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Declaration

of

Covenants, Conditions, and Restrictions

of

Lochmere Development

THIS INSTRUMENT PREPARED BY:

**Lochmere Development, Inc. and
Greene Construction, Inc., as their interests may appear**

**By: Adren S. Greene, President
Calvin Greene, Vice-President
Christopher B. Greene, Secretary-Treasurer
P. O. Box 1895
Morristown, TN 37816**

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF LOCHMERE DEVELOPMENT

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Covenants and Restrictions made and entered into this 1st day of June, 1995, by Lochmere Development, Inc., and Greene Construction, Inc. (as their interests may appear), hereinafter referred to as Developer,

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article I of this Declaration and desires to create thereon an exclusive residential community with permanent parks, playgrounds, open spaces, and other common facilities for the benefit of the said community to be known as Lochmere Development; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and common facilities; and, to this end, desires to subject the real property described in Article I together with such additions as may hereinafter be made to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Lochmere Development is intended to be developed as phases of a Master Development, which will include, but will not be limited to townhouses, cluster homes, condominiums and detached single family residences when fully developed; and

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

WHEREAS, Developer has incorporated under the laws of the State of Tennessee a non-profit corporation, LOCHMERE HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the real property described in Article I is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Review Board" shall mean and refer to Greene Construction, Inc., or such other individuals as Developer may appoint, until all lots in Lochmere shall have been fully developed and permanent improvements constructed thereon and sold to permanent residents; at which time such term shall mean and refer to those persons selected annually by the Board in compliance with the declaration of the Association to serve as members of said committee.

Section 2. "Association" shall mean and refer to Lochmere Homeowners Association, Inc., its successors and assigns.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 5. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, as may be found necessary and appropriate by the Board pursuant to this Declaration and the Bylaws and Articles of Incorporation of the Association.

Section 6. "Declaration" shall mean the covenants, conditions, restrictions, and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 7. "Developer" shall mean and refer to (i) Greene Construction, Inc., a Tennessee corporation, or (ii) any successor-in-title or any successor-in-interest to Greene Construction, Inc., to all or any portion of the Property, provided in the instrument of conveyance to any such successor-in-title or interest, such successor-in-title is expressly designated as the "Developer" hereunder by the grantor of such conveyance, which grantor shall be the Developer hereunder at the time of such conveyance.

Section 8. "Lot" shall mean and refer to any parcel of land shown upon any recorded subdivision plat of the Property upon which a residence may be constructed.

Section 9. "Owner" shall mean and refer to the recorded owner, whether one or more Persons, of the fee simple title to any Unit or Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of any obligation.

Section 10. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 11. "Plat" shall mean and refer to the certain Final Subdivision Plats for Lochmere Development prepared by Clark and Associates, Inc., and recorded in Plat Cabinet E, Slide 112 and Slide 113 in the Register's Office for Hamblen County.

Section 12. "Property" shall mean and refer to that certain real property described in Exhibit A attached hereto and by reference made a part hereof, together with such additional real property as may be subsequent amendment be added to and subjected to this Declaration.

Section 13. "Structure" shall mean and refer to: (i) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house or trailer) or any other temporary or permanent improvement to such Lot; (ii) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (iii) any change in grade at any point on a Lot of more than forty-eight (48) inches, whether or not subsection (iii) of this Section 13 applies to such change.

Section 14. "Unit" shall mean and refer to structures whether attached or detached which comprise living quarters.

Section 15. "Lochmere Development" is one and the same as Lochmere Subdivision, as noted on the plat that is recorded per Section 11 above.

ARTICLE II
REVIEW BOARD (RB)

Section 1. Purpose, Powers and Duties of the Review Board. The purpose of the Review Board, hereinafter referred to as "RB," is to assure that the installation, construction or alteration of any Structure on any Unit or Lot is submitted to the Review Board for approval, (i) as to whether the proposed installation, construction, or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the development of the Property; and (ii) as to the location of the Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the RB shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Unit or Lot.

Section 2. Developer's Obligation. The Developer shall abide by the Declaration of Covenants and Restrictions and any amendments thereto but not withstanding anything stated herein to the contrary, the Developer shall be exempt from any requirements, directives, or orders set forth by the Board of Directors or any committee appointed by the Board of Directors including, but not limited to, the RB.

Section 3. Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Unit or Lot, nor shall any existing Structure upon any Unit or Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor shall have been first submitted to and approved in writing by the Review Board. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Review Board, including, without being limited to:

- (a) a site plan showing the location of all proposed and existing Structures on the Unit or Lot, including building setbacks, open space, driveways, walkways and parking spaces including the number thereof;
- (b) floor plans;
- (c) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all back-filling and landscaping are completed;
- (d) specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors of all proposed Structures and alterations to existing Structures, and also showing front, side and rear elevations;
- (e) plans for landscaping and grading;

- (f) samples of building and paint materials to be used.

Section 4. Approval of Builders. Any builder or landscaper, prior to performing any work on any Unit or Lot on the Property, must first be approved by the RB as to financial stability, building or landscaping experience and ability to build or landscape Structures or grounds of the class and type of those which are to be built on the Property. Such approval shall be within the sole discretion of the RB.

Section 5. Approval and Disapproval of Plans and Specifications.

