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AMENDED AND RESTATED

**DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS**

FOR

**HEARTHSTONE MANOR HOME OWNERS
ASSOCIATION, INC.**

Dated: MAY 10, 2006

PREPARED BY:
M. B. DARNALL III

Amended and Restated

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

For Hearthstone Manor

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions is made as of the 10th day of May, 2006, by Hearthstone Manor Home Owners Association, Inc., a Tennessee non-profit corporation;

WITNESSETH:

WHEREAS, the original Declaration of Covenants, Conditions, and Restrictions dated November 9, 1984 was entered into and executed by a previous owner of the land comprising Hearthstone Manor (a planned unit development), and was recorded on November 13, 1984 in Book 6424, Page 839 -870, in the Register's Office of Davidson County, Tennessee, which Declaration supplemented and superseded previous restrictions placed on Hearthstone Manor and recorded March 23, 1979 in Book 5409, Page 485, in said Davidson County Register's office, (hereinafter the 1979 restrictions as are still applicable, and the 1984 Declaration, are collectively called the "original Declaration"), and seven (7) or more Amendments thereto were subsequently also executed and recorded in said Register's Office (in Book; 6582, Page 154; Book 6600, Page 3; Book 6884, Page 251; Book 7393, Page 749; Book 7398, Page 907; Book 7403, Page 563; and Book 11404, Page 149, etc.); and

WHEREAS, Hearthstone Manor Home Owners Association, Inc., a Tennessee non-profit corporation, is the successor to the original Declarant in the original Declaration, and all the real property now comprising the Common Areas of Hearthstone Manor are now owned by such Hearthstone Manor Home Owners Association, Inc., which is hereinafter referred to as the "Declarant" or the "Association"; and

WHEREAS, Declarant desires to restate the original Declaration and all Amendments thereto in order to place all such documents into this one restated Declaration, with appropriate amendments thereto as approved by the Hearthstone Manor Home Owners Association, Inc. (hereinafter called this "Declaration"); and

WHEREAS, the real property now comprising Hearthstone Manor is shown on Exhibit "A" hereto (Phases 1, 2, 3 and 4), and collectively on Exhibit "B" hereto, which Exhibits are made a part hereof, and all such real property (herein called "Properties") shall be governed by and are subject to the provisions of this Declaration; and

WHEREAS, the Plats for said 4 Phases as reflected on Exhibit "A" hereto are recorded in the Register's Office of Davidson County, Tennessee, in Plat Book 6250, Page

215, revised in Plat Book 6250, Page 398 (approx. 3.78 acres), Plat Book 6250, Page 492 (approx. 2.69 acres), Plat Book 6250, Page 493 (approx. 1.51 acres), and Plat Book 6250, Page 990 (approx. 9.32 acres); and

WHEREAS, Declarant intends by this Declaration to impose upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of Residential Units within Hearthstone Manor. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as is now or may hereafter be submitted to this Declaration; and

WHEREAS, Declarant desires that the Properties described in Exhibits "A" and "B" hereto be held, sold and conveyed subject to the provisions of this Declaration, the By-Laws and the Rules and Regulations of the Association, as may be amended from time to time;

NOW, THEREFORE, the original Declaration and all amendments and supplements thereto are hereby incorporated into this Amended and Restated Declaration, and to the extent inconsistent herewith are to be superseded hereby (but with and maintaining the original effective dates of March 23, 1979 and November 13, 1984, respectively), and all the Properties described in Exhibits "A" and "B" hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions. Such easements, restrictions, covenants and conditions are for the purpose of protecting the value and desirability of the Properties, and shall run with the Properties. They shall be binding on all parties having any right, title or interest in the described Properties, or any Residential Unit, or any part thereof, their heirs, successors, successors-in-title, and assigns, and they shall inure to the benefit of each Owner thereof.

ARTICLE I **Definitions**

Section 1. "Additional Maintenance Area" shall mean those portions of a Residential Unit which the Association is responsible for maintaining, pursuant to Article IV, Section 2, and those portions of a Residential Unit which by contract with the Owner the Association undertakes to maintain.

Section 2. "Assessments" shall mean Assessments for Common Expenses provided for herein or by any Subsequent Amendment, which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Residential Units and of maintaining the Properties, all as may be specifically authorized from time to time by the Board of Directors and as more specifically authorized below.

Assessments shall be levied equally against Owners of Residential Units for such purposes as are authorized by this Declaration or by the Board of Directors from time

to time.

There shall be an Annual Assessment, which shall mean the amount assessed yearly against such Owner as established from time to time by the Board. There may be Special Assessments assessed from time to time against each Owner, or a particular Owner, for construction, reconstruction, repair, or replacement of capital improvements to be established, collected, and used as provided herein.

Section 3. "Association" shall mean and refer to Hearthstone Manor Home Owners Association, Inc., a Tennessee nonprofit corporation, its successors and assigns.

The "Board of Directors" or "Board" shall be the elected body responsible for managing the affairs of the Association.

Section 4. "Common Area" shall mean all real and personal property, including the Properties, but excluding Residential Units and components thereof, and easements appurtenant thereto, now or hereafter owned by the Association for the common use and enjoyment of the Owners, including, but not limited to, any and all streets, roads, bridges, parking areas, lakes, waterways, fences, structures, sidewalks, curbs, tennis courts, signs, lights, common utilities, and other improvements. The initial Common Area to be owned by the Association shall be conveyed to the Association prior to the conveyance of a subdivision interest to any Residential Unit purchaser.

Section 5. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association and maintaining the Common Area, Limited Common Areas, and those portions of the Additional Maintenance Area which the Association is responsible for maintaining pursuant to Article IV, Section 2, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

Section 6. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in Hearthstone subdivision and Hearthstone Manor, Brentwood, Tennessee.

Section 7. "Limited Common Areas" shall mean those portions of the Common Area reserved by this Declaration for the exclusive use of those entitled to the use of one or more, but less than all, of the Residential Units, including, but not limited to, patios, decks and balconies attached to a Unit, Unit driveways connecting the streets to a Unit garage (or improved garage area), front porches and steps connected to a Unit, and sidewalks and walkways leading from the streets or driveways to one or two Units.

Section 8. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

Section 9. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 10. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 11. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 12. "Owner" shall mean and refer to one or more persons or entities, including Declarant, who hold the record title to any Residential Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Residential Unit is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 13. "Person" shall mean a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 14. "Plat" shall mean the recorded plan of the Properties, which was recorded in Book 6200, page 642, Register's Office, Davidson County, Tennessee, as supplemented by plats recorded in Plat Book 6250, Page 215, revised in Plat Book 6250, Page 398 (Phase I), Plat Book 6250, Page 492 (Phase II), Plat Book 6250, Page 493 (Phase III), and Plat Book 6250, Page 990 (Phase IV), and as may be amended or added to from time to time in order to constitute Hearthstone Manor.

