THIS INSTRUMENT PREPARED BY:
Jerry Butler
5068 Murfreesboro Rd.
Lavergne, TN 37086

BOOK 9943 PG 908

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by **BUTLER BUILDERS, LLC,** hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the **City of Nashville,** County of **Davidson**, State of Tennessee, which is more particularly described as:

All that property located in the **Second Civil District**, on the Plan of **Peninsula Point, Phase One**, a Planned unit Development, described in Plat Book **9700**, Page **98**, Register's Office for **Davidson** County, Tennessee.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, convenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having and right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to **Peninsula Point, Phase One,** it's successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, where one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including improvements

thereto; owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot. BOOK 9943 PG 909

Section 5. "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 Area.

Section 6. "Declarant" shall mean and refer to **BUTLER BUILDERS, LLC**, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

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

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

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separate from

ownership of any Lot which is subject to assessment. page 9943-910

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

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. the Class B members(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The class B membership shall cease and be converted to Class A membership on the happening of either the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) on December 31,1999.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges; and (2) special assessments for capital improvements, such as assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the common

Area.

Section 3. Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the Maximum annual assessment shall be Thirty Five (35.00) Dollars per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five (5%) percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment to an amount not in excess of the maximum.

Section 4. Special assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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

Section 6. Uniform Rate of Assessment. Both annual and special assessments must

be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six (6%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclosure the lien against the purport. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot pursuant to 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. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials

and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant. After the Declarant shall have conveyed title to all Lots, architectural control shall be vested in the Board of Directors or in an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Declarant, Board, or Board's designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it approval will not be required and this article will be deemed to have been fully complied with. Prior to delivery of architectural control to the Board of Directors, the declarant may vary the established building lines, in its sole discretion where not in conflict with applicable zoning regulations.

ARTICLE VI

BUILDING AND USE RESTRICTIONS

1. Except as otherwise provided in this declaration, each Building Site shall be used only as a single family residence and shall be constructed and maintained in accordance with this use. Except as otherwise provided in this declaration the common Area shall be used for recreational, social and other purposes directly related to the health and welfare of the Association's members.

2. The owner(s) of each Building Site shall be responsible for the maintenance of and shall maintain the exterior of their dwelling units in a clean, sanitary and attractive condition. The owner of each Building Site shall keep his dwelling free from rubbish, litter and noxious weeds: maintain cultivate and keep in good condition or repair all shrubs, trees, grasses or other plants, shrubs, trees or landscaping of same or similar type.

3. No sign or billboard of any kind shall be displayed to the public view on any Building Site except for:

(a) directional signs established by Declarant or the Association;

(b) "for sale signs" not exceeding two (2) feet in height and three (3) feet in length for each building site may be placed thereon by the Owner of the particular Building Site for the purpose of advertising the Building Site for sale and contain only the name, address and phone number of the real estate agency or Owner to contact for information concerning the property;

(c) signs advertising garage sales may be posted only on the Building Site of the Owner conducting the garage sale provided the signs are erected no more than three (3) days prior to the date of the garage sale and are immediately removed when the garage sale is completed. Political and/or protest signs are strictly prohibited on the Common Area or any Building Site. Declarant and its successors or assigns retain the right to advertise the properties for sale or lease as long as Declarant owns a Building Site. In addition, during such time as Declarant or its successors or assigns have permitted and is hereby granted an easement for that purpose to place advertising signs upon the Common Area.

(d) The Association or Declarant shall have the right to remove any such unapproved sign, advertisement, billboard or structure that is placed on said Lots and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

4. No incinerators for garbage, trash or other refuse shall be permitted to be erected or placed on any Building Site. Any and all equipment, coolers, woodpiles, garbage cans, refuse or storage piles placed on any Building Site, whether temporary or permanent, shall be concealed from public view, unless otherwise directed by governmental authorities. Plans for all screening walls, fences, and enclosures must be approved by the Declarant as long as Declarant owns a Lot in the development and thereafter by the Board of Directors of the Association or the Architectural committee.

