This instrument prepared by

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

BURTON HILLS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BURTON HILLS is made on March 18, 1985, by BURTON HILLS PROPERTIES, a general partnership ("Developer").

WHEREAS, Developer owns certain real property in Nashville, Davidson County, Tennessee, more particularly described in Exhibit A attached hereto as a part hereof, which is to be developed as a residential planned unit development known as Burton Hills;

NOW, THEREFORE, Developer hereby declares that the Property (hereinafter defined) shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the Property. The easements, restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to the benefit of each owner.

ARTICLE I -- DEFINITIONS

Section 1. "Association" or "Associations" shall mean and refer to the Homeowners Association, as defined below, and/or to the Recreational Association, as defined below.

Section 2. "Common Area" shall have the meaning provided in Article III, Section 1, of this Declaration.

Section 3. "Homeowners Association" shall mean Burton Hills Homeowners Association, Inc., a Tennessee nonprofit corporation, whose Charter is filed in the Davidson County, Tennessee Register's Office. The Homeowners Association has been established to maintain and operate the Common Area and facilities generally benefiting its members, and to establish and collect assessments for that purpose. See Article IV for provisions concerning the Homeowners Association and Article VI for provisions concerning the assessments.

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Section 4. "Owner" shall mean and refer to one or more persons or entities, including Developer, who hold the record title to any Residential Unit which is part of the Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Residential Unit is sold under a recorded contract of sale, the purchaser (rather than the fee owner) will be considered the Owner. For the purpose of this Declaration, the Owner of a Residential Unit which is under lease shall be as follows: for the purpose of votes and assessments, the record owner of the Residential Unit; for the purpose of use and enjoyment of common facilities and amenities which are part of the Common Area and the Recreation Area, the tenant residing in the Residential Unit; provided, the record owner/lessor of a Residential Unit may assign the right to vote to its tenant if the assignment is in writing and a copy of the instrument is delivered to the Secretary of the Homeowners Association and the Secretary of the Recreational Association. The Board of Directors of both Associations may promulgate reasonable regulations conditioning such use upon registration of the names of tenants with the Associations.

Section 5. "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 6. "Property" shall mean and refer to the real property described in Article II, Section 1, and such additions as may be made pursuant to Article II, Section 2.

Section 7. "Recreational Association" shall mean Burton Hills Recreational Association, Inc., a Tennessee nonprofit corporation, whose Charter is filed in the Davidson County, Tennessee Register's Office. The Recreational Association has been established to maintain and operate certain recreational facilities on the Recreation Area for the benefit of its members, and to establish and collect assessments for that purpose. See Article V for provisions concerning the Recreational Association and Article VI for provisions concerning the assessments.

Section 8. "Recreation Area" shall have the meaning provided in Article III, Section 1 of this Declaration.

Section 9. "Residential Unit" shall mean a portion of the Property intended for any type of independent ownership for use and occupancy as a residence by a single family, whether a residence is constructed thereon or not, including condominium units and lots, which may contain, without limitation, detached houses, cluster houses or townhouses.

ARTICLE II -- PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS

Section 1. Existing Property. The Property which is subject to this Declaration is located in Nashville, Davidson County, Tennessee, and is more particularly described as follows:

> BEING Tracts 3-CA, 4-CA, 5, 6-RA, 7, 8 and 9, inclusive as shown on the plat of Burton Hills, of record in Book 6250, Page 284, in the Davidson County Tennessee Register's Office.
>
> BEING part of the same property acquired by Developer by deed dated June 28, 1984, of record in Deed Book 6326, Page 580, in the same Register's Office.

Section 2. Additions to Existing Property. Additional real property may become subject to this Declaration in either of the following manners:

(a) Additions in Accordance with a General Plan of Development. As the owner thereof, or if not the owner, with the consent of the owner thereof, Developer shall have the unilateral right, privilege and option, without the approval of the Homeowners Association or the Recreational Association, from time to time and at any time until twenty years from the date of this Declaration, to subject to the provisions of this Declaration all or any portion of Burton Hills by filing in the Davidson County, Tennessee Register's Office an amendment annexing such real property. Any such annexation shall be effective upon the filing for record of such amendment unless otherwise provided in the amendment. Developer may assign this right of annexation to any Person.

(b) Other Additions. Subject to the consent of the owner thereof, additional real property other than that in Burton Hills may be made subject to this Declaration by filing an amendment to this Declaration in the Davidson County, Tennessee Register's Office. An amendment adding such additional property shall require the written consent or affirmative vote of Developer, as long as it owns any part of Burton Hills or, if Developer no longer owns any part of Burton Hills, the written consent or affirmative vote of a majority of the Class A members of the Homeowners Association and a majority of the Class A members of the Recreational Association. Any such amendment shall be signed by Developer, if Developer has adopted the amendment, or by the President and the Secretary

of the Homeowners Association and the Recreational Association, if Developer no longer owns part of Burton Hills and the Homeowners Association and the Recreational Association have adopted the amendment, and in either case, by the owner of the real property being added, and any such amendment shall be effective upon filing, unless otherwise provided in the amendment.