(a) The RB shall have the right to approve or disapprove any plans and specifications submitted to it in its sole and uncontrolled discretion, which approval or disapproval may be based upon any grounds, including purely aesthetic considerations which shall be deemed sufficient.

(b) Upon approval by the RB of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved may be deposited for permanent record with the RB and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval of any plans and specifications for use in connection with any Unit, Lot or Structure shall not be deemed a waiver of the RB's right, in its sole discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with other Lots or Structures. Approval of any such plans and specifications relating to any Unit, Lot or Structure, however, shall be final as to that Unit, Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

(c) Neither Developer nor any member of the RB shall be responsible or liable in any way for any defects in any plans or specifications approved by the RB, for any structural defects in any work done according to such plans and specifications approved by the RB. Further, approval of plans and specifications by the RB shall not be deemed to represent or warrant to any Person the quality, function or operation of the Structure or of any construction, workmanship, engineering, materials or equipment. Neither Developer nor any member of the RB shall be liable in damages or in any other respect to anyone submitting plans or specifications for approval under this Article, or to any Owner, or to any other Person having an interest in any of the Property by reason of mistake in judgment, negligence, misfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. By submission of such plans and specifications to the RB, every Owner of any Unit or Lot releases and agrees to hold harmless and to defend Developer and any member of the RB from any such alleged liability, claim and/or damage.

Section 6. Obligation to Act. The RB shall take action on any plans and specifications submitted as herein provided within fifteen (15) days after receipt thereof. Approval by the RB, if granted, together with any conditions imposed by the RB, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by the RB to take action within fifteen (15) days of the receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

Section 7. Right of Inspection. The RB, its agents and representatives, shall have the right during reasonable hours to enter upon and inspect any Unit, Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Unit, Lot or Structure is in compliance with the provisions of this Declaration; and the RB shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

Section 8. Violations.

(a) If any Structure shall be erected, placed, maintained or altered upon any Unit or Lot, otherwise than in accordance with the plans and specifications approved by the RB pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the RB such violation shall have occurred, the RB shall be entitled and empowered to enjoin or remove any such construction. Any costs or expenses incurred by the RB in enjoining and/or removing any construction or improvement shall be added to and become a part of the assessment to which the Owner and his Unit or Lot are subject.

(b) The RB shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within twenty (20) days after the mailing of the aforesaid notice of violation, then the RB shall have the right of abatement as provided in Section 1(b) of Article XII hereof. In addition to the right of abatement, the Board, upon being informed of such violation by the RB, shall be entitled to seek equitable relief to enjoin such construction.

Section 9. Conduct. All Builders and Homeowners shall be held responsible for the acts of their employees, sub-contractors, suppliers and other persons or parties involved in construction or alteration of a homesite. In this regard, a Builder or Homeowner shall be responsible for the following:

- (a) Ensuring that the construction site is kept clean and free of debris and waste materials, and that stockpiles of unused materials are kept in a neat and orderly fashion;
- (b) Prohibiting the consumption of alcoholic beverages, illegal drugs or other

intoxicants that could hamper the safety or well-being of other personnel on the site or affect the quality of workmanship;

- (c) Assuring that the aforementioned are properly insured;
- (d) Assuring that the aforementioned do not commit any violation of the rules and regulations of Lochmere;
- (e) Ensuring that all driveways on the construction site are sufficiently graveled, and any mud or any debris caused by the construction are removed from the adjoining roadways as soon as reasonably possible. Further, silt fences shall be installed as required to keep silt, mud, and other debris off the street.

Section 10. Government Regulations. Nothing contained herein abrogates, modifies, or changes the applicability of any ordinances, statutes, codes, rules and regulations of the City of Morristown or other governmental units as applicable and the necessity of obtaining a building permit, inspection or otherwise complying with applicable provisions of governmental codes, statutes, ordinances, rules and regulations.

ARTICLE III
BOARD OF DIRECTORS

Section 1. Composition. The affairs of the Association shall be governed by the Board. The Initial Board shall be composed of three (3) persons. The directors shall be owners of units or lots or spouses of such owners; provided, however, that no owner and his or her spouse may serve on the Board at the same time. Notwithstanding the above so long as there shall be a Class B member of the Association, the directors need not be owners of lots or units. The precise number of directors shall be fixed from time to time by resolution of the Board.

Section 2. Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) members appointed by the President to serve from the close of one annual meeting to the close of the succeeding annual meeting. Such appointment shall be announced at the annual meeting. The nominating committee may nominate any number of qualified individuals, but no less than the number of directors to be elected. The nominations shall be made at least twenty-one (21) days prior to the annual meeting and a brief statement about the qualifications of each individual so nominated shall be included with the notice of the annual meeting. Nominations shall also be allowed from the floor at the meeting. Failure to comply with the provision hereof shall in no way invalidate the election of directors so nominated.

Section 3. Elections and the Annual Meeting. The annual meeting shall be held on the first Tuesday in February. Directors to be elected by the members shall be elected by a majority vote at the annual meeting from those nominated. A quorum must be present. For the purpose of electing a Board of Directors, a quorum shall be deemed present when fifty percent (50%) of all votes are present in person or by proxy. If the required quorum is not present, an adjourned annual meeting shall be called subject to the same notice requirements as set forth for the annual meeting, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Term of Office. The directors shall be elected as provided in Section 3 of this Article. Each director, except in case of death, resignation, retirement, disqualification or removal, shall serve until the next succeeding annual meeting and thereafter until his successor shall have been elected and qualified.

