or corporations hereinafter acquiring any of the within described property.

WHEREAS, the Declarant is the fee simple owner of a certain tract of real property in Shelby County, Tennessee (the "Property"), which Property is shown in the plan of development appearing of record in Plat Book 178, Page 48, in the Register's Office of Shelby County, Tennessee (the "Plan") and being shown on Exhibit "A" attached hereto; and

WHEREAS, the Developer wishes to develop the Property, to be known as "Windward Slopes Subdivision" into residential lots, together with certain common areas for the use, benefit and enjoyment of the owners of the lots in common with each other; and

WHEREAS, the Developer has caused a final plat of Phase 1 and a portion of Phase 3 of the Property, as shown on the Plan, to be filed in Plat Book 178, Page 47, in the Register's Office of Shelby County, Tennessee (the "Plat"); and

WHEREAS, it is to the benefit, interest and advantage of the Declarant, the lot owners, and of each and every person or other entity, hereafter acquiring any interest in the Property that certain covenants, restrictions, easements, assessments and liens governing and regulating the use and occupancy of the same be established, fixed, set forth and declared as covenants running with the land.

NOW THEREFORE, in consideration of the premises, the Declarant does hereby publish and declare that all or any portion of the Property as shown on the Plat is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following obligations (and subject to all easements, conditions restrictions, etc., as set out in the Plat, all of which are declared and agreed to be in furtherance of the plan for the development and improvement of the Property, and the said covenants, conditions, restrictions, uses, limitations and obligations shall run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns, and any other person or legal entity acquiring or owning any interest in any portion of the said portion of the Property (and any other portion hereafter expressly made subject to this Declaration) or any improvements thereon, their grantees, successors, heirs executors, administrators, devisees, and assigns.

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ARTICLE I
DEFINITIONS

The following words when used in the Declaration shall have the following meanings:

Section 1. "Association" shall mean and refer to Windward Slopes Homeowners Association, Inc., a nonprofit, non-stock corporation incorporated under the laws of the State of Tennessee, its successors and assigns. The Association's Charter and Bylaws are attached hereto marked Exhibits "B" and "C," respectively, and made a part hereof.

Section 2. "Common Area" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Members of the Association. The Seawall surrounding Garner Lake shall not be Common Area owned by the Association, but rather shall be owned by the Owners of the individual Lots on which their respective portions of the Seawall are located.

Section 3. "Declarant" shall mean Windward Slopes, LLC with offices at 6551 Stage Oaks Drive, Suite 1, Bartlett, Tennessee 38134, its successors and assigns. "Declarant" shall be synonymous with "Developer" for purposes of the Declaration.

Section 4. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, and any supplementary declaration filed hereto, as this Declaration may, from time to time, be amended in accordance with its terms.

Section 5. "Improvements" shall mean the structures, walls, pavement, plantings and other additions built or placed on the Lots. It is intended that the Improvements reasonably meant for the Owner of a particular Lot, including without limitation, each Lot's portion of the Seawall surrounding Garner Lake, will lie entirely within said Lot.

Section 6. "Lot" shall mean and refer to the parcels of land subdivided into lots, as shown on the Plat, as amended or supplemented from time to time with other phases of development of the Property as shown on the Plan. For all purposes hereunder, it shall be understood and agreed that Declarant shall be the Owner of all of said Lots, save and except only those particular Lots which Declarant conveys in fee simple title by recordable deed from and after the date hereof. Ownership of a Lot hereunder shall include an undivided pro rata interest in the Common Area now or hereafter owned by the Association.

Section 7. "Member" shall mean and refer to every Person who holds membership in the Association.

Section 8. "Owner" shall mean and refer to the record Owner, whether one or more

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persons or entities of fee simply title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, provided, however that the purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

Section 9. "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 10. "Plan" means the plan of development for the Property appearing of record in Plat Book 178, Page 48, in the Register's Office of Shelby County, Tennessee.

Section 11. "Plat" means the plat of Phase 1 and a portion of Phase 3 of the Property appearing of record in Plat Book 178, Page 47, in the Register's Office of Shelby County, Tennessee; and also means any plat, or amendment to the Plat, as the case may be, appearing of record in regards to any future phase of development of the Property, or portion thereof.

Section 12. "Property" or "Properties" shall mean that real property shown on the Plan and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 13. "Seawall" means the retaining wall surrounding Garner Lake, each lakefront Lot's portion of which wall is owned by such lakefront Lot's owner.

ARTICLE II PROPERTY

Section 1. Property Subject to Declaration. The portion of the Property shown on the Plat, as well as all future phases or portions of the Property expressly made subject to this Declaration, shall be subject to this Declaration.

Section 2. Garner Lake Ownership. The Owners of the Lots in the subdivision, or any additions thereto, shall have no right, title or interest in the property known as Garner Lake, ownership of which is held by Lake Management Association, Inc., for itself and its successors and assigns. Each Owner shall be bound by and subject to the terms and conditions of that certain Land Use and Easement Agreement for Garner Lake appearing of record under Instrument No. HY 7420 in said Register's Office (the "Garner Lake Agreement").

ARTICLE III THE ASSOCIATION

Section 1. Members. Every Person, as herein defined, who is a record Owner of a fee or undivided fee interest of any Lot within the Property shall be a Member of the Association, as

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herein defined, provided, however, that anyone who holds such interest solely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot within Windward Slopes Subdivision. Ownership of such Lot shall be the sole qualification for membership.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of a Lot, each Owner of a Lot being entitled to one (1) vote for each Lot owned, except the Developer, which shall be entitled to ten (10) votes for each Lot owned by it. After ninety percent (90%) of the Lots have been sold, Developer shall only be entitled to one (1) vote for each Lot still owned by it.

Section 3. Secured Parties. No individual or legal entity holding title to a Lot as security for any debt or obligation shall be considered as Owner of such Lot, and such individual or entity shall not be entitled to membership in the Association or to cast a vote on any question or matter affecting the administration of the Association.

Section 4. Voting. At every meeting of the Members, each of the Members shall have the right to cast his vote on each question. The vote of the Members representing a fifty-one percent (51%) majority of the total votes cast, in person or by proxy (provided a quorum exists), shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of statute or of the corporate Charter, or this Declaration, or of the Bylaws, a different vote is required, in which case such express provision shall govern and control. The vote for any Lot which is owned by more than one person may be exercised by any of them present at any meeting unless any objection or protest by any other owner of such Lot is noted at such meeting. In the event all of the co-owners of any membership who are present at any meeting of the Members are unable to agree on the manner in which the vote for such Lot shall be cast on any particular question, then such vote shall not be counted for purposes of deciding that question. No member shall be eligible to vote, either in person or by proxy or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent on any payment due the Association.

Section 5. Proxies. A Member may appoint any other Member or the Developer or any other person permitted by law or by the Bylaws as his proxy. In no case may any Member (except the Developer) cast more than one vote by proxy in addition to his own vote. Any proxy must be in writing and must comply with all requirements imposed by law or by the Association's Bylaws.

Section 6. Quorum. The presence, either in person or by proxy, of Members representing at least fifty-one percent (51%) of the total votes entitled to be cast shall be requisite for, and shall constitute a quorum for, the transaction of business at all meetings of Members. If the number of Members at a meeting drops below the quorum and the question of a lack of a quorum is raised, no business may thereafter be transacted.

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ARTICLE IV
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) The right of the Association to suspend any enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.
- (b) The right of the Association, in accordance with its Charter and Bylaws, to borrow money for the purpose of improving the service drives, Common Area and apparatuses which the Association is to maintain.
- (c) The right of the Association to dedicate or transfer all or any part of any Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, transfer or mortgage shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes hereof has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of such dedication or transfer.
- (d) No conveyance or encumbrance of the Common Area shall prevent any Lot Owner from using the Common Area.

