Karen Johnson Davidson County
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THIS INSTRUMENT PREPARED BY:
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Nashville, TN 37210

DECLARATION OF COVENANTS, CONDTIONS AND RESTRICTIONS FOR HOMES AT THE BRIAR A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

THIS DECLARATION made and entered into by Arty LLC, a Tennessee limited liability company (hereinafter referred to as the "Developer").

WITNESSETH:

WHEREAS, the Developer is the record owner of the legal title of a tract or parcel of real property located in Davidson County, Tennessee, and more particularly described on Exhibit "A" attached and made a part hereof (hereinafter referred to as the "Parcel"); and,

WHEREAS, the Developer desires to and does hereby submit the Parcel described on Exhibit "A" together with all the rest of the Property (as herein defined), and all rights and privileges belonging or in anyway pertaining thereto, to the provisions of the Horizontal Property Act of the State of Tennessee for the express purpose of establishing thereon a horizontal property regime with private elements to be known as Homes at The Briar; and,

WHEREAS, the Developer further desires to establish for their own benefit and for the mutual benefit of all future owners and/or occupants of the Property or any part thereof, certain rights, easements, and privileges in, over and upon the said premises and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

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

1. **Definitions**. As used herein, unless the context otherwise requires:

   (a) "Act" means the Horizontal Property Act of the State of Tennessee, Tennessee Code Annotated, Sections 66-27-101, *et seq.*, as the same may be amended from time to time.

   (b) "Association" means Homes at The Briar HOA, Inc., a Tennessee not-for-profit corporation.

   (c) "Attorney's Certificate." The attorney's opinion as required under the terms of the T.C.A. Section 66-27-103 is attached hereto as Exhibit "D" and made a part hereof.

   (d) "Board" means the Board of Directors of Homes at The Briar HOA, Inc., a Tennessee not-for-profit corporation.

   (e) "Buildings" mean the buildings located on the parcel and forming a part of the property and containing the Units. The buildings are delineated on the Plat attached as Exhibit B.

   (f) "By-Laws" mean the By-Laws of the Homes at The Briar HOA, Inc., attached hereto as Exhibit "C" and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Declaration dealing with the administration and maintenance of the property shall be deemed to be part of the By-Laws.

   (g) "Common Elements" shall mean all of the Property, except the Units and Private Elements.

   (h) "Limited Common Elements" shall mean those portions of the Common Elements designated herein for the exclusive enjoyment, benefit or use of the Unit to which it is assigned.

   (i) "Developer" shall refer to Arty LLC, a Tennessee limited liability company.

(j) "Majority" or "majority of the Unit Owners" means at least fifty-one (51%) percent of the Owners of the Units.

(k) "Declaration" means this instrument as amended from time to time.

(l) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

(m) "Parcel" means the parcel(s) or tract(s) of real estate described on Exhibit "A" attached to this Declaration and submitted hereby to the provisions of the Act.

(n) "Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

(o) "Plat" means the Plat, Plats of survey or site plans of the Parcel submitted to the provisions of the Act showing the location and number of each Unit and the exterior boundary of its Private Elements and other data necessary for identification, said Plat or Plats being attached hereto as Exhibit "B".

(p) "Private Elements" means and includes the area of the Parcel upon which a Unit is located as shown on the Plat for which fee simple ownership and exclusive use is reserved for that Unit only.

(q) "Property" means all the land, property and space comprising the Parcel as defined in Item (m) above, and all improvements and structures erected, constructed or contained therein or thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures, and equipment intended for the mutual use, benefit or enjoyment of Unit Owners, submitted to the provisions of the Act.

(r) "Record" or "Recording" refers to the record or recording in the Register's Office for Davidson County, Tennessee.

(s) "Rules and regulations" refer to the rules and regulations concerning the use of the Units and the Common Elements, as adopted from time to time by the Board in accordance with the Declaration and By-Laws.

(t) "Unit" shall mean a portion of the Property as shown and designated in the Plat for separate ownership and shall include the Private elements and the residence and improvements now and hereafter located hereon. The Units are identified by an alphabetic letter or number (or combination thereof) on the Plat and may be held and conveyed by reference to such letter. Conveyance of a Unit shall automatically convey the undivided membership of each Unit Owner in the Association. Each Unit is assigned a letter as shown on the Plat. Any Unit may be jointly or commonly owned in any state recognized under applicable law. For purposes herein, the term "Unit" shall equate to the same meaning as the term "apartment" in the Horizontal Property Act.

(u) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit, its respective Private Elements, and of the undivided interest in the Common Elements appurtenant thereto, and shall be deemed the same as "co-owner" under the Act. Unless specifically provided otherwise herein, Developer shall be deemed a Unit Owner so long as he is the legal title holder of any Unit.

2. **Submission of the Property to the Act**. The Developer by recording this Declaration does hereby submit and subject the Parcel and the Property to the provisions of the Act and does hereby establish a Horizontal Property Regime with Private Elements to be known as Homes at The Briar.

3. **Plat**. The Plat sets forth the numbers and location of each Unit and other data as required by the Act.

4. **Units**. The legal description of each Unit shall consist of the identifying number of each Unit as shown on the Plat. Every deed, lease, mortgage, deed of trust, or other instrument shall legally describe a Unit by its identifying number as shown on the Plat and every such description by number shall he deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause his Unit to be separated into tracts or parcels different front the whole Unit as shown on the Plat.

5. **Association of Unit Owners and Administration and Operation of the Property.**

(a) There has been formed an Association having the name Homes at The Briar HOA, Inc., a Tennessee not-for-profit corporation, which Association shall be the governing body for all Unit Owners, and shall be operated to provide guidelines for the maintenance, repair, replacement, administration, and operation of the property, as provided in the Act, this Declaration and By-Laws. The Unit Owners shall be members of the Association, with each Unit holding an undivided

membership interest appurtenant to a Unit being in an equal share, subject to the provisions concerning voting hereinafter set forth. The By-Laws for the Association shall be the By-Laws attached to this Declaration as Exhibit "C" and made a part hereof, The Board of Directors of the Association shall be elected and serve in accordance with the provisions of the By-Laws. The fiscal year of the Association shall be deemed to be a calendar year. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and any funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners, in accordance with the provisions of this Declaration and By-Laws. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall automatically succeed to the former Unit Owner's membership in the Association.

(b) Voting Membership.

Class A. Class A members shall be all Unit Owners, with the exception of the Developer, and shall be entitled to one (1) vote for each Unit owned. When more than one person holds any interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any unit.

Class B. The Class B member shall be the Developer and shall be entitled to three (3) votes for each Unit owned. The class B membership shall cease the earlier of (i) when 100% of the Units are sold or three years from the date of the first Unit sold

(c) Management of the Property. The Board shall have the authority to engage the services of an agent (the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board. Said agent shall be required to maintain fidelity bond coverage on its employees handling Association Funds. The cost of said services shall be a common expense.

(d) Initial Management Contract. The first Board, appointed as provided herein, may ratify and approve the Management Agreement between the Developer (if applicable) on behalf of the Association, and a management corporation, to act as Managing Agent for the Property, for a term as approved by the first Board, but not to exceed one year.

(e) Use by the Builder. During the period of sale by the Developer (and or any builders of any Units), the Developer and/or any such builder or their agents, employees, contractors, etc. shall be entitled to access, ingress, egress from the buildings and property as may be required for purposes of sale of the Units.

(f) Non-Liability of the Directors, Board, Officer and Developer. To the maximum extent permitted by law, neither the directors, board, Developer (and its partners), nor officers of the Association shall be personally liable to Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors, Developers or officers, except for any acts or omissions found by a court to constitute gross negligence or fraud. Unit Owners shall indemnify and hold harmless each of the directors, Developer (and its partners), or officers and their respective heirs, executors, members, administrators, successors and assigns in accordance with the Charter of the Association and By-Laws.

6. **Board's Determination Binding.** In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration or the By-Laws, the determination thereof by the Board shall be final and binding on all Unit Owners. If a dispute arises from or relates to these covenants or to the breach thereof, which dispute cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute either by mediation administered by the American Arbitration Association under its Commercial Mediation Rules or by another mediator mutually agreed upon by the parties, before resorting to arbitration. Any unresolved controversy or claim arising from or relating to these restrictions and covenants, or any other dispute under this Declaration, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Mediation Rules or by another arbitrator mutually agreed upon by the parties, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. If the parties agree, a mediator involved in the parties' mediation may be asked to serve as the arbitrator. All expenses in connection with any such mediation and/or arbitration, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the highest rate allowed by applicable law or such other uniform lawful rate as the Board shall determine, until paid, shall be charged to and assessed against such non-prevailing Unit Owner.

7. **Ownership of Interests in the Common Elements.**

(a) Ownership of the Common Elements shall be vested in the Association.
(b) Subject to the provisions concerning voting rights herein above contained, each Unit is hereby allocated an equal percentage ownership in the Association. The percentage of ownership interest shall remain constant unless hereafter changed by recorded amendment to the Declaration consented. Said ownership interest shall be undivided interest, and the undivided interest in the Association shall be owned by the Unit Owners as Tenants in Common in accordance with their respective percentages of ownership. The ownership of a Unit shall not be conveyed separate from the

undivided ownership in the Common Elements appurtenant to such Unit. The undivided interest in Common Elements appurtenant to any Unit shall be deemed conveyed or encumbered with the Unit, even though the legal description in the instrument conveying or encumbering such unit may refer only to the fee title to that Unit

8. **Use of the Common Elements.** Each Unit Owner shall have the right to use the Common Elements (and not the Private Elements) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend not only to each Unit Owner, but also to his agents, servants, tenants, family members, customers, invitees, and licenses. However, each Unit Owner shall have the right to the exclusive use and possession of the Private Elements and Limited Common Elements, and shall be used by such Unit Owner(s) subject to the Rules and Regulations of the Association.

9. **Storage Areas, Driveways and Parking Spaces.** No storage units or areas shall be permitted upon the Property outside any Unit, excepting only those areas under the control of the Developer. Parking areas and/or driveways shall be Common Elements and Limited Common Elements as designated on the Site Plan.

10.