Section 3. Amendment. This Article shall not be amended without the written consent of Developer, as long as Developer owns property in Burton Hills.

ARTICLE III -- PROPERTY RIGHTS

Section 1. Right and Easement of Enjoyment; Exceptions. Every Owner shall have a right and easement of enjoyment in and to the Common Area and the Recreation Area, which shall be appurtenant to and shall pass with the title to every Residential Unit. The "Common Area" means and refers to all non-residential lots and areas which are shown and designated as Common Area by the letters "CA" on any recorded final subdivision plat within any portion of the Property, together with all improvements owned or to be owned by the Homeowners Association, but excluding streets and areas dedicated to the public. The "Recreation Area" means and refers to all non-residential lots and areas which are shown and designated as Recreation Area by the letters "RA" on any recorded final subdivision plat within any portion of the Property, together with all improvements owned or to be owned by the Recreational Association, but excluding streets and areas dedicated to the public. Developer releases and quitclaims to the Homeowners Association its right and title to the Common Area contained in the Property and designated Tracts 3-CA and 4-CA. Developer releases and quitclaims to the Recreational Association its right and title to the Recreation Area designated Tract 6-RA. The Owners' rights of enjoyment are subject to the following provisions:

(a) The right of the Homeowners Association to permit the use of and charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Recreational Association to permit the use of and charge reasonable admission and other fees for the use of the recreational facilities situated upon the Recreation Area;

(c) The right of the Homeowners Association to suspend the voting rights and the right to use the recreational facilities by an Owner for any period during which any assessment against his Residential Unit remains unpaid, and for a period of time for any infraction of its published rules and regulations;

(d) The right of the Recreational Association to suspend the right to use the recreational facilities situated on the Recreation Area by an Owner for any period during which any assessment against his Residential Unit remains unpaid, and for a period of time for any infraction of its published rules and regulations;

(e) The right of the Homeowners 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 a majority of the members of the Homeowners Association; provided, the Owners' easements of ingress and egress and any public utility easements previously established shall not be affected. Developer may dedicate utility or service easements upon, through or under the Common Area or the Recreation Area at its sole discretion so long as additions are permitted under Article II, Section 2(a). When Class B membership ceases, this right of Developer shall automatically pass to the Board of Directors of the Homeowners Association, if the Common Area is affected, or the Recreation Association, if the Recreational Area is affected.

(f) The right of Developer to use so much of Tract 6-RA as Developer deems necessary and to build thereon a building to be used by Developer as a sales and information office. Developer's right to use this area and building shall terminate at any time Developer decides to abandon the building as a sales and information office and so notifies the Recreational Association in writing, but in no event later than ten years from the date of this Declaration. After termination of Developer's right, this area shall be used and maintained by the Recreational Association in accordance with the terms of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area and the Recreation Area and recreational facilities and other improvements to the members of his family or to his tenants or contract purchasers who reside on the Property. Membership in the Homeowners Association and the Recreational Association may not be conveyed separately from ownership in the Residential Unit.

Section 3. Associations' Right of Entry. The authorized representative of the Homeowners Association or its Board of Directors shall be entitled to such reasonable access to the Residential Units as may be required in connection with the preservation of property in a Residential Unit in the event of an emergency or in connection with the maintenance of, repairs or replacements within the Common Area, or any equipment, facilities or fixtures affecting or serving other Residential Units or the Common Area or to make any alteration required by any governmental authority; provided, after any such entry the Homeowners Association shall restore the Residential Unit to its former condition. The authorized representative of the Recreational Association or its Board of Directors shall be entitled to such reasonable access to the Residential Units as may be required in connection with the maintenance of, repairs or replacements within the Recreation Area, or any equipment, facilities or fixtures affecting or serving the Recreation Area; provided, after any such entry the Recreational Association shall restore the Residential Unit to its former condition.

Section 4. No Partition. Except as is permitted in this Declaration or amendments thereto, there shall be no physical partition of the Common Area or the Recreation Area or any part thereof, nor shall any person acquiring any interest in the Property have the right of judicial partition. This Section does not prohibit the Board of Directors of either Association from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Section 5. Sale of Common Area. No Common Area or Recreation Area shall be sold or otherwise disposed of without first offering to dedicate such area to the Metropolitan Government of Nashville and Davidson County, Tennessee. This limitation neither applies to a transfer of the Common Area to an organization conceived and established to own and maintain the Common Area as a successor to the Homeowners Association, nor to a transfer of the Recreation Area to an organization conceived and established to own and maintain the Recreation Area as a successor to the Recreational Association, nor to the dedication of streets or utility easements as provided in Section 1(e) of this Article. This restriction shall survive any amendment to or cancellation of this Declaration.