Section 2. Fence and Seawall Easements. As the Association or applicable governmental authorities may decide in the future, or as shown on the Plat or on any future plat for future phases of the Property, all Lots shall be subject to an easement in order to allow the Association to construct, maintain repair or replace the perimeter fence which may be constructed on the perimeters of the Property and its entrances, and shall further be subject to an access easement for ingress and egress to, and for maintenance of, the Seawall surrounding Garner Lake.

Section 3. Garner Lake Agreement. Garner Lake is not owned by the Association and is not part of the Common Area. Any Owner's right to the use and enjoyment of Garner Lake is as set forth in the Garner Lake Agreement as described in Article II hereof.

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ARTICLE V
MAINTENANCE AND REPAIR

Section 1. Association Responsibilities. The Association shall provide and pay for all maintenance and expenses for the Common Area including the private service drives, the landscaping, irrigation of the Common Area, fencing, and apparatuses, if any, of the Property. The real property taxes on the Common Area, if any, shall also be paid for by the Association. The Association shall also provide and pay for all maintenance and expenses relating to the Seawall.

Section 2. Individual Lot Owners. Each Owner of a Lot shall be responsible for all interior and exterior maintenance, painting, repair and upkeep on such Owner's Lot and the improvements thereon, including, without limitation, responsibility to Lake Management Association, Inc., for the repair and maintenance of any portion of the Seawall adjoining each such Owner's Lot, if located on Garner Lake, that the Association fails to maintain and/or repair.

In the event an Owner of any Lot on the Property shall fail to maintain the Lot and improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, or restore the Lot and the exterior of the building and any improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

In the event the Association fails to repair and/or maintain any Lot's portion of the Seawall, each such Lot Owner shall be responsible for such repair or maintenance and Lake Management Association, Inc., may take such action at law or equity to enforce both the Association's and each lakefront Lot Owner's responsibility to maintain and repair its portion of the Seawall, whether by suit for specific performance or for damages as a result of the breach of such obligation and may recover all costs and expenses in connection therewith, including reasonable attorneys' fees.

ARTICLE VI
ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, including road and sewer maintenance; and (3) emergency assessments. All such annual, special and emergency

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assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual, special and emergency assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot, together with such interest thereon and cost of collection thereof as are hereinafter provided. Such assessments shall be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment (s) fell due.

Section 2. Annual Assessments and Carrying Charges of the Association. Each Member of the Association shall pay to the Association an annual sum (herein sometimes referred to as "assessments" or "carrying charges") in such amount as may be required by the Association, and as estimated by its Board of Directors to meet the Association's annual expenses, including, but in no way limited to, the following:

- (a) The cost of all operating expenses of the Association and services furnished, including charges by the Association for its facilities, if any; and
- (b) The amount of all taxes and assessments levied against the Association or upon any property which it may own or which it is otherwise required to pay, if any; and
- (c) The cost of extended liability insurance and the cost of such other insurance as the Association may effect; and
- (d) The cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and/or reserve for replacements; and
- (e) The estimated cost of repairs, maintenance and replacements of the service drive, walls, perimeter fences, landscaping in the Common Areas, and entrance signage, if any, and any other items the Association may be responsible for; and
- (f) The cost of any Common Area yard maintenance .

Except as provided in Section 11 of this Article VI, the Board of Directors of the Association shall determine the amount of the annual assessment against each lot for each annual assessment period, but may do so at more frequent intervals should circumstances so require as provided in the Bylaws. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon request and for a reasonable charge, furnish a letter from the Association setting forth the amount of the annual assessment and whether the assessment on a specified Lot has been paid.

Section 3. Special Assessments. In addition to the regular assessments authorized by this Article, the Association may levy in an assessment year a special assessment or assessments,

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applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement for which the Association is responsible or for such other purposes as the Board of Directors may consider necessary, provided that such assessment shall be approved by the Members representing two thirds (2/3) of the total number of votes eligible to be cast. A notice of which shall be sent to all Members at least ten (10) days but no more than thirty (30) days in advance of such meeting which notice shall set forth the purpose of the meeting.

Section 4. Emergency Assessments. In the event of any emergency situation, condition, or occurrence affecting the life, health, safety or welfare of any Members of Property or Members, the Board of Directors, acting pursuant to this section, may declare an emergency assessment in such amount and payable at such time as the Board of Directors, in his sole discretion, shall deem necessary. Such emergency assessment, except for the amount and time of payment, shall be governed by all other provisions of this Declaration. Such assessment shall be borne pro rata by all Members of the Association. The Board of Directors shall be indemnified, defended, held harmless and fully protected and not liable for any mistake in judgement hereunder if the emergency assessment is made in good faith.

Section 5. Non-Payment of Assessments. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid on the date when due shall be delinquent and shall, together with interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the Lot or Lots belonging to the Member against whom such assessment is levied and shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. To evidence the lien of any unpaid and delinquent assessments, the Board of Directors shall prepare a written notice setting out the amount of the unpaid indebtedness, the name of the Owner of the Lot, and description of the Lot. Said notice shall be signed by a member of the Board and recorded in the Shelby County Register's Office. The personal obligation of the Member to pay such assessment shall, however, remain his personal obligation for the statutory period, and a suit to recover a money judgement for non-payment of any assessment levied pursuant to this Declaration or the Bylaws, or of any installment thereof, may be maintained without foreclosing or waiving the lien created herein.

Any assessment levied pursuant to this Declaration or any installment thereof, which is not paid within ten (10) days after it is due shall bear interest at a rate of ten percent (10%) per annum, but not to exceed the highest rate allowed under the applicable laws of the State of Tennessee, and may by resolution of the Board of Directors, subject the Member obligated to pay the same payment of such penalty or "late charge" as the said Board may fix. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Lot or Lots subject to prior mortgages or deeds of trust upon the Lot or Lots, then belonging to said Member; in either of which events, the Association may collect from the said Member interest, costs and reasonable attorneys' fees. The Owner may waive or otherwise

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escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

For the purpose of enforcing the lien of any unpaid and delinquent assessment, each Lot Owner grants the Board of Directors of the Association irrevocably the power to sell his Lot at public outcry to the highest and best bidder for cash. The Board of Directors is authorized to make such a public sale if and only if the sale is made subordinate to any prior recorded mortgage or deed of trust upon the Lot. The Association is hereby authorized to take any and all courses of action available to them for collection of the assessment, which the laws of the State of Tennessee allow. Any such sale shall be made after first advertising the sale of said property for twenty-one (21) days by three (3) weekly publications in some newspaper in the County of Shelby, State of Tennessee, giving notice of the time and place of such sale and by written notice of time and place of such sale to the Owner of the Lot at his last known address. Any sale of a Lot to enforce a lien for delinquent and unpaid assessments shall be free from equity of homestead, and dower and all other exemptions, all of which are lien enforced and thereby shall take precedence over and have priority over any and all other liens of every nature against the Lot, except real estate and ad valorem taxes assessed against the Lot and prior recorded mortgages or deeds of trust. The proceeds of any such sale, whether under the power of sale or by foreclosure suit, shall be applied first to the payment of the expenses of protecting the Property and the expenses of litigation, attorneys' fees, and sales commission; and second, to the payment of real estate and ad valorem taxes assessed against the Lot and any prior recorded mortgages or deeds of trust (unless sold subject to said mortgage or deed of trust); and third, to the payment of all amounts due the Association under the terms of the Declaration and Bylaws; and the balance, if any, to the Lot Owner whose lot is sold, and his assigns. Upon any default in the payment of any assessment, the Board of Directors shall have the right to all rents, issues, and profits from the Lot in default and shall have the right to secure the payment through notice to those in possession of the Lot or by entry into possession following default. The Association may enforce its lien by whatever means available, including the power of sale granted herein or filing suit for foreclosure in the appropriate court.

