

BIRD'S EYE VIEW

A

**PLANNED UNIT
DEVELOPMENT**

PREPARED BY:
CHARLIE R. JOHNSON, ATTORNEY AT LAW
150 COURT AVENUE
SEVIERVILLE, TN 37862

MASTER DEED
FOR
BIRD'S EYE VIEW
A HORIZONTAL PROPERTY REGIME

THIS MASTER DEED is hereby made and entered into by **BYRD'S EYE VIEW, LLC, a Tennessee Limited Liability Corporation** (the "*Developer*").

WITNESSETH:

WHEREAS, the Developer is the owner of certain real property located in Sevier County, Tennessee, and described on Exhibit A attached hereto;

WHEREAS, the Developer hereby submits the above-described parcel of real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in any way 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 **BIRD'S EYE VIEW, A PLANNED UNIT DEVELOPMENT**; and

WHEREAS, BIRD'S EYE VIEW, A PLANNED UNIT DEVELOPMENT is intended to be developed in Phases with the first (I) phase consisting of seventeen (17) lots/units. As each Phase is developed, that Phase may be subjected to a separate Deed of Trust for the construction of the buildings on the lots in each Phase that will be subject to this horizontal property regime; and,

WHEREAS, a new map or site plan of each phase shall be recorded as it is developed with the lots of each Phase clearly denoted. The design and layout of the Lots for Phase I has been surveyed by NORVELL AND POE, Registered Engineers and Land Surveyors, whose address is 101 Fox Meadows Blvd., Suite 105, Sevierville, TN 37862; and,

WHEREAS, the Developer further desires to establish said horizontal property regime for its own benefit and for the mutual benefit of all future owners or occupants of the Property (as hereinafter defined), or any part thereof, and intends that all future owners, occupants, deed of trust beneficiaries, and any other persons hereinafter acquiring any interest in the Property, shall hold such interest subject to certain rights, easements and privileges in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, as hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of residences on the Property, and are established for the purpose of enhancing the value, desirability and attractiveness of the Property.

NOW, THEREFORE, the Developer 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, Section 66-27-101, *et seq.*, Tenn. Code Ann., as amended.

(b) "**Association**" means **BIRD'S EYE VIEW HOA, INC.**, a Tennessee nonprofit corporation. A copy of the Articles of Incorporation of the Association are attached hereto as Exhibit "D".

(c) "**Board**" means the Board of Directors of **BIRD'S EYE VIEW HOA, INC.**, a Tennessee nonprofit corporation.

(d) "**Building**" or "**Buildings**" means the buildings located on the Parcel in Phases and forming part of the Property and containing the Units or Lots. The "Building" or "Buildings" are and shall be delineated on the Plat. Upon annexation of additional phases into the provisions hereof, "Building" or "Buildings" shall also mean the buildings located upon the additional phase or phases so annexed.

(e) **“Bylaws”** means the Bylaws of **BIRD’S EYE VIEW 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 this Master Deed dealing with the administration and maintenance of the Property shall be deemed to be a part of the Bylaws.

(f) **“Common Elements”** means all real and personal property within the Property other than the Units or Lots (which include the Private Elements within the Lots), which are now or hereafter owned by the Association. The Common Elements on the Plat shall be held by the Association for the common use and enjoyment of the Lot Owners. The Common Elements shall include, but shall not be limited to Meredith Drive, common easements, streets, roadways, culverts, parking areas, television cable, telephone lines, pavilion, drainage and retention pond and the area around the pond, drainage structures and facilities, rip rap, CMP drainage pipe, storm sewers, catch basins, gravity sewers, manholes, water lines, concrete pads, waterways, fences, sidewalks, curbs, gutters, signs, lights, utilities, electrical meter bases, electric service to signs, sign easements, water pumps for water features, and other improvements. Common Elements in Phase I and II, and all subsequent phases added to the provisions of this Master Deed, shall be under the control of the Association. **“Common Elements”** as used herein shall also mean “general common elements” as set forth in the Act. See Exhibit “B” attached hereto.

(g) **“Deed of Trust”** shall include a mortgage, and a “deed of trust beneficiary” shall include a mortgagee and a holder of a deed of trust.

(h) **“Developer”** means **BYRD’S EYE VIEW, LLC, a Tennessee Limited Liability Corporation**, their successors and assigns, provided such successors or assigns are designated in writing by Developer as a successor or assignee of the rights of Developer set forth herein. The Developer retains the right to assign a Parcel of the property or a Phase to a third party contractor for the purpose of constructing thereon the buildings or units to be subject to this Horizontal Property Regime.

(i) **“Limited Common Elements”** means any Common Elements contiguous to and serving a single Lot, such as a parking space, or a certain number of Lots to the exclusion of other Units or Lots, as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Lot either in this Master Deed, on the Plat, or by later decision of all of the Lot Owners.

(j) **“Majority” or “majority of Lot Owners”** means the owners of more than fifty percent (50%) of the voting rights of the Lot Owners.

(k) **“Master Deed”** means this instrument, as amended from time to time, and any subsequent annexations of additional parcels or property..

(l) **“Occupant”** means a person or persons in possession of a Lot, regardless of whether said person is a Lot Owner.

(m) **“Parcel”** means the parcel or tract of real estate described on Exhibit A attached to this Master Deed. Upon annexation of additional phases into the provisions hereof, Parcel shall also mean the additional property so annexed. The annexation of additional parcels shall constitute an amendment of Exhibit “A” as described.

(n) **“Person”** means a natural individual, corporation, partnership, limited liability company, trustee or other legal entity capable of holding title to real property.

(o) **“Plat”** means the plat or survey of the Parcel submitted to the provisions of the Act showing the number of each Lot, expressing its area, location and other data necessary for identification including but not limited to the area of the Private Elements upon which the Lot is located, said Plat for **BIRD’S EYE VIEW, PHASES I**, being of record in Large Map Book 7, Page 96, Register’s Office for Sevier County, Tennessee. Upon recordation of additional phases into the provisions hereof, Plat shall also mean the plat for the additional phase or phases so annexed.

(p) **“Private Elements”** means the lot area upon which each Lot is located and the improvements now or hereafter located thereon. Exclusive ownership is fee simple and use of the Private Elements for each Lot is reserved to such Lot. The area of the Private Elements for each Lot is as shown on the Plat. Lots, as referenced on the Plat, shall be deemed to refer to the Private Elements. The land area outside the lot is common area.

(q) **“Property”** means all the land and space comprising the Parcel, and all improvements and structures thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Lot Owners, submitted to the provisions of the Act. Upon annexation of additional phases into the provisions hereof, Property shall also mean and include the additional area so annexed.

(r) **“Record” or “recording”** refers to the record or recording in the Register’s Office for Sevier County, Tennessee.