Section 5. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by a majority vote of the members of the Association 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 at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 6. Vacancies. Vacancies in the Board caused by any reason, including the addition of a new director or directors but excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board for the remainder of the term of the director being replaced. Said director shall serve until a successor shall be elected at the next annual meeting of the Association to fill the unexpired portion of the term.

Section 7. Compensation. Directors shall not be compensated unless and to the extent the members of the Association authorize at any meeting duly called for that purpose.

Section 8. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every three months. The Board shall meet within ten (10) days after each annual meeting of members.

Section 9. Special Meetings. Special meetings of the Board may be called by the President on three (3) days notice to each director given by mail, in person or by telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President, Secretary or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

Section 10. Quorum. A quorum of directors shall be deemed present throughout any Board meeting at which a majority of the directors are present at the beginning of such meeting.

Section 11. Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. Roberts Rules of Order (latest edition) shall govern the conduct of the meetings of the Board when not in conflict with the Declaration or these By-Laws.

Section 12. Action Without A Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if all the directors consent in writing to such action. Such written consent or consents shall be filed with the minutes of the Board.

Section 13. Powers and Duties. The Board shall exercise for the Association all powers, duties and authority vested therein by the Declaration of these By-Laws, except for such powers, duties and authority reserved thereby to the members of the Association or the Developer. The Board shall have the following powers and duties:

- (a) to elect and remove the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association;

- (c) to engage the services of an agent (hereinafter sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Area of Common Responsibility or any part thereof for all of the lot owners, upon such terms and for such compensation as the Board may approve, including a Managing Agent which is affiliated with one or more directors, or the Developer, or both;
- (d) to administer, manage and operate the Area of Common Responsibility and recreational facilities thereon and to formulate policies therefor;
- (e) to adopt rules and regulations, with written notice thereof to all unit or lot owners, governing the details of the administration, management, operation and use of the Area of Common Responsibility and any recreational facilities located thereon, and to amend such rules and regulations from time to time;
- (f) to provide for the operation, care, upkeep, maintenance, repair, replacement, and improvement of the Area of Common Responsibility and any recreational facilities located thereon and payments therefor, and to approve payment vouchers or to delegate such approval to the officers of the Association or the Managing Agent;
- (g) to obtain adequate and appropriate kinds of insurance to protect the Association and/or members of the Board of Directors or members of committees appointed by the Board of Directors including the RB and other insurance as provided by Article XI of the Declaration;
- (h) to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Area of Common Responsibility and any recreational facilities located thereon, and to delegate any such powers to a Managing Agent (and any employees or agents of a Managing Agent);
- (i) to appoint committees and to delegate such committees the Board's authority to carry out certain duties of the Board;
- (j) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;
- (k) to estimate the amount of, prepare, adopt and distribute the budget for the Association not less frequently than annually, to provide the manner of assessing, levying on and collecting from the unit or lot owners the annual and special assessments, and to levy fines against one or more occupants in accordance with the Declaration;
- (l) to keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Area of Common Responsibility and any recreational facilities located thereon;
- (m) to bid and purchase, for and on behalf of the Association, any lot, or interest therein, at a sale pursuant to a mortgage foreclosure, a foreclosure of the lien for annual assessments, special assessments or both, or any order or direction of a court, or at any other involuntary sale;
- (n) to make such mortgage arrangements and special assessment proportionately among the respective unit or lot owners, and other such financing arrangements, as the Board may deem desirable, in order to close and consummate the purchase or lease of a unit or lot, or interest therein, by the Association; provided, however, that no such financing arrangement shall be secured by an encumbrance on any interest in the Property other than the unit or lot, or interest therein, to be purchase or leased;
- (o) to act in a representative capacity in relation to matters involving the Area of

Common Responsibility or more than one unit or lot, on behalf of the unit or lot owners, as their interests may appear;

- (p) to enforce by legal means the provisions of the Declaration and these By-Laws with respect to the Property;
- (q) to renew, extend or compromise indebtedness owed to or by the Association;
- (r) at its discretion, to authorize occupants to use the Common Area and any recreational facility located thereon for private parties and gatherings and, at its discretion, to impose reasonable charges for such private use;
- (s) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the unit or lot owners as expressed in a resolution duly adopted at any annual or special meeting of the Association;
- (t) the Association shall (i) have all powers permitted to be exercised by a nonprofit corporation and (ii) have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Declaration and these By-Laws; and
- (u) upon there being no Class B members, to assume all duties and obligations of the Developer.

Section 14. Nondelegation. Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the unit or lot owners.

ARTICLE IV

OFFICERS

Section 1. Designation. At each regular or adjourned annual meeting of the Board after the unit or lot owners elect the Board, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

- (a) a President who shall be a director and who shall preside over the meetings of the Board and of the unit or lot owners, and who shall be the chief executive officer of the Association;
- (b) a Secretary, who shall keep the minutes of all meetings of the Board and of the lot owners and shall be designated as the officer to mail and receive all notices served by or upon the Board or the Association and execute amendments to the Declaration and these By-Laws, and shall, in general, perform all the duties incidental to the office of Secretary, and may be a representative of the Managing Agent;
- (c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; provided, however, that the duties of the Treasurer may be performed by an employee or independent contractor retained by the Board.

Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote at a special meeting of said Board. Any officer so elected by the Board to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

Section 5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the lot owners at a meeting duly called for that purpose.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot or Unit which is subject to this Declaration shall be a mandatory member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Unit which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot or Unit.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Initially, the Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot or Unit owned. When more than one Person holds an interest in any Lot or Unit, all such Persons shall be members. The vote for such Lot or Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot or Unit.

Class B. The Class B member shall be the Developer and shall be entitled to one (1) vote for each Lot or Unit owner. The Class B membership shall cease and be converted to Class A membership on the happening of the earliest of the following events:

- (a) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) ten (10) years from the date this Declaration is filed of record in the Register's Office for Hamblen County, Tennessee; or
- (c) when, in its discretion, the Developer so determines.

ARTICLE VI
PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area including, without limitation, the right of pedestrian (but not vehicular) access to the Common Area from time to time designated for such purposes and the right of use of such recreational facilities as may be erected and maintained by the Association for such purposes from time to time, which right and easement shall be appurtenant to and shall pass with the title to every Lot or Unit, subject to the following:

- (a) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility now or hereafter located or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use such recreational facilities;
- (c) the right of the Association to suspend an Owner's voting rights and rights to use any recreational facilities within the Common Area for any period during which any assessment of the Association against said Owner's Unit or Lot remains unpaid;
- (d) the right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing, or improving any facilities located or to be located thereon and, upon the assent of two-thirds of the Class A members and the Class B member, if any, to give as security a mortgage conveying all or any portion of the Common Area. The lien and encumbrance of any such mortgage, however, shall be subject and subordinate to all rights, interests, easements and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any mortgage, irrespective of when executed, given by Developer or any Owner;
- (e) the right of the Association to dedicate or transfer all or any part of the 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 or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded;
- (f) the easements reserved in Article IX of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of use and enjoyment in and to the Common Area and the improvements thereon, if any, to the members of his family, his tenants, guests and invitees, subject to such regulations as may be established from time to time by the Association.

Section 3. Title to Common Area. Developer may from time to time convey to the Association, at no expense to the Association, real property for the common use and enjoyment of

the Owners. The Association hereby covenants and agrees to accept from Developer all such conveyances of real property. Notwithstanding any legal presumption to the contrary, the fee simple title to such real property designated as Common Area or for public use, together with all rights therein, shall be reserved to Developer until such time as the real property is conveyed to the Association or to any municipality or other governmental body, agency or authority.

Section 4. No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition.

ARTICLE VII

COVENANT FOR MAINTENANCE AND CAPITAL IMPROVEMENT ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Unit or Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments which may or shall be levied by the Association, and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and continuing lien running with the land upon the Lot or Unit against which each such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot or Unit at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors-in-title unless expressly assumed by them.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in Lochmere; to pay Common Expenses, including, but not limited to, the cost of the improvement and maintenance of the Common Area situated upon Lochmere, including management fees to others to make such repairs as the Association may deem necessary; to pay ad valorem taxes and other charges for services provided by the Association assessed against the Association Property and to pay insurance premiums; to pay for electricity for exterior lighting in the Common Area, and for such other purposes as the Board may determine. In addition, the Assessments shall include amounts necessary to establish an adequate reserve fund for routine and normal preventative maintenance, repairs and replacement of those portions of the Common Area that must be replaced on a periodic basis. Such reserve fund shall be included in the annual Assessment and shall be payable in periodic installments rather than by special assessment.

Section 3. Determination of Annual Assessments. If the Association incurs ongoing Common Expenses, it shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses of operating the Association for the coming year, such budget shall include a capital contribution or reserve account in accordance with the capital needs of the Association. The budget and the proposed annual assessments to be levied against each Lot or Unit shall be delivered to each Owner no later than ten (10) days prior to such annual meeting. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either (i) Developer, so long as there is a Class B member, or (ii) a vote of a majority of the Owners voting

in person or by proxy at such meeting. In the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then until a budget has been determined as provided herein, the budget and annual assessments in effect for the current year shall continue for the succeeding year. If any budget at any time proves inadequate for any reason, the Board may call a meeting of the Association for the approval of a special assessment.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least two-thirds (2/3) of the Class A members and Class B member, if any, voting in person or by proxy at a meeting duly called for such purpose. Special assessments may also be levied by the Association if for any reason the annual assessments prove inadequate to defray the expenses of the Association in fulfilling its duties and obligations hereunder, subject to the consent of the members as set forth above.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessments. Annual and special assessments must be fixed at a uniform rate for all Lots or Units except those Lots or Units owned by the Developer that do not have an occupied residence on them and will be collected on a semi-annual basis.

Section 7. Fiscal Year, Membership and Annual Assessments. The fiscal year for the Lochmere Homeowner's Association shall begin on January 1 and end on December 31. A pro rated portion of the semi-annual payments shall be due and membership shall begin on the day that ownership in Lochmere begins. Upon a person or entity's ceasing to be a Member of the Association, such Member shall not be entitled to any refund of his annual assessment. The Developer shall not be responsible for assessment on Lots or Units which do not have a completed residence constructed thereon.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within

thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum legal rate per annum. In such case, the Association may accelerate, at its option, the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot or Unit, and interest, costs and reasonable attorney's fees or any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot or Unit, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of the liens against real property, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of his Lot or Unit or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of foreclosure.