All rights, remedies and privileges granted to the Board of Directors by a Lot Owner pursuant to any terms, provisions and covenants or conditions of the Declaration and Bylaws shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other rights, remedies, or privileges as may be granted to such party by the Declaration and Bylaws or at law or equity.

The Association may notify the holder of the first mortgage on any Lot for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of sixty (60) days and in any other case where the Owner of such Lot is in default with respect to the performance of any other obligation hereunder for a period in excess of ninety (90) days.

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Section 6. Acceleration of Installments. Upon default in the payment of any one or more installments of any assessment levied pursuant to this Declaration, or any other installment thereof, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full.

Section 7. Priority of Lien. The lien established by this Article shall have preference over any other assessments, liens, judgments or charges of whatever nature, except the following:

- (a) General and special assessments for real estate taxes on a Lot; and
- (b) The liens of any deeds of trust, mortgage instruments or encumbrances duly recorded on the Lot prior to the assessment of the lien thereon or duly recorded on said Lot after receipt of a written statement from the Board of Directors reflecting the payments on said lien were current as of the date of recordation of said deed of trust, mortgage instrument or encumbrance.

Section 8. Subordination and Mortgage Protection. Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration upon any Lot shall be subordinate to and shall in no way affect the rights of the holder of any indebtedness secured by an recorded first mortgage (meaning a mortgage with priority over other mortgages) upon such interest made in good faith and for value received, provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a foreclosure or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser at such sale of the Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment which said lien, if any, claimed, shall have the same effect and be enforced in the same manner as provided herein.

No amendment to this Section shall affect the rights of the holder of any such mortgage (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof shall join in the execution of such amendment.

Section 9. Additional Default. Any recorded trust mortgage secured by a Lot in Windward Slopes Subdivision may provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby), but the failure to include such a provision in any such mortgage shall not affect the validity or priority thereof, and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 8 of this Article shall not be altered, modified, or diminished by reason of such failure.

Section 10. Uniform Value of Assessments. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

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Section 11. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots upon conveyance of the Common Area to the Association. The first annual assessment shall be paid in full for twelve months at time of any sale and/or transfer of a Lot. The second annual assessment shall be adjusted according to the number of months remaining in the calendar year. Until December 31, 1999, the Declarant shall have the sole authority to determine whether an assessment shall be levied. After December 31, 1999, the assessment shall be fixed by the Board of Directors as set out in Section 2 of this Article VI.

Section 12. Garner Lake Assessments. The Owners of the Lots in the subdivision, or any additions thereto, shall have no right, title or interest in the property known as Garner Lake, ownership of which is held by Lake Management Association, Inc., for itself and its successors and assigns. Each owner shall be bound by and subject to the terms and conditions of the Garner Lake Agreement.

The Owner of each Lot shall pay to Lake Management Association, Inc., the sum of Ten and No/100 Dollars (\$10.00) per month for any non-lakefront Lot and Forty and No/100 Dollars (\$40.00) per month for any lakefront Lot. The assessment shall be paid annually in advance commencing with the purchase of any Lot and continuing on the anniversary date each year thereafter. The obligation of each Owner to pay such assessment for the year in which the closing takes place shall be prorated for the remainder of such period. The annual assessment amount for either lakefront lots or non-lakefront lots, or either category individually without the other, may be adjusted upward by Lake Management Association, Inc., from time to time upon thirty (30) days advance written notice to the Lot Owners affected; provided, however, no such increase shall exceed four percent (4%) in the aggregate for any calendar year from the then existing assessment amount.

Any unpaid assessment shall be a lien on the Lot assessed in favor of Lake Management Association, Inc., and may be collected by proper action at law or proceeding in equity or by enforcement of such lien by Lake Management Association, Inc.

ARTICLE VII **ARCHITECTURAL CONTROL**

Section 1. Master Architectural Control Committee. An "Architectural Control Committee" is hereby established. The initial committee shall consist of W. Terry Edwards, Jim Reid, and Harry Todtman. These three individuals shall serve for a period equal to the earlier to occur of (a) five (5) years, or (b) until they resign from the Committee by written notice to the Board of Directors of the Association. Upon the expiration of five (5) years from the date hereof, or the earlier resignation of any of Edwards, Reid, and Todtman, the Board of Directors of the Association shall then fill any vacancy on the Architectural Control Committee by appointment

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of one (1) individual Lot Owner per vacancy. The affirmative vote of the majority of the membership of the Architectural Control Committee shall be required to adopt or promulgate any rule or regulation, or to make any findings, determinations, ruling or order, or to issue any permanent authorization or approval pursuant to the directives or authorization contained herein. After the earlier to occur of (a) five (5) years from the date hereof or (b) the resignation of all three (3) original members, the Board of Directors may increase the size of the Architectural Control Committee by such number of Lot Owners as it deems appropriate.

Section 2. Approvals Necessary, Rules of Committee and Remedies for Violation.

With the exception of Developer, no structure of any kind or nature or any fence or barrier shall be commenced, erected, placed, moved onto, or permitted to remain on any of the Lots within Windward Slopes Subdivision, nor shall any existing structure, fence or barrier upon any Lot be altered in any way which changes the exterior appearance (which includes but is not limited to changes in paint color and re-roofing) thereof, nor shall there be any additions, attachments, or deletions to improvements, nor shall there be any change in landscaping without in each case obtaining the written consent of the Architectural Control Committee; nor shall any new use be commenced on any Lot unless plans and specifications have been submitted to and approved in writing by the Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information as may be required by the Architectural Control Committee but in any event shall include:

Site Plan: Locating all grading, property lines, setbacks, easements, sidewalks, curbs, house, porches, deck, front walk/steps, driveway, utility meters, refuse enclosure, A/C compressors, fences and landscape plan.

Floor Plan: Illustrating indoor/outdoor relationships with all typical data: Dimensions, doors, windows, porches, balconies, exterior columns, room names, etc.

Exterior Elevations: All facades illustrating: Finish floor heights, doors, windows, cornice and roof lines, details, materials, etc.

Exterior Materials And Colors: May be either called out and labeled on plans or listed separately. Generic color and tone designations or photos of similar projects which represent intentions are acceptable.

Plan Application must be submitted as scale drawings with two copies of the design review compliance form attached hereto as Exhibit "D" and two sets of plans.

The Architectural Control Committee may promulgate rules governing the form and content of plans to be submitted for approval or require specific improvements on the Lots including, without limitation, the exterior lighting and planting and may issue statements of

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policy with respect to approval or disapproval of the architectural styles or details or other matters which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Architectural Control Committee at any time and no inclusion in or omission from or amendment of any such rule of statement shall be deemed to bind the Architectural Control Committee to approve or disapprove any feature, or matter subject to approval, or to waive the exercise of the Architectural Control Committee's discretion as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Lot of any plans or specifications shall not be deemed to be a waiver of the Architectural Control Committee's discretion to approve or disapprove any feature or matter subject to approval, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver of the Architectural Control Committee in its discretion to disapprove such plans, specifications, features or elements that are subsequently submitted for use on any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter provided that the plans and specifications as approved in any condition attached to any such approval have been adhered to and complied with in regard to all structures, fences, or barriers and uses of the Lot in question.

In the event the Architectural Control Committee fails to approve or disapprove any plans and specifications or other requests as herein provided within thirty (30) days after submission thereof, the same shall be deemed to have been approved as submitted and no further action shall be required.

If any structure, fence, or barrier shall be altered, erected, placed or maintained (including exterior maintenance) upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the Architectural Control Committee as required herein, such alteration, erection, maintenance, or use shall be deemed to have been undertaken in violation of the restrictions herein without the approval required herein, upon written notice from the Architectural Control Committee, such alteration, erection, maintenance, use, structure, fence or barrier so altered erected, placed or maintained upon any Lot in violation hereof shall be removed or realtered, and such use shall be terminated so as to extinguish such violation.