(s) **“Lot” or “Lots”** means 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 thereon. The Units or Lots are identified by number on the Plat and may be held and conveyed by reference to such number. Conveyance of a Lot shall automatically convey the undivided membership of each Lot or Owner in the Association. Each Lot is numbered as shown on the Plat. Any Lot may be jointly or commonly owned in any estate recognized under applicable law. The term “Lot” or “Lots” as used in this Master Deed shall have the same meaning as the term “apartment” as used in the Act. The lot is essentially represented by the footprint of the buildings and a small limited space surrounding the building as depicted on the plat.

(t) **“Unit Owner” or “Lot Owner”** means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Lot, and shall be deemed the same as a “co-owner” under the Act. Unless specifically provided otherwise herein, the Developer shall be deemed a Lot Owner so long as it is the title holder of any Lot.

2. Submission of Property to the Act. The Developer, by recording this Master Deed, hereby submits and subjects the Parcel and the Property to the provisions of the Act and hereby establishes a horizontal property regime with private elements as authorized and described in the Act and to be hereafter known as **BIRD’S EYE VIEW, A PLANNED UNIT DEVELOPMENT**. Provided, however, **Developer reserves the right to amend this Master Deed for a period of five (5) years after recordation.**

3. Plat. The Plat sets forth the numbers, areas, locations, and other data as required by the Act.

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

5. (a) Association of Lot Owners and Administration and Operation of the Property. There has been or will be formed an Association having the name **BIRD’S EYE VIEW HOA, INC.**, a Tennessee nonprofit corporation, which Association shall be the governing body for all of the Lot Owners and shall be operated to provide for the maintenance, repair, replacement, administration, operation and care of the Property as provided in the Act, this Master Deed and Bylaws. The Lot Owners shall each be members of the Association, with each Lot holding an undivided membership interest in the Association which shall be appurtenant to such Lot, each such membership interest appurtenant to a Lot being in an equal share, subject to the provisions concerning voting hereinafter set forth. The Bylaws for the Association shall be the Bylaws attached to this Master Deed as Exhibit B and made a part hereof. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the Bylaws. The fiscal year of the Association shall be determined by the Board within the confines of applicable law, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the use and benefit of Lot Owners in accordance with the provisions of the Master Deed and Bylaws. Each Lot Owner shall be a member of the Association so long as such Owner is a Lot Owner. A Lot Owner’s membership shall automatically terminate when such Owner ceases to be a Lot Owner. Upon the conveyance or transfer of a Lot Owner’s ownership interest to a new Lot Owner, the new Lot Owner shall automatically succeed to the former Lot Owner’s membership in the Association. The aggregate number of votes for all members of the Association shall be divided among the respective Lot Owners, with one (1) vote granted to each Lot.

(b) Management of Property. Each individual Lot Owner shall have the authority to engage the services of the agent of their choice (herein sometimes referred to as the “Managing Agent”) to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Lot Owner, subject to the provisions of Subsection (c) below. The cost of such services shall be an expense to the individual Lot Owner. Any vote of the Board to adopt any form of management of the Property without the services of a professional property management company shall be subject to the prior approval of a majority of all first lien deed of trust beneficiaries of Units or Lots.

(c) Initial Management Contract. The First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property, for a term as approved by said First Board, but not to exceed three (3) years.

(d) Use by Developer. During the period of sale by the Developer of any Units or Lots, 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 the Buildings and Property as may be required for purposes of sale of the Units or Lots. While the Developer owns any of the Units or Lots and until each Lot 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 or Lots as a model Lot or Units or Lots, or as a sales office, and may maintain customary signs in connection therewith. Further, during the time the Lots remain unsold and titled with the developer, the developer shall be exempt from all association fees and dues.

(e) Non-Liability of the Directors, Board, Officers and Developer. Neither the directors, Board, officers of the association, nor the Developer shall be personally liable to the Lot Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors, Board, officers, or Developer, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Lot Owners shall indemnify and hold harmless each of the directors, Board, officers, or Developer, and their respective heirs, personal and legal representatives, successors and assigns in accordance with, and as provided in, the Charter of the Association and Bylaws.

(f) Interest of Association in Common Elements. Ownership of the Common Elements shall be vested in the Association. The Developer reserves the right to dedicate by deed of right-of-way the road known as Meredith Drive to the appropriate governing authority for use as a public road. Such dedication may be accomplished without the joinder of the homeowner’s association and any such conveyance to the proper governmental authorities.

6. Board’s Determination Binding. In the event of any dispute or disagreement between any Lot Owners relating to the Property, or any questions of interpretation or application of the provisions of the Master Deed or Bylaws, the determination thereof by the Developer shall be final and binding on each and all such Lot Owners.

7. Ownership of Interests in the Association. Subject to the provisions concerning voting rights hereinabove contained, each Lot shall be allocated an equal percentage ownership in the Association. The percentages of ownership interests shall remain constant unless hereafter changed by recorded amendment to this Master Deed consented to in writing by the Lot Owners, in accordance with the requirements hereinafter contained. Said ownership interest shall be an undivided interest, and the undivided membership interests in the Association shall be owned by the Lot Owners as tenants in common in accordance with their respective percentages of ownership. The ownership of each Lot shall not be conveyed separate from the percentage of ownership in the Association corresponding to said Lot. The undivided percentage of ownership in the Association corresponding to any Lot shall be deemed conveyed or encumbered with that Lot, even though the legal description in the instrument conveying or encumbering said Lot may refer only to the fee title to that Lot.

8. Use of the Common Elements. Except as hereinafter set forth, each Lot Owner shall have the right to use the Common Elements, except the Private Elements, in common with all other Lot Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Lot owned by such lot Owner. Such right to use the Common Elements shall extend to each Lot Owner, and such Owner’s agents, servants, tenants, family members, customers, invitees and licensees. However, each Lot Owner shall have the right to the exclusive use and possession of the Private Elements attributable to the Lot and the right to exclusive use of the Limited Common Elements contiguous to and serving such lot alone or with adjoining Units

or Lots. Such rights to use the Common Elements shall be subject to and governed by the provisions of the Act, Master Deed, Bylaws and any rules and regulations established by the Association. In addition, the Association shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of the Master Deed and Bylaws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

9. Storage Areas and Parking Spaces and Porches. (a) Any storage areas on the Property, except those inside the Units or Lots and those which are Private Elements or Limited Common Elements, shall be used by such Lot Owners in such manner and subject to such rules and regulations as the Board may prescribe. Parking spaces within the Parcel, even though located on Private Elements, shall be used by such Lot Owners in such manner and subject to such rules and regulations as the Board may prescribe.