ARTICLE IV -- HOMEOWNERS ASSOCIATION

The Homeowners Association has been formed for the purpose of maintaining and keeping in good repair the Common Area

and promoting the social welfare and serving the common good and general welfare of its members.

Section 1. Membership in Homeowners Association. Developer and every Owner of a Residential Unit which is subject to an assessment shall be a member of the Homeowners Association. Such member shall abide by the Homeowners Association's Charter, Bylaws, rules and regulations, shall pay the assessments provided for in this Declaration, when due, and shall comply with decisions of the Homeowners Association's Board of Directors. Conveyance of a Residential Unit (except a conveyance to a trustee under a deed of trust or to a mortgagee) automatically transfers membership in the Homeowners Association without necessity of further documentation. Membership shall be appurtenant to and may not be separated from ownership of any Residential Unit which is subject to assessment.

Section 2. Classes of Membership in the Homeowners Association. The Homeowners Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners of Residential Units, with the exception of Developer, and shall be entitled to one vote for each Residential Unit owned.

(b) Class B. The Class B member shall be Developer. Developer shall be entitled to 5 votes for each Residential Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(i) When, in its discretion, Developer so determines;

(ii) When 100 percent of the Residential Units which may be developed on the Property have been sold by Developer; or

(iii) January 1, 2010.

Section 3. Election of Board of Directors of the Homeowners Association. Article VIII, Section 7, of this Declaration provides for the development of the Property in several tracts. The Charter and Bylaws of the Homeowners Association provide for a system of electing the Board of Directors of the Homeowners Association under which the maintenance association or condominium council for each tract will elect one Director of the Homeowners Association. The Charter and Bylaws may be amended to provide that two or more tracts are to be consoli-

dated for the purpose of electing a Director and/or to provide for the election of a number of at-large Directors.

Section 4. Rights and Obligations of the Homeowners Association.

(a) The Homeowners Association shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency or another private maintenance association having jurisdiction thereof, the Common Area, open spaces, retention basins, berms, entranceways, streets, crosswalks, sidewalks, medians, walls, streetlights, storm drains, basins, landscaping, and any recreational areas and facilities located on the Common Area. The Burton Hills Office Association, Inc. has the obligation to maintain, operate and keep in good repair the portions of the Property known as Tract 3-CA and Tract 4-CA, subject to the rights of the Homeowners Association to require a higher standard of maintenance, pursuant to Article IV, Section 3(b) of the Declaration of Covenants, Conditions and Restrictions for Burton Hills Office Park, of record in Book 6470, Page 366, in the Davidson County, Tennessee Register's office. The Homeowners Association shall maintain the storm water retention facilities to provide for a decrease in the peak discharge rate of flow from the site for any storm event up to and including a one hundred year frequency, based on calculations in conformance with the Storm Water Management Regulations and approved by the Nashville and Davidson County Metropolitan Department of Public Works. The Homeowners Association shall have the right of entry provided in Article III, Section 3, to effectuate these obligations.

(b) The Homeowners Association has the right to require high standards of maintenance within the thirty-foot landscape easement shown on the plat of Burton Hills along the north property line. After the installation of the initial landscaping material by each Owner of a Residential Unit located along the north property line pursuant to a landscape plan approved by Developer as provided in Article VII, Section 1(b) of this Declaration, the maintenance thereof shall be performed to the standard of care prevailing in the Common Area. Should the Homeowners Association determine that the maintenance not be to the prevailing standard, then the Homeowners Association may notify the Owner or Owners of his or their deficiency. Should the Owner or Owners not maintain the area to the prevailing standard after this notice, then the Homeowners Association may enter the Residential Unit or Units and maintain the landscaping thereon to the prevailing standard. The Owner or Owners shall promptly reimburse the Homeowners Association for the work performed, and this obligation

to reimburse is secured by a continuing lien upon each Residential Unit.

(c) The Homeowners Association shall have the rights and obligations more fully set forth in its Charter and Bylaws, including but not limited to the right or obligation to provide and pay for utility service to the Common Area, including, without limitation, streetlights, to pay or contest real and personal property taxes and assessments, to obtain insurance on the Common Area, and to make and enforce reasonable rules and regulations for the use of the Common Area. The Homeowners Association may exercise any other right or privilege reasonably to be implied from the existence of the rights and privileges given to it in this Declaration, its Charter and Bylaws or reasonably necessary to effectuate any of the express rights and privileges.

(d) The Homeowners Association shall not be dissolved unless and until a successor organization has been established to assume the rights and obligations imposed on the Homeowners Association in this Declaration.