(a) **Common Expenses and Enforcement.** Except as specifically provided otherwise herein, each Unit Owner shall be responsible for paying his equal proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with this Declaration and By-Laws (which expenses are herein sometimes referred to as "Common Expenses"), including, but not limited to, the maintenance and repair of the Property and any and all replacements and additions thereto. The payment of Common Expenses shall be in such amounts and shall be payable at such times as determined in the manner provided in the By-Laws. No Unit Owner shall be exempt from payment of his equal share of the Common Expenses by waiver or nonuse of enjoyment of the Common or Limited Common Elements or by abandonment of his Unit. If any Unit Owner shall fail or refuse to make any such payment for common expenses when due, the remaining Unit Owner may pay said payment and the amount thereof together with interest at the rate of Ten (10%) percent per annum, after said payments become due and payable, shall constitute a lien on the Unit for which benefit the payment is made on behalf of the remaining Unit Owners. Each Unit Owner shall be personally liable for his portion of payments accrued while he is the owner of a Unit, and shall remain personally liable for such payments even after he is not longer the owner of the Unit; however, said personal obligation shall not pass to successors in title unless assumed by them or as required by Tennessee Code Annotated, Section 66-27-101, provided that, any lien encumbering a Unit as above described shall not be affected by transfer of a Unit.

The Developer shall not be required to expend from its own funds any sums of money for maintenance, improvements, or any other expenses of the administration of the Common Elements, and no Unit owned by the Developer shall be assessed for Common Expenses, or otherwise, until such time as construction of such Unit is completed and the Unit is occupied by a tenant of Developer or is sold by the Developer. This paragraph of Section 10(a) may not be modified or amended without the unanimous written consent of all Unit Owners.

(b) **Mortgage and Deed of Trust Protection.** The lien for assessments payable by a Unit Owner shall be subordinate to the lien of a recorded first Mortgage or Deed of Trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the Mortgagee or Beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses its Mortgage or Deed of Trust. This subparagraph shall not be amended, changed, modified, or rescinded without the prior written consent of all Mortgagees and Beneficiaries of records.

(c) **Mortgages and Deeds of Trust.** Each Unit Owner shall have the right, subject to the provisions herein, to mortgage his Unit together with his respective ownership interest in the Association. No Unit Owner shall have the right or authority to mortgage or place a lien on the Property or any part thereof, except to the extent of his own Unit and its appurtenant interest in the Association

11. **Separate Real Estate Taxes.** Real estate taxes shall be separately taxed to each Unit Owner for his Unit and its appurtenant interest in the Association, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective Percentage Interest in the Association, and, in said event, such taxes shall be a common expense

12. **Insurance.** The Board, in its discretion, may obtain insurance for the Common Elements, if applicable, exclusive of the Units, Private Elements and/or Limited Common Elements, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions, for the full insurable replacement cost of the Common Elements, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed the cost of

restoring the Common Elements, or any part thereof, to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board, as the Trustee for the Unit Owner in proportion to the Unit Owners' respective percentages of ownership in the Association, as set forth in this Declaration, and for the holders of mortgages on the Units, if any. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against the Unit Owners. The premiums for such insurance shall be a common expense. If the Board does not obtain insurance for the Common Elements and/or Limited Common Elements, the Unit Owners shall, in proportion to the Unit Owners' respective percentages of ownership in the Common Elements and/or Limited Common Elements, procure insurance against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions, for the full insurable replacement cost of the Common Elements and/or Limited Common Elements.

In the event of damage to or destruction of any Common Elements as a result of fire or other casualty covered by insurance proceeds (unless more than two-thirds (2/3) of all buildings require reconstruction), the Board shall, in its sole and absolute discretion, determine and without intervention of any Unit Owner arrange for the prompt repair and restoration of the damaged portions of all Common Elements substantially in accordance with the original plans and specifications therefore. Where the insurance indemnity is insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners with each Unit Owner to bear an equal proportion thereof. The Board shall not be responsible for the repair, replacement or restoration of any Unit or Private Elements for which the responsibility of maintenance and repair is that of a Unit Owner, or for furniture, furnishings, fixtures, appliances, or equipment installed in the Unit by a Unit Owner or occupant.

The Board may obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workmen's compensation insurance and other liability insurance in such amounts as it deems desirable, insuring each Unit Owner, Mortgagee of Record, the Association, its officers, directors, and employees, Owner, and the Managing Agent, if any, from liability in connection with the Property. The premiums for such insurance shall be a common expense; however, premiums for such insurance shall be separately billed equally to each Unit Owner.

The Board may also obtain Fidelity Coverage covering officers, directors and employees who handle or are responsible for handling Association funds. Such bonds shall be in such amounts as the Board may determine, but in no event less than one hundred fifty percent (150%) of the monthly operating expenses of the Association, and shall contain waivers of any defense based upon the exclusion of persons serving without compensation.

The Board may also obtain such other insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the property and each member of the Board and officer of the Association, and each member of any committee appointed pursuant to the By-Laws of the Association, from liability arising from the fact that said person is or was a director or officer of the Association, or a member of such a committee.

Each Unit Owner shall be responsible for obtaining his own insurance on his Unit, contents of his Unit and the Limited Common Elements serving his Unit, as well as his additions and improvements thereto, and those parts of the Unit for which the responsibility of maintenance and repair is that of the Unit Owner, and for decorations, furnishings, and personal property therein, and personal property stored elsewhere on the Property, if any. In addition, in the event a Unit Owner desires to insure against his personal liability and loss or damage by fire or other hazards above and beyond the extent that his liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owners as part of the common expenses, as above provided, said Unit Owner may, at his option and expense, obtain additional insurance. If requested by the Board, each Unit Owner shall be required to list the Association as an additional insured on said Unit's hazard insurance policy.

13. **Maintenance, Repairs, Replacements, and Easements.** Each Unit Owner, at his own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within and to the exterior of his Unit and its private elements and Limited Common Elements. Except to the extent hereinafter set forth, maintenance of, repairs to and replacements within the General Common Elements shall be the responsibility of and shall be furnished by the Association, and the cost thereof shall be part of the Common Expenses, subject to Item No. 10(a) herein and further subject to the By- laws, and Rules and Regulations of the Association. The expenses for the maintenance, repair, or replacement of a Unit's water heater, furnace, air conditioner, heating and air conditioning ducts, and plumbing and electrical wiring and other items including, but not limited to the Limited Common Elements, serving only such Unit, shall be borne by the Owner of the Unit to which such Limited Common Elements are appurtenant. The Board shall direct Unit Owners who stand to be benefited by maintenance of, repairs to, and replacements to the exterior of said Unit, its private elements and/or within the Limited Common Elements to arrange for such maintenance, repairs and replacements in the name and for the account of such benefited Unit Owners, pay the cost thereof with their own funds, and procure and deliver to the Board such lien waivers and contractor's and subcontractor's sworn statements as may be required to protect the property from all mechanic's or materialmen's lien claims that maintain, repair, or replace the electrical wiring, plumbing, or other utilities of a Unit. Should the benefited Unit Owner fail or refuse to maintain, repair and/or replace, as directed by the Board, the exterior of the benefited Unit, its private elements, and/or within its Limited Common Elements, the Board or any other Unit Owner (or Owners) may cause said maintenance of, repairs to and/or replacements be made to the exterior of said Unit, its Private Elements and/or within its Limited Common Elements, and perfect remedies as recited in

Paragraph No. 18, Remedies, below.

If, due to the act or neglect of a Unit Owner, or of his agent, domestic employee, tenant, family member, invitee, licensee or household pet, damage shall be caused to the Common Elements or Unit or Units owned by others, or maintenance, repairs or replacements are required which would otherwise be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repairs and replacements, to the extent not covered by the Association's insurance.

A joint and mutual easement hereby exists for any installation, maintenance, repair and replacement of any and all pipes, wires, conduits, or other utility lines running through or around any Unit's Private Elements or Common Elements, if applicable. An easement exists for ingress and egress and maintenance in favor of any public utility providing utility services to the apartments and the Units and to each Unit Owner if necessary to maintain their unit by accessing the other Unit's Private Elements. Reasonable notice to access the adjoining Unit's Private Elements shall be given to the affected Unit Owner unless access is required due to emergency circumstances.

The authorized representatives of the Association, Board, or of the Managing Agent with approval of the Board, shall be entitled to reasonable access to the Private Elements as may be required in connection with the preservation of any individual Unit or Limited Common Elements in the event of an emergency, or in connection with maintenance of, repairs to, or replacements within the Common Elements, Limited Common Elements, Private Elements or any equipment, facilities or fixtures affecting or serving other Units, its Private Elements, Common Elements and Limited Common Elements, or to make any alteration required by any governmental authority.

14. **Alterations, Additions or Improvements.** Except as otherwise provided herein, no alteration of any Common Element, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize alterations, additions and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make alterations, additions, or improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements. Any alteration and/or maintenance made by a Unit Owner to the exterior of his Unit shall be in strict conformity to the architectural design and scheme of the Unit as of the date of this instrument unless modified by the unanimous agreement of the Unit Owners.

15. **Decorating.** Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his Unit and Limited Common Elements serving his Unit as may be required from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting, and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings of his Unit and such Unit Owner shall maintain said interior surfaces in good conditions at his sole expense, as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. All windows and screens of a Unit shall be cleaned and washed, and any damage thereto repaired, at the expense of the Unit Owner of that Unit.

16. **Encroachments.** If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.

17. **Use and Occupancy Restrictions.** Subject to the provisions of the By-Laws, no part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed and as allowed by zoning laws. Each Unit shall be used as one single family residence, or such other use permitted by this Declaration, and for no other purpose, except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. There shall be no restrictions on the rights of Unit Owners to lease their Units for residential purposes, subject to the rules set forth by the Association. The foregoing restrictions shall not, however, be constructed in such manner as to prohibit a Unit Owner from: (a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions.

The Common Elements shall be used only by Unit Owners and their agents, domestic employees, tenants, family members, customers, invitees, and licensees for access, ingress to, and egress from the respective Units and for such other purposes incidental to use of the Units. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner. Further, Developer and its contractors, subcontractors, agents, and assigns shall have unrestricted and free access, ingress to, and egress from the Common Elements for the purpose of performing any construction or remodeling on any Unit for which Developer has an ownership or other monetary interest.

18. **Remedies.** In the event of any violation of the provisions of the Act, this Declaration, By Laws, or rules and regulations of the Association by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit), the Association, or its successors or assigns, shall have each and all of the rights and remedies which may be provided for in the Act, this Declaration, By-Laws, or said rules and regulations, or which may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and to sell the same as provided hereinafter in this Paragraph, or for any combination of remedies, or for any other relief. All expenses in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the highest rate allowed by applicable law or such other uniform lawful rate as the Board shall determine, until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for nonpayment of common expenses, upon the Unit, and its appurtenant interest in the Association of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the property; provided, however, that such lien shall be subordinate to the lien of a recorded first mortgage or deed of trust on the Unit, to the extent hereinafter set forth in Paragraph No. 10(b) hereof. In the event of any such default by a Unit Owner, the Board shall have the authority to correct such default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. This Paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of mortgage and deed of trust liens against the Units.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to any other rights provided for in this Declaration: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the property upon which or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) of such Unit Owner's interest in the property and to maintain an action for possession of such Unit in the manner provided by law.