If fifteen (15) days after the notice of such violation, the Owner or Owners of the Lot upon which such violation exists shall not have taken reasonable steps towards the removal or termination of the same, the Association by its officers or directors shall have the right through its agents and employees to enter upon such Lot and to take such steps as may be necessary to extinguish such violations, and the costs thereof shall be a binding personal obligation of such Owner as well as a lien upon the Lot in question upon the recording of such with the Office of the Register of Shelby County, Tennessee.

Upon completion of the construction or alteration of any structure in accordance with the

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plans and specifications approved by the Architectural Control Committee, the Architectural Control Committee shall, upon written request of the Owner thereof, issue a letter of compliance in form suitable for recordation, identifying such structure and the Lot on which such structure is placed and stating that the plans and specifications, location of such structure and the use or uses to be conducted thereon have been approved and that such structure complies therewith. Preparation and recording of such letter shall be at the expense of the Owner or Owners of such Lot. Any letter of compliance issued in accordance with the provisions of this paragraph shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith and for value or as to any title insurer, such letter shall be conclusive evidence that all structures and the use or uses described therein comply with all the requirements of these restrictions and all requirements as to which the Architectural Control Committee exercises any discretionary or interpretive powers.

The Architectural Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to these restrictions payable at the time such plans and specifications are so submitted.

Any agent of the Windward Slopes Subdivision Developer or the Architectural Control Committee may, at reasonable times, enter upon and inspect any Lot and any improvements thereon for the purposes of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of structures thereon are in compliance with the provisions of these restrictions, and no such persons shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

The Association or any Owner of any Lot contained within Windward Slopes Subdivision shall have the right to enforce by any proceeding at law or in equity all conditions, restrictions, covenants, reservations and easements herein or hereinafter contained or otherwise contained in any deed to any Lot. Failure by any Owner to enforce any of such proceedings shall in no event be deemed a waiver of the right to do so thereafter.

Should a request to the Committee come from a Committee member, the other members of the Committee shall select a disinterested Lot Owner to take the place of the Committee member making the request.

ARTICLE VIII

RESTRICTIVE COVENANTS

Section 1. Residential Use. Other than as shown on the Plan, Lots shall not be used for any purpose other than private residential purposes.

Section 2. Prohibited Uses and Nuisances. In order to provide for a congenial occupation of the homes within Windward Slopes Subdivision and to provide for the protection

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of the values of the entire development, the use of residences shall be in accordance with the following provisions:

- (a) Said property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said Property shall be of new construction, and no buildings or structures shall be moved from other locations onto said Property and no subsequent buildings or structures other than single family houses shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, lean or other out building shall be used on any portion of said Property at any time as a residence, either temporarily or permanently.
- (b) Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof and all easements, restrictions and covenants set out in the Plat.
- (c) 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 premises as Declarant deems necessary, such facilities, as in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the sale of said Lots, including, but without limitation, a business office, storage area, construction, yard, signs, model units and sales offices.
- (d) No advertising signs (except one [1] of not more than five [5] square feet "for rent" or "for sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. No business activity of any kind whatever shall be conducted in any building or in any portion of said Property, provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its agents, and assigns during the development and sales period of Lots in Windward Slopes Subdivision.
- (e) Without prior written approval and the authorization of the Architectural Control Committee, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property, nor upon any structure situated upon the Property other than an acrial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.
- (f) No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

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- (g) No truck, van, trailer, boat, recreational or commercial type shall be stored or parked on any lot, unless in a closed garage, nor parked on the streets serving the subdivision, unless engaged in transporting to or from a residence in the subdivision, or unless otherwise concealed from view in a manner satisfactory to the Developer.
- (h) Recreation vehicles, including but not limited to boats, boat trailers, house trailers, camping trailers, motorcycles, or similar type items shall be kept other than in the garage or otherwise screened from the view of neighbors or the streets.
- (i) Grass, weeds, vegetation and debris 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. No refuse pile, unused motor vehicles or unsightly objects shall be allowed to be placed or to remain anywhere on the premises. Trees, shrubs, vines, debris and plants which die and/or refuse pile, unused or junk vehicles shall be promptly removed from such Lots. Developer, at its option and its discretion, may mow and have dead trees and debris removed from such Lots and the Owner of such Lot shall be obligated to reimburse Developer for the cost of such work should he refuse or neglect to comply with the terms of this paragraph.
- (j) All mailboxes (and numerals thereon) and yard lamps, and the supports and encasements therefore, within the subdivision, are to be identical in design and will be designated by the Architectural Control Committee (See Exhibit "E"). No decorations except for holiday themes may be affixed or adhered.
- (k) No building material of any kind or character shall be placed or stored upon any of said Lots until the Owner is ready to commence improvements. Building materials shall not be placed or stored in the street or between the curb and property lines.
- (l) No structure of a temporary nature such as trailers, basements, tents, sheds, garage, barn, motor home, or other out buildings shall at any time be used, either temporarily or permanently, as a residence.
- (m) No obnoxious or offensive trade or activity may be carried on upon any lot nor shall anything be done thereon, which may be, or become a nuisance or annoyance to the neighborhood. No business or trade of a commercial nature may be carried on upon any lot. All Lots and houses are to be for residential use only.
- (n) No animals, livestock, or poultry of any kind or description, except the usual household pets, shall be kept on any Lot; provided, however, that no household pet may be kept on any Lot for breeding or commercial purposes. All household pets shall at all times be suitably leashed or penned, and no household pet shall be allowed at any time to wander or roam the Windward Slopes Subdivision.

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- (o) No trash, garbage, hazardous waste or other refuse shall be dumped, stored or accumulated on any lot. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers screened by adequate planting or fencing. Garbage containers shall be kept in a clean and sanitary condition and shall be placed so as not to be visible from any public or private road, common area, or within sight distance of any other lot at any time except during normal refuse collection. No outside burning of woods, leaves, trash, garbage, or household refuse shall be permitted.
- (p) Drainage flow shall not be restricted nor be diverted from drainage swales, storm sewers, and/or easements as shown on any plat or other instrument of record hereinafter recorded in which reference is made to these restrictions. The Developer may cut drain ways for surface water wherever, and whenever such action may appear to the Developer or the Architectural Control Board to be necessary in order to maintain reasonable standards of health, safety, and appearance. These easements and rights expressly include the right of the Developer to cut any trees, bushes, or shrubbery, make any gradings of the soil or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health and appearance. The provision hereon shall not be construed to impose any obligation upon the Developer to cut or maintain any such drain way or easement.
- (q) Other easements for drainage, utilities, pedestrians, and sidewalks may be hereinafter created as shown by any plat or instrument hereinafter recorded by the Developer as such easements are granted prior to the sale of the lot or lots by the Developer to any other party.
- (r) Each Owner shall keep his residence in a condition comparable to its condition when initially constructed. In the event all or any portion of a residence is damaged or destroyed by fire or other casualty, then the Owner shall rebuild, repair or reconstruct said residence as more fully set forth in Article IX hereof.
- (s) The Owner or grantee of any lot which is subject to these restrictions, by acceptance of the deed or other instrument conveying an interest in or title to such lot, or by the execution of a contract for the purchase thereof, whether from the Developer or from a subsequent Owner of such lot shall accept, and shall be deemed to have accepted such deed or other contract subject to each and all of these restrictions and the agreements herein contained, all of the same being covenants running with the land
- (t) All gardens must be planted to the rear of any main residence, and screened from view with only landscape materials such as trees, shrubs, and plants allowed in front or side of the main residence.
- (u) Landscape & Planting Requirements:

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1. Solid Block Sod shall be required in all yard areas of each Lot.
2. Each Lot Owner shall be required to plant, maintain, and if necessary, replace, at least one tree of the following specifications: a pin oak between one and one-half (1½) inches and four (4) inches in diameter, and between eight (8) feet and eighteen (18) feet in height.