ARTICLE V -- RECREATIONAL ASSOCIATION

The Recreational Association has been formed for the purpose of maintaining and keeping in good repair the Recreation Area and promoting the social welfare and serving the common good and general welfare of its members.

Section 1. Membership in the Recreational Association. Developer and every Owner of a Residential Unit which is subject to an assessment shall be a member of the Recreational Association. Such member shall abide by the Recreational Association's Bylaws, Charter, rules and regulations, shall pay the assessments provided for in this Declaration, when due, and shall comply with decisions of the Recreational Association's Board of Directors. Conveyance of a Residential Unit (except a conveyance to a trustee under a deed of trust or to a mortgagee) automatically transfers membership in the Recreational Association without necessity of further documentation. Membership shall be appurtenant to and may not be separated from ownership of any Residential Unit which is subject to assessment.

Section 2. Classes of Membership in the Recreational Association. The Recreational Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners of Residential Units, with the exception of Developer, and shall be entitled to one vote for each Residential Unit owned.

(b) Class B. The Class B member shall be Developer. Developer shall be entitled to 5 votes for each Residential Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(i) When, in its discretion, Developer so determines;

(ii) When 100 percent of the Residential Units which may be developed on the Property have been sold by Developer; or

(iii) January 1, 2010.

Section 3. Election of Board of Directors of the Recreational Association. Article VIII, Section 7, of this Declaration provides for the development of the Property in several tracts. The Charter and Bylaws of the Recreational Association provide for a system of electing the Board of Directors of the Recreational Association under which the maintenance association or condominium council for each tract will elect a Director of the Recreational Association. The Charter and Bylaws may be amended to provide that two or more tracts are to be consolidated for the purpose of electing a Director and/or to provide for the election of a number of at-large Directors.

Section 4. Rights and Obligations of the Recreational Association.

(a) The Recreational Association shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Recreation Area and the landscaping, recreational facilities and other improvements located thereon. The Recreational Association shall have the right of entry provided in Article III, Section 3, to effectuate these obligations.

(b) The Recreational Association shall have the rights and obligations more fully set forth in its Charter and Bylaws, including but not limited to the right or obligation to provide and pay for utility service to the Recreation Area, to pay or contest real and personal property taxes and assessments, to obtain insurance on the Recreation Area, and to make

and enforce reasonable rules and regulations for the use of the Recreation Area. The Recreational Association may exercise any other right or privilege reasonably to be implied from the existence of the rights and privileges given to it in this Declaration, its Charter and Bylaws or reasonably necessary to effectuate any of the express rights and privileges.

(c) The Recreational Association shall not be dissolved unless and until a successor organization has been established to assume the rights and obligations imposed on the Recreational Association in this Declaration.

ARTICLE VI -- ASSESSMENTS

Section 1. Assessments; Creation of the Lien and Personal Obligation. Each Owner, except Developer, by acceptance of a deed for the Residential Unit, whether or not it shall be so expressed in such deed, covenants and agrees to pay to both the Homeowners Association and the Recreational Association (i) annual assessments or charges and (ii) special assessments for capital improvements, such assessments to be established and collected as provided in this Article. Developer shall be responsible for the maintenance costs of the Homeowners Association and the Recreational Association incurred over and above assessed amounts payable to the Associations by the Residential Unit Owners; provided, this responsibility to the Homeowners Association shall cease when Class B membership in the Homeowners Association is converted to Class A membership pursuant to Article IV, Section 2(b), and this responsibility to the Recreational Association shall cease when Class B membership in the Recreational Association is converted to Class A membership pursuant to Article V, Section 2(b). When Class B membership in the Homeowners Association is converted to Class A membership, Developer shall pay assessments to the Homeowners Association for each Residential Unit Developer owns in the same manner and amount as every other Owner pays assessments. When Class B membership in the Recreational Association is converted to Class A membership, Developer shall pay assessments to the Recreational Association for each Residential Unit Developer owns in the same manner and amount as every other Owner pays assessments. The annual and special assessments, together with interest, and costs and reasonable attorney fees incurred in the collection of same, shall be a continuing lien upon the Residential Unit against which each such assessment is made. Each such assessment, together with interest, and costs and reasonable attorney fees incurred in the collection of same, shall also be the personal obligation of the Owner at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass

to the Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

(a) The assessments levied by the Homeowners Association shall be used exclusively to promote the recreation, health, safety and welfare of its members and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose, or for the use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys to represent the Homeowners Association when necessary, and such other needs as may arise, and for the improvement and maintenance of the Common Area.

(b) The assessments levied by the Recreational Association shall be used exclusively to promote the recreation, health, safety and welfare of its members and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose, or for the use and enjoyment of the Recreation Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the Recreation Area, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys to represent the Recreational Association when necessary, and such other needs as may arise, and for the improvement and maintenance of the Recreation Area.

