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This instrument prepared by:
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IDENTIFICATION REFERENCE

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FELIX E. MILLS JR. REGISTER
DAVIDSON COUNTY, TN

AMENDED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

MIDDLETON

THIS AMENDED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter sometimes referred to as "Declaration") executed this 28th day of January, 1987, by **GEORGE T. HICKS** (hereinafter sometimes referred to as "Developer");

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real estate in the Counties of Davidson and Williamson, State of Tennessee, as shown upon the Plan for Middleton, of record in Book 6250, page 389, Register's Office for Davidson County, Tennessee (hereinafter referred to as the "Prior Plat") (said real estate being referred to herein as "Middleton" or the "Properties"); and

WHEREAS, Developer desires to provide for the protection and preservation of the values, amenities, desirability and attractiveness of Middleton; and

WHEREAS, the Developer desires to establish and provide for a system of administration and continual operation and maintenance of the common use facilities of Middleton and as hereinafter described; and

WHEREAS, Developer further desires to establish for Developer's benefit and for the mutual benefit and advantage of all future owners and occupants of Middleton, or any portion thereof, certain rights, easements, privileges, obligations, restrictions, covenants, liens, assessments and regulations governing the use and occupancy of Middleton and the maintenance, protection and administration of the common use facilities thereof, all of which are declared to be in furtherance of a plan to promote and protect the operative aspects of residency or occupancy in Middleton and on all portions thereof, and are intended to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title or interest in all or any portion of the Properties and which shall inure to the benefit of each owner thereof; and

WHEREAS, Developer has previously filed for record in Book 6522, Page 212, Register's Office for Davidson County, Tennessee, a Declaration of Protective Covenants, Conditions and Restrictions for Middleton (hereinafter referred to as the "Prior Declaration"); and

WHEREAS, Developer is the sole owner of said real estate referred to in said Prior Declaration; and

WHEREAS, Developer wishes to amend the Prior Declaration in accordance with a Planned Unit Development, which has been submitted to the Metropolitan Council of Nashville and Davidson County, Tennessee and to vacate and supersede said Prior Declaration with this Declaration; and

WHEREAS, Developer has filed a Plan for a Planned Unit Subdivision for Fifty-One (51) residential units in Davidson County, Tennessee which has been approved by the Planning Commission of the Metropolitan Government, Nashville and Davidson County, Tennessee, and which is of record in Book 6900, Page 204, Register's Office for Davidson County, Tennessee which vacates and supersedes the Prior Plat (hereinafter referred to as the "Plat"). The Plat may be amended or revised subsequent hereto to provide for a maximum of four (4) residential units in Williamson County, Tennessee.

NOW, THEREFORE, Developer, as legal title holder of the Properties and for the purposes set forth above and further hereinafter set forth, declares as follows:

THIS DECLARATION VACATES AND SUPERSEDES THE PRIOR DECLARATION OF RECORD IN BOOK 6522, PAGE 212, REGISTER'S OFFICE FOR DAVIDSON COUNTY, TENNESSEE

AMENDED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I

Definitions

The following words when used in this Declaration or any supplemental declaration hereto (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to Middleton Homeowner's Association, Inc., a nonprofit corporation to be organized and to exist under the laws of the State of Tennessee, its successors and assigns.

(b) "Board" shall mean and refer to the board of directors of the Association.

(c) "Building" shall mean and refer to a single-family residential building which may be built on each Lot.

(d) "Bylaws" shall mean and refer to the bylaws of the Association attached hereto as Exhibit "B" and made a part hereof, and as may be amended from time to time.

(e) "Common Use Facilities" shall mean and refer to all facilities within the Properties used in common by the Owners, which shall be all of the Properties excluding the Lots, including, but not limited to recreation facilities, guard house, gates, wall around the Properties, and any areas lying within or adjacent to the roads which are desirable for the Association to maintain and landscape.

(f) "Declaration" shall mean and refer to this Amended Declaration of Protective Covenants, Conditions and Restrictions applicable to the Properties and which shall be recorded in the Office of the Register of Deeds for Davidson County, Tennessee.

(g) "Developer" shall mean and refer to George T. Hicks, having a principal place of business in Nashville, Tennessee, his heirs and assigns.

(h) "Lot" shall mean and refer to any plot of land to be used for single-family residential purposes and so designated on the Plat as the same may be amended or revised.

(i) "Majority of Owners" shall mean and refer to the holders of more than fifty percent (50%) of the total votes of the Members.

(j) "Member" shall mean and refer to any person or persons who shall be an Owner, and as such, shall be a Member of the Association.

(k) "Mortgagee" shall mean and refer to the holder of a first lien deed of trust encumbering a Lot.

(l) "Middleton" shall mean and refer to that certain residential community known as Middleton which is being developed on real property now owned by Developer in Davidson County and Williamson County, Tennessee, and described in Exhibit "A" attached hereto.

(m) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Lot which is part of Middleton, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.

(n) "Plat" shall mean and refer to the Revised Plan of Middleton of record in Book 6900, Page 204, Register's Office for Davidson County, Tennessee and any amendments or revisions thereto which may be adopted and duly recorded.

(o) "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

(p) "Properties" shall mean and refer to any and all of that certain real estate described in Exhibit "A" attached hereto.

ARTICLE II

Properties Subject to This Declaration

Section 1. Subdivision of the Properties to Declaration and Bylaws. The Developer, as legal title holder in fee of the Properties, hereby submits and subjects the Properties to the provisions of this Declaration and Bylaws. This Declaration shall constitute covenants running with the land and binding upon all parties now owning or hereafter having or acquiring any right, title or interest in the Properties or any part thereof, and shall inure to the benefit of each Owner thereof. Every person hereafter acquiring a Lot or any portion of the Properties by acceptance of a deed to any interest in a Lot or any portion of the Properties shall accept such interest subject to the terms of this Declaration, and by acceptance of the same shall be deemed to have consented to and agreed to be bound by the terms, conditions and covenants of this Declaration.

ARTICLE III

Membership

Section 1. Members. Every person or entity who is an Owner of any Lot which is included in the Properties shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Membership. The Association shall have two classes of membership:

(a) Class A. Class A Members shall be all Owners, except for Developer prior to termination of his Class B membership. If, however, Developer owns one or more Lots upon or after the termination of his Class B membership, then Developer shall become a Class A Member.

(b) Class B. The Class B membership shall be the Developer, his successors or assigns. The Class B membership shall terminate and cease upon the first to occur of the specific written termination by Developer or December 31, 1991.