Section 15. "Properties" shall mean and refer to the real property described in Exhibits "A" and "B" attached hereto and shall further refer to such additional property as may hereafter be annexed by Subsequent Amendment to this Declaration.

Section 16. "Residential Unit" or "Unit" shall mean a portion of the Properties intended for any type of independent ownership for use and occupancy as a residence by a single family, regardless of whether a residence is constructed thereon. All Residential Units shall be shown on the Plat for the Properties, or amendments thereto, recorded in the land records of the county where the Properties are located. The ownership of each Residential Unit shall include, and there shall pass with each Unit as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an owner in the Common Area, which shall include, without limitation, membership in the Association.

Section 17. "Subsequent Amendment" shall mean an amendment to this Declaration which adds additional property to that covered by this Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Amendment to the provisions of this Declaration.

ARTICLE II **Property Rights**

Every Owner shall have a right and easement of enjoyment in and to the

Common Area, subject to any restrictions or limitations contained in any Deed or amendment to this Declaration conveying to the Association or subjecting to this Declaration such property. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Residential Unit shall be deemed to have delegated all such rights to the Residential Unit's lessee.

ARTICLE III **Membership and Voting Rights**

Section 1. Membership. Every Person who is the record owner of a fee or undivided fee interest in any Residential Unit that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership, and any transfer of a Residential Unit shall operate automatically to transfer to the new record owner thereof the membership in the Association appurtenant thereto. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one (1) membership per Residential Unit owned. In the event the Owner of a Residential Unit is more than one person or entity, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a member or a member's spouse, but in no event shall more than one (1) vote for each Residential Unit be cast for each Residential Unit. The membership rights of a Residential unit owned by a corporation or partnership shall be exercised by the individual designated by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the Association By-Laws.

Notwithstanding the foregoing, Declarant may at any time assign, pledge, hypothecate or alienate its membership, but any transfer by Declarant of title to a Residential Unit shall automatically transfer the membership in the Association appurtenant thereto, free and clear from any such assignment.

Section 2. Voting. The Association shall have one (1) class of membership, which shall consist of all Owners, and shall include Owners of such Residential Units as may be annexed by Subsequent Amendment.

Members shall be entitled on all issues to one (1) vote for each Residential Unit in which they hold the interest required for membership by Section 1 hereof; there shall be only one (1) vote per Unit. When more than one Person holds such interest in any Residential Unit, the vote for such Residential Unit shall be exercised as those Persons themselves determine and advise the Secretary of the Association prior to any meeting according to the procedures and other requirements set forth in the By-Laws. In the absence of such advice, the Residential Unit's vote shall be suspended in the event more than one Person seeks to exercise it.

Any Owner of Residential Units which are leased may, in the lease or other written instrument, assign the voting right appurtenant to that Residential Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary prior to any meeting.

ARTICLE IV **Maintenance**

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Area, the Limited Common Areas, and the Additional Maintenance Area, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair, and replacement of all landscaping and other flora on the Common Area, and structures, and improvements situated upon the Common Area, the Limited Common Areas, and the Additional Maintenance Area, except as otherwise may be provided for in Sections 2 and 3 of this Article. Notwithstanding anything herein to the contrary, the Association shall not be responsible for the patios, decks and balconies attached to a Unit, or landscaping and flora directly adjacent to the Limited Common Areas, but shall be responsible for cutting and trimming the trees, grass and bushes in such Limited Common Areas.

Section 2. Additional Maintenance Obligations.

(a) In addition to the operation, maintenance, and management duties of the Association set forth in Section 1 above, the Association shall provide for the maintenance, care, repair, and replacement of the exterior landscaping (except for landscaping and flora on the Limited Common Areas), all exterior water and sewer lines, exterior electrical connections, streets, driveways, sidewalks, walkways, privacy fences, screening for utilities, front porches, and entry steps. The Association shall have the right, however, to contract with the Owner of any Residential Unit for the maintenance of patios, decks, balconies, and such other areas and items as the Board may deem appropriate. The Association also shall maintain the exterior of each Residential Unit as follows:

painting, and non-structural repair of exterior building surfaces as the Board shall deem necessary and proper, including gutters, downspouts, replacement of trim, caulking, siding, brick, exterior window and door frames, shutters, sashes and exterior sills, exterior painting and weatherproofing (but not replacement) of exterior doors and garage doors, and repairs to roof covers (to include the repair and replacement of all non-structural components of the roof and roof deck of each Residential Unit), and other miscellaneous repairs of a non-structural nature. Such exterior maintenance shall not include glass surfaces (whether in windows, sliding glass doors or skylights), screens, or patio covers, or the replacement of doors and garage doors. The balance of the Residential Units and the improvements located thereon shall be maintained by the Owner of the particular Residential Unit involved. Notwithstanding the foregoing, if the need for exterior maintenance and repair by the Association as required by this paragraph is caused by the willful or negligent conduct or act of an Owner, his family, guests, invitees, or other Persons using or occupying his Residential Unit with his express or implied permission, or if any Owner has failed or refused to discharge properly his obligations for which he or she is responsible hereunder, the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner prior written notice of the Association's intent to provide such necessary maintenance, repair or replacement, at Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day

period, to commence such work, which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Residential Unit. For the sole purpose of performing the maintenance upon each Residential Unit required by this Section 2, the duly authorized employees or agents of the Association shall have the right, after providing notice to the Owner as required herein, to enter upon or into any Residential Unit at reasonable hours of any day, except Sunday.

(b) Notwithstanding the above, the duly authorized agents or employees of the Association shall have the right to enter in or upon any Residential Unit or into any structure thereon, on any day and without notice to the Owner thereof, when, in the judgment of the Association, acting through its Board of Directors, such entrance is necessary to prevent damage to such Residential Unit or surrounding Residential Units by fire, criminal act, natural disaster, or other similar emergency.