(b) **Porch and Deck Encroachments.** Any Owner shall have a perpetual easement to install, maintain, upkeep, repair and replace porches and decks across their lot line and over and upon Common Areas, it being expected that many of the residence constructed within Bird's Eye View to have such "encroachments". The Association may execute instruments from time to time to relieve any title companies, attorneys or lenders of uncertainty concerning this issue, including, if required, deeding fee simple title to the property actually encroached upon. Neither the Declarant, the Association or any Owner shall have the right to bring suit for removal of any improvements encroaching upon Common Areas or Open Spaces, provided that the encroaching improvement was either built as part of the original construction of a Unit or residence or approval in terms of location or size by the Association

10. (a) Common Expenses. Except as specifically provided otherwise herein, each Lot Owner shall pay an equal share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with the Master Deed and Bylaws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair thereof and any and all replacements and additions thereto. Payment of common expenses, including any prepayment thereof required by any contract for a sale of a Lot, shall be in such amounts and at such times as determined in the manner provided in the Bylaws. No Lot Owner shall be exempt from payment of such Lot Owner's proportionate share of the common expenses by waiver or non-use of enjoyment of the Common Elements, or by abandonment of such Owner's Lot. If any Lot Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof, together with interest thereon at the rate of **ten percent (10%)** per annum, after said common expenses become due and payable, shall constitute a lien on the interest of such Lot Owner in the Lot as provided in the Act. Each assessment for common expenses against a Lot shall also be the personal obligation of the Lot Owner at the time the assessment is due. A successor in title to a Lot shall not be personally obligated to pay any unpaid assessments for common expenses which have been levied against a Lot unless such successor in title expressly assumes the payment of the same, provided, however, any lien encumbering a Lot as above described shall not be affected by transfer of a Lot.

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 Lot owned by the Developer shall be assessed for common expenses, or otherwise, until such time as construction of such Lot is completed and 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 Lot Owners and Developer.

(1) **Maximum Annual Assessment.** Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum total assessment shall be _____ (\$_____) Dollars per Lot, payable in monthly installments or as the members of the BIRD'S EYE VIEW HOA, INC. may establish. Provided however, an additional amount may be assessed for fire and casualty insurance on the units or lots if the association decides to insure the units

(i) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner(s) the maximum annual assessment may be increased each year without a vote of the Members, if such increase is not in excess of the increase in the consumer price index (CPI) as established by the Department of Labor and published the July preceding the increase in the annual assessment.

(ii) From and after January 1 of the year immediately following the

conveyance of the first Lot to an Owner(s), the maximum annual assessment may be increased each year above that established by the consumer price index (CPI) by a vote of the members with a two-thirds (2/3) affirmative vote of the members who are eligible to vote, whether voting in person or by proxy, at a meeting duly called for the purpose of establishing said annual assessment as provided herein.

(iii) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum set forth herein or as approved by a majority at the annual homeowner's association meeting.

(iv) Each Lot shall be assessed an amount equally to three months Association fees at the time of each transfer so that the association may start a working capital fund for the benefit of the Lot Owners.

(b) MAINTENANCE ASSESSMENTS

(i) Creation of the Lien and Personal Obligation of Assessments.

If a centralized sewer system or service is installed, the Declarant, for each platted and improved Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided and monthly assessments for sewer service and tank maintenance if not paid by the owner on a timely basis. The cost may include the installing of a primary septic tank on each improved lot or one tank may serve more than one lot, together with such pump(s) and laterals as shall be necessary to transfer effluents to a main sewage line or an intermediary tank(s) as may be required by appropriate governmental authorities. The monthly, annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall pass to his successors in title. **PROVIDED, IF A LOT IS SHOWN ON A RECORDED PLAT AND IS NOT IMPROVED WITH A DWELLING UNIT THEREON, THE DECLARANT IS NOT OBLIGATED TO PAY THE ASSESSMENTS.**

The Director of the Tennessee Department of Environment and Conservation, Division of Ground Water Protection, may make a special assessment to correct any deficiencies and/or health hazards concerning the sewage collection and disposal system, provided the owner and/or association has failed to comply with the directives of the division in a timely fashion.

(ii) **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties, for the rental of recreation areas for the use of members, to provide a system for providing and maintaining a central sewerage disposal system, and for the improvement and maintenance of the Common Areas, including, but not limited to costs of repairs, maintenance, replacements, additions, management, taxes assessed against the common areas, street lighting and insurance maintained in accordance with the By-Laws and employment of attorneys to represent the Association when necessary or when the need arises.

(2) Replacement Reserves. The Association shall maintain in a separate bank account funds for Replacement Reserves to maintain, improve and preserve (a) the entrance road known as Meredith Drive, and (b) common areas. The Replacement Reserves shall be a part of and collected from Lot Owner(s) by the Association as regular assessments in an amount determined and established in the annual Association budget.

(b) Enforcement. In the event any Lot Owner fails to maintain such Owner's Lot, including its Private Elements, or the Limited Common Elements attributable to such Lot, or in the event any Lot Owner fails to pay such Owner's proportionate share of any common expense when such is due, then in any such event the Board may after ten (10) days' notice to the defaulting Lot Owner, perform such maintenance, advance and pay such sums, or do any other reasonable act necessary to cure such default. The Association shall have a lien against the Lot of the defaulting Lot Owner securing payment of the sums expended or advanced, and shall be entitled to enforce such lien by filing

suit in a court of competent jurisdiction. In the event the Association is successful in such suit, it shall be entitled to recover reasonable attorney fees and costs incurred in such suit and enforcement of its rights.

(c) Deed of Trust Protection. The lien for common expenses payable by a Lot Owner shall be subordinate to the lien of a recorded deed of trust on the interest of such Lot 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 beneficiary thereunder either takes possession of the Lot encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses on its deed of trust. This Subsection (c) shall not be amended, changed, modified or rescinded without the prior written consent of all deed of trust beneficiaries of record.

(d) Special Assessments. In addition to the annual assessments for common expenses authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of *two-thirds (2/3)* of the votes of Lot Owners. The Owner's Association shall not be required to provide exterior maintenance to dwelling improvements upon the lots. Provided however if the Board of Directors of the Owner's Association should deem it necessary to provide maintenance on the dwelling in order to maintain the integrity of the scenic beauty of the development as well as to preserve the property values of adjoining owners and protect the welfare and safety of the owners using the common areas, such maintenance may be performed by the Owner's Association and charged as a special assessment against the particular lot. **Provided however, the Developer shall have the right to collect an initial special assessment up to Five Hundred (\$500.00) Dollars for the Association as startup funds for the Association without the vote of Lot Owners.**

11. Deeds of Trust. Each Lot Owner shall have the right, subject to the provisions herein, to make separate deeds of trust for such Lot Owners' respective Lot, including such Lot Owner's respective ownership interest in the Association. No Lot Owner shall have the right or authority to make or create, or cause to be made or created, from the date hereof, any deed of trust or other lien on or affecting the Property or any part thereof, except only to the extent of such Owner's Lot and the interest in the Association corresponding thereto.

12. Separate Real Estate Taxes. Real estate taxes shall be separately taxed to each Lot Owner for such Owner's Lot and including the corresponding percentage of ownership in the Association, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Lot Owner, but rather are taxed on the Property as a whole, then each Lot Owner shall pay such Owner's proportionate share thereof in accordance with such Owner's respective percentage of ownership interest in the Association, and, in said event, such taxes shall be a common expense.