Section 9. Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed, or security deed representing a first lien on said property. Sale or transfer of any Lot or Unit shall not affect the assessment lien. However, the sale or transfer of any Lot or Unit pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Unit from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Area; (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VIII

MAINTENANCE

Section 1. Association's Responsibility. Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area and improvements thereon, if any. The Association's responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of (i) walks, parking areas and buildings and other improvements, if any, situated within the Common Area; (ii) such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Area, and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area. Additionally, for a monthly fee, the Association may enter into an agreement with each Lot or Unit owner, to provide maintenance such as exterior painting, repairs to the roof, walks, porches, driveways if concrete, heating and air conditioning units, and all yard and landscape work. Labor is provided, but not parts or other expenses.

Section 2. Owner's Responsibilities. Each Owner of a Lot or Unit, whether vacant or occupied, shall keep and maintain his Lot or Unit and the exterior of any and all improvements located thereon in a neat, attractive and safe condition. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and care for roofs, gutters, down spouts, building surfaces, walks and other exterior improvements. Should any Owner of a Lot or Unit fail to maintain his Lot or Unit or the improvements thereon as set forth hereinabove, the Review Board, its agents and representatives, may, after thirty (30) days written notice to the Owner of such Lot or Unit, enter upon his Lot or Unit for the purpose of removing garbage or trash, or for performing such exterior maintenance as the Review Board, in the exercise of its sole discretion, deems necessary or advisable. Such Owner shall be personally liable to the Review Board and the Association for the direct and indirect cost of such maintenance, which costs shall be added to and become part of the assessment to which such Owner and his Lot or Unit are subject. Although notice given as herein provided shall be sufficient to give the Review Board, its agents and representatives, the right to enter upon such Unit and perform such maintenance, entry for such purpose shall be only between the hours of 9:00 a.m. and 5:00 p.m. on any day except Sunday. The provisions hereof shall not be construed, however, as an obligation on the part of the Review Board to provide garbage or trash removal service, or to perform such exterior maintenance.

ARTICLE IX
EASEMENTS

Section 1. Utility Easements. There is hereby created in favor of the Association and any governmental unit, utility, or service provider an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to, water, sewers, gas, telephones, electricity, television, cable or communication lines and systems. An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots or Units, to inspect and to perform the duties or maintenance and repair of the Common Area and the Lots or Units, as provided for herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Board as otherwise provided by law. Should any utility furnishing a service covered by this general easement herein request a specific easement to be recorded in a separate document, Developer or the Association shall have the right to grant such easement on the Common Area.

Section 2. Easements for Developer. Developer hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Developer and the Common Area for so long as Developer owns any Lot or Unit primarily for the purpose of sale:

- (a) For the erection, installation, construction, and maintenance of wires, lines, and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, television cables and other utilities;
- (b) For the construction of improvements on the Lots or Units;
- (c) For the installation, construction, and maintenance of stormwater drains, public and private sewers, and for any other public or quasi-public utility facility;
- (d) For the use of the Common Area and any sales offices, model units and parking spaces in connection with its efforts to market Lots or Units; and
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots or Units.

ARTICLE X
GENERAL COVENANTS AND RESTRICTIONS

The following covenants and restrictions shall apply to all Units and to all Structures erected or placed thereon:

Section 1. Residential Use. All Lots and Units in Lochmere Development shall be restricted exclusively to residential use. No Lot or Unit, or any portion thereof, shall at any time be used for any commercial, business, or professional purpose; provided, however, that nothing herein shall be construed to prohibit or prevent Developer or any builder of residences in Lochmere from using any Lot or Unit owned by Developer or such builder for the purpose of carrying on business related to the development, improvement and sale of Lots or Units in Lochmere. **Lots 40-44 and 127-166 shall be restricted exclusively to the construction of detached, single family residences.** Lots 1- 39, and Lot 167 shall be restricted exclusively to the construction of single family residences, condominiums, or townhomes. Apartments are expressly prohibited in Lochmere Development.

Section 2. Common Area. The Common Area shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access to their respective Lots or Units and for such other purposes as may be authorized by the Association.

Section 3. Nuisances.

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

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

(c) All alarms or security systems with a siren, bell or other auditory warning device shall have an automatic device to stop the siren, bell or other device from sounding after a five (5) minute period of time.

Section 4. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Unit without the prior written approval of the Review Board of plans and specifications for the prevention and control of such erosion or siltation. The Review Board

may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as provided for in Section 5.

Section 5. Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the Review Board of plans and specifications for the landscaping to accompany such construction or alteration.

Section 6. Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot or Unit except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefor approved by the Review Board. No contractor or builder shall erect on any Lot or Unit any temporary building or shed for use in connection with construction on such Lot or Unit without the prior written consent of the Review Board.

Section 7. Signs.

(a) No signs whatsoever (including but not limited to commercial and similar signs) shall, without the Review Board's prior written approval of plans and specifications therefor, be installed, altered or maintained on any Unit, or on any portion of a Structure visible from the exterior thereof, except:

- (i) such signs as may be required by legal proceedings;
- (ii) a sign indicating the builder of the residence on the Unit;
- (iii) a "For Sale" sign to be no larger than four square feet in area;
- (iv) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the Review Board.