(v) **Lighting:**

1. No lighting of a pool, patio, or other recreation area will be installed without the approval of the Architectural Control Committee, and if allowed shall be designed for recreational character so as to buffer the surrounding residences from excessive lighting.
2. No exterior light will be installed or maintained on any Lot which light is found to be objectionable by the Architectural Control Committee. If any exterior light is considered 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.

Section 3. Site Planning.

- (a) Minimum Area Requirements and Material Composition: Each house shall be a single family detached dwelling with the following minimums of heated area:

1. Lake Lots: Heated Area 3500 total square feet; and
2. Non-Lake Lots: Heated Area 2500 total square feet.

Heated area requirements do not include garages, porches, unfinished attic space or other similar spaces. A variation in said minimum ground area of ten percent (10%) shall not constitute a violation of this requirement if approved by the Architectural Control Committee.

Each residence shall have a minimum ratio of brick, stucco or stone to wood or synthetic siding of seventy percent (70%) brick, stucco or stone to thirty percent (30%) wood or synthetic siding.

- (b) Setbacks: Consistent building lines are desired for each Lot with minimum setbacks as follows:

1. Front Yard: 30 ft. minimum
2. Side Yard: 5 ft. minimum

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3. Rear Yard: 25 ft. minimum principal structure or garage structure

- (c) Garages: All residences shall include at least a two (2) car garage, the doors to which shall remain closed except during ingress and egress.
- (d) Out Buildings: Building structures separate from the main dwelling, such as detached garages, storage buildings, etc. should be designed to blend with and compliment the main dwelling. Out buildings should be located entirely in the rear yard, and comply with all other applicable criteria. The minimum rear yard setback shall be five (5) feet, and the minimum side yard setback shall be five (5) feet, or as otherwise regulated by the Shelby County Building Code.
- (e) Fences: All fence designs shall be submitted to the Architectural Control Committee for approval before construction commences, and shall be in compliance with the following conditions, restrictions and requirements:
 - 1. No chain link or wire fences shall be allowed in the development.
 - 2. Lake Frontage Lots. No fencing shall be allowed on lake frontage Lots other than a fence that may be required by governmental authorities to surround a swimming pool. Said fence that is constructed around a pool shall be of ornamental material with at least four (4) inches between the spokes.
 - 3. Non-Lake Frontage Lots. No fence, whether front, rear or side, shall be constructed closer to the street than the building setback line. The fence design shall be compatible with the architectural design of the home, appropriate for the character of Windward Slopes Subdivision; and shall maintain a high quality image. All fences shall be constructed of wood, brick or ornamental metal material, or combination thereof, and shall not exceed a maximum of six (6) feet in height.
- (f) Outdoor Lighting: Cornice mounted outdoor incandescent floodlights and ground mounted landscape lighting are acceptable within the rear yards. Such lighting should be installed and aimed in a fashion to avoid direct flare to the street and other houses, and so not to become a nuisance to adjacent property owners. High intensity discharge or street light type fixtures are not allowed.

Section 4. General Architectural Issues. All home and other architectural designs must comply with the data and requirements contained in Article VII (Architectural Control).

- (a) Specific Items: Specific items that will receive review by the Architectural Control Committee are:

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- ▶ Site orientation and all service elements.
- ▶ Relationship to existing homes.
- ▶ Front elevations (appropriate style, scale, proportions and details of front facade).
- ▶ Corner lot street elevations (side elevation of homes on a corner lot shall maintain the same architectural qualities as the front facade).
- ▶ Overall house style, image and detailing.
- ▶ Garage design viewable from any public areas (garage design shall maintain the same scale, proportion, materials and detailing as main house).
- ▶ Garage door design (efforts to minimize the negative impact of garage doors are strongly encouraged).
- ▶ First floor elevation.
- ▶ Windows and doors.
- ▶ Porches and columns.
- ▶ Roof lines.
- ▶ Exterior materials and colors.

(b) Protection of Adjacent Property. When construction is to begin adjacent to a Lot with a completed home or one that is under construction, or on a steep grade subject to erosion, the Owner shall comply, or ensure that its builder complies, with all erosion control rules and regulations of the Association and the proper governmental authorities. When construction is to begin on a Lot adjacent to a vacant Lot, the vacant Lot must not be utilized in any manner unless prior approval and conditions have been granted by the adjacent property Owner. Any failure of a Lot Owner to comply with this section may be handled by the Association in the same manner as a failure to maintain or repair as set forth in Article V hereof.

ARTICLE IX INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area (including perimeter fences). The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by

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the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million Dollar (\$1,000,000.00) single person limit as respected bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, and a Thirty Thousand Dollar (\$30,000.00) minimum property damage limit.

Premiums for the insurance on the Common Area shall be common expenses of the Association. The policy may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost of the improvements. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance.

Cost of insurance coverage obtained by the Association for the Common Area and other improvements for which the Association is responsible shall be included as an Assessment as defined in Article VI.

The Association's Board of Directors shall make every reasonable effort to secure insurance policies that will provide the following:

- (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners' and their respective tenants, servants, agents, and guests;
- (ii) a waiver by the insurer of its right to repair and reconstruct, instead of paying cash;
- (iii) that no policy may be canceled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager, without prior demand in writing delivered to the Association, to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or mortgage;
- (iv) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
- (v) that no policy may be canceled or substantially modified without at least ten (10) days prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the Board of Directors' best business judgment, but shall be in an amount sufficient to cover not less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all

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defenses based upon the exclusion of persons serving without compensation, and may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association.

Section 2. Individual Insurance - Repair and Reconstruction. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty insurance on the Lot and structures construed thereon for full replacement cost. In the event of damage or destruction by fire or other casualty, the Owner shall with concurrence of the mortgagee if any, upon receipt of the insurance proceeds, contract to repair, or rebuild, as the case may be, such damage or destroyed portions of the improvements in a workmanlike manner, and in conformance with the original plans and specifications of the building (including landscaping). In the event the Owner refuses or fails to commence such repairs or rebuilding within six (6) months after the casualty occurs or commences and thereafter fails to complete the work within twelve (12) months after the casualty occurred, the Association, by and through its Board of Directors, is hereby authorized by such Owner to repair and rebuild the improvement in a good workmanlike manner in conformity with the original plans and specifications. The Owner shall then repay the Association in the amount actually expended for such repairs, and the Association will have a lien securing the payment of same identical to that provided for in Article VII, securing the payment of said sums expended and subject to the power of sale and foreclosure as set forth in said Article.

The individual Owners shall make every reasonable effort to secure insurance policies that will provide for a waiver of subrogation by the insurer as to any claims against the Association, other Lot Owners, and their respective tenants, servants, agents and guests.

The individual Owners shall furnish a current certificate of insurance to the Association or its manager, at least annually, or at any other time requested by the Association.

ARTICLE X

MORTGAGEE'S RIGHTS

Upon request, the Association shall make available to any Lot Owner, and to any holder, insurer, or guarantor of any first mortgage, current copies of this Declaration, the Bylaws, and other rules covering the affairs and management of the Association, and the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours.

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any mortgage holder, insurer, or guarantor in connection with such Lot will be entitled to timely written notice of:

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- (a) any condemnation or casualty loss that affects either a material portion of the Property or the Lot ;
- (b) any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any such Lot;
- (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) any proposed act that requires the consent of a specified percentage of mortgage holders

The consent of at least sixty-seven percent (67%) of the votes and of the Declarant, as long as the Declarant owns any land subject to this Declaration, and the approval of the eligible holders of first mortgages on Lots to which at least sixty-seven percent (67%) of the votes subject to a mortgage appertain, shall be required to terminate the Association.