If any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate the Act, or any of the covenants or restrictions or provisions of this Declaration, the By-Laws, or the regulations adopted by the Board, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any ten (10) day period after such written notice or request to cure such violation from the Board, then the Board shall have the power to issue to said defaulting Owner a notice in writing terminating the rights of said defaulting Owner to continue as a Unit Owner and to continue to occupy, use, or control his Unit, and thereupon an action in equity may be filed by the Board against said defaulting Owner for a decree of mandatory injunction against such defaulting Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Owner's right to occupy, use, or control the Unit owned by him on account of said violation, and ordering that all the right, title and interest of said defaulting Owner in the property shall be sold (subject to the lien of any existing deed of trust or mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Owner from reacquiring his interest at such judicial sale, The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees, and all other expenses of the proceeding and sale, and all such items shall be taxes against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder, or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Association, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration.

19. **Amendments.** The provisions of this Declaration may be amended by an instrument in writing, setting forth such amendment, signed by sixty-seven (67%) percent of the Unit Owners; provided, however, that all lien holders of record have been notified by certified mail of such amendment, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument.

However, if the Act, this Declaration, or the By-Laws require the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration, then any instrument amending any provision of this Declaration with respect to such action shall be signed by all Unit Owners and/or all lien holders or both as required by the Act or this Declaration. Any amendment shall be effective upon the recording of such instrument in the Office of the Register of Deeds of Davidson County, Tennessee; provided, however, that no provisions in this Declaration may be amended so as to conflict with the provisions of the Act.

Notwithstanding the above, the Developer shall have the right to make and record any necessary amendment to this instrument for the express purpose of completion of development or correction of clerical errors, or as may be required to obtain FHA/VA, FNMA

and/or FHLMC approval for the horizontal property regime.

20. **Perpetuities and Restraints on Alienation.** If any of the options, privileges, covenants, or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the Governor of Tennessee holding office as of the date of this Declaration.

21. **Rights and Obligations.** Each Unit Owner, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens, and charges, and the jurisdiction, rights, and powers created or reserved by this Declaration. All Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. Any restrictions or rules in the By-Laws which are more than administrative in nature such as, but not limited to, reservations and future rights of Developer are hereby incorporated into and made a part of this Declaration by reference. All rights, benefits and privileges hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

All present and future Unit Owners and Occupants of a Unit shall be subject to, and shall comply with, the provisions of the By-Laws appended hereto and recorded herewith, pursuant to Tennessee Code Annotated, Section 66-27-111, as they may be amended from time to time. The acceptance of a deed of conveyance, devise, or lease to a Unit, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the By-Laws, and any Rules and Regulations promulgated thereunder, as they may be amended from time to time, are assumed, accepted and ratified by such Unit Owner or Occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

The terms and conditions of the Declaration, By-Laws, and rules and regulations of the Association may be incorporated by reference in, and become part of, the agreement between any first mortgagee and any present or future Unit Owner who enters into such an agreement with a first mortgagee. When so incorporated, any default in the terms and conditions of this Declaration, By-Laws, and rules and regulations may be considered by the first mortgagee as a default, whereupon said first mortgagee, after exercising its option to declare a default, shall then have all of the rights and privileges arising as a result of a default under its agreement with said Unit Owner.

22. **Condemnation.** In the event of a taking of part of the Common Elements in condemnation or by eminent domain, the award made for such taking shall be payable to the Association. If a majority of the Board in their sole and absolute discretion approves the repair and restoration of such Common Elements, the Board shall arrange for the repair and restoration of such Common Elements, and the Board shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event the Board does not approve the repair and commence restoration of such Common Elements within one hundred twenty (120) days after taking by the public or private authority the Board shall disburse the net proceeds of such award on the basis of such Unit's percentage of ownership in the Common Elements.

23. **Rights Reserved.** Unit Owner's right of enjoyment in the Common Elements shall be subject to:

(a) The right of the Association, as provided in its By-Laws or rules and regulations, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations;

(b) The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such diminution or dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless both members of the Association have agreed to such dedication, transfer, purpose, or condition;

(c) The right of the Association to grant such easements and rights-of-way to such utility companies or public agencies or authorities it shall deem necessary for the proper servicing and maintenance of the Common Elements and the Units.

(d) The right of the Developer, its successor and assigns, at any time when Developer has an ownership or monetary interest in any Unit, to grant such easements and rights-of-way to such utility companies or public agencies or authorities it shall deem necessary for the proper construction, installation, servicing, and maintenance of the Common Elements, Limited Common Elements, and the Units.

24. **Federal Home Loan Mortgage Corporation and Federal National Mortgage Association Regulations.** Notwithstanding anything to the contrary contained in this Declaration or in the By-Laws of the Association, all terms, conditions, regulations, and

requirements which are now existing, or which may be amended from time to time by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, pertaining to planned unit developments or townhomes, are hereby incorporated as terms and conditions of this Declaration and By-Laws and such shall be governing upon the Property, Developer, and the Association, so long as such terms or conditions are not inconsistent with the Act.

Specifically, without limitation upon the foregoing, the following declarations shall be controlling over any terms of this Declaration or By-Laws which are in conflict therewith. Any portions of this Declaration or By-Laws which are in conflict with this paragraph, or any portion of the regulations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, pertaining to planned unit developments or townhomes, are hereby deleted and the following rights of mortgagees are itemized as follows:

(a) A first mortgagee of a Unit at his request is entitled to written notification from the Association of any default by the mortgagor of such Unit in the performance of such mortgagor's obligations under this Declaration, By-Laws, or any of the planned unit development or townhome documents, which is not cured within thirty (30) days.

(b) Any first mortgagee of a Unit who comes into possession of the Unit pursuant to the remedies provided in the mortgage, or deed of trust, or by foreclosure of the mortgage or deed of trust, or by deed in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata re-allocation of such assessments or charges to all Units including the mortgaged Unit).

(c) Unless all of the first mortgagees (based upon one (1) vote for each mortgage owned) of Units have given their prior written approval, the Association shall not be entitled to:

(i.) Change the pro rata interest or obligations of any Unit for (a) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and for (b) determining the pro rata share of each Unit in the Association; or

(ii.) Use hazard insurance proceeds for losses to the Common Elements for other than the repair, replacement or reconstruction of such improvements, except as provided by T,C.A, Section 66-27-118, in case of substantial loss to the Common Elements.

(d) As set forth in T.C.A. Section 66-27-120, all taxes, assessments, and charges which may become liens prior to the first mortgage under the laws of the State of Tennessee shall relate only to the Unit and not to the Property as a whole.

(e) No Unit Owner, or any other party, shall have priority over any rights of the first Mortgagees of Units in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

(f) Any agreement for professional management of the Property, whether it be by the Developer, its successors and assigns, or any other person or entity, may be terminated on ninety (90) days' written notice, and the terms of any such contract shall so provide and shall not be of a duration in excess of three (3) years.

(g) The Association shall give to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, or any lending institution servicing such mortgages as are acquired or insured by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, notice in writing of any loss to or the taking of Common Elements if such loss or taking exceeds Ten Thousand ($10,000.00) Dollars. The Association may rely upon the information contained in the book entitled "Mortgage of Units" as must be established pursuant to the By-Laws, for a list of mortgagees to be notified hereby.

(h) The interest of a first mortgagee in a mortgaged Unit shall be superior to the interests of any person, group, partnership, corporation, or entity of any kind, including any interest the Association, the Developer, or any Unit Owner may have in any portion of the Property, regardless of the nature of the interest or the manner in which it is acquired.

(i) Notwithstanding the above, any first mortgagee shall have all of the rights granted to a first mortgagee herein, and in addition shall have all of the rights granted to an institutional first mortgagee under its deed of trust, and under the laws of the State of Tennessee.

25. **Trustee as Unit Owner.** In the event title to any Unit is conveyed to a land title-holding trust, under the terms of which all

powers of management, operation, and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder shall be considered Unit Owners for all purposes and they shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this declaration against such Unit. No claim shall he made against any such title-holding trustee personally for payment of any lien or obligation hereunder created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

26. **Additional Rights of Developer Regarding Construction**. Developer hereby reserves certain rights for itself and the general contractor relating to any warranties for the units, perceived or alleged design or construction related defect, or other construction related issue, or relating to improving the operational efficiency and structural integrity of any improvement located on the Condominium Property as set forth in Exhibit E attached hereto.

27. **Notices.** Notices provided for in the Act, Declaration or By-Laws shall be in writing and shall be addressed to the Association, at its address as designated on the Secretary of State's website, or at such other address as hereinafter provided. Notices to any Unit Owner shall be sent to the address of the Unit. The Association may designate a different address or addresses for notices to it by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgement of the receipt thereof.

Upon written request to the Board, the holder of any recorded mortgage or trust deed encumbering any Unit shall he given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners whose Unit is subject to such mortgage or trust deed.

28. **Severability.** If any provision of this Declaration or By-Laws, or any section, sentence, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the By-Laws and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby, and the remainder of this Declaration of the By-Laws shall be construed as if such invalid part was never included therein.

29. **Captions**. The captions herein are inserted only as a matter of convenience, and in no way define, limit or describe the scope of these provisions or the intent of any provision hereof.

30. **Gender**. The use of the masculine gender in this Declaration and in the By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural whenever the context so requires.

31. **Fences**. In no event shall any chain link fences be permitted unless erected by Developer or existing at the time of acquisition of the Property by Developer. Further, no fences whatsoever shall be erected by Unit Owners without the approval of the Board.

IN WITNESS WHEREOF, the Developer has executed this Declaration on this 11th day of February, 2019.

DEVELOPER:

ARTY LLC

By: _____
Ryan Stringfellow, authorized member

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Before me, the undersigned Notary Public, of the state and county aforementioned, personally appeared Ryan Stringfellow, 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 foregoing instrument for the purpose therein contained, and who further acknowledged that he is an authorized agent for Arty LLC, a Tennessee limited liability company, the maker, or a constituent of the maker and is authorized by the maker, or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

Witness my hand and seal, this 11th day of February, 2019.

_____
Notary Public
My Commission Expires: 5/2/2022

TROY STACKHOUSE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires 05-02-2022

EXHIBIT "A"

TO THE DECLARATION
FOR
HOMES AT THE BRIAR
A HORIZONTAL PROPERTY REGIME
WITH PRIVATE ELEMENTS

LEGAL DESCRIPTION

Parcel 1: (1516 Royal Street 051100H00100CO)
Land in Davidson County, Tennessee, being Unit 1, together with common areas, as established by Declaration of Covenants, Conditions and Restrictions for Homes At 1516 Royal Street , a Horizontal Property Regime with Private Elements of record as Instrument No. 20160923-0100748 and being shown on Plat attached thereto as Exhibit "B", in the Register's Office for Davidson County, Tennessee, to which Plan reference is hereby made for a more complete description of the property.