Section 3. Class A Voting. Except for matters concerning special assessments and amendments to this Declaration other than as provided in Article XI hereof, Class A Members shall not be entitled to vote until the termination of the Class B membership, at which time Class A Members shall be entitled to one vote for each Lot owned. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be cast separately.

Section 4. Class B Voting. Except for special assessments and amendments to this Declaration, the Class B Member (Developer) shall be the only Member entitled to vote in the Association until such time as the Class B membership shall cease.

Section 5. Special Assessments and Amendments. On all matters concerning a special assessment relating to the Common Use Facilities or an amendment to this Declaration except as provided in Article XI hereof, the voting shall, prior to termination of the Class B membership, be as follows:

(a) Class A. The Class A Members shall have one vote for each Lot owned.

(b) Class B. The Class B Members shall have two votes for each Lot owned.

ARTICLE IV

Assessments

Section 1. Creation of Lien and Personal Obligation of Assessments. Each Owner of any Lot shall, by acceptance of a deed therefor, whether or not it shall be so expressed in any deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these restrictions and promises to pay to the Association both annual assessments and charges and special assessments, such assessments to be established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and

costs of collection therefor as are hereinafter provided, shall be a charge and continuing lien upon the Lot against which such assessment is made as of the effective date of each assessment. Each such assessment, together with such interest thereon and costs of collection therefor as are hereinafter provided, shall also be the personal obligation of the person or entity who was Owner of such Lot at the time when the assessment fell due. In the case of co-ownership of a Lot, all of such co-Owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Annual Assessment. The annual assessments levied by the Association shall be used exclusively for the improvement, maintenance, operation and security of the Common Use Facilities, including, but not limited to, the payment of taxes and insurance thereon, the payment of utilities bills thereon (including water for sprinkler systems), and the repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. At the option of the Association, annual assessments may be used to proved supplemental landscaping maintenance within Lots and to provide garbage and trash collection and disposal if needed to supplement that provided by public authority. Further, the Association may require annual assessments to be paid in equal monthly or quarterly installments.

Section 3. Maximum Annual Assessment. The maximum annual assessment for calendar year 1987 shall be One Hundred Dollars ($100) for each Lot, fractions of calendar years to be computed and prorated equitably, at the same uniform rate for the calendar year 1987. For calendar year 1988, the annual assessment shall increase by ten percent (10%). Thereafter, maximum annual assessments shall be determined by the Association.

Section 4. Special Assessments. In addition to the annual assessments hereinabove authorized, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Use Facilities, including the necessary fixtures and personal property related thereto; provided, however, that any such special assessment shall have the assent of two-thirds (2/3) of the Members present and voting in person or by proxy at an annual or special meeting of the membership at which a quorum is present. Special assessments shall be due and payable on the date(s) which are fixed by the resolution authorizing such assessment.

Section 5. Commencement. The assessment for a Lot shall commence upon purchase of the Lot from Developer, or Developer may hereafter set a date for assessments to commence for all Lots which have been purchased from Developer. Assessments on Lots that first become subject to assessments during calendar year shall be prorated on a calendar year basis for the remainder of such calendar year.

Section 6. Due Date. Unless otherwise provided herein, assessments shall be due and payable in full within thirty (30) days after billed to an Owner by the Association.

Section 7. Records of Assessment. The Association shall cause to be maintained in the office of the Association a record of all Lots and assessments applicable thereto which shall be open to inspection by any Owner. Written notice of each assessment shall be mailed to every Owner of the Lot subject to assessment. The Association shall, upon demand and payment of a

reasonable charge, furnish to any Owner a certificate in writing signed by an officer of the Association setting forth whether the assessments against the Owner's Lot have been paid,and if not, the amount due and owing. Absent manifest error, such certificates shall be conclusive as evidence for third parties as to the status of assessments against such Lot.

Section 8. Effect of Non-Payment of Assessment or Other Charges. If any annual, quarterly or monthly assessment or if any special assessment is not paid on the date when due, or if any sum or charge agreed to be paid by Owners in this Declaration is not paid when due, then such assessment, sum or charge shall be delinquent and shall accrue interest thereon at the highest rate permissible under the laws of the State of Tennessee, after the date due. If such assessment, sum or charge is not paid within thirty (30) days after the due date, then the Association may bring an action at law against the Owner personally and/or foreclose the lien against the Lot by court action or trustee's sale, as hereinafter provided, and there shall be added to the amount of such assessment, sum or charge all reasonable attorneys' fees and costs incurred by the Association in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessments as indicated above.

Section 9. Enforcement of Lien by Trustee's Sale. For and in consideration of the privileges and protections granted herein, and the mutual enjoyment and use of the Common Use Facilities and for the express purpose of securing the payment of the assessments, other sums and charges described in Section 8 above; rendering unnecessary court proceedings for the enforcement of the lien described in Section 8 above, each Owner accepting a deed to a Lot, for their heirs, administrators, successors and assigns, does hereby transfer and convey unto Harris A. Gilbert, Trustee, his successors and assigns, each such Lot deeded to such Owner, with the appurtenances, estate, title and interest thereto belonging, unto the Trustee for the following uses in trust:

Said Owners agree to pay all assessments, sums and charges when due and upon demand of said Trustee or the Association, to pay, discharge or remove any and all liens (except a first mortgage or deed of trust lien) which may be hereafter placed against said Owner's Lot which shall adversely affect the lien granted herein, and in case the Trustee or his successors or the Association shall hereafter be required to appear in any court or tribunal to enforce, or defend the title to, or possession of, said Lot or the lien granted herein, or appear in any court to prove said indebtedness, all costs and expenses of such appearance or proceedings, together with a reasonable attorney's fee, shall be allowed and be payable by Owner upon demand of the Trustee or Association, and upon failure to do any of these things then said Trustee or Association may do any or all of said things, and the amounts so paid shall bear interest from the date of payment at the highest rate then permitted by the laws of the State of Tennessee, and shall be and become a part of the indebtedness secured hereby.

If said assessments, sums or charges, or interest thereon, are not paid promptly when due or within any period of cure allowed above, or if after said Owner(s) fail(s) to pay any other sums due as above provided, or further, fail to reimburse the Trustee or Association within thirty (30) days from the date of Trustee's or Association's payment of such sums, this trust conveyance shall remain in full force and effect, and the said Trustee or his successor in trust is hereby authorized and

empowered, upon giving twenty (20) days' notice by three (3) publications in any newspaper, daily or weekly, published in Davidson County, Tennessee, to sell said Lot at the front door of the courthouse in said county to the highest bidder for cash at public outcry, free from the equity of redemption, statutory right of redemption, homestead, dower and all other exemptions of every kind which are hereby expressly waived; and the said Trustee or his successor in trust is authorized and empowered to execute and deliver a deed to the purchaser at such foreclosure sale. The Association may bid at any sale under this trust conveyance. The Trustee may at any time after default in the payment of any of the above described indebtednesses enter and take possession of said Lot and shall only account for the net rents actually received by him. It is further agreed that in the event the Trustee fails, before selling said Lot, 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 Lot. In case of sale hereunder, the proceeds shall be applied by the Trustee as follows:

(a) To the payment of all costs, charges and expenses of executing this conveyance and enforcing said lien as herein provided; also reasonable attorneys' fees for advice in the premises, or for instituting or defending any litigation which may arise on the account of the execution of this conveyance, or the enforcement of said lien; also the expenses of any such litigation.