(c) Until Class B membership in the Homeowners Association ceases and is converted to Class A membership, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting the Common Area, as permitted in this Declaration. Until Class B membership in the Recreational Association ceases and is converted to Class A membership, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting the Recreation Area, as permitted in this Declaration.

Section 3. Maximum Annual Assessment.

(a) Until January 1, 1986, the maximum annual assessment levied by the Homeowners Association shall be set

at a rate not to exceed $10.00 per month per Residential Unit. From and after January 1, 1986, the maximum annual assessment may not be increased each year by more than 10% of the maximum assessment for the previous year without an affirmative vote of two-thirds of each class of members of the Homeowners Association pursuant to its Bylaws.

(b) Until January 1, 1986, the maximum annual assessment levied by the Recreational Association shall be set at a rate not to exceed $20.00 per month per Residential Unit. From and after January 1, 1986, the maximum annual assessment may not be increased each year by more than 10% of the maximum assessment for the previous year without an affirmative vote of two-thirds of each class of members of the Recreational Association pursuant to its Bylaws.

(c) The Board of Directors of each Association may fix the annual assessment at an amount not in excess of the maximums. The Board of Directors of each Association shall determine when the assessments shall be paid.

Section 4. Special Assessments for Capital Improvements.

(a) In addition to the annual assessments authorized above, the Homeowners Association may levy, in any assessment year, a special assessment 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. Any such assessment shall have the assent of the number of members of the Homeowners Association required in its Bylaws.

(b) In additional to the annual assessments authorized above, the Recreational Association may levy, in any assessment year, a special assessment 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 Recreation Area, including fixtures and personal property related thereto. Any such assessment shall have the assent of the number of members of the Recreational Association required in its Bylaws.

Section 5. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Residential Units except those owned by Developer during the period when Class B membership exists in the Homeowners Association or the Recreational Association, as provided in Section 1 of this Article. The Board of Directors of either Association

may at its discretion waive the assessment for any year or part of a year for any Residential Unit not occupied as a residence.

Section 6. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall begin as to any Residential Unit subject to the assessment on the first day of the month next following the date on which title to the Residential Unit is conveyed to an Owner, subject to the waiver provided in Section 5 of this Article. The first annual assessments shall be adjusted according to the number of months remaining in the calendar year when title to the Residential Unit is conveyed to an Owner.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Associations. Any assessment not paid within fifteen days of the due date shall be subject to a late charge as determined by the Board of Directors of the Association. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or of the Recreation Area or by abandonment of his Residential Unit.

For the purpose of rendering unnecessary court proceedings for the enforcement of said lien in the event of the nonpayment of the assessments, and for the consideration of one dollar paid in cash, receipt of which is acknowledged, the Residential Unit Owners, their heirs, successors, administrators and assigns, hereinafter in this Section 7 referred to as Trustor, hereby transfer and convey unto Stephen C. Baker, as Trustee, his successors and assigns, their respective Residential Unit with the appurtenances, estate, title and interest thereto belonging upon the use and trusts set forth in this paragraph.

To have and to hold the property to the Trustee, his successors and assigns, and his successors in trust, forever.

If the Trustor pays the assessments when due, then this trust conveyance shall be of no further force or effect with respect to the Trustor's Residential Unit. If the assessments with respect to any Residential Unit are not paid promptly when due, this trust conveyance shall remain in full force and effect, and the Trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty days notice by three publications in any newspaper, daily or weekly, published in Davidson County, Tennessee to sell the Residential Unit at the front door of the Court House in said County to the highest bidder for cash, at public outcry, free from the right of redemption, statutory or otherwise, homestead, dower and all exemptions of every kind, which are hereby expressly waived;

and the Trustee, or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Homeowners Association, if the assessment is owed to the Homeowners Association, or the Recreational Association, if the assessment is owed to the Recreational Association, may bid at any sale under this trust conveyance. The Homeowners Association, if the assessment is owed to the Homeowners Association, or the Recreational Association, if the assessment is owed to the Recreational Association, may, at any time after default in the payment of any assessment, enter and take possession of said property, and shall only account for the net rents actually received by it. It is further agreed that, in the event the Homeowners Association or the Recreational Association fails, before instructing the Trustee to sell the Residential Unit, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said property. In the case of sale hereunder, the proceeds will be applied by the Trustee as follows:

(i) First, to the payment of all costs, charges and expense of executing this conveyance and enforcing said lien as herein provided, including reasonable attorneys' fees and expenses incurred for instituting or defending any litigation which may arise on account of the execution of this conveyance, or the enforcement of the lien;

(ii) Second, to the payment of all taxes which may be unpaid with respect to such Residential Unit;

(iii) Third, to the payment of all unpaid assessments with respect to such Residential Unit;

(iv) Fourth, the residue, if any, will be paid to the owner of such Residential Unit, his order, representatives or assigns;

In the case of the death, absence, inability, or refusal to act of the Trustee at any time when action under the foregoing power and trusts may be required or for any other reason, the Homeowners Association and the Recreational Association are hereby authorized and empowered to name and appoint a successor to the Trustee by an instrument in writing to be recorded in the Davidson County, Tennessee Register's Office and the title herein conveyed to the Trustee shall be vested in its successor.