13. Insurance and Damage. The Board shall have the authority to and may obtain insurance for the Property, including the Units or Lots and Private Elements, and the Common Elements, exclusive of the additions within, improvements to and decorating of the Units or Lots by the Lot Owners, 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 the Buildings, and against such other hazards and for such amounts as the Board may deem advisable. Such insurance shall, if possible, include all or any portion of all Limited Common Elements. Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements, Units or Lots 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 of the Association, as the trustee for each of the Lot Owners in direct ratio to said Lot Owner's respective percentage of ownership in the Association, as set forth in the Master Deed, and for the holders of deeds of trust on his Lot, if any. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against individual Lot Owners. The premiums for such insurance shall be a common expense in addition to the normal maintenance and repairs of the common elements. However, at the option of the Board, and upon written notice to all Lot Owners, insurance shall be separately obtained by each Lot Owner for such Owner's Lot and such Owner's corresponding ownership in the Association.

The Board shall also have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workers' compensation insurance and other liability insurance as it deems desirable, insuring each Lot Owner, deed of trust beneficiaries of record, if any, the Association, its officers, directors, Board and employees, the Developer, and the Managing

Agent, if any, from liability in connection with the Common Elements. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Lot Owners, premiums for such insurance shall be separately billed to each Lot Owner for such Owner's corresponding percentage of ownership in the Association. The Board shall retain in safekeeping any such public liability policy for six (6) years after the expiration date of the policy.

The Board shall also have authority to and may obtain such 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 officers of the Association, and members of any committee appointed pursuant to the Bylaws of the Association from liability arising from the fact that said person is or was director or officer of the Association, or a member of such a committee.

Each Lot Owner shall be responsible for obtaining his own insurance on the contents of such Owner's Lot, as well as additions and improvements thereto, decorations, furnishings and personal property therein, and personal property stored elsewhere on the Property. In addition, in the event a Lot Owner desires to insure against such Owner's personal liability and loss or damage by fire or other hazards above and beyond the extent that such Owner's 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 Lot Owners as part of the common expenses, as above provided, said Lot Owner may, at such Owner's option and expense, obtain additional insurance. If any portion of the Lot owner's house extends into the common areas, the Lot Owner shall have sole liability for and damages as a result thereof.

14. Maintenance, Repairs and Replacements.

(a) Obligations of Lot Owners. Each Lot Owner, at such Owner's expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within the interior of such Owner's Lot, including plumbing, pipes, wiring, appliances, and structural components of the Lot. In addition each Lot Owner shall be responsible for all exterior glass, windows, including storm windows, screens, doors, including storm doors and electrical meter bases that are appurtenant to the buildings

(b) Obligations of Association. The Association shall be responsible for maintenance of, repairs to and replacements within the Common Elements, including landscaping and yard maintenance, and on the Units or Lots and Private Elements the Association shall be responsible for exterior landscaping, walkways, the replacement of electrical meter bases, provided that such exterior maintenance responsibilities shall not include glass, windows, including storm windows, screens and doors, including storm doors or any item on the residence which shall be the responsibility of the Lot Owner. Other items of maintenance, repair and replacement in the Units or Lots shall be the responsibility of the Lot Owner. The cost of maintenance of, repairs to and replacements which are the responsibility of the Association shall be part of the common expenses, subject to the Bylaws, rules and regulations of the Association. Notwithstanding the foregoing, to the extent not covered by the Association's insurance, the expenses for the maintenance, repair or replacement of Private Elements shall be borne by the Owner of the Lot to which such Limited Common Elements are appurtenant and at the discretion of the Board, maintenance of, repairs to and replacements within the other Common Elements may be assessed in whole or in part to Lot Owners benefited thereby, and, further, at the discretion of the Board, the Board may direct Lot Owners who stand to be benefited by such maintenance of, repairs to and replacement within the Private Elements or Common Elements to arrange for such maintenance, repairs and replacement in the name and for the account of such benefited Lot Owners, pay the cost thereof with their own funds, and procure and deliver to the Board such lien waivers and contractors' and subcontractors' sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

(c) Loss Attributable to Lot Owner. Notwithstanding the foregoing, if, due to the act or neglect of a Lot Owner, or the agent, servant, tenant, family member, invitee, licensee or household pet thereof, damage shall be caused to the Common Elements or to a Lot or Units or Lots owned by others, or maintenance, repair or replacement are required which would otherwise be a common expense, then such Lot Owner shall pay for such damage or such maintenance, repair and replacements, as may be determined by the Association, to the extent not covered by the Association's insurance or sufficient proceeds are not collected from the insurance carrier.

The authorized representative of the Association, Board or of the Managing Agent with approval of the Board shall be entitled to reasonable access to the individual Units or Lots, Private Elements and Limited Common Elements as may be required in connection with the preservation of any individual Lot, Private Elements or Limited Common Elements in the event of an emergency, or in

connection with maintenance of, repairs or replacements within the Common Elements, Limited Common Elements or any equipment, facilities or fixtures affecting or serving the other Units or Lots, Common Elements, Limited Common Elements or Private Elements, or to make any alteration required by any governmental authority.

15. Architectural Control, Alterations, Additions or Improvements.

(a) Architectural Control. Unless specifically provided otherwise herein, no structure may be erected, placed or altered on any Private Elements, and no building permit may be obtained, until the construction plans and building specifications and a plan showing (i) the location of improvements on the Private Elements; (ii) the grade elevation (including rear, front and side elevations); (iii) the type of exterior material and roof material (including delivery of samples thereof); (iv) the color of paint or stain to be applied to any exterior surfaces and the color of the roof material (including delivery of samples thereof); and (v) the location and size of the driveway (which shall be exposed asphalt, or concrete pad unless otherwise approved by the Developer), shall have been approved in writing by the Developer, or any Architectural Control Committee designated by the Board.

(b) Architectural Control Committee. It is intended that the Subdivision development will be a residential community of high esteem and quality log homes in a delightful environment. The concept of Bird's Eye View is to provide harmony of architectural standards but not absolute conformity. The primary authority of the Architectural Control Committee (hereinafter referred to as "committee") shall be to examine and approve or disapprove all initial and subsequent plans, including site plans for construction of improvements on the Development, in accordance with the provisions of these Covenants. The Committee shall have such other responsibilities, duties, and authority as provided for herein, but the Committee shall not have any responsibility, duty, power, or authority not provided for herein.

(c) Alterations, Additions or Improvements. Except as specifically provided otherwise herein (including Section 16 below), no alteration of any Common Elements or Private Elements, or any additions or improvements thereto, shall be made by any Lot Owner without the prior written approval of the Board. The Board may authorize and charge as common expenses alterations, additions and improvements of the Common Elements as provided in the Bylaws. Any Lot Owner may make alterations, additions or improvements within the Lot of the Lot Owner without the prior written approval of the Board, but such Lot Owner shall be responsible for any damage to other Units or Lots, the Common Elements, the Private Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

16. Decorating. Each Lot Owner, at such Owner's expense, shall furnish and be responsible for all decorating within such Owner's Lot, its Private Elements and the Limited Common Elements serving such Lot.