Section 3. Owner's Responsibility. In accordance with this Declaration and Subsequent Amendments to this Declaration, and except as provided in Sections 1 and 2 of this Article, all maintenance of the interior portions of the Residential Unit, the patios, decks and balconies attached to an Owner's Unit (including braces, siding, balusters, trellis and steps therefor), the entire HVAC system, the interior plumbing and electrical, the foundation, the exterior lighting fixtures and electrical outlets and outside faucet attached to the exterior walls of a Unit and serving that Unit, the door bells, intercom, foundation vents and foundation crawl space door serving a Unit, the replacement of window casings and doors (even if the Association failed to properly paint and seal such doors), any privacy fence or screening or exterior structure added by an Owner (which should have the prior approval of the Modifications Committee) for the predominant benefit of that Owner's Unit, and all flora and landscaping directly adjacent to the Limited Common Areas, and other improvements that are not the responsibility of the Association to maintain shall be the sole responsibility of the Owner thereof, who shall maintain said portions of the Residential Unit in a manner consistent with the Community-Wide Standard of Hearthstone subdivision and Hearthstone Manor in Brentwood, Tennessee, and the applicable covenants set forth herein. All decks and balconies attached to a Unit shall be maintained by the Unit Owner in good repair and slightly condition. The Association shall have the right, however, to contract with the Owner of any Residential Unit for the maintenance of any such areas within the Owner's maintenance responsibility as the Board may deem appropriate.

ARTICLE V

Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements on the Common Area, Limited Common Areas, and those areas contained within the Additional Maintenance Area which the Association is responsible for maintaining pursuant to Article IV, Section 2 hereof, and also including, without limitation, the interior framing, studs, wallboard (taped and spackled), electrical, HVAC system, plumbing and plumbing fixtures, windows and doors, decks and balconies, and Unit driveways of a damaged Unit. If blanket all-risk coverage is not

reasonably available, then at minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard, subject to a reasonable deductible not to exceed Ten Thousand Dollars (\$10,000) for which the Association elects to assume and be responsible.

The Board shall also obtain a public liability policy covering the Common Area, Limited Common Areas, the Association and its Members for all damage or injury caused by the acts or negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million Dollar (\$1,000,000.00) single person limit as respects bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, and a Five Hundred Thousand Dollar (\$500,000.00) minimum property damage limit.

Premiums for all insurance as required by this Article V shall be Common Expenses of the Association. The policy or policies may contain a reasonable deductible as aforesaid, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. Cost of insurance coverage shall be included in the Annual Assessment, as defined in Article X, Section 1.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefitted parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Tennessee and holding a Best's rating of A or better and which is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All insurance policies shall be for the benefit of the Residential Unit Owners and their mortgagees as their interests may appear.

(c) Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the

Association's Board of Directors, its Manager, the Owners, and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(iii) that no policy may be cancelled, invalidated or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association or its duly authorized agent without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner, or mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and,

(vi) that no policy may be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, workman's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the Boards' best business judgment, but may not be less than three (3) months' Assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Residential Unit and may be enforced by such mortgagee.

(b) If it is determined, as provided for in Section 3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 2(a) hereof.

(c) With regard to insurance proceeds relating to any Additional Maintenance Area, such proceeds are to be used exclusively for the reconstruction and repair of such improvements as are damaged.

Section 3. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the costs of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which it existed prior to the fire or other casualty, allowing for any changes in applicable building codes.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy-five (75%) percent of the total eligible vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the Common Area damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the damaged portions of the Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

Section 4. Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members, levy a Special Assessment against all Owners in proportion to the number of Residential Units owned by such Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE VI
No partition

Except as is permitted in this Declaration or amendments hereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in Section 3 of Article V in the case of damage or destruction, or unless the Properties have been removed from the provisions

of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII **Condemnation**

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association as Trustee for all Owners and shall be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the total eligible vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII **Annexation of Additional Property**

Subject to the consent of the owner thereof, the Association may annex real property other than that shown on Exhibit "B", upon the written consent or affirmative vote of a majority of the Members of the Association. Such annexation shall be evidenced by the filing for record in the Davidson County, Tennessee Register's Office of a Subsequent Amendment in respect to the properties being annexed. Any such Subsequent Amendment shall be signed by the President and the Secretary of the Association, and the owner of the real estate being annexed, and any such annexation shall be effective upon filing, unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the By-Laws of the Association for regular or special meetings, as the case may be.

ARTICLE IX **Rights and Obligations of the Association**

In addition to the powers delegated to it by the Charter, the Association shall have the obligation to perform each of the following duties:

Section 1. Operation of Common Area and Limited Common Areas. To operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area and Limited Common Areas, subject to the provisions of Article IV hereof regarding maintenance, together with all easements for operation and maintenance purposes and for the benefit of the Association or its Members over and within the Common Area, including driveways serving the Units, to keep all improvements, if any, of whatever purpose from time to time located thereon in good order, condition, and repair. Any other provision of this Declaration, the Charter, or the By-Laws notwithstanding, the Association always shall maintain lien-free title to the Common Area and Limited Common Areas, excepting only the lien of current taxes not yet due and payable. Provided however, the Owner of each Residential Unit shall be entitled to the exclusive use of the patios, decks, balconies, front porches and front entry steps attached to its Unit, and of the driveways connecting its garage area to the street, subject to the provisions of this Declaration, the Association By-Laws, and the Rules and Regulations established by the Association.

Section 2. Water and Other Utilities. To acquire, provide, and/or pay for, water, sewerage, garbage disposal, electrical, telephone, gas, and other necessary utility services for the Common Area and all utility services necessary to enable the Association to maintain the Additional Maintenance Areas as provided in Article IV, Section 2 of this Declaration.

Section 3. Taxes and Assessments. To pay all real and personal property taxes and assessments separately levied upon or assessed against the Association and/or of the property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond in an amount at least equal to such taxes and assessments is posted prior to the sale or other disposition of any property to satisfy the payment of such taxes or assessments.

Section 4. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property.

Section 5. Rules and Regulations. The Association, through its Board of Director's, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the Common area. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided for herein or in the By-Laws. In addition, the Association, through the Board, may, by contract or other agreement, enforce county ordinances or permit Davidson County to enforce ordinances on the Properties for the benefit of the Association and its members.

Section 6. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE X **Assessments**

Section 1. Creation of Assessments. There are hereby created Assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors and approved by the Members. The Annual Assessment shall be allocated equally among all Residential Units within the Association. The Annual Assessments shall be for expenses determined by the Board to be for the benefit of the Association as a whole. Special Assessments may be levied against all Residential Units. Each Owner, by acceptance of his or her deed, is deemed to covenant and agree to pay these assessments. All such assessments, together with interest at the highest rate allowable under the laws of Tennessee from time to time relating to usury for residential real estate loans, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Residential Unit against which each assessment is made. The Board may also impose a late charge applicable to all Unit Owners for payments of Assessments more than ten (10) days late, such late charge not to exceed ten percent (10%) of the amount of each assessment not paid when due. In addition, the Board may impose interest on any account balance for Assessments overdue at the end of each calendar month, at a rate not in excess of one and one-half percent (1 1/2 %) per month, or the highest applicable legal rate, whichever is less.