The Homeowners Association, if the assessment is owed to the Homeowners Association, or the Recreational Association, if the assessment is owed to the Recreational Association,

acting on behalf of its respective members, shall have the power to bid for the Residential Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. The Homeowners Association or the Recreational Association may purchase the Residential Unit subject to a first mortgage. Where the purchase of a foreclosure Residential Unit will result in a ten percent or greater increase in annual assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Homeowners Association, if the assessment is owed to the Homeowners Association, or the Recreational Association, if the assessment is owed to the Recreational Association, including a majority of members of each class of membership. During the period owned by the Homeowners Association or the Recreational Association, following foreclosure: (i) no right to vote shall be exercised on its behalf, and (ii) no assessment shall be assessed or levied on it. Suit to recover a money judgment for unpaid assessments and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may temporarily suspend the voting rights of a member who is in default of payment of any assessment after notice.

Section 8. Subordination of the Lien to Deeds of Trust or Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust or first mortgage. Sale or transfer of any Residential Unit shall not affect the assessment lien or liens provided for in the preceding sections. However, the sale or transfer of any Residential Unit pursuant to a first mortgage foreclosure 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 but shall not relieve such Residential Unit Owner from liability for any assessments thereafter becoming due or such Residential Unit from the lien for any assessments thereafter becoming due.

ARTICLE VII -- MORTGAGEES' RIGHTS

A holder, insurer, or guarantor of a first mortgage or first deed of trust ("Mortgagee"), upon written request to the Homeowner's Association and/or to the Recreational Association stating the Mortgagee's name and address and the address or unit number of the Residential Unit will be notified timely and in writing by the Homeowners Association or Recreational Association of the following:

(a) Any condemnation or casualty loss which affects a material portion of the Property or which affects any Resi-

dential Unit that secures the Mortgagee's mortgage or deed of trust;

(b) Any sixty day delinquency in the payment of assessments or charges owed by the Owner of any Residential Unit on which the Mortgagee holds the mortgage or deed of trust; and

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Homeowner's Association or the Recreational Association.

ARTICLE VIII -- GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these restrictions shall be by proceeding of law or in equity, brought by any Owner, by the Homeowners Association, by the Recreational Association, or by Developer against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. Failure of any Owner, the Homeowners Association, the Recreational Association or Developer to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

Section 2. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 3. Restrictions Run With Land. Unless cancelled, altered or amended under the provisions of this paragraph, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten years, unless an instrument signed by a majority of the then Owners of all Residential Units subject to these restrictions has been recorded agreeing to change these restrictions and covenants in whole or in part. These restrictions may be cancelled, altered or amended at any time by a written instrument signed by the Owners of the Residential Units with 75% of the votes in the Homeowners Association and recorded in the Davidson County, Tennessee Register's Office.

Section 4. Amendments to Charter and Bylaws. Nothing in this Declaration shall limit the right of the Homeowners Association and the Recreational Association to amend, from time to time, their Charters and Bylaws.

Section 5. Non-Liability of the Directors and Officers. Neither Developer nor the directors or officers of the Homeowners Association and the Recreational Association shall be personally liable to the Owners for any mistake or judgment or for any other acts or omissions of any nature whatsoever while acting in their official capacity, except for any acts or omissions found by a court to constitute gross negligence or actual fraud. The Owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors, administrators, successors and assigns in accordance with the Bylaws. This indemnification shall include, without limitation, indemnification against all costs and expenses (including attorney fees, amounts of judgments paid and amounts paid in settlement) incurred in connection with any claim, action, suit or proceeding, whether civil, criminal, administrative or other.

Section 6. Boards' Determination Binding. In the event of any dispute or disagreement between any Owners relating to the Property or the Common Area, or any questions of interpretation or application of the provisions of this Declaration or the Bylaws of the Homeowners Association, the determination thereof by the Board of Directors of the Homeowners Association shall be final and binding on each and all such Owners. In the event of any dispute or disagreement between any Owners relating to the Recreation Area, or any questions of interpretation or application of this Declaration or the Bylaws of the Recreational Association, the determination thereof by the Board of Directors of the Recreational Association shall be final and binding on each and all such Owners.