Parcel 2: (1518 Royal Street 051100H00200CO)
Land in Davidson County, Tennessee, being Unit 2, together with common areas, as established by Declaration of Covenants, Conditions and Restrictions for Homes At 1516 Royal Street , a Horizontal Property Regime with Private Elements of record as Instrument No. 20160923-0100748 and being shown on Plat attached thereto as Exhibit "B", in the Register's Office for Davidson County, Tennessee, to which Plan reference is hereby made for a more complete description of the property.

Parcel 3: (0 Royal Street 05110004000)
Land in Davidson County, Tennessee, being Lot No. 30, E.E. Russell's unrecorded Subdivision of Lots Nos. 14, 15, 16 and 17 of the Herbert Anderson Tract, as of record in Book 421, Page 37, Register's Office for said County and described as follows:

Beginning at a point in the Westerly margin of Royal Street, at the corner of Lots Nos. 29 and 30; thence with the line between said lots, Westerly 175 feet to a corner of Lot No. 29, 30, 41 and 42; thence with the line between Lots Nos. 30 and 41, Northerly 100 feet to the corner of Lots Nos. 31, 40 and 41; thence with the line between Lots Nos. 30 and 31, Easterly 175 feet to a point in the Westerly margin of Royal Street; thence with the margin of the same; Southerly 100 feet to the point of beginning.

Parcel 4: (0 Royal Street 05110004100)
Land in Davidson County being Lot No 29 on the unrecorded map of E.E. Russell Subdivision of certain lots of the Herbert Anderson Tract, as follows:

Said Lot No. 29 fronts 100 feet on the west side of Royal Street and runs back between parallel lines along the north margin of Worth Street, 175 feet to a dead line.

Being the same property conveyed to North by Northeast Development, LLC, a Tennessee Limited Liability Company by Warranty deed from Energi Homes, GP, a Tennessee Limited Liability Company of record in Instrument No. 20160808-0082474 Register's Office for Davidson County, Tennessee, dated July 22, 2016 and recorded on August 08, 2016.

Parcel 5: (0 Royal Street 05110004200)
Land in Davidson County, Tennessee, being Lot No. 28 on the unrecorded Map of E. E. Russell's New Subdivision of Lots 14, 15, 16 and 17 of the Herbert Anderson of record in Plat Book 421, Page 37, in the Register's Office for Davidson County, Tennessee.

Lot 28 fronts 100 feet on the Easterly side of Royal Street and runs back between parallel lines with the Northerly margin of Worth Street, 175 feet to a dead line.

Being the same property conveyed to Joe H. Barr, Jr. by Warranty deed from Oakland Commons, a Tennessee partnership composed of C. W. Tidwell, James B. Hardy, Joe Barr, Jr. and Boyd H. Parsons of record in Book 7033, page 928, Register's Office for Davidson County, Tennessee, dated November 4, 1986 and recorded on November 6, 1986.

Being the same property conveyed to Dorothy Pierce, Administrator of the Estate of Kimberly S. Green, Deceased by Quitclaim deed from Joe H. Barr, Jr. of record in Instrument No. 20100125-0006193 Register's Office for Davidson County, Tennessee, dated January 6, 2010 and recorded on January 25, 2010.

Being the same property conveyed to Dorothy Pearce, Guardian of Tyrin Green by Quitclaim deed from Dorothy Pearce, Administrator of the Estate of Kimberly S. Green of record in Instrument No. 20100816-0064555 Register's Office for Davidson County, Tennessee, dated July 30, 2010 and recorded on August 16, 2010.

Being the same property conveyed to Dorothy Pearce as Custodian for Tyrin Xavier-Allen Green, a minor by Quitclaim deed from Dorothy Pierce, Administrator of the Estate of Kimberly S. Green, Deceased of record in Instrument No. 20101103-0088096 Register's Office for Davidson County, Tennessee, dated September 10, 2010 and recorded on November 3, 2010. Order of record at Instrument No. 20161013-0108592

Being the same property conveyed to John Donelson IV, an unmarried man by Warranty deed from Dorothy Pearce, as Custodian for Tyrin Zavier-Allen Green, a minor of record in Instrument No. 20161013-0108593 Register's Office for Davidson County, Tennessee, dated October 12, 2016 and recorded on October 13, 2016.

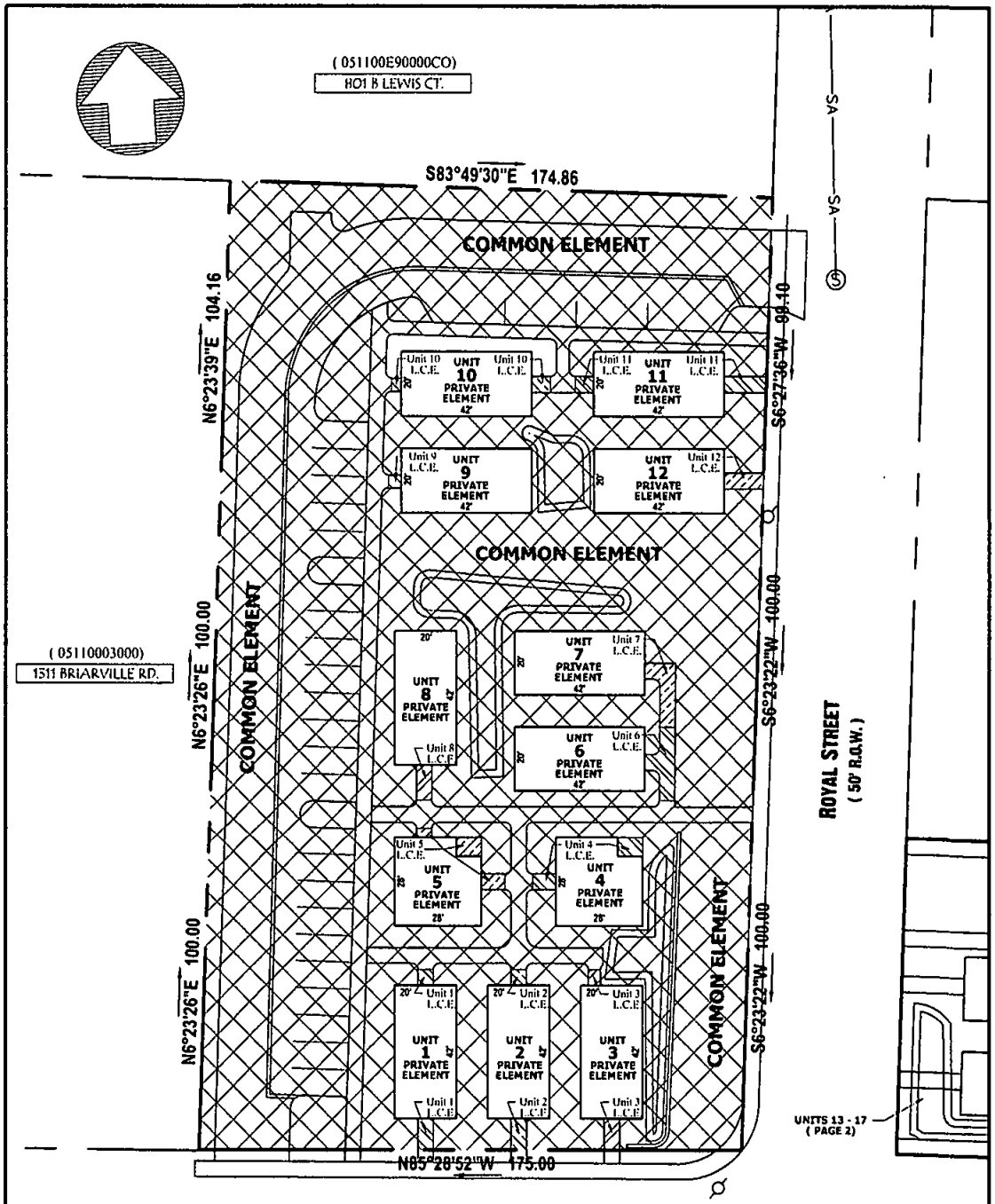
Being the same property conveyed to North by Northeast Development, LLC, LLC, a Tennessee limited liability company by Warranty deed from John Donelson IV, unmarried of record in Instrument No. 20161108-0118348 Register's Office for Davidson County, Tennessee, dated November 07, 2016 and recorded on November 08, 2016.

Being the same property conveyed to Arty, LLC, a Tennessee limited liability company, by Warranty Deed dated October 11, 2018, of record in Instrument No. 20181022-0104664 Register's Office for Davidson County, Tennessee.

EXHIBIT "B"

TO THE DECLARATION
FOR
HOMES AT THE BRIAR,
A HORIZONTAL PROPERTY REGIME
WITH PRIVATE ELEMENTS

(Plat)



(L.C.E. = Limited Common Element)

PAGE 1 OF 2

THIS SURVEY WAS DONE UNDER THE AUTHORITY OF TCA 62-18-126 AND IS NOT A "GENERAL PROPERTY SURVEY" AS DEFINED UNDER RULE 0820-3-07. THE INFORMATION SHOWN ON THIS EXHIBIT WAS DERIVED FROM RECORDED DEEDS, PLATS, AND FIELD MEASUREMENTS. SAID PROPERTY IS SUBJECT TO ANY FINDINGS OF AN ACCURATE TITLE SEARCH. NO TITLE WORK WAS FURNISHED TO THE SURVEYOR PRIOR TO THIS EXHIBIT. THIS EXHIBIT IS NOT INTENDED TO BE A BOUNDARY SURVEY OF THE PROPERTY SHOWN HEREON.