(b) To the payment of all taxes which may be unpaid on said premises.

(c) To the payment of all unpaid indebtedness herein secured.

(d) The residue, if any, to be paid to said Owners, their order, or to their representatives or assigns.

In the event of the death, absence, inability or refusal to act of said Trustee at any time when action of the foregong powers and trusts may be authorized, or for any other reason, the lawful owner and holder of said lien is hereby authorized and empowered to name and appoint a successor in trust to execute this trust by an instrument in writing to be recorded in the Register's Office for Davidson County, Tennessee, and title therein conveyed to the above named Trustee shall be vested in said successor. Trustee is authorized to appoint an attorney-in-fact to conduct in his stead and on his behalf and with the same power possessed by said Trustee as granted herein, any and all foreclosure sales authorized above.

The lien described in this Section and in Section 8 above shall be subordinate to the lien of a recorded first mortgage or deed of trust encumbering any such Lot or portion of a Lot. Provided, however, in the event the holder or owner of such mortgage or first deed of trust becomes the Owner of such Lot after foreclosure thereof or a third party purchases such Lot after foreclosure thereof, any such purchaser shall become subject to the lien reserved herein for the purpose of securing all assessments becoming due from and after the date such purchaser accepts a deed to said Lot or enters into possession of said Lot, whichever shall first occur.

ARTICLE V

Developer's Assessment and Maintenance

Section 1. Exemption. Developer and all property owned by Developer shall be exempt from all assessments and the liens therefor of every type, except as hereinafter provided.

Section 2. Contribution by Developer. Developer agrees to contribute to the Association such funds as may be required to maintain the Common Use Facilities other than the cost of personnel for operating the gate house, to the extent that the maximum annual assessments are insufficient to pay the cost thereof, through June 1, 1988, or until the voluntary termination of the Class B membership, whichever first occurs. Upon the termination of the Class B membership, Developer shall pay assessments, only if, and to the extent to which, it is a Class A Member of the Association.

ARTICLE VI

Architectural and Building Restrictions

The Architectural Committee shall have the responsibility of enforcement of these restrictions until January 1, 1992, or until all the Lots have been sold by the Developer, whichever shall first occur. The Board of Directors of the Association shall assume responsibility for enforcement of the restrictions after that time.

Section 1. Approval of Development. Before commencing the construction, reconstruction, remodeling, alteration or addition of any Building or structure, fence, wall, driveway, path or other improvement of any nature, the Owner shall first submit its building plans, specifications, site and landscape plans, drainage plans, and an elevation sketch (collectively the "Plans") of all improvements, to the Architectural Committee, as hereinafter described, for its written approval. Any changes in the Plans from those submitted for approval must be resubmitted for approval by the Architectural Committee pursuant to this Section as if an original submission. The Plans shall include all materials for driveways, walls, fences, swimming pools and tennis courts provided, however, that no lighting of any kind shall be permitted for any tennis courts which extend above the height of eight (8) feet and no lights shall be permitted which shall be directed at any neighbor's property whether within or outside of Middleton. In the event the Architectural Committee shall fail to approve or disapprove the Plans in writing within thirty (30) days after they have been received by the Architectural Committee, such approval will not be required and this covenant shall be deemed to have been complied with. The Plans shall be delivered to the Architectural Committee in person or by certified mail at the address to be designated from time to time by Developer or the Association.

Plans for any improvements must conform to certain restrictions as set forth in Section Two hereof, and further must conform to the other requirements of this Declaration. The Architectural Committee shall be the sole judge or arbiter of such conformance or non-conformance. Further, the Architectural Committee may approve or disapprove plans when the Architectural Committee, in its sole discretion, determines that the proposed improvements or any feature of the Plans are not architecturally or aesthetically compatible with Middleton development.

If the Architectural Committee approves the Plans, the actual construction in accordance with the Plans shall be the responsibility of the Owner; provided, however, upon the completion of the improvements, and prior to occupancy, the Owner shall notify Developer, who shall have ten (10) days thereafter in which to have the improvements inspected by the Architectural Committee to insure that the construction was completed in accordance with the Plans approved by the Architectural Committee prior to construction. In the event that the Architectural Committee shall fail to approve or disapprove the completed improvements in writing within ten (10) days after receipt of notice from the Owner that the improvements are completed, such approval shall not be required and these covenants will be deemed to have been complied with. In the event an Owner has made changes from the original Plans approved by the Architectural Committee and such changes were not previously approved by the Architectural Committee, occupancy of the subject improvements shall be delayed until the necessary corrections have been made.

In the event any Owner shall fail to complete his residence according to the approved plans or to maintain the improvements situated upon his or her lot in a manner satisfactory to the Association, the Association may, upon the vote of two-thirds (2/3) of the Association's Directors, and after ten (10) days' notice in writing to the Lot Owner, in the event of his continued failure to commence the correction of the matter in issue, enter upon said Lot and complete, repair, maintain or restore the exterior of the improvements erected thereon. The cost of such exterior maintenance shall be added to and become a part of the assessment to which such Lot is subject and the Owner shall be personally liable for the cost of such maintenance so incurred.

In addition to the approval of Plans and other matters herein set forth, the Architectural Committee shall have the right to waive minor violations and allow minor variances where the same resulted unintentionally or without gross carelessness on the part of any Owner and are not materially harmful to the Properties. If such waiver is granted in writing, then thereafter such matters so waived shall no longer be deemed a violation of these restrictions.

The approval by the Architectural Committee of the Plans and completed improvements as required above is not intended to be an approval of the structural stability, integrity or design of a completed improvement or of the safety of any component therein, but is required solely for the purpose of insuring compliance with the covenants contained in this Declaration, and further, to insure the harmonious and orderly architectural development and improvement of the Properties. Notice is hereby given to any future occupant of any such completed improvement and all invitees, business guests and other persons who may from time to time enter or go on or about such completed improvements that no permission or approval granted by the Architectural Committee with respect to construction pursuant to this Declaration shall constitute or be construed as an approval by them of the structural stability or design of any building, structure or other improvement and no liability shall accrue to the Architectural Committee in the event that any such construction shall subsequently prove to be defective. No structure of a temporary nature shall be allowed on any Lot at any time except that of an Owner's contractors and subcontractors during the period of construction of improvements.