5. No noxious or offensive activity shall be carried on upon any Building Site or any part of the Properties nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners of his respective site or which shall in any way increase the rate of insurance.

6. No animals, reptiles, rodents or livestock of any kind may be used for breeding for sale to the public. No more than two outside pets per household may be kept on any Lot.

7. No towers, antennas or satellite dishes shall be erected and maintained or permitted to be erected and maintained on any Building Site or the Common Area except by installation inside of structures constructed on said Building Site or by underground conduits, unless approved by Declarant as long as Declarant owns a lot. Thereafter, approval must be obtained from the Architectural committee or Board of Directors. All

other types of appliances or installation of solar panels upon the roofs or sides of any dwelling situated upon a Building Site shall be permitted unless prior approval is obtained from the Declarant as long as Declarant owns a lot. Thereafter, approval must be obtained from the Architectural committee or Board of Directors.

8. All rubbish, trash and garbage shall be regularly removed from the properties and shall not be allowed to accumulate thereon. Disabled vehicles and machinery and equipment shall be prohibited upon any Building Site.

9. The restrictions set forth in this Article shall not apply to declarant, its agents or employees during the course of Construction or sale of improvements on the properties to the extent that they would interfere with such Construction or sale.

10. No gainful profession, occupation, trade or other commercial activity shall be conducted or allowed on any Building Site or upon Common Area or any portion thereof, without approval of the Association. Nothing herein shall be deemed to prevent the leasing of any Building Site by the Owner thereof for residential purposes subject to all the provisions of this Declaration.

11. Except for maintenance vehicles, no motorized vehicle will be permitted in the open space, unpaved Common Area.

12. The Board of Directors of the Association shall have the authority and right to establish and enforce reasonable regulations for the maintenance and management authority and right to establish and enforce reasonable regulations for the maintenance and management of the Common Area .

13. The minimum livable area of any single dwelling, exclusive of open porches, terraces, garages, basements, carports, etc., built upon any Lot shall not be less than **800 square feet**.

ARTICLE VIII

ASSESSMENT TO BUILDER/DECLARANT

Neither Declarant nor the builder of a residence on any Lot shall be assessed a full maintenance fee on any Lot until the residence on said Lot shall have been completed for a period of ninety (90) days. All unimproved lots or lots on which construction is in progress prior to the ninety (90) days of completion shall be classified as unimproved lots and shall pay twenty-five (25%) percent of the set maintenance fee established by Article

IV Section 3, of this Declaration. There shall then be two classifications of lots: improved, which are defined as lots on which a residence has been completed for ninety (90) days, and unimproved, which shall include all vacant lots or lots on which construction has not yet been completed for ninety (90) days.

ARTICLE VIII

GENERAL PROVISIONS

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

Section 2. Severalty. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) percent of the Lot owners, and thereafter by an instrument signed by not less then seventy-five (75%) percent of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional land, consisting of 8.08 acres, more or less, being more particularly described in the attached **"Exhibit A"** may be annexed as additional sections or phases of Phase One, Addition to Peninsula Point by the Declarant without the consent of members at any time by the filing of an instrument making such additional land subject to the provisions hereof. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or

the Veterans Administration. Annexation of Additional properties, except as above stated, dedication of the Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Rights of Declarant to maintain a Sales Office. Declarant shall have the right to establish in any building completed on any Lot a sales office with appropriate signs, and such building may continue to be used until the complete sales promotion and sale of all Lots and all residences constructed on the Properties to be sold, has occurred, notwithstanding any other provision of this Declaration.

IX

RIGHTS OF GOVERNMENT

The Association shall not be dissolved nor shall it dispose of the Common Area, by sale or otherwise, except to an organization conceived and established to own and maintain the Common Area, without first offering to dedicate the same to the Government of Davidson County or The City of Nashville and the said dedication be approved by the appropriate Planning Commission.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this the 8th day of February 1996.