JASON A. GARRETT REGISTERED LAND SURVEYOR TENNESSEE NO. 2861

Jason Garrett 2-1-2019

EXHIBIT 'B' - Units 1 - 12
Royal and Worth St.
MADISON, TENNESSEE

Metro Parcel ID: (05110004100)

GRAPHIC SCALE (IN FEET)

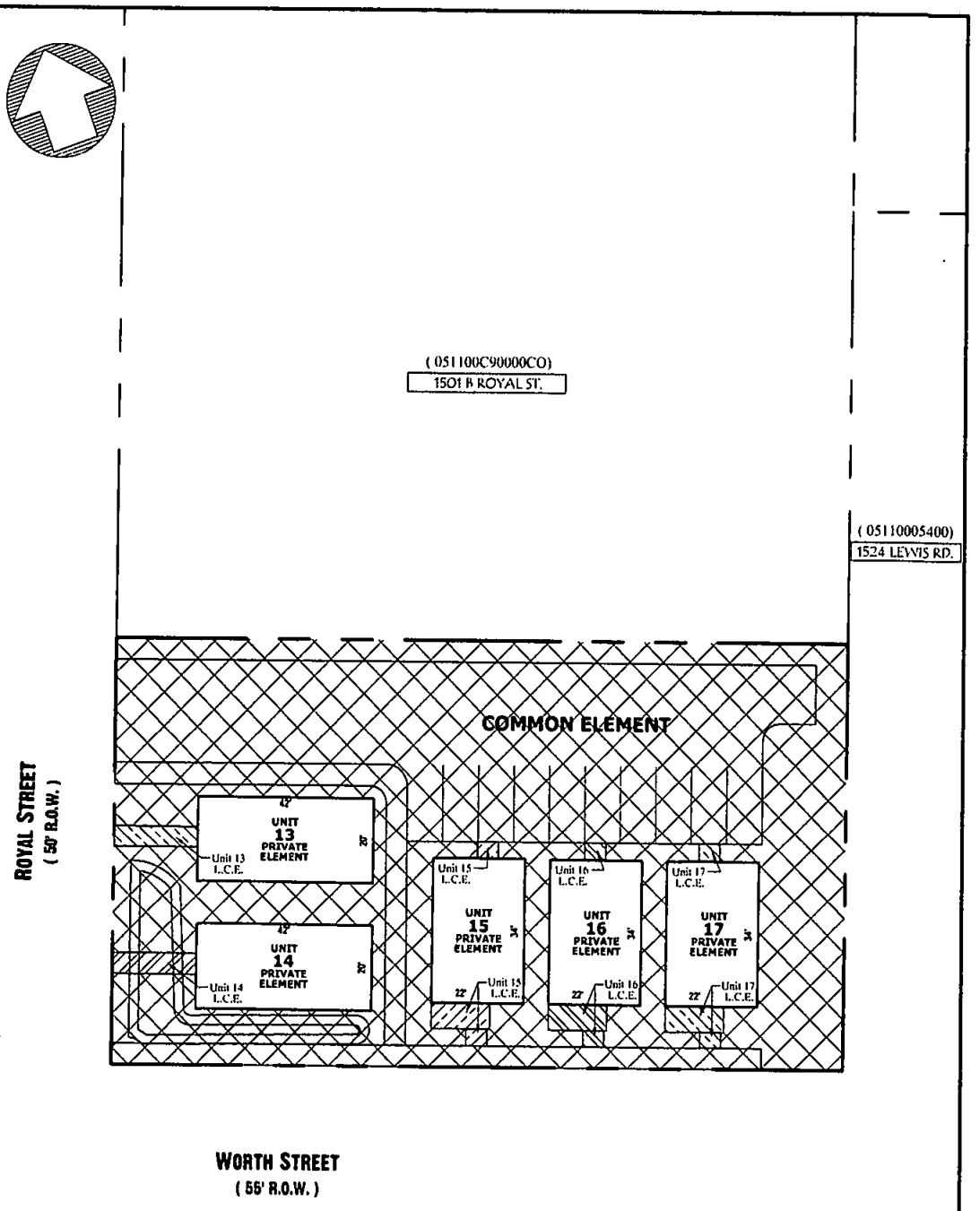
40 0 20 40 80

1 inch = 40 ft.

CLINT ELLIOTT SURVEY

1711 Hayes Street
Nashville, TN 37203

clintelliottsurvey.com
(615) 490-3236



(L.C.E. = Limited Common Element)

PAGE 2 OF 2

THIS SURVEY WAS DONE UNDER THE AUTHORITY OF TCA 62-18-126 AND IS NOT A "GENERAL PROPERTY SURVEY" AS DEFINED UNDER RULE 0820-3-07. THE INFORMATION SHOWN ON THIS EXHIBIT WAS DERIVED FROM RECORDED DEEDS, PLATS, AND FIELD MEASUREMENTS. SAID PROPERTY IS SUBJECT TO ANY FINDINGS OF AN ACCURATE TITLE SEARCH. NO TITLE WORK WAS FURNISHED TO THE SURVEYOR PRIOR TO THIS EXHIBIT. THIS EXHIBIT IS NOT INTENDED TO BE A BOUNDARY SURVEY OF THE PROPERTY SHOWN HEREON.

JASON A. GARRETT
REGISTERED LAND SURVEYOR
TENNESSEE NO. 2861
Jason Garrett
2-7-2019

GRAPHIC SCALE (IN FEET)
30 0 15 30 60
1 inch = 30 ft.

EXHIBIT 'B' - Units 13 -17
Royal and Worth St.
MADISON, TENNESSEE
Metro Parcel ID: (05110004200)

CLINT ELLIOTT SURVEY
1711 Hayes Street
Nashville, TN 37203
clintelliottsurvey.com
(615) 490-3236

EXHIBIT "C"

TO THE DECLARATION

FOR

HOMES AT THE BRIAR,
A HORIZONTAL PROPERTY REGIME
WITH PRIVATE ELEMENTS

BY-LAWS OF HOMES AT THE BRIAR HOA, INC.

BY-LAWS

OF

HOMES AT THE BRIAR HOA, INC.

ARTICLE I

Association of Unit Members

Section 1. Eligibility. The Members of Homes at The Briar HOA, Inc., a Tennessee not-for-profit corporation, shall consist of the Unit Owners of the Property known as Homes at The Briar, and located in Nashville, Tennessee (the "Property"). If a Unit Owner is a trust, then the member shall be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, the member may be an officer, partner or employee of such Unit Owner or beneficiary.

Section 2. Secession. The membership of each Unit Owner shall terminate when he ceases to be Unit Owner, and upon the sale, transfer or other disposition of his ownership interest in the Property, his membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest.

Section 3. Meetings. The first regular meeting of the Unit Owners (the "First Meeting") may be held, subject to the terms hereof on any date, at the option of the Board. All such meetings of Unit Owners shall be held at such place in Davidson County, Tennessee, and at such time as specified in the written notice of such meeting which shall be delivered to all Unit Owners at least ten (10) days prior to the date of the meeting.

Section 4. Special Meetings. Special meetings of Unit Owners may be called by a majority of the Unit Owners. Special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days prior to the date of the meeting, starting the date, time and place of the special meeting and the matters to be considered.

Section 5. Delivery of Notice of Meetings. Notices of meeting shall be delivered either personally or by mail or other carrier to Unit Owners at the addresses given to the Board by Unit Owners for such purpose, or to a Unit Owner's unit if no separate address for such purpose has been given to the Board.

Section 6. Voting. Each Unit shall have one (1) vote, except the Developer, which shall have three (3) votes for each Unit it owns. If any Unit Owner consists of more than one (1) person, the voting rights of such Unit Owner shall not be divided, but shall be exercised as if the Unit Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Unit Owner.

No Unit Owner who is in default in the payment of his assessments hereunder shall be entitled to exercise his right to vote until he has cured such default. A Unit Owner shall be deemed to be in default if he has not paid his assessments to the Board, its agent, or a paying Unit Owner within fifteen (15) days after the due date thereof. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of his protest to the Board.

Section 7. Quorum. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding a majority of the votes entitled to be cast at such meeting.

ARTICLE II

Board of Directors

Section 1. Number, Election and Term of Office. The affairs of the Association shall be governed by a board of directors (the "Board of Directors" or the "Board", referred to in the Horizontal Property Act of the State of Tennessee as the "board of administrators") composed of two (2) members (hereinafter referred to as "Directors"). Every Director shall hold office for a term of three (3) years and until his successor shall be elected and qualified. Notwithstanding the foregoing, in the event that a member, partner, owner or employee of Developer sits on the Board of Directors, such Director position(s) shall be automatically vacated at the time the Developer no longer owns any Units. At such time, the Unit Owners shall designate replacement Director(s). This automatic removal of a member, owner or employee of Developer shall take effect the date of the closing(s) that divest Developer of all ownership interest in the Units, and shall relieve Developer, and such member, owner or employee of Developer, of any further rights or obligations as a Director (and the removed Director in this instance shall be held harmless for the immediate vacancy).

Section 2. Qualifications. The Directors shall consist of each Unit Owner or spouse of each Unit Owner. Should any Unit Owner Director transfer title to his or her Unit, the respective successor Unit Owner shall assume the transferor's position as Director. If a director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

Section 3. Vacancies. Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director whom he succeeds.

Section 4. Meetings. A regular annual meeting of the Board shall be held following the regular annual meeting of Unit Owners. Special meetings of the Board shall be held upon call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice in writing to each Director, delivered personally or by mail or telegram. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting.

Section 5. Removal. Any non-Unit Owner Director may be removed from office with or without cause by the vote of a majority of the Unit Owners.

Section 6. Compensation. Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by Unit Owners.

Section 7. Quorum. A simple majority of Directors shall constitute a quorum.

Section 8. Powers and Duties. The Board shall have the following powers and duties:

a) To elect and remove the officers of the Association;

b) To administer the affairs of the Association and the Property;

c) To engage the services of an agent (hereinafter sometimes called the 'Managing Agent") to maintain, repair, replace, administer, and operate the Property or any part thereof for all Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve;

d) To formulate policies for the administration, management and operation of the Property and the Common Elements;

e) To adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time and to establish reasonable financial assessments for infractions thereof;

f) To provide for the maintenance, repair, and replacement of the Common Elements and payments therefore, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent.

g) To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management, and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

h) To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

i) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

j) To fix the estimated annual budget, and to provide the manner of assessing and collecting from Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

k) To borrow money for the purpose of repair or restoration of Common Elements without the approval of the members of the Association;

l) To secure insurance policies as required by the Declaration, and in this regard, annually to review the amounts of coverage afforded by such policies;

m) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of Unit Owners as expressed in resolutions duly adopted at any annual or special meeting of Unit Owners;

n) To be responsible for and maintain all streets, roads, utilities, and any other services of a public nature that are classified as Common Elements in the Declaration; and

o) To exercise all other powers and duties of Unit Owners as a group referred to in the Horizontal Property Act of the State of Tennessee or in the Declaration or these By-Laws.

Section 9. Power to Take Any Action. Whenever in these By-Laws the Association is given the power to take any action, it is the intention of these By-Laws that the Board shall act for the Association in all cases, except and to the extent that it is expressly provided that action be taken upon vote of the Unit Owners.