17. Encroachments and Easements. If any portions of the Common Elements shall actually encroach upon any Lot or Private Elements, or if any Lot or Private Elements shall actually encroach upon any portions of the Common Elements, or if any Lot or Private Elements shall actually encroach upon another Lot or Private Elements, as the Common Elements, Units or Lots and Private Elements are shown by the Plat, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Lot Owners involved, to the extent of such encroachments, so long as the same shall exist.

The Association shall have the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the horizontal property regime. **Specifically, the Association and/or the Developer reserves the right to install or place sidewalks across the property as necessary to facilitate the flow of foot traffic throughout the property.**

(a) Utilities and Public Authorities. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct, alter, or retard the flow of water through drainage channels in the easements. Easements to each individual lot for ingress and egress shall be provided to the front, sides, and rear of each property over the Common Area or by access easements as shown on the recorded plat. **A SPECIFIC EASEMENT IS RETAINED ON ALL PROPERTIES FOR THE LOCAL LAW ENFORCEMENT AUTHORITIES TO COME ON THE PROPERTY IN THE PERFORMANCE OF THEIR DUTIES, FOR THE LOCAL FIRE**

DEPARTMENTS TO COME ON THE PROPERTY IN THE PERFORMANCE OF THEIR DUTIES, FOR THE UNITED STATES POSTAL OFFICE TO TRAVEL THE ROADS IN THE DEVELOPMENT FOR THE DELIVERY OF MAIL, FOR THE UNITED PARCEL SERVICE AND FEDERAL EXPRESS OR SIMILAR EXPRESS MAIL DELIVERY SERVICES IN THE PERFORMANCE OF THEIR BUSINESS OF DELIVERY TO INDIVIDUAL IMPROVED LOTS. THERE IS SPECIFICALLY RESERVED AN EASEMENT FOR THE LOCAL WATER AND SEWER AUTHORITIES TELEPHONE COMPANY NATURAL GAS UTILITY COMPANY, CABLE TELEVISION OF FIBER OPTICS PROVIDER AND ELECTRIC SYSTEM FOR THE INSTALLATION AND MAINTENANCE OF WATER, SEWER, TELEPHONE, GAS, ELECTRICAL, CABLE AND FIBER OPTIC LINES. THERE IS SPECIFICALLY RESERVED AN EASEMENT FOR THE LOCAL PUBLIC WORKS AUTHORITY FOR PICKING UP GARBAGE AND DEBRIS TO COME ON THE PROPERTY IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

(b) **Developer's Rights Incident to Construction.** Developer, for itself and its successors and assigns hereby retains a right and easement of ingress and egress over, in, upon, under and across the Open Space and Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Developer; provided, however, that no such rights shall be exercised by Developer in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot or his family, tenants, employees, guest or invitees.

18. Association's Right to Purchase at a Foreclosure Sale. The Board shall have the power and authority to bid and purchase, for and on behalf of any Lot, or interest therein, at a sale pursuant to a deed of trust foreclosure, a foreclosure of the lien for common expenses under the Act, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of Lot Owners owning not less than fifty (50%) percent of the total votes of the Lot Owners. Such consent shall set forth a maximum price which the Board or its duly authorized agent may bid and pay for said Lot.

The Board shall have authority to make such loan and deed of trust arrangements and special assessments proportionately among the respective Lot Owners, and other such financing arrangements as the Board may deem desirable, in order to close and consummate the purchase or lease of a Lot, or interest therein, by the Association. However, no such financing arrangement may be secured by an encumbrance on any interest in the Property other than the Lot, or interest therein, to be purchased or leased, and the percentage interest in the Association appurtenant thereto.

19. Use and Occupancy Restrictions. Subject to the provisions of the Bylaws, 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 municipal zoning laws. Each Lot shall be used as a residence or such other use permitted by this Master Deed, including over night rentals, and for no other purposes 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. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Lot Owner from: (a) maintaining a personal professional library; (b) keeping personal business or professional records or accounts; or (c) handling 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.

No Lot or Common Elements may be used in violation of the restrictions and provisions contained in the Bylaws.

The Common Elements shall be used only by the Lot Owners and their agents, servants, tenants, family members, customers, invitees and licensees for access, ingress to and egress from the respective Units or Lots and for such other purposes incidental to use of the Units or Lots; provided, however, that any areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Lot Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements. Should the Developer annex additional properties that may use Meredith Drive, such additional properties will pay a prorata share for the maintenance of such road. The Developer shall be given an easement along all common areas.

20. Remedies. In the event of any violation of the provisions of the Act, Master Deed, Bylaws or rules and regulations of the Board or Association by any Lot Owner (either by the Lot Owner's own conduct or by the conduct of any other Occupant of such Owner's Lot) the Association, or its successors or assigns, or the Board, or its agent, shall have each and all of the rights and remedies which may be provided for in the Act, Master Deed, Bylaws, or said rules and regulations, or which may be available at law or in equity, and may prosecute an action or other proceeding against such defaulting Lot Owner and/or others for enforcement of any lien and the appointment of a receiver for the Lot and ownership interest of such Lot Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to sell the Lot through judicial process as provided hereinbefore, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of **ten (10%) percent** per annum until paid, shall be charged to and assessed against such defaulting Lot Owner, and shall be added to and deemed part of such Owner's respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for nonpayment of the Lot Owner's respective share of the common expenses, upon the Lot and ownership interest in the Association of such defaulting Lot Owner and upon all of such Owner's additions and improvements thereto and upon all of such Owner's personal property in such Owner's Lot located elsewhere on the Property, provided, however, that such lien shall subordinate to the lien of a recorded deed of trust on the interest of such Lot Owner, except for the amount of the proportionate share of said common expenses which become due and payable from and after the date on which the said deed of trust beneficiary either takes possession of the Lot, accepts a conveyance of any interest therein (other than as a security) or files suit to foreclose its deed of trust. In the event of any such default by any Lot Owner, the Board and the manager or Managing Agent, if so authorized by 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 Lot 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 deeds of trust against Units or Lots.

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 Master Deed: (a) to enter (either peaceably or forcibly without liability to such Lot Owner for such entry) upon the Lot, 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 Lot 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 Lot Owner for such entry) of such Lot Owner's interest in the Property and to maintain an action for possession of such Lot in the manner provided by law.

If any Lot Owner (either by such Owner's conduct or by the conduct of any other occupant of his Lot) shall violate the Act, or any of the covenants or restrictions or provisions of this Master Deed or the regulations adopted by the Board, and if such default or violation shall continue for **ten (10) days** after notice to the Lot Owner in writing from the Board, or shall occur repeatedly during any **ten (10) days** 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 the said defaulting Owner to continue as a Lot Owner and to continue to occupy, use or control such Owner's Lot, 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 Lot 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 any existing deed of trust) 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 such Owners interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting 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 Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Lot and the Lot Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Lot 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 Lot ownership sold subject to this Master Deed.