Each such assessment, together with interest, late fees, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Residential Unit at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Residential Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments (or late fees or interest thereon) which accrued prior to such acquisition of title. Assessments shall be paid in twelve (12) equal payments due on the first day of each month of the year for which the assessments are made, except that the Board may (a) provide for any Special Assessments to be paid quarterly or annually, and (b) provide for the acceleration of the annual assessment for delinquents as provided for in the Association By-Laws.

The Association is specifically authorized and encouraged to seek public and private funds to help defray, in whole or in part, the expenses for which assessments would be necessary. To the extent received, such funds shall be used to reduce the assessments otherwise required by the budget in Section 2. The Association is specifically authorized to enter into subsidy contracts with other entities for the payment of some portion of the Common Expenses. Such contract or contracts shall be for the benefit of and enforceable by the Association and its members.

Section 2. Computation of Annual Assessment. It shall be the duty of the Board at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall also include a capital contribution establishing a reserve fund or funds in accordance with a capital budget separately prepared. These reserve funds shall include an adequate reserve for maintenance, repairs and replacement of those common elements

that must be replaced on a periodic basis, and to the extent possible, shall be funded by annual assessments rather than by special assessments, in accordance with Section 5 of this Article X. The Board shall cause a copy of the budget, and the amount of the Assessments to be levied against each Residential Unit for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the Assessments shall become effective when approved at the meeting by a vote of at least a majority of the total Association membership. The Board shall, as far as practical, adhere to the Budget and not deviate therefrom unless necessary.

Notwithstanding the foregoing, however, in the event the membership fails to approve the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 3. Special Assessments. In addition to the Annual Assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments from time to time; provided, such assessment shall have the assent of fifty-one (51%) percent of the votes of Members voting in person or by proxy at a meeting duly called for this purpose. Special Assessments shall be payable in such manner and at such times as determined by the Board and approved by the Members, and may be payable as installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association may also levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his or her Residential Unit into compliance with the provisions of this Declaration, any amendment thereto, the Articles and the By-Laws of the Association, and the Association rules, which Special Assessments may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 4. Lien for Assessments. To secure the payment of any Assessment, a lien is expressly retained in favor of the Association on each and every Residential Unit. Such lien shall be prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

For the purpose of rendering unnecessary court proceedings for the enforcement of said lien in the event of the nonpayment of Assessments, and for the consideration of one dollar paid in cash, receipt of which is acknowledged, the Owners, their heirs, successors, administrators, and assigns, hereinafter referred to as Trustors, hereby transfer and convey unto a trustee as designated from time to time by the Board of Directors (herein called the "Trustee"), his successors and assigns, their respective Residential Units with the appurtenances, estate, title and interest thereto belonging upon the use and trusts set forth in this paragraph.

If the Trustor shall pay the Assessment when due, then this trust conveyance shall be of no further force or effect with respect to such Trustor's Residential Unit. If the Assessments with respect to any Residential Unit are not paid promptly when due, and shall exceed Five Thousand dollars (\$5,000) at any one time, then this trust conveyance

shall remain in full force and effect, and the said Trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty (20) days notice by three publications in any newspaper, daily or weekly, published in Davidson County, Tennessee to sell said Residential Unit at the front door of the Court House in said County to the highest bidder for cash, at public outcry, free from the equity of redemption, homestead, dower and all exemptions of every kind, which are hereby expressly waived; and the said Trustee, or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Association may bid at any sale under this trust conveyance. The Association may, at any time after default in the payment of any Assessment, enter and take possession of said property, and shall only account for the net rents actually received by it. It is further agreed that, in the event the Association fails, before instructing Trustee to sell said Residential Unit, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said property. In the case of sale hereunder, the proceeds will be applied by the Trustee as follows:

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

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

(3) Third, to the payment of all unpaid Assessments, including any late fees and interest, with respect to such Residential Unit;

(4) Fourth, the residue, if any, will be paid to the Owner of such Residential Unit, his order, representatives or assigns.

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

The Association, acting on behalf of the Owners, shall have the power to bid for the Residential Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Where the purchase of a foreclosure Residential Unit will result in a ten percent (10%) or greater increase in Assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association. During the period owned by the Association, following foreclosure: (1) no right to vote shall be exercised on its behalf; (2) no Assessment shall be assessed or levied on it; and (3) each other Residential Unit shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Residential Unit had it not been acquired by the Association as a result of foreclosure.

Suit to recover a money judgment for unpaid Assessments and any late fees, interest, costs, and reasonable attorneys' fees in connection therewith, shall be maintainable without foreclosing or waiving the lien securing the same. In addition, the Board may file a lien Lis Pendens or other lien against any Unit for past due Assessments

over One Thousand (\$1,000) Dollars (provided, that if the Unit is put up for sale, then the minimum amount shall not apply and a lien may be filed for any amounts past due), and may add to such lien and include any late fees, interest, costs, and reasonable attorneys' fees related thereto. The Board may temporarily suspend the voting rights of a Member who is in default of payment of any Assessment after notice and hearing.

Section 5 . Capital Budget and Contribution. As noted in Article X, Section 2, above, the Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by Annual Assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment, as provided in Section 2 of this Article. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

Section 6. Certificate of Payment. The Board shall upon request and for a reasonable charge not to exceed \$25.00, furnish to any Person a certificate, signed by an officer of the Association, setting forth whether or not all Assessments, whether Annual or Special, on a specified Residential Unit have been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

ARTICLE XI **Architectural Standards**

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in the courts of competent jurisdictions decisions of the Committee established in Section 1 of this Article.

Section 1. Modifications Committee. The Modifications Committee (MC) shall consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Board of Directors.

The MC shall promulgate detailed Standards and Procedures governing its area of responsibility and practice within Hearthstone Manor. In addition thereto, the following shall apply:

Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations to the exterior or Limited Common Areas of any Unit shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to existing structures, topography, and finish grade elevation. No permission or approval shall be required to repaint or refinish in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications, including as-builts and builder field changes not included in the original plans and specifications. The right of an Owner to remodel the interior of his residence is subject to all conditions and limitations of this Declaration. An Owner may paint the interior of his residence any color desired. In the event the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45)

days after submission, the plans shall be deemed approved.

ARTICLE XII
Use Restrictions

Section 1. In addition to all other covenants contained herein, the use of the Properties is subject to the following:

(a) Residential Use. Except as otherwise provided in this Declaration, each Residential Unit shall be used as a residence and for no other purposes, and there shall not be constructed or maintained upon any Residential Unit more than one single-family residence. Except as otherwise provided in this Declaration, the Common Area shall be used for recreational, social, and other purposes directly related to the single-family use of the Residential Units authorized hereunder.