Section 7. Other Maintenance Associations. The Property will be developed in several tracts which may include various types of residential properties, including condominiums, townhouses, cluster houses and estate lots. This Declaration applies to all the Property made subject to this Declaration, but nothing contained in this Declaration shall be construed to prevent additional covenants, conditions and restrictions from being imposed on individual tracts. Any such covenants, conditions or restrictions that conflict with those contained in this Declaration shall be void, and the covenants, conditions and restrictions contained in this Declaration shall control. Maintenance associations or condominium councils may be established for the different tracts. The formation of such additional associations or councils, however, shall not

relieve any Owner from its obligations to pay assessments as provided in this Declaration; provided, the Homeowners Association and/or the Recreational Association may arrange for the additional associations or councils to collect the assessments provided for in this Declaration. The Homeowners Association and the Recreational Association may contract with each other or with the additional associations or councils, or may jointly contract with the additional associations or councils and third parties for the purpose of accomplishing the obligations set forth in this Declaration.

WITNESS the signature of Developer by its duly authorized partners as of March 18, 1985.

BURTON HILLS PROPERTIES,
a general partnership

BY: STM BURTON DEVELOPERS,
a general partnership,
Partner

By Robert H. Marrett
Robert H. Marrett, general partner

BY: CARROLL & EAKIN DEVELOPERS,
a general partnership,
Partner

By John W. Eakin
John W. Eakin, general partner

BY: BURTON CAPITAL CORPORATION,
a Kentucky corporation,
Partner

By Joe B. Cooksey
Joe B. Cooksey, president

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

Before me, David B. Buechler, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Robert H. Marrett, 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 authorized general partner of STM Burton Developers, a general partnership, a Partner of Burton Hills Properties, the within named bargainor, a general partnership, and that he as the authorized general partner, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the general partnership by himself as authorized general partner.

WITNESS my hand and seal, at office in Louisville, Jefferson County Kentucky, this 15th day of March, 1985.

David Buechler
Notary Public

My Commission expires: Nov. 17, 1987

STATE OF Tennessee)
)
COUNTY OF Davidson)

Before me, Cathy J. Hicks, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared John W. Eakin, 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 authorized general partner of Carroll & Eakin Developers, a general partnership, a Partner of Burton Hills Properties, the within named bargainor, a general partnership, and that he as the authorized general partner, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the general partnership by himself as authorized general partner.

WITNESS my hand and seal, at office in Nashville Tennessee, this 18th day of March, 1985.

Cathy J. Hicks
Notary Public

My Commission expires: 7/21/85

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

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Before me, David B. Buechler, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Joe B. Cooksey, 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 Burton Capital Corporation, a Kentucky corporation, a Partner of Burton Hills Properties, the within named bargainor, a general partnership, and that he as the president, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as president.

WITNESS my hand and seal, at office in Louisville, Jefferson County, Kentucky, this 15th day of March, 1985.

David Buechler
Notary Public

My Commission expires: Nov. 17, 1987

EXHIBIT A

BURTON HILLS RESIDENTIAL

Land lying in the Thirty-Third (33rd) Councilmanic District of Davidson County, Tennessee, and being more particularly described as follows:

Beginning at a point on the easterly margin of Hillsboro Road, said point being South 66°32'05" East 6.49 feet from a concrete monument, said monument being at the northwesterly corner of the property conveyed to Burton Hills, of Record in Deed Book 6326, Page 580, R.O.D.C. and the southwesterly corner of Overton Hills, of Record in Deed Book 843, Page 66 of R.O.D.C.; thence with a line South 66°32'05" East 775.53 feet to an iron rod; thence South 81°45'26" East 1193.95 feet to a stone marker; thence South 13°34'46" West 42.92 feet to a stone marker; thence South 80°51'39" East 1261.96 feet to an iron rod in the northwesterly margin of Burtonwood Drive; thence continuing with said margin with a curve to right, said curve having a radius of 1160.17 feet, an arc length of 230.76 feet; a chord of South 12°48'54" West 230.38 feet to an iron rod; thence South 18°15'01" West 4.69 feet to an iron rod; thence with a curve to right, said curve having a radius of 33.89 feet, an arc length of 44.93 feet, a chord of South 56°13'50" West 41.71 feet to an iron rod; thence South 04°42'01" West 24.72 feet to an iron rod; thence North 85°43'03" West 18.15 feet to an iron rod; thence South 04°30'12" West 24.91 feet to an iron rod, said iron rod being the northeasterly corner of R. L. Burton property, described in R.O.D.C., Deed Book 4150, Page 149 and Deed Book 4285, Page 545; thence North 85°33'27" West 420.58 feet to an iron rod being the northwesterly corner of R. L. Burton property; thence South 04°23'57" West 237.85 feet to an iron rod being the southwesterly corner of R. L. Burton property; thence South 52°44'06" East 324.16 feet to an iron rod, being the common corner of R. L. Burton, Jr. property and George P. Van property as recorded in Deed Book 5141, Page 165, R.O.D.C; thence South 38°52'22" West 78.00 feet to an iron rod; thence South 52°34'15" East 167.08 feet to a point; thence South 38°18'29" East 168.61 feet to a iron pin, being common corner as