Section 10. Non-Delegation. Nothing in these By-Laws shall be considered to grant to the Board, the Association, or to the officers of the Association, any powers or duties which, by law, have been delegated to Unit Owners

ARTICLE III

Officers

Section 1. Designation. The principal officers of the Association shall be a President and a Secretary/Treasurer, both of whom shall be elected by and from the Board of Directors, provided, however, that no one person shall serve as both President and Secretary simultaneously. In the event that a member, owner or employee of Developer holds officer position(s), such officer position(s) shall be automatically vacated at the time the Developer no longer owns any Units. At such time, the Unit Owners shall designate replacement officer(s), it being understood that a member, owner or employee of Developer may no longer hold any officer position if Developer no longer owns any Units. This automatic removal of a member, owner or employee of Developer shall take effect that date of the closing(s) that divest Developer of all ownership interest in the Units, and shall relieve Developer, and such member, owner or employee of Developer, of any further rights or obligations as an officer.

Section 2. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties that are usually vested in the office of president of an association.

Section 3. Secretary/Treasurer. The Secretary/Treasurer shall attend and keep the minutes of all meetings of the Board of Directors or of the Association; shall give all notices as provided by these By-Laws; shall have the responsibility for Association funds and securities; shall be responsible for keeping full and accurate accounts of all receipts of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors; and shall have other powers and duties as may be incidental to the office of Secretary/Treasurer, given him by these By-Laws or assigned to him from time to time by the Board of Directors.

Section 3. Terms of Office. Except as otherwise provided in Section 1 of this Article, each officer shall hold office for the term of one (1) year and until his successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the members thereof at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by vote of two-thirds (2/3) of the total membership of the Board at a special meeting thereof.

Section 5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Unit Owners.

ARTICLE IV

Assessments

Section 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including, but not

limited to, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, and all other common expenses.

Section 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner. Each Unit Owner shall pay his respective share of the common expenses in such intervals as the Board determines. The proportionate share for each Unit Owner shall be based upon his respective ownership interest in the Association as set forth in the Declaration.

Section 3. Lien. It shall be the duty of every Unit Owner to pay his proportionate share of the common expenses as provided in the Declaration, and as assessed in the manner herein provided.

If any Unit Owner shall fail or refuse to make any such payment of assessments when due, such delinquent payment shall be subject to a late charge in an amount established by the Board, and such delinquent payment shall also bear interest at the highest rate allowed by applicable law. Such delinquent payment, together with penalty and interest, shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit Owner in the Property.

The Association, or its successors and assigns, acting through the Board of its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with legal interest and reasonable attorney's fees. The Association, acting through the Board, shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Declaration, or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

The Board may cause the Association to discharge any mechanic's lien or other encumbrances which in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorney's fees, incurred by reason of such lien.

ARTICLE V

Use and Occupancy Restrictions

Section 1. General. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board cause unreasonable noise or disturbance to others.

Each Unit Owner shall maintain his Unit and its Private Elements in good condition and in good order and repair, at his own expense, and shall not do or allow anything to be done which may increase the cost or cause the cancellation of insurance on other Units or on the Common Elements.

No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry, or other articles outside such Owner's Unit, or which may be visible from the outside of such Owner's Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of such Owner's Unit, or install outside such Owner's Unit any canopy or awning, or outside radio or television antenna, or Citizens Band radio transmitters, neon signs, or other equipment, fixtures or items of any kind, without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion. The foregoing restrictions as to use and occupancy shall not be construed to prohibit a Unit Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a patio or deck which is a Private Element. No owner of a Unit shall display, hang, store or use any signs or flags outside such Owner's Unit or which may be visible from the outside of such Owner's Unit (except for special event or sports flags for no longer than twenty-four (24) hours at a time) without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion. So long as the Developer owns any Units, the Developer shall not require Board approval for signage it deems necessary for the marketing of the project.

No structure of a temporary character, trailer, motor home, boat, tent, shack, garage, barn, or other out-buildings shall be permitted on the Property at any time, temporarily or permanently, except with the prior written consent of the Board; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the Buildings or any portion thereof.

Section 2. Maintenance and Repair.

(a) Every Unit Owner must perform promptly all maintenance and repair work to his Unit that, if omitted, would affect the Property in its entirety or a part belonging to other Unit Owners, and is responsible for the damages and liabilities that his failure to do so may cause.

(b) All the repairs of internal installations of a Unit such as water, light, power, sewage, telephone and sanitary installations, lamps and all other accessories belonging to the Unit shall be maintained at the Unit Owner's expense.

(c) A Unit Owner shall reimburse the Association for any expenditure incurred in repairing or replacing any Common Elements damaged through the Unit Owner's fault, together with a fee equal to twenty percent (20%) of the cost of any such repair or replacement.

Section 3. Use of Units. All units shall be used in accordance with the provisions of the By-Laws, the Declaration and the Rules and Regulations.

Section 4. Leases. All leases or rental agreements for Units shall be in writing and must be specifically subject to the Declaration and By-laws. A copy of every such lease, as and when executed, shall be furnished to the Board. No Unit may be leased or rented for a period of less than six (6) months, unless it is as a post-occupancy agreement tied to the binding sale of a Unit (and is approved by the Board after review of the contract for sale of said Unit). The lessee under every such lease shall be bound by and subject to all of the obligations under the Declaration and By-Laws, of Unit Owner making such lease and the lease shall expressly so provide. Any Unit Owner making such lease shall not be relieved thereby from any of said obligations. The Board shall have all the authority in its sole discretion to require at any time that any Unit Owner who is leasing his Unit, place on deposit with the Board such sums as the Board may require and determine to be used as an indemnity against loss or damage to the Common Elements which might be caused by such Unit Owner's lessee. The terms of the indemnity shall be such terms as might be satisfactory to the Board. The Board shall furnish Unit Owner a notice in writing which shall constitute that Unit Owner's notice to make such deposit. In the event Unit Owner fails to comply with the terms of the notice within ten (10) days from the date the notice is mailed to him, the Board at its option may elect to terminate the subject lease. The Board shall give Unit Owner and his lessee notice of such election in writing.

Section 5. Animals. No animals shall be raised, bred, or kept in any Unit, except for dogs, household cats and small birds owned as household pets by a Unit Owner, provided that said pet is not kept for any commercial purpose, and provided that said pet shall be kept in strict accordance with the administrative rules and regulations relating to household pets from time to time adopted or approved by the Board.

All dogs owned by Unit Owners and kept in a Unit shall be on leash while outside the Unit, except that any Unit Owner may keep a dog in his fenced yard (if a fence is permitted by the Board). All such dogs shall be exercised by the Unit Owner at places on the Property which do not interfere with the use and enjoyment of the same by other Owners. An Owner shall be responsible for all damage to Common Areas caused by said Owner's dog and the Owner shall clean up after such Owner's dog. Aside from the leash requirements, the same general rules that apply to dogs shall apply to household cats, with the intention that cats are not left outside to roam in a manner that will interfere with other Unit Owners' use and enjoyment of their Unit, Limited Common Areas, and Common Areas.

Section 6. Trash. Trash, garbage, and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

Section 7. Use by Developer. During the period of sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of said sale of Units. While the Developer owns any of the Units and until each unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

Section 8. Storage. Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing, and other articles, shall not be stored or kept in the Common Elements. Storage of boats, trailers, campers, and motor homes on the Property shall not be permitted.

Section 9. Wiring. No Unit Owner shall overload the electrical wiring in a Building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior written consent of the Board or the prior written consent of the Managing Agent, given in accord with the Board's discretion.

Section 10. Architectural Control. The exterior of the Units shall not be altered or changed in any way without the written consent of the Board. The exterior of the Units contemplates, but is not necessarily limited to, paint color, materials, windows, doors,

blinds or window treatments visible from the sidewalks servicing the front of the units, and landscaping. There shall be more flexibility in exterior paint colors for detached units than for attached units.

Section 8. Patios. All patios and decks shall be maintained by the Owner to which area is assigned and shall be designated as a Private Element.

Section 9. Landscaping. Landscaping shall be maintained by the applicable Unit Owner and shall be weeded and mulched as necessary in order to maintain appropriate curb appeal for this type of development. In the event a Unit Owner does not maintain the landscaped area the Board shall have the right to maintain the same and charge the applicable Unit Owner for said maintenance.

Section 10. Fencing. No fencing shall be allowed other than fencing installed by the Developer or as approved by the Board.

Section 11. Parking. Parking shall be in the areas so designated to each Unit as prescribed herein and subject to rules and regulations of the Board.

Section 12. Single Family Residence. Each unit shall be used as one single family residence only.

Section 13. Rules and Regulations. Unit Owners shall be subject to such further restrictions as may be contained in the rules and regulations of the Association concerning the use of Units and the Common Elements which may be enacted from time to time by the Board. Such rules and regulations shall be binding rules and regulations of the Association and copies of such rules and regulations and any amendments or additions thereto shall be furnished to all Unit Owners upon request.

ARTICLE VI

Amendments

These By-Laws may be amended, modified or revoked in the same manner as the Declaration, PROVIDED, HOWEVER, that the contents of these By-Laws shall always contain those particulars that are required to be contained herein by the Act; and PROVIDED, FURTHER, that no modifications of or amendment to these By-Laws shall be valid unless set forth in an amendment to the Declaration.

ARTICLE VII

Indemnification

Section 1. General. To the extent permitted by law, the Association shall indemnify and hold harmless each of its Directors and officers, each member of any committee appointed pursuant to these By-Laws, and the Board and Developer, against all contractual and other liabilities to others arising out of contracts made by, or other acts of such Directors, officers, Board, committee members or Developer on behalf of Unit Owners, or arising out of their status as Directors, officers, committee members, or Developer unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative or otherwise, in which any such Director, officer, Board, committee member or Developer may be involved by virtue of such person's being or having been such Director, officer, Board, committee member or Developer, provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such Director, officer, Board, committee member or Developer, or (b) any matter settled or comprised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there are not reasonable grounds for such person's being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, officer, Board, committee member or Developer.

Section 2. Success on Merits. To the extent that a member of the Board, or an officer of the Association, or a member of any committee appointed pursuant to these By-Laws, or Developer, has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

Section 3. Advance Payment. 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 in the specific case upon receipt of an undertaking by or on behalf of the persons or entity seeking such indemnification or payment in advance 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.

Section 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article; provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the Directors, officers, or members of such committees, or out of the aforesaid indemnity in favor of the Directors, officers, or members of such committees, shall be limited to such proportion of the total liability hereunder as said Unit Owner's percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. Every agreement made by the Directors, officers, or members of such committees, or by the Managing Agent on behalf of Unit Owners shall provide that the Directors, officers, members of such committees, or the Managing Agent, as the case may be, are acting only as agents for Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association, or disinterested members of the Board or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be a member of the Board, officer of the Association, or member of such committee, and shall inure to the benefit of their heirs, executors, administrators, successors and assigns of such person or entity.