Declarant:

Jerry Butler manager

BUTLER BUILDERS, LLC
By: JERRY BUTLER, MANAGER

MAIL ENV.

96 FEB -9 PM 12:11
FELIX E. DAVIDSON, REGISTER
DAVIDSON COUNTY, TN.

IDENTIFICATION REFERENCE
0149158

STATE OF TENNESSEE }

COUNTY OF RUTHERFORD }

Personally appeared before me, the undersigned, a Notary Public in and for the said County and State aforesaid, the within named **JERRY BUTLER**, the bargainor with whom I am personally aquainted and who upon his several oaths acknowledges he executed the within instrument for the purposes therein contained. Witness my hand and official seal this 8th day of February 1996.

Barbara A. Yoder
Notary Public

7-13-98
My commission expires

NOTARY PUBLIC AT LARGE

96 0101 032 FEE 44.00

"EXHIBIT A"

Land Description
Phase 2 Penninsula Point
August 21, 1995

BOOK 9943 PG 918

EAST TRACT

Land in the 2nd. Civil District of Davidson County, Tennessee known as Phase Two Penninsula Point and being more particularly described as follows:

Beginning at the northeast corner of Lot 61 of Phase One Penninsula Point;

Thence, S 72°-31'-11" E, 506.11 feet;
Thence, S 15°-45'-00" E, 405.36 feet;
Thence, S 85°-20'-41" W, 184.96 feet;
Thence, S 85°-47'-52" W, 122.71 feet;
Thence, N 02°-56'-53" W, 195.78 feet;
Thence, N 61°-24'-18" W, 80.98 feet;
Thence, N 72°-53'-01" W, 50.70 feet;
Thence, S 80°-23'-44" W, 50.93 feet;
Thence, N 04°-05'-37" W, 154.50 feet;

Thence, along a curve to the left, an arc of 8.48 feet, said curve having a radius of 426.31 feet, and a chord of S 85°-20'-12" W, 8.48 feet;

Thence, N 05°-13'-59" W, 123.89 feet;
Thence, S 70°-37'-31" W, 40.32 feet;
Thence, N 31°-03'-52" W, 72.46 feet to the Point of Beginning and Containing 3.80 Acres.

WEST TRACT

Beginning at the Northwest corner of Lot 10 of Phase One Penninsula Point;

Thence, S 08°-50'-23" E, 119.19 feet;
Thence, S 81°-09'-37" W, 23.26 feet to the northeast corner of a cemetery;

Thence, along the lines of said cemetery S 89°-40'-52" W, 47.27 feet;

Thence, S 01°-20'-17" E, 127.13 feet;
Thence, N 85°-10'-58" E, 49.69 feet;

Thence, leaving said cemetery, S 08°-50'-23" E, 99.53 feet;

Thence, S 85°-39'-10" W, 204.02 feet;
Thence, S 86°-14'-40" W, 280.77 feet;
Thence, S 86°-47'-51" W, 161.63 feet;
Thence, N 01°-11'-22" E, 617.69 feet;
Thence, N 86°-11'-43" E, 273.59 feet;
Thence, S 80°-02'-41" E, 118.11 feet;
Thence, S 64°-18'-49" E, 161.60 feet;
Thence, S 37°-15'-05" E, 10.00 feet;
Thence, S 30°-38'-44" E, 51.33 feet;
Thence, S 08°-50'-23" E, 113.63 feet;

Thence, N 81°-09'-43" E, 32.06 feet to the Point of Beginning and Containing 8.08 Acres.

FEB 08 '96 16:01 MOE, INC. ENGINEERS

RECORDERS MEMO
LEGIBILITY OF WRITING, TYPING OR PRINTING IN THIS DOCUMENT UNSATISFACTORY WHEN RECEIVED