(b) Following the consummation of the sale of any Lot or Unit, the "For Sale" sign and the builder's sign located thereon, if any, shall be removed after 15 days.

Section 8. Setbacks. In approving plans and specifications for any proposed Structure, the Review Board may establish setback requirements for the location of such Structure which are more restrictive than those established by the Plat. No Structure shall be erected or placed on any Unit unless its location is consistent with such setbacks.

Section 9. Fences and Walls. In general, fences and walls are not encouraged within Lochmere as they are often contrary to the architectural and landscaping concepts as well as the sense of community that is promoted at Lochmere. Hedges, berms and other landscape alternatives are preferred. However, in keeping with the desire of some residents for privacy, fences and walls will be permitted on a restricted basis that will not detract from the overall

appearance. Fences will be permitted from an approved set of fencing types adopted for use by the Review Board. No fence or wall of any kind shall be erected, maintained, or altered on any Lot or Unit without the prior written approval of the Review Board of plans and specifications for such fences and walls.

Section 10. Roads and Driveways. No road or driveway shall be constructed or altered on any Lot or Unit without the prior written approval of the Review Board of plans and specifications for such roads and driveways. Such specifications shall include the proposed substance to be used in constructing such roads and driveways, which substance shall be satisfactory to the Review Board. Parking spaces, garages, and the driveway to a garage shall be planned and executed in an attractive and functional manner and shall consider the location of existing trees, topography, street scape and compatibility with surrounding improvements. All homesites shall have a paved driveway of stable and permanent construction. Unless prior approval is obtained from the Review Board, all driveways must be constructed of brick, concrete or stone. All Units and Lots must have at least one 1-car garage per residence, the exterior materials and location of which shall be consistent with the overall design of the residence.

Section 11. Antenna. No antenna, satellite dish or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on the exterior of any Structure without the prior written approval of the Review Board. In no event shall free-standing transmission or receiving towers be permitted.

Section 12. Clotheslines. No outside clothesline shall be placed on any Unit or Lot.

Section 13. Recreational Vehicles and Trailers. No trailer, trailer house, boat, or recreational vehicle shall be parked on any Lot or Unit or on any of the streets. While nothing contained herein shall prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction, the use, appearance and maintenance of such building or trailer must be specifically approved by the Review Board prior to its being moved onto the construction site.

Section 14. Recreational Equipment. No swimming pools, recreational and/or playground equipment of any kind shall be erected, installed, maintained, or altered on any Lot or Unit without the prior written approval of the RB of plans and specifications for such structures.

Section 15. Accessory Structures. The Review Board shall have the right to approve or disapprove the plans and specifications for any accessory structure to be erected on any Unit, and construction of an accessory structure may not be commenced until complete final plans and specifications shall have been submitted to and approved by the Review Board in accordance with the provision of these covenants.

Section 16. Improvement of Lots or Units. All construction of dwellings, accessory structures and all other improvements in Lochmere shall be undertaken and completed in accordance with the following conditions:

- (a) All construction shall be carried out in compliance with the laws, codes, rules, regulations and orders of all applicable governmental agencies and authorities.
- (b) All single family residences and condominiums constructed on the Lots and Units shall be "traditional" in style. The determination of whether or not a residence is "traditional" shall be decided by the Review Board in its sole and uncontrolled discretion.
- (c) Concrete or concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot or Unit, and there shall be no chain-link fence or fences or walls of any other material which the Review Board determines to be incompatible with dwellings or other structures in Lochmere.
- (d) Only one mailbox shall be located for any Lot or Unit. All mailboxes shall be of a common design and shall include only the surname and house number, and shall be located as prescribed by the United States Postal Service.
- (e) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot or Unit except for purposes of construction of a dwelling or accessory structure on such Lot or Unit, nor shall any such building materials or devices be stored on any Lot or Unit for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.
- (f) No exposed, above ground tanks for the storage of fuel or water or any other substance shall be located on any Lot or Unit other than apparatus relating to solar energy, the location and design of which must first be approved by the Review Board.
- (g) Adequate off-street parking shall be provided for each Lot or Unit.
- (h) No window air-conditioning unit may be located in any part of any dwelling or accessory structure. All exterior compressor units shall be ground mounted and screened by a wall of material identical with that of the building.
- (i) Any screen porch which is part of any dwelling or accessory structure must have a dark color screen, and no bright color silver finish screens may be used.
- (j) It is recommended that all plumbing vents or heating vents be placed on the rear of the roof of any dwelling or accessory structure, and any such vent shall be painted the same color as the roof on which it is placed.
- (k) Any construction on a Lot or Unit shall be at the risk of the Owner of such Lot or Unit and the Owner of such Lot or Unit shall be responsible for any damage to any curbing, sidewalks, or street resulting from construction on such Lot or Unit. Any damage to any section(s) of the sidewalk must be repaired by replacing completely all sections affected. Repairs of such damage must be made as soon as reasonably possible but in no event not more than thirty (30) days after completion of such construction.
- (l) The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of one-story detached single family residences shall contain not less than 1,400 (fourteen hundred) square feet; for condominiums, the enclosed, heated living area shall contain not less than 900 (nine hundred) square

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feet. No dwelling shall be constructed exceeding three stories in height on any Lot or Unit.