(b) Leases. No owner shall grant any form of leasehold interest in his Unit, nor to any portion thereof. This prohibition shall become effective as to each Unit individually on the date the holder of the beneficial fee interest in the Unit, on March 29, 1999, ceases to hold the beneficial fee interest in the Unit, or on January 1, 2010, whichever occurs first. However, to meet special situations and to avoid undue hardship or practical difficulties, the Board of Directors may, upon application, grant permission to an owner to lease his/her Unit, on one occasion only, to one or more specified lessees, for a period of not less than six (6) consecutive months and not more than twelve (12) consecutive months.

Applicable special hardship situations shall be limited to the following:

A. Death of Unit Owner - rental may be considered during probate period.

B. Loss of job or temporary job transfer - rental may be allowed while owner is seeking to relocate or is on temporary job assignment more than fifty (50) miles from the Unit.

C. Owner becomes ill or disabled and is confined to a hospital or nursing care facility.

The term "leasehold interest" shall specifically, but without limitation, include the interest created by a lease for any term, a tenancy at will, a tenancy at sufferance, a holdover tenancy, a lease/purchase contract, a lease with option to purchase, and any transaction commonly known as a "land contract."

(c) Maintenance of Interior. Each Owner shall be responsible for the maintenance of, and shall maintain, the interior of his Residential Unit, including interior walls, windows, glass, ceilings, floors, doors, windows, and permanent fixtures and appurtenances thereto, and, further, the Limited Common Areas and any easement areas appurtenant to his Unit, in a clean, sanitary, and attractive condition, reserving to each Owner, however, complete discretion as to choice of furniture, furnishings, and interior decorating.

(d) Association to Landscape Common Areas and Additional Maintenance Areas. The Association shall have the right and the obligation at any time to plant, replace,

maintain, and cultivate shrubs, trees, grass, plants, and other landscaping upon the Common Area. No Owner shall remove, alter, or injure in any way any shrubs, trees, grass, plants, or other landscaping placed upon or about his Residential Unit by Declarant or the Association, or upon the Additional Maintenance Areas, without first obtaining the written consent of the Board.

(e) Signs and Billboards. No sign or billboard of any kind shall be displayed to the public view on any Residential Unit or portion of the Common Area, except for (1) directional or informational signs, established by Declarant or the Association, and (2) signs not in excess of four (4) square feet per side erected by an Owner upon that Owner's Residential Unit to advertise the sale of that Unit.

(f) Quiet Enjoyment. No noxious or offensive activity shall be carried on, in or upon any Residential Unit or any part of the Properties, nor shall anything be done thereon that may be or may become an annoyance or nuisance to the neighborhood, that shall interfere in any way with each Owner's quiet enjoyment of his respective Residential Unit, or that shall increase the rate of insurance in any way.

(g) Temporary Structures. No structure of a temporary character, or other out-building shall be used on any Residential Unit, the Common Area, or Limited Common Areas at any time as a residence or otherwise, either temporarily or permanently. No trailer, camper, boat, or similar equipment shall be permitted to remain upon or within the Common Area unless on a space designated for such use by the Association.

(h) Animals. No animals, reptiles, rodents, livestock, birds, fish, or poultry of any kind shall be raised, bred, or kept in or on any Residential Units except that dogs, cats or such other household pets approved by the Association may be kept in the Residential Units, provided such pets are not kept, bred, or maintained for any commercial purposes or in unreasonable numbers. Notwithstanding the foregoing, no animals or fowl may be kept in any Residential Unit if such keeping results in an annoyance or is obnoxious to residences in the vicinity. In any event, each Owner shall be absolutely liable to all remaining Owners, their families, guests, invitees and tenants and to the Association for any and all damage to person or property caused by any pets brought or kept in or upon any Residential Unit or on the Common Area or Limited Common Areas by any Owner or by members of his family, guests or invitees. Upon the written request of any Owner, the Board shall determine conclusively, in its sole and absolute discretion, whether, for the purpose of this Paragraph (h), a particular species of animal, bird, fowl, poultry, or livestock is a generally recognized house or yard pet or a nuisance, or whether the number of animals or birds is reasonable.

(i) Exterior Structures. No fences, ornamental screens, awnings, screen doors, sunshades, walls, or hedges shall be erected or permitted upon the Properties, except such as are installed in accordance with the initial construction of the improvements or approved by the Association. No building, including out-buildings, patios, fences, and porches, shall be removed from, erected on, placed or altered on any Residential Unit or any portion of the Common Area or Limited Common Areas until the construction plans and specifications and a plan showing the exact location of the structure or improvement have been approved in writing by the Association with respect to quality of workmanship and materials, harmony of external design with existing structure or structures, and location. Any alteration in the exterior color of any structural improvement shall be subject to the prior approval of the Association. The provisions of Article XI hereto (Architectural Standards) may also apply.

(j) Exterior Radio and Television Equipment. No towers, antennae, aerials, dishes or other facilities for the reception or transmission of telephone, radio or television broadcasts or other means of communication shall be erected and maintained or permitted to be erected and maintained on any portion of the Properties, except by installations inside structures constructed on any Residential Units or the Common Area, or by underground conduits. All such types of appliances or installations upon the roofs or sides of any structure situated upon a Residential Unit, or upon the Limited Common Areas, shall be prohibited unless: (1) installed in such a manner as not to be visible from neighboring property or adjacent streets, and (2) approved by the Association.

(k) Garbage Collection. All rubbish, trash, and garbage shall be removed from the properties regularly and shall not be allowed to accumulate thereon. All refuse containers, clothes lines, wood piles, storage areas, machinery, or equipment shall be kept in such a manner as not to be visible from neighboring property or contiguous streets. No incinerators shall be kept or maintained on any Residential Unit.

(l) Taxes and Utilities. Each Owner shall pay any real and personal property taxes or charges assessed against his respective Residential Unit and the utility charges for said Residential Unit.

(m) Infections, Plant Diseases or Insects. No Owner shall permit any thing or condition to exist upon any portion of such Owner's Residential Unit or Limited Common Area allocated to such Unit that shall induce, breed, or harbor infections, plant diseases, vermin or noxious insects.

(n) Reasonable Inspection. During reasonable hours, any member or designated representative of the Board shall have the right to enter upon and inspect any portion of the Properties and the improvements thereon for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with. Such persons shall not be deemed guilty of trespass by reason of such entry, provided 24 hours' prior written notice has been given to the Owner of any Residential Unit entered upon.