The Architectural Committee shall consist of three (3) members appointed by Developer, who is empowered to appoint their successors should a vacancy occur, or who may remove members and replace them at his sole discretion until termination of the Class B membership, and their names shall be maintained at Developer's offices. By supplemental declaration the Developer may delegate to the Association the authority and duty to appoint the Architectural Committee, and upon termination of the Class B membership, the authority to appoint the Architectural Committee shall automatically be vested in the Association.

Section 2. Improvement, Setback and Use Restrictions.

(a) All buildings shall reflect styles, proportions, and detailing of the American, Colonial, and Early American Antebellum Periods in the Eastern and Southeastern United States. Specifically, only the following architectural styles will be permitted: Georgian, Williamsburg (or Southern Colonial), Natchez, Federal, Roman Classicism, French Neoclassic, and Neo-Greek.

(b) Minimum setback requirements have been established on the Plat of Middleton, but are not intended to engender uniformity. They are intended to avoid overcrowding and monotony. It is, therefore, intended that setbacks may be staggered, where appropriate, so as to preserve trees and to assure vistas of open areas. The Developer reserves the right to approve the site plan and location of each house or other structure on each Lot and to arrange the same in such manner as he shall deem in the best interests of the overall development. No building or structure, or any part thereof, shall be located on any Lot nearer to the front line nor to a side or rear line than the minimum setback lines shown on the recorded plan or as specified in the restrictions. All Lots shall provide the minimum side yard required by the Metropolitan Planning Commission.

(c) Before any house may be occupied, it must be completely finished.

(d) The total floor living area of the main structure upon any Lot, exclusive of open porches, patios, garages, and breezeways shall be not less than three thousand five hundred (3,500) square feet, nor more than five thousand five hundred (5,500) square feet, with an average square feet per Lot of four thousand three hundred and fifty six (4,356) square feet..

(e) Boundary walls for individual Lots may be erected, provided that the same are approved by the Developer or Architectural Committee. No walls, other than retaining walls, may be constructed along the street on the front of any Lot unless approved by the Architectural Committee. No retaining wall shall extend to a height greater than three (3) feet above the earth being retained and no boundary wall, nor any wall enclosing a patio or courtyard, shall extend to a height greater than eight (8) feet from ground level except with the consent of the adjoining Lot Owners and the Architectural Committee. All boundary and retaining walls must be of brick, stone, stucco or other material agreeable to the Architectural Committee.

(f) Each Lot Owner shall build and maintain a five-foot (5') wide exposed aggregate (rounded river gravel) concrete walk twenty-four (24) inches behind the curb in front of and (in the case of a corner lot) on the side of the Lot. If such a sidewalk would conflict with or endanger any mature

tree(s), the Architectural Committee, on application made to them by the Lot Owner, shall be authorized to allow relocation of the sidewalk around such tree(s).

(g) Driveways shall be hard surface construction with curb cuts in accordance with Metro Public Works requirements.

(h) No block foundation may be exposed. All exposed foundations shall be brick or stone veneer.

(i) Roofs exposed to view shall be a dark tone and color, of standing seam metal, tile, slate, shake or #345 asphalt shingle. No plumbing ducts, pipes or vents shall be visible from the front of the Lot.

(j) Swimming pools must be built in accordance with ordinances of the Metropolitan Planning Commission. Developer reserves the right to establish a uniform mail box design and mail box location system and to limit the number of mail boxes serving each Lot.

(k) Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected or placed on any Lot. Any and all equipment, air conditioner condensers, woodpiles, garbage cans, refuse or storage piles placed on any Lot, whether temporary or permanent, shall be underground or walled in to conceal the same from view of neighboring Lots, roads, streets and open areas. Plans for all screening walls and enclosures must be approved by the Architectural Committee.

(l) No lumber, brick, stone, block, concrete or other building materials, nor any other thing used for building purposes shall be stored on any Lot except for the purpose of construction on such Lot, and then only for such length of time as is reasonably necessary for the construction of the improvements then in progress.

(m) All utility meters, air conditioning compressors, window air conditioners, solar energy collection panels, and other like equipment shall not be visible from neighboring Lots, roads, streets and open areas. Outdoor television and dish antennas may be installed, if properly screened, with the prior approval of the Architectural Committee, provided such antennas shall be thereafter taken down and removed by the Owner at such time as a cable televison receiving service is available within the area.

(n) No Owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which will materially affect the surface grade of a Lot unless the consent of the Developer is obtained.

(o) Outside clothesline and clothes hanging devices shall not be permitted. Eave lights may not be installed on the fronts of residences. Eave lights installed on the sides of residences must be adjusted so that the rays of any beam or flood light will be directed to the rear of the residence and not the side or front. No eave lights shall be installed or maintained if the rays of any beam or flood light shall be directed at or toward any other residence whether within Middleton or on any adjacent property.

(p) No garages or carports may face the street in front of a residence unless approved by the Developer.

(q) No tree in excess of six (6) inches in diameter may be removed from a Lot without the consent of the Architectural Committee.

(r) Contiguous Lots may be combined, if the Lots have the same Owner, for the purpose of placing an approved Building thereon. Individual Lots may not be resubdivided so as to create a smaller area than originally deeded to a Lot Owner and as shown on the Plat.

(s) Any person undertaking any construction on a Lot and the Owner of such Lot shall be responsible for maintaining the continuing cleanliness of, and repairing any damage to, any curbing, gutter or street resulting from construction on such Lot. Repairs of all such damages shall be made within fifteen (15) days after demand theretor by the Developer or the Association.

(t) No Lot Owner shall build a pole or security lamp or light on his Lot exceeding eight (8) feet in height. No flood or eavelights shall be constructed on or above the second story at any residence in such a manner which would violate Section (o) hereof or which would shine outward toward any property adjacent to or adjoining Middleton.

(u) Chimneys shall be constructed of stone, stucco or brick and shall not be cantilevered.

(v) No decorative appurtenances, such as sculptures, birdhouses, birdbaths, fountains or other decorative embellishments shall be placed on or in any front yard or on any part of a Lot visible from any street or other Lot, unless the placement and design of such embellishments has been approved by the Architectural Committee pursuant to the provisions of Section One hereof.