ARTICLE VIII

Deeds of Trust and Mortgages

Any holder, insurer or guarantor of a deed of trust or mortgage with respect to a Unit may file a copy of such instrument with the Board through the Secretary, or otherwise identify to the Board through the Secretary, or otherwise identify to the Board through the Secretary the name and address of such older, insurer or guarantor and the number or address of the corresponding Unit, and the Board through the Secretary shall be required to notify such holder or mortgagee of:

(1) Any condemnation loss or any casualty loss that affects a material portion of the Property or the Unit covered by such mortgage or deed of trust;

(2) Any delinquency in the payment of expenses or charges owed relating to the Unit that is covered by such mortgage or deed of trust that remains uncured for sixty (60) days, and that the holder or mortgagee may, at its option, pay such delinquent expenses;

(3) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(4) Any proposed action that would require the consent of a specified percentage of deed of trust or mortgage lien holders.

Any holder of a deed of trust or mortgage with respect to a Unit or any insurer or guarantor of such mortgage or deed of trust may, upon written request to the Board through the Secretary, receive a copy of the Association's financial statement for the immediately preceding fiscal year.

ARTICLE IX

Books and Records

Current copies of the Declaration, these By-Laws, other rules and regulations concerning the Property, and the books, records and financial statements of the Association shall be available for inspection by any Unit Owner or by any holder, guarantor or insurer of any first mortgage or deed of trust covering a Unit at the principal office of the Association. For purposes of this paragraph, "available" shall mean available for inspection, upon request, during normal business hours. Copies may be purchased by such persons at reasonable cost, to be established from time to time by the Board.

ARTICLE X

Definition of Terms

The terms used in these By-Laws, to the extent they are defined therein, shall have the same meaning as set forth in the Declaration for Homes at The Briar, of record in the Office of the Register of Davidson County, Tennessee.

The term "member" as used in these By-Laws, means "Unit Owner" as defined in the Declaration.

ARTICLE XI

Conflicts

These By-Laws are set forth to comply with the requirements of the Act, as it may be amended from time to time, and to allow the By-Laws to control in specific situations where such law allows. In the event any of the By-Laws conflict with the provisions of the Act or of the Declaration, the provisions of the Act or of the Declaration, as the case may be, shall control.

ARTICLE XII

Contractual Powers

No contract or other transaction between this Association and one (1) or more of its Directors, or between the Association and any corporation, firm or association in which one (1) or more of the Directors of the Association are Directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

a) The fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Director or Directors; or

b) The contract or transaction is just and reasonable as to the Association at the time it is authorized or approved.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

EXHIBIT "D"

TO THE DECLARATION

FOR

HOMES AT THE BRIAR

Attorney's Opinion

Pursuant to the requirements of Tennessee Code Annotated, Section 66-27-103, the undersigned, Ryan Stringfellow, an attorney licensed to practice law in the State of Tennessee, hereby declares that, upon the recording of the Declaration to which this certificate is attached, and the Charter of the Homes at The Briar HOA, Inc., there will be substantial compliance of all legal requirements for the creation of a planned unit development pursuant to the provisions of Tennessee Code Annotated, Section 66-27-101, et seq., known as Homes at The Briar. The required documents are as follows:

(1) Declaration of Covenants, Conditions and Restrictions for Homes at The Briar HOA, Inc., a horizontal property regime with private elements;

(2) Site Plan for Homes at The Briar HOA, Inc., showing private and common elements, appended thereto as Exhibit "B"; and

(3) By-Laws of Homes at The Briar HOA, Inc., appended thereto as Exhibit "C";

(4) Charter of Homes at The Briar HOA, Inc., filed or to be filed in the office of the Secretary of State and to be recorded in the Register's Office for Davidson County, Tennessee.

This opinion is subject to the terms and conditions of the above referenced documents and to all applicable government ordinances and regulations.

This 11th day of February, 2019.

Ryan Stringfellow, Attorney at Law

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public in and for said county and state, the within named Ryan Stringfellow, Attorney at Law, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand in Nashville, Tennessee, this 11th day of February, 2019.

Notary Public at Large

My commission expires: 5/2/2022

TROY STACKHOUSE
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
My Commission Expires 05-02-2022

EXHIBIT "E"

TO THE DECLARATION

FOR

HOMES AT THE BRIAR

Additional Rights of Developer Regarding Construction

Notwithstanding any other terms to the contrary within the above Declaration, the following terms and conditions are hereby incorporated into the terms of the Declaration by this reference and shall control over any other inconsistent terms set forth therein. This Exhibit E may not be modified or amended without the unanimous written consent of all Unit Owners. Unless otherwise defined below, all capitalized terms shall have the meaning ascribed to them in the Declaration and the Act. If any provision of this Exhibit is held invalid, the validity of the remainder of this Exhibit and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby, and the remainder of this Exhibit shall be construed as if such invalid part was never included therein.

ARTICLE I

Easement to Inspect and Right to Correct

A. Easement and Right of Entry

Developer reserves for itself, its General Contractor and such other persons as each may designate, perpetual, non-exclusive easements and right of entry throughout the Property to the extent reasonably necessary for the purposes of access, inspecting, testing, redesigning, correcting, modifying or improving any portion of the Property, including the Common Elements and the Limited Common Elements. Pursuant to this Section and any express warranty provided by either party, Developer and General Contractor shall have the unilateral right (but not necessarily the obligation), at any time, to redesign, correct, modify or improve any part of the Property, including the Units, the Common Elements and the Limited Common Elements, to the extent reasonably necessary to correct any design defect, construction-related defect or other construction-related problem, to improve the operational efficiency and structural integrity of any improvement located on the Property, and to otherwise provide a superior or enhanced housing product within the Property.

Entry onto the Common Elements and any improvements and structures thereon may be made by Developer or General Contractor at any time with advance notice to the Association, except in the case of an emergency. Entry into a Unit and/or upon Limited Common Elements shall be governed by the one-year builder's warranty provided to Unit Owners upon purchase of a Unit (the "General Contractor Limited Warranty"); however, notice shall not be required for entry onto a Limited Common Element in the event of an emergency.

B. Notice Requirement

Upon notice, observation, or suspicion of a design defect, construction-related defect or other construction-related problem in connection with the Common Elements, the Association immediately shall notify General Contractor of such issue in writing and, in the case of a condition posing an imminent threat of damage to person or property, telephonically. Upon such notice, Developer or General Contractor shall have the right (but not necessarily the obligation) to come onto the Property to observe the defect or problem and unilaterally to undertake any corrective measures that it deems appropriate without the additional consent or participation of the Association. The rights of notice, inspection and correction granted to Developer and General Contractor pursuant to this Section shall be provided by the Association and any affected Unit Owner prior to the Association and any affected Unit Owner consulting with, hiring or retaining, in any capacity whatsoever, any third party to examine, correct, repair or improve any design defect, construction-related defect or other construction-related problem with the Property or any Common Element. Issues with any Unit or Limited Common Element shall be governed solely by the General Contractor Limited Warranty.

Failure by the Association or any Unit Owner to provide Developer or General Contractor, as applicable, with the above described notice, inspection and cure rights granted to it by this subsection B, automatically shall constitute an absolute and unconditional waiver of any legal claim or other claim or remedy whatsoever, including any warranty claims and any right to file a claim in arbitration, that the Association or the Unit Owner(s) otherwise may have regarding such defect or problem absent such waiver.

C. Damage

Any damage to the Property, a Unit, the Limited Common Elements or the Common Elements resulting from the exercise of the easement and right of entry described in the above subsection A of this Section promptly shall be repaired by, and at the expense of, the party that caused the damage; provided, however, the obligation to repair shall be limited to restoring the affected area to the same approximate condition and state of repair which existed prior to the undertaking of the work permitted by this easement and after taking into account the nature of any corrective work or improvement so performed by Developer or General Contractor pursuant to this Section.

D. No Implied Warranty and Enforcement; Waivers and Damage Limitations

THE TERMS OF THIS SECTION SHALL NOT BE DEEMED TO PROVIDE ANY IMPLIED OR EXPRESS WARRANTY RIGHTS WHATSOEVER BY DEVELOPER AND GENERAL CONTRACTOR TO THE ASSOCIATION OR ANY OWNER, AND DEVELOPER AND GENERAL CONTRACTOR EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE FULLEST EXTENT PERMITTED BY LAW. Developer and General Contractor may seek enforcement of the rights afforded to each of them under this Section by filing an action at law or in equity, including specifically the remedy of specific performance, in the appropriate court of competent jurisdiction in the State of Tennessee and notwithstanding to the contrary any arbitration provision set forth in this Declaration or any other instrument whatsoever.

By purchasing a Unit, each Unit Owner is receiving the General Contractor Limited Warranty as the sole and exclusive warranty related to the Property, the Units, and the Limited Common Elements or the Common Elements. The General Contractor Limited Warranty is in lieu of any and all other warranties arising from or relating to the Property, the Units, the Limited Common Elements or the Common Elements, express or implied, including, without limitation, warranties of merchantability, fitness for a particular purpose, or habitability, all of which are disclaimed by the Developer and General Contractor, and waived by the Unit Owners. All statutory provisions, including, but not limited to, all warranties implied by federal or state law are expressly waived by the Unit Owners and the Association. The statutory limitations on actions for defective improvement of real estate, as set forth in T.C.A. § 28-3-201 et. seq., as may be amended from time to time, are hereby expressly waived and in lieu thereof, covenant and agree that all actions recoverable under this statutory provision be brought within (i) one (1) year after substantial completion (as defined in the Construction Contract between Developer and General Contractor) in connection with the Common Elements; or (ii) within the time limitation(s) set forth in the General Contractor Limited Warranty in connection with the Units or the Limited Common Elements. Notwithstanding the foregoing, no action or claim shall be initiated by Association or a Unit Owner against Developer or General Contractor after one (1) year beyond the completion of the project as defined in the Construction Contract between Developer and General Contractor.