In addition to the other remedies provided for herein, in the event of a default by a Lot Owner in the payment of such Lot Owner's respective share of the common expenses which default continues for a period of **ten (10) days**, the Board shall have the power and authority to place such Lot Owner's name on a list of delinquent Lot Owners, which list may be posted at a place designated by the Board for notices.

Any aggrieved Lot Owner shall also have all rights of action available in law or equity should another Lot Owner, or the Association, fail to comply with the requirements of the Master Deed, Bylaws, or rules and regulations of the Association.

21. Amendments.

(a) Amendments and Annexing Additional Phases. The Developer may, on its own (without the necessity of the consent or agreement of any Lot Owner or other person), but shall not be obligated to incorporate additional area into additional phases of the horizontal property regime governed by this Master Deed. The annexation of such additional phases shall be accomplished by the unilateral execution by Developer, and recording, of an amendment to this instrument setting forth the additional real property to be brought within the provisions of this Master Deed and reciting that it shall be held and conveyed subject to the provisions hereof as an additional phase or phases of **BIRD'S EYE VIEW HORIZONTAL REGIME**. Upon the addition of additional Units or Lots to the **BIRD'S EYE VIEW HORIZONTAL REGIME**, then the percentage ownership in the Association of the Lot Owners shall be automatically adjusted so that each Lot Owner owns an equal undivided ownership interest in the Association.

(b) Other Amendments. Except as specifically stated elsewhere herein, [particularly Section 29(c),] and except for this Section 21, any provisions of this Master Deed may be changed, modified or rescinded by an instrument in writing, setting forth such change, modification or rescission, signed by Lot Owners owning not less than two-thirds (2/3) of the total Units or Lots and acknowledged, provided, however, that all lien holders of record have been notified by certified mail of such change, modification or rescission, and an affidavit by the secretary of the Association certifying to such mailing is made a part of such instrument.

However, if the Act, the Master Deed or the Bylaws require the consent or agreement of all Lot Owners or of all lien holders for any action specified in the Act or in this Master Deed, then any instrument changing, modifying or rescinding any provision of this Master Deed with respect to such action shall be signed by all Lot Owners or all lien holders or both as required by the Act or this Master Deed. The change, modification or rescission, whether accomplished under the provisions of the preceding paragraph, shall be effective upon recording of such instrument in the Register's Office for Sevier County, Tennessee; provided, however, that no provision in this Master Deed may be changed, modified or rescinded 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. Further, the Developer shall have the right to amend this instrument for a period of five (5) years from the date of recording.

22. Notices. Notices provided for in the Act, Master Deed or Bylaws shall be in writing, and shall be addressed if to a Lot Owner, to the address of such Owner's Lot, and if to the Association or Board, as the case may be, to its registered office, as set forth in Charter of the Association, or to such other address as may be designated by the Association or Board from time to time. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Lot Owners. Any Lot Owner may designate a different address for notices 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 acknowledgment of the receipt thereof.

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

23. Severability. If any provision of the Master Deed or Bylaws, or any section,

sentence, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Master Deed and the Bylaws 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 Master Deed or the Bylaws shall be construed as if such invalid part was never included therein.

24. *Perpetuities and Restraints on Alienation.* If any of the options, privileges, covenants or rights created by this Master Deed 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 President of the United States.

25. *Rights and Obligations.* Each grantee of the Developer, 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 Master Deed. All future Lot Owners and Occupants shall be subject to and shall comply with the provisions of this Master Deed. Any restrictions or rules in the Bylaws which are more than administrative in nature such as, but not limited to, reservations and future rights of the Developer, are hereby incorporated into and made a part of this Master Deed by reference. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time an interest or estate in said land, and shall inure to the benefit of such grantee in like manner as though the provisions of this Master Deed were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

All present and future Lot Owners, tenants and Occupants of a Lot shall be subject to, and shall comply with, the provisions of the Bylaws appended hereto and recorded herewith as they may be amended from time to time. The acceptance of a deed of conveyance, devise or of a lease to a Lot, or the entering into occupancy of any Lot shall constitute an agreement that the provisions of the said Bylaws and any rules and regulations promulgated thereunder, as they may be amended from time to time, are assumed, accepted and ratified by such Lot Owner, tenant 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 Lot, 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 Master Deed, Bylaws and rules and regulations may be incorporated by reference in, and become part of, the agreement between any deed of trust beneficiary and any present or future Lot Owner who enters into such an agreement with a deed of trust beneficiary. When so incorporated, any default in the terms and conditions of the Master Deed, Bylaws and rules and regulations may be considered as a default by the deed of trust beneficiary, whereupon said deed of trust beneficiary, 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 Lot Owner.

26. *Trustee as Lot Owner.* In the event title to any Lot is conveyed to a land title holding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder shall be considered Lot 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 Master Deed against such Lot. No claim shall be made against any such title holder 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 Lot and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Lot.

27. *Condemnation.* In the event of a taking in condemnation or by eminent domain of a part of the Common Elements, the award made for such taking shall be payable to the Board for and on behalf of the Association and all deed of trust beneficiaries affected. If a majority of the Board in their discretion, with written consent of a majority of the deed of trust beneficiaries affected, approve 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 that the Board and the deed of trust beneficiaries do not approve the repair and commence restoration of such Common Elements within ***thirty (30) days*** after taking by the public or private authority, the Board shall disburse the net proceeds of such award to the Lot Owners and the deed of trust beneficiaries (as appropriate), as their respective interests may appear, on the basis of each respective Lot's percentage of ownership in the Association.

28. Rights Reserved. A Lot Owner's right of enjoyment in the property commonly owned by the Association as herein created shall be subject to:

(a) **The right** of the Association, as provided in its Bylaws, 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 charge reasonable fees for the use of the parts of the Common Elements;

(c) **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, dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless the Developer, its successors or assigns, and members of the Association entitled to cast **sixty-seven (67%) percent** of the total votes of members, and the appropriate consent(s) of the other parties required herein, have all been recorded, agreeing to such act; and

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

29. Provisions Relative to Deed of Trust Beneficiaries' Rights and to Federal Home Loan Mortgage Corporation and Federal National Mortgage Association Regulations. Notwithstanding anything to the contrary contained in this Master Deed, or in the Bylaws which are attached hereto, all terms, conditions and regulations which are now existing, or which may be amended from time to time, by the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") pertaining to horizontal property regimes are hereby incorporated as terms and conditions of the Master Deed and Bylaws and such shall be governing upon the Property, the Developer, and the Association, so long as such terms or conditions are not inconsistent with the laws of the State of Tennessee as found in the Act, as such may be amended.