(w) The pursuit of hobbies or other activities including specifically, without limiting the generality of the foregoing, the assembly or disassembly of motor vehicles or other mechanical devices which might tend to cause disorderly, unsightly, or unkept conditions shall not be pursued or undertaken on any Lot or in any driveway, garage, carport or other place where such activity is visible from any street. There shall be no above-ground swimming pools. All playground equipment and items shall be placed or located on any Lot in the rear yard of the Lot so as not to be visible form any street on which such dwelling fronts, except that basketball goals may be attached to a garage.

(x) All draperies and curtains, other than white sheer curtains, installed in the windows of any dwelling located on the exterior wall of such dwelling designated as the "front elevation" thereof shall be lined with off-white lining prior to installation.

Section 3. Maintenance. All Lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective Owners. To provide uniformity in the maintenance of the landscaping, the Association may contract with one or more landscaping services to provide maintenance services for all Lots within the development excepting only enclosed courts. Dead or diseased trees, shrubs, bushes or other vegetation shall be cut and removed promptly from any Lot by the Owner thereof. Upon the failure of any Owner to maintain his Lot, whether vacant or occupied, in a neat, clean,

sanitary, safe and attractive condition, the Association, or the authorized agents or employees of the Association may, after thirty (30) days' notice to such Owner, enter upon such Lot and have the grass, weeds and other vegetation cut when and as often as the same is necessary in its judgment and may have dead or diseased trees, shrubs and other plants and trash removed therefrom. Such Owner shall be personally liable to the Association for the cost of any such cutting, clearing, maintenance or removal determined by the Board of Directors of the Association to be necessary, and the liability for the amounts expended for such cutting, clearing, maintenance or removal shall be a permanent charge and lien upon such Owner's Lot enforceable by the Association by an appropriate proceeding at law or in equity. All costs incurred by the Association on behalf of such Owner shall be reasonable. Although notice given as hereinabove provided shall be sufficient to give the Association or the authorized agents or employees of the Association the right to enter upon such Lot and perform the work required, entry for the purpose of performing the work required shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday.

Section 4. Parking of Automobiles. A minimum of two (2) covered off-street parking spaces for each residence must be provided by each Lot Owner unless waived by the Developer. Additional parking will be permitted at the front of the residence. Parking for guests of residents and visitors may be provided by the Developer at the locations shown on the Plat, which space shall be for the use of guests of Lot Owners generally. Additionally, Developer may permit the use of certain designated open spaces for the parking of automobiles on special occasions.

Section 5. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, pastured or maintained on any Lot, except household pets which may be kept in the following numbers as pets for the sole pleasure of the occupants, but not for any commercial purpose or use. No more than two (2) pets shall be permitted to be maintained on any Lot (e.g., one dog and one cat, two dogs, one bird and one dog) except for multiple aquatic life in aquariums. No pets shall be permitted outside of the boundaries of the Owner's Lot unless accompanied by their owners and on a leash. Unattended dogs that engage in excessive barking which constitutes a nuisance to neighboring residences shall not be permitted. The Association, or any individual resident, may take appropriate measures to insure compliance with this provision, including reporting the animal to the Metropolitan authorities for appropriate action. No dog or other pet houses are to be visible from the roads or any other house in the neighborhood.

Section 6. Nuisances and Unsightly Materials. No house or other approved structure on any Lot shall be used for any commercial or business purpose. Each Owner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No noxious, offensive or illegal activity shall be carried on upon any Lot. Boats, trailers, campers, vans, or trucks of any kind may be stored in enclosed areas only and must not be visible from neighboring Lots, streets, roads or open areas. No motorcycle, motorbike, motor scooter, trail bike, go-cart, or motorized vehicle of any type without a muffler or mufflers shall be permitted to be operated within Middleton.

Section 7. Governmental Restrictions. Each Owner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

Section 8. Exclusive Contractors. In order to minimize confusion and complications which may result from the construction of a number of residential units upon the Properties at the same time, and in order to insure the maintenance of high quality of construction, the Developer reserves the right to approve contractors authorized and permitted to construct residential units or facilities upon Lots within the Properties. Such approval shall not be arbitrarily or unreasonably withheld.

Section 9. Speeding. Any vehicle moving in excess of twenty-five (25) miles per hour on streets within Middleton shall be considered as speeding and the owner and/or operator of said vehicle will be subject to any fine levied by the Homeowner's Association.

Section 10. Signage. No political posters or signs shall be permitted on any Lot, roadway, Common Use Facilities or otherwise within Middleton. No other signs shall be permitted on any Lot except that one (1) sign at a time shall be permitted for "For Sale", builders or tradesmens signs. If a residence is being constructed "for sale", all information shall be placed on one (1) sign. Any permitted signs shall not exceed twelve (12) square feet in size.

ARTICLE VII

Easements

Section 1. General. Until termination of the Class B membership, Developer reserves an easement for ingress and egress generally across the Properties at reasonable places on the Properties and the various Lots for the purpose of completing Developer's intended development. Said ingress and egress easement shall in any event be reasonable and shall not interfere with the construction of improvements on a Lot nor the use and enjoyment of a Lot by a Lot Owner.

Section 2. Emergency. There is hereby reserved without further assent or permit a general easement to all policemen, security guards employed by Developer and/or the Association, firemen, ambulance personnel, garbage collectors, mail men, utility personnel, delivery service personnel and all similar persons to enter upon the Properties or any portion thereof which is now or hereafter made subject to this Declaration in the performance of their respective duties. Included in the persons designated to have access to the Properties are all public officials of Metropolitan Nashville and all police and fire officers of the Metropolitan Government.

Section 3. Easements Shown on the Plat. The Plat contains certain designated easements for roads, utilities and drainage. The easements so designated on the Plat encumber the Lots as shown on the Plat, and are hereby established as perpetual and irrevocable easements. Said easements are granted and reserved for the use and benefit in common of all Owners of Middleton and their agents, servants, family members and invitees. No Owner shall have the right to restrict, impede or take any action which might in any way prohibit or limit the use

in common by all Owners of said easements. However, use of the easements and Common Use Facilities shall be subject to and governed by the provisions of this Declaration and the Bylaws, rules and regulations of the Association.

Section 4. No Rights Established for the General Public. The roads of Middleton, as shown on the Plat, are private thoroughfares and no rights in the general public are intended to be created hereby or by the recording of the Plat. Said roads are private thoroughfares to be maintained, operated and controlled by the Association. Metropolitan Nashville has no responsibility for maintenance, repair or replacement of said roads. Developer and/or the Association reserves the right to control access to Middleton by entry onto the roads of Middleton or otherwise. Developer and/or the Association reserves the right to deny entry and access into Middleton to any persons who are not authorized to use the roads of Middleton pursuant to this Declaration. Soliciting within Middleton is expressly prohibited.