ARTICLE II

Arbitration and Actions Against the General Contractor and/or Developer

A. Prerequisites to Actions Against Developer or General Contractor

Prior to filing a civil action or arbitration claim of any nature whatsoever against Developer or General Contractor (as defined below), and prior to consulting with, retaining or hiring in any capacity whatsoever, any third party consultant, advisor, property inspector, architect, engineer, contractor or repairmen to correct the problem or to examine, investigate, or advise the Association or any Unit Owner with respect to any suspected or reasonably inferable design defect, construction-related defect or other construction-related problem with the Property, Common Elements, or the Limited Common Elements and any Unit, the Association and Unit Owner shall first notify Developer and General Contractor of the alleged or suspected problem and shall first provide Developer and General Contractor with a reasonable opportunity to inspect and repair the problem pursuant to the terms of Section 1. above. For the purposes of this Section, a minimum of sixty (60) days from first notice to Developer or General Contractor shall be deemed a reasonable opportunity for Developer and General Contractor to inspect and repair any alleged or suspected problem; provided, however, in certain circumstances, this period of time may be longer depending on the complexity of the condition and the length of time reasonably necessary to obtain parts and services from third parties as such additional time shall be communicated to the Association and Unit Owner by Developer or General Contractor. Note that Developer shall merely be a facilitating party, it being understood that the General Contractor has provided a warranty of its work to Developer, which Developer shall reasonably extend to the benefit of the Association if applicable. That shall be the sole warranty.

Provided the time limitation(s) against actions set forth herein are met, and after the above right to inspect and correct period elapses without resolution of the issue, the Association may bring an action against Developer or General Contractor to recover damages resulting from construction defects in any of the Common Elements only (the Units and Limited Common Elements are covered exclusively by the General Contractor Limited Warranty, and the Association shall have no cause of action related to same). Such action may be maintained by the Association only after doing the following:

i. The Association obtains the written, notarized approval of each Unit Owner whose interest in the

Common Elements will be the subject of the action;

ii. The Association obtains the affirmative vote of the Unit Owners to which at least a majority of the votes of the members of the Association are allocated;

iii. The full Board of Directors and, as applicable, the General Contractor and Developer have met in person and conferred in a good faith attempt to resolve the Association's Claim or the General Contractor and/or Developer has definitively declined or ignored the requests to meet with the Board of Directors.

At least three business days in advance of any vote to commence an action by the Association to recover damages resulting from construction defects in any of the Common Elements, the attorney representing the Association shall provide to each Unit Owner a written statement that includes, in reasonable detail:

1. The defects and damages or injuries to the affected Common Elements;
2. The cause of the defects, if the cause is known;
3. The nature and the extent that is known of the damage or injury resulting from the defects;
4. The location of each defect within the affected Common Elements, if known;
5. A reasonable estimate of the cost of the action or mediation, including reasonable attorneys' fees and costs, expert fees, and the costs of testing; and
6. All disclosures that the Unit Owner is required to make upon the sale of the Unit.

The Association or an attorney for the Association shall not employ a person to perform destructive tests to determine any damage or injury to a Unit, Common Element, or Limited Common Element caused by a construction defect unless:

I. The person is licensed as a contractor pursuant to law;

II. The Association has obtained the prior written approval of each Unit Owner whose Unit or interest in the Common Element will be affected by such testing;

III. The person performing the tests has provided a written schedule for repairs;

IV. The person performing the tests is required to repair all damage resulting from such tests in accordance with state laws and local ordinances relating thereto;

V. The Association or the person so employed obtains all permits required to conduct such tests and to repair any damage resulting from such tests; and

VI. Reasonable prior notice and opportunity to observe the tests is given to Developer, General Contractor and any other party against whom an action may be brought as a result of the tests.

The Association may commence an action only upon a vote or written agreement of the Unit Owners to which at least a majority of the votes of the members of the Association are allocated. In such a case, and at least 21 calendar days before the meeting, the Association shall provide written notice to the Unit Owner of each Unit of the meeting at which the commencement of an action is to be considered or action is to be taken. Neither Developer nor General Contractor shall be liable to the Association or Unit Owners for any special, incidental, consequential, or punitive damages.

B. Notice

After first complying with the terms and conditions set forth above in subsection A, if the Association and/or Unit Owner(s) (singularly or collectively as the context requires, the "Claimant") desires to pursue a legal claim of any nature whatsoever against General Contractor and/or Developer (singularly or collectively as the context requires, the "Respondent"), then the Claimant shall, no later than ninety (90) days before initiating an action against Respondent, provide service of written notice of claim on Respondent (the "Notice of Claim"). The Notice of Claim shall state that the Claimant asserts a construction defect claim. The Notice of Claim shall describe the claim or claims in detail sufficient to explain the nature of the alleged construction defects and the results of the defects. In addition, the claimant shall provide to the General Contractor or Developer any evidence that depicts the nature and cause of the construction defect, including

expert reports, photographs, and videotapes, if that evidence otherwise would be discoverable under evidentiary rules.

For purposes of clarification of the above, a Unit Owner may file a Claim against Respondent only for problems or deficiencies related to his or her Unit and Limited Common Area as set forth in, and governed by, the terms of the General Contractor Limited Warranty. A Unit Owner may not file a Claim against Respondent for problems or deficiencies related to the Common Elements as all Unit Owners covenant and agree that all such Claim rights are exclusively those of the Association. In other words, the Unit Owners only have construction defect claims against the General Contractor, the rights and limitations of which are set forth in the General Contractor Limited Warranty. The Association only may file Claims against Respondent for problems or deficiencies related to the Common Elements.

C. Negotiation and Mediation

If the parties do not resolve the Claim amongst themselves in accordance with the notice and opportunity to cure provisions set forth above ("Termination of Negotiations"), then Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent, mutually acceptable agency providing dispute resolution services in the Metropolitan Nashville, Tennessee area.

If Claimant does not submit the Claim to mediation within such time period, or does not appear for the mediation, Claimant shall be deemed to have absolutely, unconditionally and forever waived the Claim, and Developer and General Contractor shall be released and discharged from any and all liability whatsoever to Claimant on account of such Claim.

Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the parties. If the parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such additional time as determined by the mediator, the mediator shall issue to all parties a written notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the parties are at an impasse and the date that such mediation was terminated.

Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to Respondent, and Respondent shall make a final written settlement offer ("Settlement Offer") to Claimant. If Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If Respondent fails to make a Settlement Offer, they shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

D. Final and Binding Arbitration

If the parties do not agree in writing to a settlement of the Claim within fifteen (15) days of the Termination of Mediation, then the Claimant shall have fifteen (15) additional days thereafter (i.e., thirty (30) days from the date of Termination of Mediation) to submit the Claim to arbitration before the American Arbitration Association pursuant to the Construction Industry Arbitration Rules of the American Arbitration Association.

If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, then the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability whatsoever to Claimant arising out of such Claim.

This section is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Tennessee. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it to the fullest extent permitted under the laws of the State of Tennessee.

E. Allocation of Costs of Resolving Claims

Each party (regardless of the outcome of the arbitration proceeding) shall bear its own costs, including attorneys' fees, arbitration filing fees and arbitration case service fees. The parties shall share equally in all arbitrator compensation and expenses and compensation of the mediator and mediation service. Under no circumstances whatsoever shall one party be entitled to receive reimbursement from the other party for the above described costs, expenses and fees, including but not limited to attorneys' fees.

F. Enforcement of Resolution

After resolution of any Claim, if any party fails to abide by the terms of any settlement agreement or Award, then

any other party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth above. In such event, the party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties jointly and severally) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

G. General Contractor Beneficiary

General Contractor is an express beneficiary of the terms set forth in this Section. THE TERMS OF THIS SECTION SHALL NOT BE DEEMED TO PROVIDE ANY IMPLIED OR EXPRESS WARRANTY RIGHTS WHATSOEVER BY DEVELOPER AND GENERAL CONTRACTOR TO THE ASSOCIATION OR ANY OWNER, AND DEVELOPER AND GENERAL CONTRACTOR EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE FULLEST EXTENT PERMITTED BY TENNESSEE LAW. Developer and General Contractor may seek enforcement of the rights afforded to it under this Section by filing an action at law or in equity, including specifically the remedy of specific performance, in the appropriate court of competent jurisdiction in the State of Tennessee and notwithstanding to the contrary any arbitration provision set forth in this Master Deed or any other instrument whatsoever.

000990415

CHARTER
NONPROFIT CORPORATION

SS-4418

Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: $100.00

For Office Use Only
-FILED-
Control # 000990415

The undersigned, acting as incorporator(s) of a nonprofit corporation under the provisions of the Tennessee Nonprofit Corporation Act, adopt the following Articles of Incorporation.

1. The name of the corporation is: Homes at The Briar HOA, Inc.

2. Name Consent: (Written Consent for Use of Indistinguishable Name)
☐ This entity name already exists in Tennessee and has received name consent from the existing entity.

3. This company has the additional designation of: None

4. The name and complete address of its initial registered agent and office located in the State of Tennessee is:
Homes at The Briar HOA, Inc.
1014 4TH AVE S
NASHVILLE, TN 37210-2626
DAVIDSON COUNTY

5. Fiscal Year Close Month: December **Period of Duration:** Perpetual

6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:
(none) (Not to exceed 90 days)

7. The corporation is not for profit.

8. Please complete all of the following sentences by checking one of the two boxes in each sentence:
This corporation is a ☐ public benefit corporation / ☑ mutual benefit corporation.
This corporation is a ☐ religious corporation / ☑ not a religious corporation.
This corporation will ☑ have members / ☐ not have members.

9. The complete address of its principal office is:
1014 4TH AVE S
NASHVILLE, TN 37210-2626
DAVIDSON COUNTY

(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

B0605-9793 10/17/2018 10:47 AM Received by Tennessee Secretary of State Tre Hargett

CHARTER
NONPROFIT CORPORATION

SS-4418

Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: $100.00

For Office Use Only
-FILED-
Control # 000990415

The name of the corporation is: Homes at The Briar HOA, Inc.

10. The complete mailing address of the entity (if different from the principal office) is:
PO BOX 40746
NASHVILLE, TN 37204-0746

11. List the name and complete address of each incorporator:

Title	Name	Business Address	City, State, Zip
Incorporator	Ryan Stringfellow	1014 4TH AVE S	NASHVILLE, TN 37210

12. School Organization: (required if the additional designation of "School Organization - Exempt" is entered in section 3.)

☐ I certify that pursuant to T.C.A. §49-2-611, this nonprofit corporation is exempt from the $100 filing fee required by T.C.A. §48-51-303(a)(1).

☐ This nonprofit corporation is a "school support organization" as defined in T.C.A. §49-2-603(4)(A).

☐ This nonprofit corporation is an educational institution as defined in T.C.A. §48-101-502(b).

13. Insert here the provisions regarding the distribution of assets upon dissolution:
In the event of dissolution of the Corporation, the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.

14. Other Provisions:

(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

Electronic	Incorporator
Signature	Title/Signer's Capacity
Ryan Stringfellow	Oct 17, 2018 10:47AM
Printed Name	Date

B0605-9794 10/17/2018 10:47 AM Received by Tennessee Secretary of State Tre Hargett