(o) Trade or Business. No gainful profession, occupation, trade or other nonresidential use shall be conducted in any Residential Unit or upon the Common Area or Limited Common Areas or any portion thereof.

(p) Laws, Rules and Regulations. Each Owner shall comply promptly with all laws, statutes, ordinances, rules, and regulations of federal, state, or municipal governments or authorities applicable to use, occupancy, construction, and maintenance of any improvements upon the Residential Units.

Section 2. Additional Restrictions. The Board of Directors shall be entitled to invoke additional rules and regulations from time to time for the operation, use, and maintenance of the Properties, including the Units, Common Area, and Limited Common Areas, provided such rules and regulations are not inconsistent with this Declaration.

Section 3. Enforcement. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or to use the Common Area for violation of any duty

imposed under this Declaration, the Association By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Residential Unit. In the event that any occupant of a Unit violates this Declaration, the Association By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of this Declaration, the Association By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested in a timely manner, the hearing shall be held in executive session affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors, may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of this Declaration, the Association By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

ARTICLE XIII **General Provisions**

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date the 1984 Declaration was recorded (i.e. November 13, 1984), after which time they

shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by 80% of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 2. Amendment. This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing at least sixty-seven percent (67%) of the total voting power of the Association. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be recorded in the Register's Office of Davidson County, Tennessee, and shall thereafter be deemed a part of this Declaration.

Section 3. Indemnification. The Association shall indemnify every officer and director of the Association, past and present, against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any claim, action, suit, or other proceeding (including settlement of any claim, suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, and social invitees, subject to such rules and regulations as the Board of Directors may adopt.

Section 5. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Residential Unit and such portion or portions of the Common Area adjacent thereto or as between adjacent Residential Units, due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Residential Unit and the adjacent portion of the Common Area or as between said adjacent Residential Units, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant, or the Association.

Section 6. Easements for Utilities, Etc.

(a) There is hereby reserved to the Declarant and granted to the Association

blanket easements upon, across, over, and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining master television antenna systems, security, and similar systems, walkways, and all utilities, including, but not limited to, water, sewers, telephones, gas, and electricity. The Board shall, upon written request, grant such easements as may be reasonably necessary for the development, maintenance or alteration of any Properties described in Exhibits "A" or "B" or that may be annexed in accordance with Article VIII of this Declaration.

(b) Declarant hereby reserves unto itself and the Association, or their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as set forth in this Declaration, the Charter, By-Laws, and Rules of the Association.

(c) Notwithstanding anything herein expressly or impliedly to the contrary, this Declaration and the conveyance of each Residential Unit shall be subject to all easements heretofore or hereafter granted by Declarant or by the Board for the installation and maintenance of utilities and drainage facilities necessary for the development of the Properties.

(d) Whenever sanitary sewer connections, water connections, or electricity, gas, or telephone lines are installed within the Properties, which connections or any portion thereof lie in or upon Residential Units owned by Owners other than the Owners of the Residential Units served by said connections, the Owner of each Residential Unit served by said connections shall have the right, and hereby is granted an easement to the full extent necessary therefor, to enter upon or have the utility companies enter upon the Residential Unit or Common Area or Limited Common Areas upon which said connections, or any portion thereof, lie for the purpose of repairing, replacing, and generally maintaining said connections as and when the same may be necessary.

(e) Whenever sanitary sewer connections, water connections, or electricity, gas, or telephone lines are installed within the Properties, which connections serve more than one Residential Unit, the owner of each Residential Unit served by said connections shall be entitled to full use and enjoyment of such portions of said connections as serve his Residential Unit.

(f) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then upon the written request to the Association of any one of such Owners, the matter shall be submitted to the Board, which shall decide the dispute and make an assessment against any or all of the Owners involved, which assessment shall be collected and enforced in the manner provided by Article X of this Declaration.

(g) Each of the easements provided for in this Declaration shall be deemed established upon the recordation of the original Declaration and thenceforth shall be deemed covenants running with the land for the use and benefit of the Residential Units and the Common Area, as the case may be, superior to all other encumbrances applied against or in favor of any portion of the Properties. In furtherance of the easements provided for in this Declaration, the individual deeds to Residential Units may, but shall not be required to, set forth said easements.

Section 7. Severability. Invalidation of any one of these covenants or

restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 8. Right of Entry. The Association shall have the right to enter into any Residential Unit for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. It is intended that this right of entry shall include the right of the Association to enter a Residential Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 9. Attorneys' Fees. If it becomes necessary for the Association to employ an attorney to enforce or defend any of the covenants, restrictions, or rules provided for herein, the Association is entitled to be reimbursed for all attorneys' fees and costs incurred, which may be collected by execution if necessary.

ARTICLE XIV **Party Walls**

Section 1. General Rules of Law to Apply. Each wall built as a part of the original construction of a structure upon the Properties and placed on the dividing line between two Residential Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall, in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, to the right of any such Owner to call for a larger contribution from any other Owner under any rule of law regarding the liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, such

arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE XV **Obligation to Rebuild**

Section 1. Damage and Destruction – Duty to Rebuild. If all or any portion of any residence constituting a part of a Residential Unit is damaged or destroyed by vandalism, malicious mischief, fire, windstorm, or other casualty, it shall be the duty of the Owner of said residence to rebuild, repair or reconstruct said residence in a manner that will restore it substantially to its appearance and condition immediately prior to the casualty. Alternatively, upon the approval of two-thirds (2/3) of the eligible votes of the Association, the Owner may elect to demolish all improvements on the Residential Unit and remove all debris therefrom within forty-five (45) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XII of this Declaration.

Section 2. Time Limitation. The Owner of any damaged residence shall be obligated to proceed with all due diligence and commence reconstruction within forty-five (45) days after the damage occurs and to complete reconstruction within eight (8) months after the damage occurs for any major structural damage and within sixty (60) days for any minor non-structural damage, unless prevented by causes beyond their reasonable control, except that disputes concerning insurance coverage shall not be deemed as an adequate cause for delay. The provisions of this Article XV shall be considered in conjunction with the provisions of Article V hereof, if applicable.

ARTICLE XVI **Declarant's Rights**

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Register's Office of the County of Davidson.

The Board may delegate certain of its management obligations hereunder to a Management company, provided that: the terms and fees paid to such Management company are approved by the Members, the Board oversees such Management company, and such Management company adheres to the terms of this Declaration, the rights of Members, and the applicable obligations provided for herein.

This Amended and Restated Declaration Of Covenants, Conditions and Restrictions was presented at a duly called meeting of Owners, on December 12, 2005, and was thereafter approved by written consent of over Sixty-Seven percent (67%) of the Owners. It is duly executed on May 9, 2006, with an effective date when recorded of May 10, 2006.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 9th day of May, 2006.