ARTICLE VIII

Maintenance of Unimproved Lots

An Owner shall either commence construction of a residence upon his Lot or cause his Lot to be improved so the same may be maintained as a completed lawn in a condition satisfactory to the Architectural Committee within one (1) year after closing of the purchase of the Lot from Developer. In the event an Owner fails to so improve his Lot within the time required, or fails to commence such improvement within thirty (30) days after notice from the Association or Developer and thereafter fails to complete the same within ninety (90) days, the Association or the Developer may cause said Lot to be so improved and the Owner shall pay the cost thereof to the Association or Developer upon demand. In the event an Owner fails to pay the same upon demand, such sum may be collected from the Owner as an assessment or charge pursuant to Article IV hereof.

ARTICLE IX

Sale or Lease of Lots

Section 1. Right of First Refusal. To assure a community of congenial Owners and thus protect the value of the Lots in Middleton, any Owner who desires to sell or lease any Lot, either improved or unimproved, shall first offer the same for sale or lease to Developer at the same price and on the same terms at which the highest bona fide offer has been made to the Owner therefor. An Owner desiring to sell or lease any Lot shall give Developer notice via certified mail, return receipt requested, of his desire to sell or lease such Lot(s), together with such other information as may be requested. Within seven (7) days thereafter, Developer may (i) approve the transaction; (ii) furnish a purchaser or lessee approved by the Association who will accept the transaction upon terms as favorable as those stated in the notice; (iii) fail to respond in which event the transaction will be deemed approved. The right of first refusal granted by this Declaration to Developer shall extend for the term of five (5) years following the date of the first sale of any Lot by Developer and thereafter the Association shall automatically succeed to Developer's rights under this Section One for the remaining duration of this Declaration. This right

of first refusal does not apply to a Mortgagee upon the exercise of any power of sale or upon the Mortgagee becoming the Owner of a Lot as a result of the exercise of any power of sale. When a Mortgagee who has become an Owner conveys a Lot or a Lot is conveyed in foreclosure, this right of first refusal shall become binding upon the purchaser of a Lot from a Mortgagee or pursuant to foreclosure in the event that purchaser desires to sell the Lot. Provided, however, that in any event any such sale or lease shall remain subject to the covenants and restrictions of this Declaration.

Section 2. Sales and Resales. In order to preserve and protect the decorum of the community, Developer reserves the right to restrict the advertising and placement of signs on or relating to Lots for sale or resale within the premises of Middleton as provided in Article VI, Section 10 hereof. This does not preclude an Owner from using media advertising. This right in the Developer shall continue for a period of five (5) years from the date hereof. Thereafter, this right shall be exercisable by the Association through its Board of Directors.

ARTICLE X

General Provisions

Section 1. Duration. These restrictions shall be appurtenant to and run with the land and shall be binding upon all Owners and parties hereinafter having an interest in any of the Properties and all parties claiming under them for a period of ninety-nine (99) years from the date of the filing of this Declaration.

Section 2. Enforcement. All restrictions herein may be enforced by Developer, his successors and assigns until the termination of the Class B membership, or by the Association, by proceeding at law or in equity against the person, firm or other entity violating or attempting to violate any covenant or covenants, either to restrain the violation thereof or to recover damages, together with reasonable attorneys' fees and court costs. Further, after the termination of Developer's Class B membership in the Association, in the event the Association fails to act to enforce any restriction herein, any Owner of any Lot may enforce these restrictions as aforesaid against any other Owner, except, however, the covenants contained in Article IX hereof regarding the Developer's option to purchase shall be enforceable only by Developer and not by his successors or assigns unless specifically assigned thereunto by Developer in writing.

Section 3. Partial Invalidity. Any invalidation of any one or more of these restrictions by judgment or court order of a court of competent jurisdiction, or statute, or failure on the part of Developer or his successors or assigns to enforce any of said restrictions, shall in no way affect any of the other provisions hereof or be deemed to be a waiver of the right to enforce such restrictions any time after the violation thereof.

Section 4. Abatement. In the event that any Owner violates any of the terms or conditions of these restrictions and fails to cure the same within ten (10) days after written notice thereof, then Developer, in addition to the other rights and remedies provided for herein, shall have the express right, privilege and license to enter upon any Lot to take any reasonable action to cure such violation, and all reasonable costs thereof shall be at the expense of the Owner of such Lot and shall be payable to Developer upon demand by Developer.

Section 5. Exoneration of Developer. Each Owner of any Lot in the Properties or any other party interested in the Properties expressly agrees that:

(a) No duty or obligation is imposed upon Developer to enforce or attempt to enforce any of the covenants or restrictions contained herein, nor shall Developer be subject to any liability of any kind or nature whatsoever from any third party from failing to enforce the same; and

(b) Developer's approval (or approval by the Architectural Committee) of any building plans, specifications, site or landscape plans or elevations, or any other approvals or consents given by Developer pursuant hereto (or by the Architectural Committee) or otherwise shall not be deemed a warranty, representation or covenant that any such buildings, improvements, landscaping or other action taken pursuant thereto or in reliance thereon complies with any or all applicable laws, rules, building codes requirements or regulations, the sole responsibility for all of same being upon the respective Owner; and Developer and the Architectural Committee are expressly released and relieved of any and all liability in connection therewith. Owner agrees to indemnify and hold the Developer and the Architectural Committee harmless from all loss or damage, including reasonable attorneys' fees, incurred by Developer or Architectural Committee as a result of any suit or claim made by any party concerning any feature of construction of the improvements made to any Lot, the noncompliance thereof with such laws, rules, building codes requirements or regulations, or further, any suit or claim made by any injured or alleged injured party claiming to have been damaged or injured by any failure in the structure of any completed improvement, or any negligence in design or workmanship of any component of such completed improvements on such Lot.

Section 6. Other Lands of Developer. Nothing contained within these restrictions shall be held or construed to impose any restrictions, covenants, or easements on any other land of the Developer, except for the land contained within the description of the Properties, unless specifically submitted and included within these restrictions by a supplementary declaration. No further land shall be added hereunder by Developer.

Section 7. Subject to Code Provisions. This Declaration, the Association, the By-laws and the Properties are subject to the provisions of Section 81.51 of Appendix A of the Code of the Metropolitan Government of Nashville and Davidson County, Tennessee.

ARTICLE XI

Amendment

The covenants and restrictions of this Declaration may be amended by the Developer with the approval of the Planning Commission without joinder of any Lot Owner, for a period of five (5) years from the date hereof; thereafter, by agreement signed by Owners representing at least two-thirds (2/3) of the Lots which are then subject hereto, and with approval of the Planning Commission. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration, by

acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided herein.