Specifically, without limitation upon the foregoing, the following provisions shall be fully effective and controlling over any terms of the Master Deed, outside this Section 29, or Bylaws which are in conflict:

(a) **A beneficiary**, insurer or guarantor to any first lien deed of trust secured by a Lot at its request is entitled to a[n] [audited] financial statement of the Association for the preceding fiscal year.

(b) **Any first lien** deed of trust beneficiary of a Lot which comes into possession of the Lot pursuant to the remedies provided in the deed of trust, foreclosure under the deed of trust, or deed in lieu of foreclosure shall take the property with all claims for unpaid assessments or charges against the mortgaged Lot, which accrue prior to the time such holder comes into possession of the Lot with the exception of the Trust deed beneficiaries..

(c) **Unless two-thirds (2/3)** of the first lien deed of trust beneficiaries (based upon one (1) vote for each deed of trust held), and Lot Owners owning at least two-thirds (2/3) of the total Units or Lots have given their prior written approval, the Association shall not be entitled to:

(i) **Change** the percentage interests of ownership of all or any Lot or Lot Owners, except that percentage ownership of the Association may be reduced due to the addition of a phase or phases to the horizontal property regime as provided hereinabove.

(ii) **Partition** or subdivide any Lot or the Common Elements.

(iii) **By act** or omission seek to abandon the horizontal property regime or status of the Property except as allowed by Section 66-27-118, Tenn. Code Ann., or encumber, sell or transfer the Common Elements, except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements.

(iv) **Use hazard** insurance proceeds for losses to any Property (whether to individual Units or Lots or Common Elements) for other than the repair, replacement, or reconstruction

of such improvements, except as provided in Section 66-27-118, Tenn. Code Ann., in case of substantial loss to the Units or Lots and/or Common Elements to the horizontal property regime.

(d) **Lot Owners**, first lien deed of trust beneficiaries, and insurers or guarantors of any first lien deed of trust shall have the right to examine the books, records, current copies of the Master Deed and Bylaws, and rules and regulations of the Association during normal business hours and upon request.

(e) **An adequate** reserve fund for maintenance, repair and replacement of Common Elements which must be replaced on a periodic basis will be established and funded by regular monthly payments rather than by special assessments. A working capital fund for the initial months of operation equal to at least three (3) months' assessments for each Lot must be established, collected and transferred to the Association at the time of closing of sale by the Developer of each Lot and maintained in an account for the use and benefit of the Association.

(f) **As set forth** in Section 66-27-120, Tenn. Code Ann., all taxes, assessments and charges which may become liens prior to a deed of trust under the laws of the State of Tennessee shall relate only to the individual Lot and not to the horizontal property regime as a whole.

(g) **No Lot Owner**, or any other party shall have priority over any rights of the first lien deed of trust beneficiaries of Units or Lots and/or Common Elements.

(h) **Any agreement** for professional management of the horizontal property regime, 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. Prior to passage of control from the Developer, the Association shall not be bound, directly or indirectly, to contracts or leases unless there is a right of termination of such upon not more than ninety (90) days' notice without penalty.

(i) **Upon written** request, the Association shall give to any deed of trust beneficiary of a Lot, the FHLMC, FNMA, any lending institution servicing such deeds of trust as are acquired by the FHLMC or FNMA, or any insurer or guarantor of a deed of trust on a Lot, timely notice in writing of any loss to or the taking of the Common Elements if such loss or taking exceeds **Twenty-Five Thousand (\$25,000.00) Dollars**, or of any other condemnation or casualty loss that affects either a material portion of the project or the Lot securing its deed of trust, a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, or any proposed action that requires the consent of a specified percentage of deed of trust beneficiaries. The Association may rely upon the information contained in the book entitled "Deeds of Trust on Units or Lots" as must be established pursuant to the Bylaws, for a list of deed of trust beneficiaries to be notified hereby.

(j) **The interest** of a first lien deed of trust beneficiary in a mortgaged Lot shall be superior to the interests of any other person, group, partnership, corporation or entity of any kind, including any interest the Board, the Developer or any Lot Owner may have in any portion of the premises, regardless of the nature of the interest or the manner in which it is acquired.

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

(l) **A first lien** deed of trust beneficiary of a Lot Owner, upon written request, is entitled to written notification from the Association of any default in the performance by such Lot Owner of any obligation under this Master Deed and/or Bylaws which is not cured within sixty (60) days.

(m) **The casualty** and liability insurance and fidelity bond coverage required to be maintained by the Association shall meet the requirements specified in *FNMA Selling Guide*, Part VIII, Chapter 7, "Insurance Requirements."

30. Miscellaneous. The captions used herein are for reference purposes only and shall not limit or broaden the meaning of any section. When used herein, the singular shall include the plural, the plural the singular, and the use of one gender shall apply to any gender.

IN WITNESS WHEREOF, the undersigned has executed this Master Deed on the

_____ day of _____, 2007.

DEVELOPER

By: _____
MANAGING MEMBER, BYRD'S EYE VIEW, LLC

STATE OF TENNESSEE
COUNTY OF SEVIER

Personally appeared before me, the undersigned, a Notary Public, **RONNIE LEMMOND**, 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, and who further acknowledged that he is the **CHIEF MANAGER** of the maker, **BYRD'S EYE VIEW, LLC, a Tennessee Limited Liability Corporation** 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 the instrument on behalf of the maker.

WITNESS my hand, at office, this ___ day of _____, 2007.

NOTARY PUBLIC
My Commission expires: _____

EXHIBIT "A"
PARCEL

SITUATE in the Thirteenth (13th Civil District of Sevier County, Tennessee and being all of **Phases 1 of BIRD'S EYE VIEW, a Planned Unit Development**, as the same appears on a plat of record in Large Map Book 7, Page 96 in the Register's Office for Sevier County, Tennessee, to which reference is here made for a more particular description.

BEING a part of the same property conveyed to Byrd's Eye View, LLC, a Tennessee Limited Liability Corporation by deed of Harry Valentine and wife, Sara Valentine, dated May 25, 2005 and recorded in Book 2264, Page 582 in the Register's Office for Sevier County, Tennessee, to which reference is made for source of title.

EXHIBIT "B"

The common areas shall include, but are not necessarily limited to the following, Meredith Drive, common easements, streets, roadways, culverts, parking areas, television cable, telephone, drainage and retention pond, and area around the pond, drainage structures and facilities, riprap, CMP drainage pipe, storm sewers, catch basins, gravity sewers, manholes, water liens, concrete pads, dumpsters, water ways, fences, sidewalks, curbs, gutters, signs, lights, utilities, electric meter bases, electric service to signs, sign easements, water pumps for water features and other improvements and any area designated as common areas on the plat of Phase I of BIRD'S EYE VIEW, a Planned Unit Development located in the Thirteenth (13th) Civil District of Sevier County, Tennessee and recorded in Large Map Book 7, Page 96 in the Register's Office for Sevier County, Tennessee, to which plat reference is here made for a more particular description.