The consent of at least sixty-seven percent (67%) of the votes and the Declarant, as long as the Declarant owns any land subject to this Declaration, and the approval of eligible holders of first mortgages on individual Lots to which at least fifty-one percent (51%) of the votes subject to a mortgage appertain, shall be required to materially amend any provisions of the Declaration, Bylaws, or Charter of Incorporation of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following: (i) voting; (ii) assessments, assessment liens, not including a subordination of said lien; (iii) reserves for maintenance, repairs and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) rights to use of the Common Area; (vi) responsibility for maintenance and repair of the Property; (vii) boundaries of any residential Lot; (viii) imposition of any right of first refusal or similar restrictions of the right of any Owner to sell, transfer or otherwise convey his Lot; (ix) any provisions included in the Declaration, Bylaws, and Charter of Incorporation which are for the express benefit of holders, guarantors, or insurers of first mortgages on residential units, which provisions do not set out a required number of votes to amend the particular provision.

ARTICLE XI GENERAL PROVISIONS

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land 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, unless otherwise expressly limited herein, after which time said covenants shall be automatically extended for successive periods of ten (10) years each. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by

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Owners holding not less than sixty-seven percent (67%) of the votes of the membership at any time. Any amendment must be properly recorded to be effective. During the first two (2) years from the date of the recording of this Declaration. Any amendment must also be approved by the Declarant.

Notwithstanding anything herein contained to the contrary, the Declarant reserves the right for a period of two (2) years from the date hereof to unilaterally amend this declaration to the requirements of any governmental agency, federal, state or local, and for the requirements of any mortgage lender or for any reason that the Declarant deems advisable for the orderly development of Windward Slopes Subdivision.

Section 2. Notices. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as a Member on the records of the Association at the time of such mailing.

Section 3. Enforcement. The Declarant, the Association, or any Member, shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any member to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the Association shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

Section 5. Waiver. No restriction, condition, obligation or provision of the Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 6. Gender, Etc. Whenever in this Declaration the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

Section 7. Future Phases. Future phases of the Property may be developed and by amendment hereto may be made expressly subject to the terms and conditions of this Declaration. All Lot Owners of Lots in future phases shall automatically be members of the Association.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused these presents to be signed by the Officer duly authorized so to do as of the day and year first above written.

"Declarant"

WINDWARD SLOPES, LLC

By: W. Terry Edwards Pres
W. Terry Edwards, President

AUGUST 24, 1999
Date

**STATE OF TENNESSEE
COUNTY OF SHELBY**

On this 24th day of August, 1999, before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared W. Terry Edwards, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be the President of Windward Slopes, LLC, and that he as such President, being duly authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the limited liability company by himself as President and further acknowledged that he executed said instrument as the free act and deed of the limited liability company, and as the free act and deed of the corporation.

WITNESS my hand and Seal at office in said State and County this 24th day of AUGUST, 1999.

Rebecca A. Ralston

Notary Public

My Commission Expires:

My Commission Expires August 8, 2000

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JOINDER OF MORTGAGEE

BANCORPSOUTH, Memphis, Tennessee, herein called the mortgage holder of a Deed of Trust on the Property shown on the Plan, which Deed of Trust is recorded under Register's Number HY 7421, in the Register's Office of Shelby County, Tennessee, joins in submitting said property to the said Declaration of Covenants, Conditions and Restrictions Said Deed of Trust remains prior to any liens created by said Declaration of Covenants, Conditions and Restrictions.

BANCORPSOUTH

BY: Bill NelmsCOMMUNITY BANK PRESIDENT

TITLE

AUGUST 24, 1999

DATE

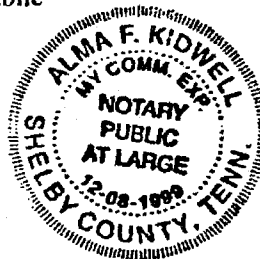
STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public, of the state and county aforesaid, personally appeared BILL NELMS, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged HIMSELF to be president (or other officer authorized to execute the instrument) of BANCORPSOUTH, the within named bargainor, a corporation, and that HE as such PRESIDENT, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by HIM self as PRESIDENT.

WITNESS my hand and seal at office on this 24th day of August, 1999.

Alma F. Kidwell
Notary Public

My Commission Expires:

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EXHIBIT "A"
PLAN OF DEVELOPMENT

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EXHIBIT "B"
CHARTER
OF
WINDWARD SLOPES
HOMEOWNERS ASSOCIATION, INC.

The undersigned person under the Tennessee Nonprofit Corporation Act, adopts the following charter for the above listed corporation:

1. The name of the corporation is Windward Slopes Homeowners Association, Inc.
2. This corporation is a mutual benefit corporation.
3. This corporation is not a religious corporation.
4. (a) The complete address of the corporation's initial registered office is 6551 Stage Oaks Drive, Suite 1, Bartlett, Tennessee 38134.

(b) The name of the initial registered agent, to be located at the address listed in 4(a) is W. Terry Edwards.
5. The name and complete address of the incorporator is W. Terry Edwards, 6551 Stage Oaks Drive, Suite 1, Bartlett, Tennessee 38134.
6. The complete address of the corporation's principal office is 6551 Stage Oaks Drive, Suite 1, Bartlett, Tennessee 38134.
7. This corporation is a nonprofit corporation.
8. The corporation will have members.
9. The Association may be dissolved with the assent given in writing and signed by not less than sixty-seven percent (67%) of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

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10. No director shall be personally liable to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, except as otherwise provided in subparagraphs (A), (B), and (C) of Tenn. Code Ann. Section 4-52-102(b)(3). The foregoing shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when this paragraph becomes effective.

WITNESS my hand this _____ day of _____, 1999.

W. Terry Edwards, Incorporator

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EXHIBIT "C"
BYLAWS
OF
WINDWARD SLOPES HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Section 1. Name. The name of this corporation is WINDWARD SLOPES HOMEOWNERS ASSOCIATION, INC. (the "corporation" or "Windward Slopes"), its principal place of business is 6551 Stage Oaks Drive, Suite 1, Bartlett, Tennessee 38134. The corporation may have such other offices within or without the State of Tennessee as the Board of Directors or the Members may from time to time designate.

ARTICLE II

Section 1. Applicability. These bylaws and each provision hereof shall be applicable to all Lots and Members, as defined in the Declaration of Covenants, Conditions and Restrictions for Windward Slopes Subdivision, appearing of record under Instrument No. _____ in the Register's Office of Shelby County, Tennessee, within the residential planned development known as Windward Slopes Subdivision.

ARTICLE III

The following sections of this Article III shall apply to membership in the Association:

Section 1. Eligibility. The Owner or Owners of a Lot who have become such in compliance with all of the requirements and conditions contained in the Declaration of Covenants, including these Bylaws, shall be entitled to amend and vote at all meetings of the Association. The Declarant shall be considered the Owner of each Lot which is unsold by it. Ownership of a Lot shall be the sole qualification for membership in the Association.

Section 2. Voting Rights. The Owner or Owners of a Lot shall be entitled to one (1) vote for each Lot owned at all meetings of the Association, except for the Declarant, which shall be entitled to ten (10) votes for each Lot owned by it. After ninety percent (90%) of the Lots have been sold, Declarant shall only be entitled to one (1) vote for each Lot still owned by it.

Where two or more persons own a Lot, the vote allocated to that Lot shall be cast by the one authorized by such two or more Owners and in the event of failure of such authorization, no vote shall be recorded for that Lot. Where only one of two or more owners of a Lot is present in person at a meeting, such one shall be presumed to be authorized by all Owners of said Lot and

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shall be entitled to cast the vote with respect for that Lot. Where one person or a group of persons owns more than one Lot, such person or group shall be entitled to cast one (1) vote for each lot owned.

ARTICLE IV

Section 1. Place of Meeting. Meetings of the membership shall be held at the principal office or the place of business of the Association or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

Section 2. Annual Meetings. The annual meetings of the Members of the Association shall be held at 7 p.m. on the first Monday in February of each year, beginning in 2000, or such other date established by Declarant. At such meeting there shall be elected by secret written ballot of Members a Board of Directors in accordance with the requirements of Section 5 of Article IV of these Bylaws. The Members may also transact such other business of the Association as may properly come before them.