The Developer further covenants and provides that the covenants and restrictions provided herein with respect to any amendment to the Plat which would increase the number of Lots, make any change in the square footage size of any home, or make any changes in the perimeter landscaping plan which has been made a part of the Planned Unit Subdivision Bill presented and approved by the Metropolitan Council shall not be changed in any respect without approval of the Metropolitan Council. Any change in any other covenants and restrictions of this Declaration may be amended as set forth above with the approval of the Planning Commission, but after ten (10) days' written notice to all adjoining property owners outside of Middleton whose property may be located within a distance of one thousand (1,000) feet from Middleton at any point thereof. The Developer and Association shall have the duty and burden of sending said notice to any and all property owners who may be affected by this requirement, in addition to any requirement of the Metropolitan Planning Commission with respect to notice.

IN WITNESS WHEREOF, the Developer has caused this Amended Declaration of Protective Covenants, Conditions and Restrictions to be duly signed this 28th day of January, 1987.

George T. Hicks, Developer

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared George T. Hicks, the within named bargainor, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand and official seal at Nashville, Tennessee, this 28th day of January, 1987.

Sylvia L. Roper
Notary Public

My Commission Expires:

Sept. 9, 1989

EXHIBIT "A"

Legal Description

A tract of land being part of the Edward Scruggs Tract of Land, lying in the Counties of Davidson and Williamson, partitioned in the County Court of Davidson County, Tennessee, in the cause of A. B. Scruggs, et al vs. Mrs. Alice Scruggs Kelley, a plan of which is recorded in Minute Book 65, Pages 378 and 379, said Court, lying in the 7th, formerly 11th, Civil District of Davidson County, Tennessee, and in the 7th Civil District of Williamson County, Tennessee, and described according to a survey made July 7, 1937, by Erle Drake, County Surveyor for said County, by L.D. Justice and W.H. Evans, Surveyors, as follows:

Beginning at a rock and stake in the center of an old abandoned lane 14 feet wide, a corner of a tract of land conveyedto Mrs. Lottie Sawyers Potts and husband, Thomas Potts, by deed from R. B. Sawyers and others, of record in book 513, Page 197, Register's Office for Davidson County, Tennessee; thence North 2 degrees 56' East, with their eastern boundary line, 1567.5 feet to the center of the Old Vaughn Gap Road, being also the center of what is now known as Old Hickory Boulevard; thence South 89 degrees East, with the center of said Old Vaughan's Gap Road, 771.7 feet to a point being about 15 feet from the northerly margin of said Old Hickory Boulevard, the Northwest corner of a tract of land conveyed to Robert L. Alexander, Jr. and wife, Roberta S. Alexander, by deed from E. G. Scruggs and wife, of record in Book 667, Page 268, said Register's Office; thence South 3 degrees 20' West, with their Western boundary line, passing their Southwest corner, and continuing in the same direction, in all 1567.5 feet to a pile of rocks in the center of said abandoned lane and in the northern boundary line of said tract of land owned by Mrs. Lottie Sawyers Potts and husband, Thomas Potts; thence North 89 degrees West, with the center of said abandoned lane, 761.7 feet to the beginning, containing 27.56 acres, more or less.

Being the same property conveyed to George T. Hicks by Installment Deed from Edith K. Weisiger and husband, Felix M Weisiger, and B. Roy Kennedy, Jr. and wife, Mae W. Kennedy, of record in Book 5968, Page 36, Register's Office for Davidson County, Tennessee.

EXHIBIT "B"

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BYLAWS

OF

MIDDLETON HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION. The name of the corporation is Middleton Homeowners' Association, Inc., a Tennessee not for profit corporation, (hereinafter referred to as the "Association"). The principal office of the corporation shall be located in Nashville, Davidson County, Tennessee, but meetings of members and directors may be held at such places within the State of Tennessee, County of Davidson or County of Williamson, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Middleton Homeowners' Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Amended Declaration of Protective Covenants, Conditions and Restrictions, to which these Bylaws are attached as Exhibit "B".

Section 3. "Common Use Facilities" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Use Facilities.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Properties, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until the mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 6. "Developer" shall mean and refer to George T. Hicks, his heirs, successors and assigns if such heirs, successors or assigns should acquire all remaining undeveloped Lots from the Developer for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Amended Declaration of Protective Covenants, Conditions and Restrictions applicable to the Properties recorded in the Register's Office for Davidson County, Tennessee to which these Bylaws are attached as Exhibit "B".

Section 8. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of

the incorporation of the Association, and each subsequent regular of the same month of each year thereafter, at the hour of 7:30 o'clock, P.M. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the president or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership entitled to vote at such meeting, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall

not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of Members, each Member entitled to vote may do so in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of not less than three (3) nor more than nine (9) Directors, as such number may, from time to time, be established by the Members. The Directors need not be Members of the Association. The initial Board of Directors shall consist of three (3) Directors.

Section 2. Term of Office. The initial Board of Directors shall serve until the termination of Class B membership, and until their successors are elected. At the first annual meeting after the termination of Class B membership the Members shall elect one-third (1/3) of the directors for a term of one (1) year, one-third (1/3) of the directors for a term of two (2) years, and one-third (1/3) of the directors for a term of

three (3) years, and at each annual meeting thereafter the Members shall elect one-third (1/3) of the directors for a term of three (3) years.

Section 3. Removal. Any director other than Developer, prior to the termination of Class B membership, may be removed from the board, with or without cause, by a majority vote of the Members of the Association entitled to vote thereon. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could have taken at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

APPOINTMENT NOMINATION AND ELECTION OF DIRECTORS

Section 1. Initial Board of Directors. The Developer shall have the right and duty to appoint the initial Board of

Directors, one of whom shall be Developer, who shall serve until the termination of Class B Membership and until their successors are elected.

Section 2. Nomination. Nomination for election to the Board of Directors after expiration of the term of the Initial Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or nonmembers.

Section 3. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have the power to:

(a) adopt and publish rules and regulations governing the use of Common Use Facilities and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to the use of the Common Use Facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting

of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(i) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(ii) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(iii) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these

certificates. If a certificate states an assessment has been paid, absent manifest error, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Use Facilities to be maintained.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of

the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

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(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of the meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual

budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

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ARTICLE IX

COMMITTEES

The Developer or the Association shall appoint an Architectural Committee, as provided in the Declaration, and the Board of Directors shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special

assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid when due date, the assessment shall bear interest from the date of delinquency at the highest rate of interest permitted by law, and if the assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property; and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Use Facilities or abandonment of his Lot.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Middleton Homeowners' Association.