Hearthstone Manor Homeowners Association, Inc.

By: Mary E. Delaney
Mary E. Delaney, President

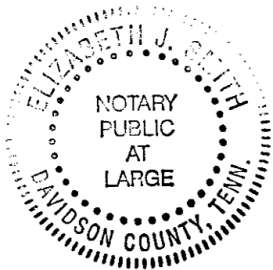
Attest: June B. Storie
June B. Storie, Board Member

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Before me, Elizabeth J. Smith, a Notary Public, in and for the County and State aforesaid, personally appeared Mary E. Delaney, with whom I am personally acquainted, and who upon oath acknowledged herself to be President of Hearthstone Manor Homeowners Association, Inc., a Tennessee non-profit corporation, and that she as such President, on behalf of the corporation and being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as such President.

In Witness Whereof, I have set my hand and official seal on this 9th day of May, 2006.



My Commission Expires NOV. 24, 2007

Elizabeth J. Smith
Notary Public

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION

BOOK 6424 PAGE 868

Being a 3.78 more or less acre tract of land lying in the 32nd Councilmanic District of Davidson County, Tennessee; said tract being a part of the property conveyed to Radnor/Nashville Corporation as of record in Book 6054, page 351 Register's Office of Davidson County, Tennessee and further described as follows:

Beginning at a point, lying on the Northerly margin of Old Hickory Blvd. as dedicated by plat of record in Book 5800, page 265 Register's Office of Davidson County, Tennessee, said plat having been amended by that plat of record in Book 6250, page 215, said Register's Office, said point being South 89 degrees, 40 minutes, 00 seconds East, 107 feet from the Westerly property line of the Radnor/Nashville Corporation property; thence North 0 degrees, 20 minutes, 00 seconds East, 240 feet to a point, thence North 11 degrees, 54 minutes, 18 seconds East 292.45 feet to a point; thence North 72 degrees, 28 minutes, 28 seconds East, 210.00 feet to a point; thence South 5 degrees, 01 minute, 32 seconds, East 291.00 feet to a point; thence North 84 degrees, 58 minutes, 28 seconds East a distance of 127.02 feet to a point; thence South 5 degrees, 01 minute, 32 seconds East 150 feet to a point; thence South 88 degrees, 29 minutes, 47 seconds West 146.27 feet to a point; thence South 0 degrees, 20 minutes, 0 seconds West 159.00 feet to a point on the Northerly margin of Old Hickory Blvd. as dedicated by plat; thence with said margin of Old Hickory Blvd. North 89 degrees, 40 minutes, 00 seconds 280 feet to the point to beginning.

LEGAL DESCRIPTION
PHASE II

Being a 2.69 more or less acre tract of land lying in the First Civil District of Davidson County, Tennessee; and being a portion of the Radnor/Nashville Inc. Property which is of Record in Book 6054, Page 351 Register's Office, Davidson County, Tennessee, and being more particularly described as follows:

Beginning at a point on the common line of Hearthstone Manor Phase I, which is of Record in Plat Book 6250, page 398 Register's Office, Davidson County, Tennessee, and the herein described tract, said point being Northwesterwardly 110.00 feet from the most Southeasterly corner of the said Hearthstone Manor Phase I; thence with the said Hearthstone Manor Phase I, North 5 degrees, 01 minutes, 32 seconds West a distance of 40 feet to a point; thence South 84 degrees, 58 minutes, 28 seconds West a distance of 127.02 feet to a point; thence North 5 degrees, 01 minutes, 32 seconds West a distance of 291.00 feet to a point; thence leaving the said Hearthstone Manor Phase I, South 76 degrees, 38 minutes, 08 seconds East a distance of 372.68 feet; thence South 70 degrees, 34 minutes, 17 seconds East a distance of 148.00 feet to a point on the common line of Hearthstone Phase I, as of Record in Plat Book 5200, Page 218 Register's Office Davidson County, Tennessee, and the herein described tract; thence with said Hearthstone Phase I, South 30 degrees, 25 minutes, 30 seconds West a distance of 314.64 feet to a point; thence leaving said Hearthstone Phase I, North 75 degrees, 11 minutes, 42 seconds West a distance of 46.88 feet; thence with a curve to the left having a radius of 82.31 feet, a chord bearing of North 30 degrees, 31 minutes, 55 seconds West, a chord distance of 117.09 feet to a point; thence South 62 degrees, 25 minutes, 49 seconds West a distance of 45.49 feet to a point; thence South 84 degrees, 58 minutes, 28 seconds West a distance of 42.33 feet to the point of beginning; containing 2.69 more or less acres.

EXHIBIT A

LEGAL DESCRIPTION
PHASE III

Being a 1.51 more or less, acre tract of land lying in the First Civil District of Davidson County, Tennessee, and being a portion of the Radnor/Nashville Inc. Property, which is of Record in Book 6054, page 351 Register's Office, Davidson County, Tennessee, and being more particularly described as follows:

Beginning at a point on the Northerly margin of the dedicated right of way of Old Hickory Boulevard, said point being the most Southwesterly corner of Lot One on the plat of Hearthstone Phase I, as of Record in Plat Book 5200, page 218 Register's Office, Davidson County, Tennessee; thence, with the said dedicated right of way of Old Hickory Boulevard, and with a curve to the right having a radius of 5609.58 feet, a chord bearing of South 89 degrees, 31 minutes, 37 seconds West, a chord distance of 157.89 feet to a point; thence North 89 degrees, 40 minutes, 00 seconds West a distance of 144.34 feet to a point; thence leaving the said dedicated right of way of Old Hickory Boulevard, and with the common line of Hearthstone Manor Phase I, which is of Record in Plat Book 6250, page 398 Register's Office Davidson County, Tennessee, and the herein described tract, North 00 degrees, 20 minutes, 00 seconds East a distance of 159.00 feet to a point; thence North 88 degrees, 29 minutes, 47 seconds East a distance of 146.27 feet to a point; thence North 5 degrees, 01 minutes, 32 seconds West a distance of 110.00 feet to a point; thence leaving the said Hearthstone Manor Phase I, North 84 degrees, 58 minutes, 28 seconds East a distance of 42.33 feet to a point; thence North 62 degrees, 25 minutes, 49 seconds East a distance of 45.49 feet to a point; thence with a curve to the right having a radius of 82.31 feet, a chord bearing of South 30 degrees, 31 minutes, 55 seconds East, a chord distance of 117.09 feet to a point; thence South 75 degrees, 11 minutes, 42 seconds East a distance of 46.88 feet to a point on the aforesaid Hearthstone Phase I; thence with the common line of the said Hearthstone Phase I and the herein described tract, South 30 degrees, 25 minutes, 30 seconds West a distance of 50.76 feet to a point; thence South 1 degree, 16 minutes, 46 seconds East a distance of 140.14 feet to the point of beginning, containing 1.51 more or less acres.