- (m) Utility Service. No lines, wires or other devices for communications purposes, including telephone, television, data and radio signals, or for transmission of electric current or energy shall be constructed or placed on any homesite unless the same shall be in or by conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings, or other approved improvement. Above ground electrical transformers and other equipment may be permitted if properly screened and approved by the Review Board. In addition, all gas, water, sewer, oil and other pipes for gas or liquid transmission shall also be placed underground or within or under buildings. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved improvements.
- (n) Refuse and Storage Areas. Garbage and refuse shall be placed in containers and shall be capped and contained in such a manner that they are inaccessible to animals. The containers shall be concealed within buildings; be concealed by means of a screening wall of material identical with that of the building. These elements shall be integrated with the building plan, be designed so as not to attract attention, and shall be located in as reasonably inconspicuous manner as is possible.
- (o) Lawn Furnishings. No bird baths, frog ponds, flag poles, lawn sculpture, artificial plants, bird houses, rock gardens, or similar types of accessories and lawn furnishings are permitted on any homesite without prior approval of the Review Board.
- (p) Lighting. All exterior lighting shall be consistent with the character established in Lochmere and be limited to the minimum necessary for safety, identification, and decoration. Exterior lighting of buildings for security and/or decoration shall be limited to concealed uplighting or downlighting. No color lens or lamps are permitted.

Section 17. Animals. No animals, including birds, insects and reptiles, may be kept on any Lot or Unit unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. All pets shall be kept inside the residence except when being walked with a leash. No structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot or Unit.

Section 18. Water Supply. No individual water supply system shall be permitted on any Unit without the prior written approval of the Review Board. If such approval is given, such system must be located, constructed and equipped in accordance with the requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Unit to be served by such system.

Section 19. Trees and Shrubs. No trees measuring eight (8) inches or more in diameter at a point two (2) feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot or Unit may be removed without the prior approval of the Review Board unless located within ten (10) feet of the approved site for a dwelling or within the right-of-way of driveways or

walkways. Excepted herefrom shall be damaged or dead trees and trees which must be removed due to an emergency.

Section 20. Landscaping and Open Space Standards.

(a) General. Any site which shall have been altered from its natural state, shall be landscaped according to plans approved by the Review Board. All shrubs, trees, grass and plantings of every kind shall be kept well-maintained, properly cultivated and free of trash and other unsightly material. Landscaping as approved by the Review Board shall be installed no later than thirty (30) days following completion of any building with weather permitting.

(b) Landscaping Plan. A comprehensive landscaping plan for each site must be designed by a registered Landscape Architect or person of similar competence and must be submitted to and approved by the Review Board. Existing trees intended to be removed should be shown and may not be removed without the prior approval of the Review Board. The plan must show landscape improvements costing approximately a minimum of Two Thousand Dollars (\$2,000.00) per 7,500 square feet. The required expenditure shall not include the cost of any automatic sprinkler system.

(c) Mulch. All areas within each site not covered with pavement, buildings, shrubs, mulch or ground cover or sod shall be covered with three (3) inches deep of mulch.

(e) Irrigation. Automatic sprinkler systems are recommended for all front and side yards.

ARTICLE XI

INSURANCE

The Board, or its duly authorized agent, shall obtain such insurance policies upon the Common Area as the Board deems necessary or desirable in its sole discretion. The Association shall be a named insured on all insurance policies. In addition, the Board may obtain other appropriate insurance to protect members of the Board and any committees appointed by the Board.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. (a) The Association, the Review Board, or any Owner, shall have the right to enforce, by and proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Review Board or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) The Review Board shall have the right of abatement in all cases where an Owner of a Lot or Unit shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the certified mailing of written notice of such violation or breach. The right of abatement means the right of the Review Board, through its agents and employees, to enter at all reasonable times upon any Lot or Unit or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions. Further, the Review Board, the Association, the Developer, or any Owner may: (1) prosecute proceeding at law for the recovery of damages against those violating or attempting to violate the declaration of covenants and restrictions, and, or (2) maintain a proceeding in equity against those so violating or attempting to violate any covenants or restrictions, for the purpose of preventing or enjoining all of any such violations or attempted violations, and/or to have any such violation removed from the lot or unit or cured.

(c) The remedies contained in this section shall be construed as cumulative of all other remedies now or hereafter provided by law. If the Association, the Review Board, the Board or any other person or persons owning a lot or unit shall successfully prosecute in law or equity an

action pursuant to this or any other enforcement section of these covenants or restrictions, then that party shall be entitled to receive its reasonable attorney's fees and the costs reasonably necessary to prosecute the case against the party violating the covenants and restrictions herein.

Section 2. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part were never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date that this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for the successive periods of ten (10) years each, unless at least two-thirds (2/3) of the Owners at the time of the expiration of the initial period, or of any extension period, shall sign an instrument in which said covenants and restrictions are modified in whole or in part, which instrument is filed of record in the appropriate county.

Section 5. Rights and Obligations. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or Unit or at such other address as hereinafter provided. Notices to the Developer shall be in writing and shall be addressed to Greene Construction, Inc., P. O. Box 1895, Morristown, Tennessee 37816, or at such different address as disclosed in a written notice of change of address furnished to all Owners. Any Owner may designate a different address for notices to him by giving written notice to the Developer. All notices to Owners and Developer shall be deemed delivered upon mailing by United States registered or certified mail, return receipt requested, or when delivered in person.