ARTICLE XIII

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance for the Common Use Facilities. The Board of Directors shall, to the extent practical, obtain insurance for all of the improvements on the Common Use

Facilities against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full cost of any repair, reconstruction or replacement in the event of damage or destruction from any such hazard. The Board shall also obtain (i) insurance as may be available to cover the indemnification of officers and directors of the Association as provided in these Bylaws with such limits as may reasonably be required by the Association, and (ii) a public liability policy covering all Common Use Facilities and all damage or injury caused by negligence of the Association or its directors, officers or agents, which public liability policy shall be in amounts not less than $500,000.00 for injury, including death, to a single person, $1,000,000.00 for injury or injuries, including death, arising out a single occurrence and $300,000.00 property damage. Premiums for all such insurance shall be a common expense. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association. Each Owner shall be responsible for casualty insurance for all improvements on his Lot and for public liability insurance with respect to his Lot insuring such Owner and his family individually.

Section 2. Damage and Destruction to Common Area. Immediately after damage or destruction by fire or other casualty to all or any part of the Common Use Facilities covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance

and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article XIII, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. Following any damage or destruction to all or a part of the Common Use Facilities covered by such insurance, the Board shall attempt to obtain within ninety (90) days thereof a determination by the affirmative vote of a majority of the Association to repair or reconstruct such damage or destruction. Should the Board fail to obtain such determination for any reason and should there also be a failure of a least eight percent (80%) of the total vote of the Association to vote not to repair, reconstruct or rebuild, then such failure of at least eighty percent (80%) of the total vote of the Association to so vote shall be deemed by the Board to be a determination by the Association to repair, reconstruct or rebuild. No mortgagee shall have any right to participate in the determination as to whether or not the damage or destruction shall be repaired or reconstructed. If the insurance proceeds for such damage or destruction are not sufficient to defray the cost thereof, the Board of Directors shall levy a special assessment against all Owners in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction unless such deficiency can be appropriated from a reserve fund as may have been established for such purpose. Additional assessments may be made at any time during or following the completion of any repair or

reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by the Association together with the insurance proceeds for such damage or destruction, in trust for the benefit of the Owners. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with a certificate of the Association signed by the president or vice-president and attested by the secretary or assistant secretary directing the making of the disbursements. Any proceeds remaining after defraying such costs shall be paid into the common expense fund for the benefit of all Owners. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to the Owners in equal proportions based on the number of Lots owned by each such Owner, and the remains of the Common Use Facilities improvements damaged or destroyed by fire or other casualty shall be razed and the Common Use Facilities left in a clean, orderly, safe and sightly condition.

Section 3. Damage or Destruction to Dwellings. In the event of damage or destruction by fire or other casualty to any dwelling or any Lot or accessory structure and in the further event that the Owner of such Lot elects not to repair or rebuild the damaged or destroyed dwelling or accessory structures on such Owner's Lot, such Owner shall, within thirty (30) days after the date of such damage or destruction, raze the remains of such dwelling or accessory structures and leave such Lot neatly

landscaped, in a clean, orderly, safe and sightly condition. Should such Owner elect to repair or rebuild such dwelling or accessory structures, such Owner shall secure such dwelling or accessory structure, if unoccupied, within ten (10) days after the date of such damage or destruction and repair or rebuild such dwelling or accessory structures to substantially the same condition as existed prior to such fire or other casualty and in accordance with the plans and specifications therefor originally approved by the Architectural Committee pursuant to the Declaration, with any changes being approved by the Architectural Committee. All such work of repair or construction shall be commenced promptly following such damage or destruction, shall be carried through diligently to conclusion, and shall be subject to all of the provisions of the Declaration relating to construction.

ARTICLE XIV

AMENDMENTS

Section 1. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of the votes of a quorum of Members entitled to vote thereon, present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 2. Rules of Order. Except as may be otherwise provided herein, the parliamentary conduct of all meetings of the Board and of the Association shall be conducted substantially in accordance with the most recent edition of Roberts Rules of Order.

Section 3. Severability. Invalidation of any covenant, condition, restriction, provision, sentence, clause, phrase or word contained in these Bylaws, or the application thereof in any circumstances, shall not affect the validity of the remaining portions thereof or the application thereof, which shall remain in full force and effect.

Section 4. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

Section 5. Notices. Any notice required to be sent to the Owner of any Lot pursuant to any provision of the Declaration or these Bylaws shall be served by personal delivery or by depositing such notice in the mails, postage prepaid, regular mail, addressed to an Owner at such address as such Owner may have designated to the Association, or if no other address has been designated then at the address of such Owner's Lot. Such service shall be deemed sufficient, and the date of service shall be the date of mailing.

Section 6. Headings and Captions. The articles and section headings and captions herein are for convenience and reference only and in no way define or limit the scope and content of these Bylaws or in any way affect the provisions hereof.

Section 7. Indemnifications. (a) Under the circumstances prescribed in Article XV, Sections 7(c) and (d) of these Bylaws the Association shall indemnify and hold harmless any person who was or is a party or is threatened to be made a part of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement

actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) Under the circumstances prescribed in Article XV, Sections 7(c) and (d) of these Bylaws, the Association shall indemnify and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor, by reason of the fact he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests

of the Association; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a director, officer, employee or agent of the Association or a corporation as defined in Article XV, Section 7(a) and (b) has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article XV, Sections 7(a) and (b) of these Bylaws, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Except as provided in Article XV, Section 7(c) of these Bylaws and except as may be ordered by a court, any indemnification under Article XV, Section 7(a) and (b) of these Bylaws shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Article XV, Sections 7 (a) and (b) of these Bylaws. Such determination shall, at the option of the Board of

Directors, be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by the firm of independent legal counsel then employed by the Association in a written opinion, or (3) by the affirmative vote of a majority of the members of the Association.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article XV, Section 7.

(f) The indemnification provided by this Article XV, Section 7 shall not be deemed exclusive of any other right to which the persons indemnified hereunder shall be entitled under the laws of the State of Tennessee, and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the heirs, executors or administrators of such persons.

(g) The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was

serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article XV, Section 7.

(h) If any expenses or other amounts are paid by way of indemnification, otherwise than by court order or action of the Members or by an insurance carrier pursuant to insurance maintained by the Association, the Association shall, not later than the next annual meeting of the Members, unless such meeting is held within three months from the date of such payment, and, in any event, within fifteen months from the date of such payment, send by mail to its Members of record at the time entitled to vote for the election of directors, a statement specifying the persons paid, the amounts paid, and the nature and status at the time of such payment of the litigation or threatened litigation.