RECORDED

DAVIDSON COUNTY, TENN.

JUN 13 4 02 PM '05

REGISTER'S OFFICE

J 12 9 8 5

EXHIBIT A

Being a 9.32 more or less acre tract of land lying in the First Civil District of Davidson County, Tennessee and being a portion of the Radnor/Nashville Inc. Property as of record in Book 6054, Page 351, Register's Office Davidson County, Tennessee and being Phase 4 of Hearthstone Manor Condominium Site and being more particularly described as follows:

Beginning at a point on the Northerly margin of Old Hickory Boulevard said point also being the most Southwesterly corner of the herein described tract and being on the Easterly line of the Third National Bank, Trustee Property as of record in Book 6527, Page 244, Register's Office Davidson County, Tennessee; thence leaving the Northerly margin of Old Hickory Boulevard and with the Easterly lines of the afore mentioned Third National Bank, Trustee Property and the Subdivision of Hemmingwood, Sections 2 & 3 as of record in Book 6250, Page 744 Register's Office Davidson County, Tennessee, North 1 degree, 21 minutes, 34 seconds West a distance of 1069.57 feet to a point, said point being the most Northwesterly corner of the herein described tract and being on the Southerly margin of Trousdale Drive (proposed); thence with the Southerly margin of Trousdale Drive (proposed) North 58 degrees, 23 minutes, 02 minutes East a distance of 332.44 feet to a point; thence continuing with the southerly margin of Trousdale Drive (proposed) with a curve to the right having a radius of 622.85 feet, a chord bearing of North 62 degrees, 14 minutes, 51 seconds East and a chord distance of 83.94 feet to a point, said point being the most Northeasterly corner of the herein described tract; thence leaving the Southerly margin of Trousdale Drive (proposed) South 16 degrees, 21 minutes, 56 seconds East a distance of 416.24 feet to a point; thence South 43 degrees, 11 minutes, 46 seconds East a distance of 240.66 feet to a point, said point being on the Westerly line of the Subdivision of Hearthstone, Phase 1 as of record in Book 5200, Page 218, Register's Office Davidson County, Tennessee; thence with the Westerly line of the afore mentioned Subdivision of Hearthstone, Phase 1 South 30 degrees, 21 minutes, 40 seconds East a distance of 237.81 feet to a point, said point being on the Northerly line of Hearthstone Manor, Phase 2 as of record in Book 6250, Page 492 Register's Office Davidson County, Tennessee; thence with the Northerly line of the afore mentioned Hearthstone Manor, Phase 2 North 76 degrees, 38 minutes, 08 seconds West a distance of 372.68 feet to a point, said point being the most Northwesterly corner of the afore mentioned Hearthstone Manor, Phase 2 and being the most Northeasterly corner of Hearthstone Manor, Phase 1 as of record in Book 6250, Page 398; Register's Office Davidson County, Tennessee; thence with the common line of the afore mentioned Hearthstone Manor, Phase 1 the following calls:

South 72 degrees, 28 minutes, 28 seconds West a distance of 210.00 feet to a point; thence
 South 11 degrees, 54 minutes, 18 seconds West a distance of 292.45 feet to a point; thence
 South 0 degrees, 20 minutes, 00 seconds West a distance of 240.00 feet to a point;

said point being on the Northerly margin of Old Hickory Boulevard and being the most Southwesterly corner of the afore mentioned Hearthstone Manor, Phase 1; thence with the Northerly margin of Old Hickory Boulevard North 89 degrees, 40 minutes, 00 seconds West a distance of 109.66 feet to the point of beginning containing 9.32 more or less acres.

Exhibit "A"

LEGAL DESCRIPTION

Being a 18.69 more or less, acre tract of land lying in the 32nd Councilmanic District of Davidson County, Tennessee; said tract further described as being a portion of the property conveyed to Radnor/Nashville Corporation the deed for which is of record in Book 6054, page 351 Register's Office of Davidson County, Tennessee; said tract being depicted by a plat of record in Book 5800, page 265, as amended by that plat of record in Book 6250, page 215, said Register's Office, and further described as follows:

Beginning at a point lying on the Northerly margin of Old Hickory Boulevard, said point being the most Southeasterly corner of the Third National Bank in Nashville and Robert W. Boster, Trustee for William L. Granbery property as of record in Book 5199, Page 333 Register's Office of Davidson County, Tennessee; thence leaving the Northerly margin of Old Hickory Boulevard and running with the Easterly line of the James T. Granbery, et al property as of record in Book 4989, Page 151 Register's Office of Davidson County, Tennessee North 1 degree, 21 minutes, 33 seconds West a distance of 1159.63 feet to a point thence North 58 degrees, 23 minutes, 02 seconds East a distance of 332.44 feet to a point at the beginning of a curve to the right having a radius of 622.85 feet; thence around said curve a distance of 84.00 feet said curve having a chord length of 83.44 and a chord bearing of North 62 degrees, 14 minutes, 51 seconds East; thence South

16 degrees, 21 minutes, 56 seconds East a distance of 416.24 feet; thence South 43 degrees, 11 minutes, 46 seconds East a distance of 240.66 feet to a point; thence South 30 degrees, 21 minutes, 40 seconds East a distance of 237.81 feet to a point; thence South 70 degrees, 34 minutes, 17 seconds East a distance of 148.00 feet to a point; thence South 30 degrees, 25 minutes, 30 seconds West a distance of 365.40 feet to a point; thence South 1 degree, 16 minutes, 46 seconds East a distance of 230.14 feet to a point lying on the Northerly margin of Old Hickory Boulevard; thence with the Northerly margin of Old Hickory Boulevard with a curve having a radius of 5699.58 feet in a Westerly direction to the right a distance of 160.43 feet to a point; thence continuing with the Northerly margin of Old Hickory Blvd. North 89 degrees, 40 minutes, 00 seconds West a distance of 531.34 feet to the point of beginning containing 18.69 more or less, acres.

Less and except any Right of Way or dedication for Old Hickory Boulevard.

11/13 10:03 AM CHECK

1:63266

IDENTIF. REFERENCE

NOV 13 3 16 PM '84

FELIX WILSON, JR. REGISTER
DAVIDSON COUNTY, TN

3357

EXHIBIT B (PAGE 2)