Section 3. Special Meeting. It shall be the duty of the President to call a special meeting of the Members as directed by resolution of the Board of Directors or upon a petition signed by Members representing at least ten percent (10%) of the total number of votes entitled to be cast on any issue proposed to be considered at the proposed special meeting having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at his address as it appears on the membership book of the Association, if any, or if no such address appears, at his last known place of address, at least ten (10) days but no more than two (2) months prior to such meeting. Service may also be accomplished by the delivery of any such notice to the Member at his last known address by deposit in the box or slot for the United States mail. Notice by either such method shall be considered as notice served. Attendance by a Member at any meeting of the Members shall be a waiver of notice by him of the time, place and purpose thereof.

Section 5. Quorum. The presence, either in person or by proxy, of Members representing at least fifty-one percent (51%) of the total votes entitled to be cast with respect to any question, shall be requisite for, and shall constitute a quorum for, the transaction of business at all meetings of Members. If the number of Members at a meeting drops below the quorum and the question of a lack of a quorum is raised no business may thereafter be transacted.

Section 6. Adjourned Meetings. If any meeting of members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy,

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may, except as otherwise provided by law, adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 7. Voting. At every meeting of the Members, each of the Members shall have the right to cast his vote on each question. The vote of members representing a fifty-one percent (51%) majority of the total votes cast, in person or by proxy, provided a quorum exists, shall decide any question brought before such meeting, unless the question is one upon which, by express provision of statute or of the Charter of Incorporation, or the Declaration, or of these Bylaws, a different vote is required, in which case such express provision shall govern and control. No Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

Section 8. Proxies. Any Member may appoint any other Member or the Developer may appoint any other person permitted by law or by these Bylaws as his proxy. In no case may any Member (except the Developer) cast more than one vote by proxy in addition to his own vote. Any proxy must be in writing and must comply with all requirements imposed by law or by these Bylaws.

Section 9. Whenever the vote of Members at a meeting thereof is required or permitted to take any action in accordance with any statute, the Declaration or these Bylaws, such meeting and vote may be dispensed with if all Members who would have been entitled to vote upon such action receive a written ballot from the corporation. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approval equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Section 10. Order of Business. The order of business at all regularly scheduled meetings of the Members shall be as follows:

- (a) Roll call and certificate of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Report of Officers, if any.
- (e) Reports of committee, if any.
- (f) Unfinished business.

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- (g) New business.
- (h) Election or appointment of inspectors of election.
- (i) Election of directors.

In the case of a special meeting, items (a) through (d) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of the meeting.

ARTICLE V

Section 1. Number and Qualification. The affairs of the Association shall be governed by the Board of Directors composed of at least three (3) persons and not more than seven (7) persons, a majority of whom (after the second annual meeting of Members) shall be Members of the Association.

Section 2. Initial Directors. The initial Directors shall be elected by the Developer and need not be Members of the Association. The names of the Directors who shall act as such from the date upon which the Declaration is recorded in the Register's Office of Shelby County, Tennessee, until the first annual meeting of the Members or until such time as their successors are duly chosen and qualified are as follows:

- (a) W. Terry Edwards
- (b) Jim Reid
- (c) Harry Todtman

Section 3. Power and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and the residential planned development and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Members. The powers and duties of the Board of Directors shall include, but not be limited to, the following:

To provide for:

- (a) Care and upkeep of the service drives, common utilities, perimeter fence, wall, common area, and any other properties charged to the care of the Association, including establishing reserves for repairs or replacements.
- (b) Establishment and collection of assessments and/or carrying charge from the Members and for the assessment and/or enforcement of liens therefore in a manner consistent with law and the provisions of these Bylaws and the Declaration.

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(c) Designation, hiring and/or dismissal of the personnel necessary for the good working order of Windward Slopes Subdivision and to provide services for the community in a manner consistent with law and the provisions of these Bylaws and the Declaration.

(d) Promulgation and enforcement of such rules and regulations and such restrictions or requirements as may be deemed proper respecting the use, occupancy and maintenance of Windward Slopes Subdivision, all of which shall be consistent with law and the provisions of these Bylaws and the Declaration.

(e) Elect an Architectural Control Committee.

Section 4. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor of the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members.

Section 5. Election and Term of Office. The term of the Directors named herein shall expire when their successors have been elected at the first annual meeting of members and are duly qualified. At the first annual meeting of the Members, the Members shall determine the number of Directors consistent with these Bylaws, who shall constitute the Board of Directors to serve until the next annual meeting and until their successors have been elected and duly qualified. The term of office of each Director thereafter shall be for a period of one (1) year and until their successors shall have been elected and hold their first meeting.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the membership shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected by the Members at the next annual meeting.

Section 7. Removal of Directors. At a regular meeting, or special meeting duly called for such purpose, any Director may be removed with or without cause by the affirmative vote of the majority of the entire membership of record and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given an opportunity to be heard at the meeting. The term of any director who becomes more than sixty (60) days delinquent in payment of any assessments and/or carrying

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charges due the Association shall be automatically terminated and the remaining Directors shall appoint his successor as provided in Section 6 of this Article.

Section 8. Compensation. No compensation shall be paid to Directors for their services as Directors. After the first annual meeting of the Members, no remuneration shall be paid to any Director who is also a Member of the Association for services performed for the Association in any other capacity unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before the services are undertaken.

Section 9. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present.

Section 10. Regular Meetings. Regular meetings of a newly elected Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or facsimile, at least two (2) days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on two (2) days' notice to each Director, given personally or by mail, telephone or facsimile, which notice shall state the date, time and place (as herein above provided), but not necessarily the purpose, of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least one-third (1/3) of the Directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board of Directors any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Directors are present and remain present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 13. Quorum. At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

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Section 14. Action Without Meeting. Any action of the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all the members of the Board of Directors shall individually or collectively consent in writing to taking such action without a meeting. Such written consent or consents describing the action taken and signed by each Director shall be filed with the minutes of the proceedings of the Board of Directors. If all Directors consent to taking such action without a meeting, the affirmative vote of the number of Directors that would be necessary to take such action at a meeting is the act of the Board.

Section 15. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for the Association or trust funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE VI

Section 1. Designation. The principal officers of the Corporation shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. Prior to the first annual meeting of Members, the Officers of the Association need not be Members of the Association. The Directors may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary. The offices of Secretary and Treasurer may be filled by the same person.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. In the event he is also a member of the Board of Directors, he shall preside at all meetings of the Members and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the membership from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act.

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If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated to him by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Members of the Association; he shall have custody of the seal of the Association, if any; he shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall have responsibility for corporate funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

ARTICLE VII

Section 1. Liability and Indemnification of Officers and Directors. The Association shall indemnify every officer and director of the Association against any and all expense, including counsel fees, reasonably incurred by or imposed upon any officer or Director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding if approved by the then Board of Directors of the Association) to which he may be made a party by reason of being or having been an officer or Director of the Association, whether or not such person is an officer or Director at the time such expenses are incurred. The officers and Directors of the Association shall not be liable to the Members of the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The officers and Directors of the Association shall have not personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association or Windward Slopes (except to the extent that such officers or Directors may also be Owners of Lots within the subdivision), and the Association shall indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or Director of the Association or former officer or Director of the Association may be entitled.

Section 2. Common or Interested Directors. The Directors shall exercise their powers and duties in good faith and with a view to the interests of the Association and the planned development. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any corporation, firm or association (including the Developer) in which one or more of the Directors of this Association are Directors or officers or are pecuniary or otherwise interested, is either void or voidable because such Director or Directors are present at the meeting of the Board of Directors or any committee thereof which

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authorizes or approves the contract or transaction, or because his or their votes are counted for such purpose, if any of the conditions specified in any of the following subparagraph exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; and

(b) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Common or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction with like force and effect as if he were not such Director or officer of such other corporation or not so interested.