recorded in Seven Hills Section 5, Deed Book 2854, Page 108, R.O.D.C.; thence South 13°52'37" East 120.46 feet to an iron rod; thence South 60°12'16" East 104.45 feet to an iron rod; thence South 18°17'21" East 511.01 feet to an iron rod being common to Seven Hills Section 1 of Record in Deed Book 2133, Page 82; thence South 07°48'12" West 372.83 feet to a concrete monument in the southerly margin of Harding Place; thence with said margin North 82°11'04" West 1886.40 feet to an iron rod, thence continuing with said margin and a curve to the left, said curve having a radius of 5724.72 feet, an arc length of 634.30 feet, a chord of North 85°21'26" West 633.97 feet to an iron rod; thence continuing with said margin North 88°31'58" West 848.26 feet to an iron rod; thence with said margin and a curve to the right; said curve having a radius of 2822.26 feet, an arc length of 558.72 feet, a chord of North 82°52'18" West 557.81 feet to an iron rod; thence continuing with said margin North 77°11'24" West 266.74 feet to an iron rod, being a common corner with Metropolitan Government as of record in Deed Book 3769, Page 607; thence leaving said margin North 13°05'31" East 379.85 feet to an iron rod; thence South 84°35'00" West 324.31 feet to an iron rod; thence South 08°19'37" West 285.68 feet to an iron rod in the northerly margin of Harding Place; thence with said margin and a curve to the left, said curve having a radius of 2904.35 feet, an arc length of 136.91 feet, a chord of North 84°27'02" West 136.90 feet to a concrete monument in the northerly margin of Harding Place and the easterly margin of Hillsboro Road; thence continuing with said margin and with a curve to the right, said curve having a radius of 125.00 feet, an arc length of 269.79 feet, a chord of North 26°50'44" West 220.39 feet to a concrete monument in the easterly margin of Hillsboro Road; thence continuing with said margin North 31°59'39" East 325.15 feet to a concrete monument; thence continuing with said margin North 25°59'47" East 100.40 feet to a iron pin; thence North 32°00'46" East 341.10 feet to a concrete monument; thence continuing with said margin North 35°18'12" East 305.19 feet to an iron rod; thence North 27°20'01" East 203.85 feet to a concrete monument; thence North 38°34'25" East 74.45 feet to a concrete monument; thence North 34°13'29" East 49.77 feet to a concrete monument; thence North 33°37'09" East 163.48 feet to an iron rod; thence North 41°07'57" East 41.89 feet to an iron rod;

thence South 45°00'00" East 125.04 feet to an iron rod; thence continuing with a curve to the right having a radius of 982.00 feet, an arc length of 1152.84 feet, a chord of South 45°00'00" East 1087.77 feet to an iron rod; thence South 45°00'00" East 144.69 feet to an iron rod; thence with a curve to the left having a radius of 644.47 feet, an arc length of 359.48 feet, a chord of North 25°48'47" East 354.84 feet to an iron rod; thence with a curve to the right having a radius of 601.31 feet, an arc length of 154.46 feet, a chord of North 17°11'31" East 154.03 feet to an iron rod; thence continuing with a curve to the right having a radius of 601.31 feet, an arc length 170.88 feet, a chord of North 32°41'31" East 170.31 feet to an iron rod; thence North 40°50'00" East 48.00 feet to an iron rod; thence with a curve to the left having a radius of 330.57 feet, an arc length of 392.33 feet, a chord of North 06°50'00" East 369.71 feet to an iron rod; thence continuing with a curve to the left having a radius of 616.90 feet, an arc length of 599.36 feet, a chord of North 55°00'00" West 576.06 feet to an iron rod; thence North 82°50'00" West 149.60 feet to an iron rod; thence with a curve to the left having a radius of 281.53 feet, an arc length of 208.34', a chord of North 61°55'30" East 200.94 feet to an iron rod; thence leaving right-of-way of Burton Hills Boulevard South 48°58'59" West 33.00 feet to an iron rod; thence North 89°17'20" West 61.24 feet to an iron rod; thence North 44°22'40" West 33.00 feet to an iron rod in easterly right-of-way of Hillsboro Road; thence with easterly right-of-way of said road North 45°37'20" East 51.8 feet to an iron rod in southerly right-of-way Burton Hills Boulevard and easterly right-of-way of Hillsboro Road; thence North 51°09'12" East 204.85 feet to the point of beginning, containing 169.15 acres more or less.

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IDENTIF. REFERENCE
MAR 25 12 47 PM 1985
FELIX Z. WILSON REGISTER
DAVIDSON COUNTY, TN