Section 7. Waiver and Modification. (a) Developer hereby reserves the right in its absolute discretion at any time to annul, waive, change or modify any of the restricting conditions or covenants contained herein as to any part of Lochmere, and shall have further the right before a sale to change the size of or locate or relocate any of the Lots, Units, parcels, streets, or roads shown on any of the plats of Lochmere. Further, the Developer may amend these covenants and restrictions for the purpose of curing any ambiguity or inconsistency between the provisions contained herein.

(b) **Declaration.** Further, this Declaration may be amended at any time and from time to time by the Developer if the Developer is the owner of any real property then subject to this Declaration or by an agreement signed by at least seventy-five percent (75%) of the Owners of Lots or Units; provided, however, such amendment by the Owners shall not be effective unless also signed by Developer, if Developer is the owner of any real property then subject to this Declaration. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance thereof, thereby agrees that this Declaration may be amended as provided in this Section.

Section 8. Assignment or Transfer. Any or all of the rights and powers, titles, easements and estates reserved or given to Developer in this Declaration may be assigned to any one or more corporations or assigns which will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights and powers, and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by Developer and Developer shall thereupon be released therefrom.

Section 9. Additional Lots or Units. Developer reserves the right to add additional Lots or Units to Lochmere. The Developer reserves the right to change the plat of Lochmere to annex additional Lots or Units into the subdivision. Any Lots or Units annexed into Lochmere Subdivision shall be bound by this Declaration of Covenants and Restrictions and shall have all rights and responsibilities under these Declaration of Covenants and Restrictions. Further, Developer reserves the right to use any Lot or Unit owned by the Developer to use as an ingress and egress to adjacent property for future development.

IN WITNESS WHEREOF, Lochmere Development, Inc., and Greene Construction, Inc., have caused this instrument to be executed and its name to be signed by its President and attested by its Vice-President and Secretary-Treasurer pursuant to the authority of its Board of Directors this 1 day of June, 1995.

BK 424 PG 490

LOCHMERE DEVELOPMENT, INC.

By: [Signature]
Adren S. Greene, President

By: [Signature]
Calvin Greene, Vice-President

By: [Signature]
Christopher B. Greene, Secretary-Treasurer

STATE OF TENNESSEE)
)ss.
COUNTY OF HAMBLLEN)

Personally appeared before me, the undersigned authority, in and for said county and state,
Adren S. Greene, 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 of Lochmere Development, Inc., the within named bargainor, a corporation, and that
he as such officer, executed the foregoing instrument for the purposes therein contained, by
signing the name of this corporation by himself as President.

Witness my hand and seal, this 1st day of June, 1995.

[Signature]
NOTARY PUBLIC

My Commission Expires: 8-20-96

STATE OF TENNESSEE)
)ss.
COUNTY OF HAMBLLEN)

Personally appeared before me, the undersigned authority, in and for said county and state,
Calvin L. Greene, with whom I am personally acquainted (or
proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to
be Vice-President of Lochmere Development, Inc., the within named bargainor, a corporation,
and that he as such officer, executed the foregoing instrument for the purposes therein contained,
by signing the name of this corporation by himself as Vice-President.

Witness my hand and seal, this 1st day of June, 1995.

[Signature]
NOTARY PUBLIC

My Commission Expires: 8-20-96

STATE OF TENNESSEE)
)ss.
COUNTY OF HAMBLEN)

Personally appeared before me, the undersigned authority, in and for said county and state,
Christopher B. Greene, with whom I am personally acquainted (or
proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to
be Secretary-Treasurer of Lochmere Development, Inc., the within named bargainor, a
corporation, and that he as such officer, executed the foregoing instrument for the purposes
therein contained, by signing the name of this corporation by himself as Secretary-Treasurer.

Witness my hand and seal, this 1 day of June, 1995.



Jerry G. Turner
NOTARY PUBLIC
My Commission Expires: 8-20-96

GREENE CONSTRUCTION, INC.

By: [Signature]
Adren S. Greene, President

By: [Signature]
Christopher B. Greene, Secretary-Treasurer

STATE OF TENNESSEE)
)ss.
COUNTY OF HAMBLEN)

Personally appeared before me, the undersigned authority, in and for said county and state,
Adren S. Greene, 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 of Greene Construction, Inc., the within named bargainor, a corporation, and that he
as such officer, executed the foregoing instrument for the purposes therein contained, by signing
the name of this corporation by himself as President.

Witness my hand and seal, this 1st day of June, 1995.



Jerry G. Turner
NOTARY PUBLIC
My Commission Expires: 8-20-96

STATE OF TENNESSEE)
)ss.
COUNTY OF HAMBLEN)

Personally appeared before me, the undersigned authority, in and for said county and state,
Christopher A. Greene, with whom I am personally acquainted (or
proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to
be Secretary-Treasurer of Greene Construction, Inc., the within named bargainor, a corporation,
and that he as such officer, executed the foregoing instrument for the purposes therein contained,
by signing the name of this corporation by himself as Secretary-Treasurer.

Witness my hand and seal, this 1 day of June, 1995.



Jenny Y. Turley
NOTARY PUBLIC

8-20-96