ARTICLE VIII

Section 1. Management and Common Expenses. The Association, acting by and through its Board of Directors, shall manage, and operate the affairs of the Association and, for the benefit of the Lots and the Owners thereof, shall enforce the provisions hereof and shall pay out of the common expense fund herein and elsewhere provided for, the following.

(a) The cost of such insurance as the Association may effect.

(b) The cost of providing such legal and accounting services as may be considered necessary to the operation of Windward Slopes.

(c) The cost of any and all materials, supplies, labor, services, maintenance, repairs, taxes, assessments or the like, which Association secures in the discretion of the Board of Directors or by the vote of the Members shall be deemed necessary or proper.

(d) The cost of the maintenance or repair on any Lot in the event such maintenance or repair is deemed reasonably necessary in the discretion of the Board of Directors to protect the Common Area, or to preserve the appearance or value of Windward Slopes, or is otherwise in the best interest of all Owners of the Lots; provided, however that such maintenance or repair shall not be undertaken without a resolution by the Board of Directors, and not without reasonable written notice to the Owner of the Lot proposed to be maintained, and provided further, that the cost thereof shall be assessed against the Lot on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be sent promptly to the then Owner of said Lot, at which time the assessment shall become due and payable and a continuing lien and obligation of said Owner.

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(e) All other items which are listed as responsibilities of the Association as found in the Declaration.

Section 2. Duty to Maintain. Except for maintenance requirements herein imposed upon the Association, the Owner of any Lot shall, at his own expense, maintain the interior and exterior of any improvements on his Lot, including all driveways and any and all equipment, and fixtures therein situate, and its other appurtenances, in good order, condition and repair, and in clean and sanitary condition, and shall do all redecorating, painting and the like which may at any time be necessary to maintain the good appearance of his Lot and appurtenances. All exterior maintenance is subject to approval of the Architectural Control Committee.

Section 3. Right of Entry. For the purpose solely of performing any of the repairs or maintenance required or authorized by these Bylaws, or in the event of a bona fide emergency involving illness or potential danger to life or property, the Association, through its duly authorized agents or employees, shall have the right, after reasonable efforts to give notice to the Owner or occupant, to enter upon any Lot at any hour considered to be reasonable under the circumstances.

ARTICLE IX

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January every year, except for the first fiscal year of the Association, which shall begin at the date of incorporation. The commencement day of the fiscal year herein established shall be subject to change by the Board of Directors should corporate practice subsequently dictate.

Section 2. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practices. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures affecting Windward Slopes and its administration and shall specify the maintenance and repair expenses incurred. That amount of any assessment required for payment or any capital expenditures of the Association shall be credited upon the books of the Association to the "Paid-in-Surplus" account as a capital contribution by the Members.

Section 3. Reports. The Association shall furnish its Members, and the holders of first mortgages requesting same, within ninety (90) days from the date of close of each fiscal year, with an annual financial statement, including the income and disbursements of the Association.

Section 4. Inspection of Books. The books and accounts of the Association and vouchers accrediting the entries made thereupon, shall be available for examination by the members of the Association and/or their duly authorized agents or attorneys, and to the institutional holder of any first mortgage on any Lot and/or its duly authorized agents or

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attorneys, during normal business hours and for purposes reasonably related to their interests as Members.

Section 5. Execution of Association Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or Vice President, and all checks shall be executed on behalf of the Association by such officers, agents, or other persons as are from time to time so authorized by the Board of Directors.

Section 6. Employment of Management Company. The Association shall be authorized to employ a management company to aid the Association in carrying out its duties and responsibilities. Prior to passage of control of the Association from the Developer, no management or service contract shall be entered into unless there is a right of termination, without cause, upon ninety (90) days written notice.

ARTICLE X

Amendments. These Bylaws may be amended by the affirmative vote of Members representing a majority (unless the Declaration calls for a greater number with respect to a particular clause) of all votes entitled to be cast at any meeting of the Members duly called for such purpose, and only after thirty (30) days prior written notice to the institutional holders of all first mortgages on the Lots in Windward Slopes. Amendments may be proposed by the Board of Directors or by petition signed by members representing at least thirty percent (30%) of the total number of votes entitled to be cast. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

ARTICLE XI

Section 1. Notice to Board of Directors. Any owner of any Lot in the planned development who mortgages such Lot shall promptly notify the Board of Directors of the name and address of his mortgagee and, if requested so to do, shall file a conformed copy of such mortgage with the Board of Directors. The Board of Directors shall maintain suitable records pertaining to such mortgages.

Section 2. Definition. As used in this Article the term "mortgagee" shall mean any mortgages and shall not be limited to institutional mortgagees and the term "mortgage" shall include a deed of trust. As used generally in these Bylaws, the term "institutional holder" or "institutional mortgagee" shall include banks, trust companies, insurance companies, savings and loan associations, pension funds and any corporation, including a corporation of, or affiliated with, the United States government, or any agency thereof.

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ARTICLE XII

Section 1. Resident Agent. The resident agent shall be designated as the person authorized to accept service of process in any action relating to two or more Lots or to the Common Areas.

Section 2. Notices. Unless another type of notice is herein or elsewhere specifically provided for, any and all notices called for in the Declaration or these Bylaws shall be given in writing.

Section 3. Severability. In the event any provision or provisions of these Bylaws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 4. Waiver. No restriction, condition, obligation or provision of these bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 5. Captions. The captions contained in these Bylaws are for convenience only and are not a part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

Section 6. Gender, Etc. Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

Section 7. CONFLICTS. THESE BYLAWS ARE SUBORDINATE TO ALL PROVISIONS OF THE DECLARATION. ALL OF THE TERMS HEREOF, EXCEPT WHERE CLEARLY REPUGNANT TO THE CONTEXT, SHALL HAVE THE SAME MEANING AS IN THE DECLARATION. IN THE EVENT OF ANY CONFLICT BETWEEN THE BYLAWS AND THE DECLARATION, THE PROVISIONS OF THE DECLARATION SHALL CONTROL. IN THE EVENT OF ANY CONFLICT BETWEEN THE AFORESAID DECLARATION AND ANY OF THE LAWS OF THE STATE OF TENNESSEE, THE PROVISIONS OF THE STATUTE SHALL CONTROL.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this ____ day of August, 1999.

Secretary

T. JONES WINDWARD, RV3

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EXHIBIT "D"

**Windward Slopes Subdivision
SINGLE FAMILY RESIDENTIAL
DESIGN REVIEW COMPLIANCE FORM**

Submittal: Preliminary _____ Final _____
Lot Number: _____
Address: _____

Applicant Name: _____
Address: _____
Phone: _____
Fax: _____

Owner: Name: _____
Address: _____
Phone: _____
Fax: _____

Builder: Name: _____
Address: _____
Phone: _____
Fax: _____

Designer: Name: _____
Address: _____
Phone: _____
Fax: _____

The Applicant understands the requirements of the Windward Slopes Subdivision Master Design and Development standards and has submitted all required information herein (Must be filed in Duplicate).

SUBMITTED BY:

DATE

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EXHIBIT "E"
MAIL BOX

Halle design mailbox by Pickle Ornamental Iron Co., Inc., 3177
Summer Avenue, Memphis, Tennessee.

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SHELBY COUNTY
REGISTER OF DEEDS

99 AUG 27 PM 4: 02

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D/C	0.45
P.S.	49
Val	
STATE TAX	
REGISTER'S FEE	
RECORDING FEE	1966
NOTARY FEE	200
W. & C. FEE	
TOTAL	1986
STATE OF TENNESSEE	
SHELBY COUNTY	
GUY B. BATES	
REGISTER	

44

625