EXHIBIT "C"
**TO THE MASTER DEED OF BIRD'S EYE VIEW, A PLANNED
UNIT DEVELOPMENT**

BYLAWS

OF

BIRD'S EYE VIEW HOA, INC.

ARTICLE I

Members (Lot Owners)

Section 1. Eligibility. The members of the **BIRD'S EYE VIEW HOA, INC.**, a Tennessee nonprofit corporation (the "Association"), shall consist of the respective Lot Owners of the **BIRD'S EYE VIEW, A PLANNED UNIT DEVELOPMENT** (the "**Property**"), in accordance with the respective percentages of ownership interest in the Common Elements of the Property owned by the respective Lot Owners. These and other terms are used in these Bylaws as they are defined in the Master Deed for **BIRD'S EYE VIEW, A PLANNED UNIT DEVELOPMENT**, which Master Deed is recorded in the Register's Office for Sevier County, Tennessee. The words "**Member**" or "**Members**" as used in these Bylaws mean and shall refer to "**Lot or Owner**" or "**Lots or Owners,**" as the case may be, as defined in the Master Deed. If a Lot or Owner is a land title holding trust under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary, then the member shall be said beneficiary of such trust.

Section 2. Succession. The membership of each Lot Owner shall terminate when such Owner ceases to be a Lot Owner, and upon the sale, transfer or other disposition of such Owner's ownership interest in the Property, such Owner's membership in the Association shall automatically be transferred to the new Lot Owner succeeding to such ownership interest.

Section 3. Annual Meetings. The annual meeting of Lot Owners shall be held at the time and place specified in the notice of such meeting, but such place shall be within twenty (20) miles of the Property. The annual meeting of Lot Owners shall be held within sixty (60) days following the end of the Association's fiscal year of each and every year, if not a legal holiday, and if a legal holiday, then on the next succeeding business day not a legal holiday. At the annual meeting, the Lot Owners shall elect Directors, receive reports on the activities and financial condition of the Corporation, and transact such other business as may properly come before the meeting.

Section 4. Special Meetings. The Association shall hold a special meeting of its Lot Owners upon the call of the Board of Directors or the President, or upon the written demand(s) to the Secretary by Lot Owners holding at least ten (10%) percent of all votes entitled to be cast on any issue to be considered at the proposed special meeting. Any call or demand for a special meeting shall describe the purpose(s) for which the special meeting is to be held. Only business within the purpose(s) described in the meeting notice for the special meeting may be conducted at such meeting.

Section 5. Notice of Meetings. The Association shall notify its Lot Owners of the date, time and place of each annual and special meeting of Lot Owners no fewer than ten (10), nor more than forty-five (45), days before the meeting date. The notice of a meeting shall also contain such other information which may be required by these Bylaws.

Section 6. Waiver of Notice. A Lot or Owner's attendance at a meeting:

(a) Waives objection to lack of notice or defective notice of the meeting unless the Lot or Owner at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting; and

(b) Waives objection to consideration of a particular matter at the meeting that is not within the purpose(s) described in the meeting notice, unless the Lot or Owner objects to considering the matter when it is presented.

Section 7. Voting. The aggregate number of votes of all Lot or Owners shall be equal to the total of all Lots which are subject to the Master Deed, and shall be divided among the respective lot or Owners with one (1) vote allocated to each Lot. If any Lot or Owner consists of more than one (1) person, the voting rights of such Lot or Owner shall not be divided but shall be exercised as if the Lot or Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Lot or Owner. A “**majority of the Lot or Owners**” means the owners of more than fifty percent (50%) of the voting rights of the Lot or Owners.

The Developer may exercise the voting rights with respect to Lots owned by Developer; however, the Developer shall transfer control of the Association to the other Lot or Owners no later than the earlier of:

(a) the time at which a majority of the Lots in the project have been conveyed to other Lot or Owners *one (1) year after seventy-five (75%) percent of the Lots in the project have been conveyed to Lot or purchasers*; or

(b) five (5) years after the first Lot or is sold and the Master Deed has been recorded.

If control must be transferred because of the occurrence of (a) or (b) just above, the Developer’s number of votes for Lots owned shall be appropriately reduced so that control of the Association is effectively transferred.

Notwithstanding the foregoing, no Lot or Owner who is in default in the payment of assessments hereunder shall be entitled to exercise the right to vote until the Owner has cured such default. A Lot or Owner shall be deemed to be in default if such Owner has not paid his or her assessments to the Board, or their agent, within ten (10) days after the date such assessments are due. A Lot or Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

Section 8. Quorum. Unless otherwise required by law, a majority of the votes entitled to be cast by Lot or Owners must be represented at any meeting of the Lot or Owners to constitute a quorum on that matter. If, however, such quorum is not represented at any such meeting, the Lot or Owners present at the meeting in person or represented by proxy shall have the power to adjourn from time to time without notice other than announcement at the meeting, until the requisite quorum is present or represented, when any business may be transacted which might have been transacted at the meeting as provided in the original notice.

Section 9. Voting Requirements. Except as otherwise provided in these Bylaws, the Master Deed or the Horizontal Property Act, action on any matter voted upon at a meeting of the Lot or Owners is approved if a majority of the Lot or Owners vote in favor of the action. However, Directors shall be elected by a plurality of the votes cast by the Lot or Owners entitled to vote in the election at a meeting of the Lot or Owners at which a quorum is present

Section 10. Action by Written Consent. Action that is required or permitted to be taken at a meeting of the Lot or Owners may be taken without such a meeting if all lot or Owners entitled to vote on the action consent to taking such action without a meeting. If all of such Lot or Owners so consent, the affirmative vote of the number of votes that would be necessary to authorize or take such action at a meeting shall be the act of the Lot or Owners, except as otherwise provided in these Bylaws. Such consent (or counterpart(s) thereof) shall describe the action taken, be in writing, be signed by each Lot or Owner entitled to vote on the action, indicate each signing Lot or Owner’s vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes or Association records.

Section 11. Action by Written Ballot. Any action that may be taken at any annual or special meeting of Lot or Owners may be taken without a meeting if the Association delivers a written ballot to every Lot or Owner entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

(a) Indicate the number of responses needed to meet the quorum requirements;

(b) State the percentage of approvals necessary to approve each matter other than election of Directors; and

(c) Specify the time by which the ballot must be received by the Association in order to be counted.

ARTICLE II **Board of Directors**

Section 1. Number, Election and Term of Office.

(a) The Board of Directors of the Association (referred to in the Horizontal Property Act of the State of Tennessee as the “board of administration,” and sometimes referred to herein as the “Board”) shall consist of three (3) persons (hereinafter referred to as “directors”). Directors shall be elected at the annual meeting of Association’s Lot or Owners by the vote of Lot or Owners as hereinafter provided, except that the Developer shall appoint the interim Board of Directors (“Interim Board”) until the first meeting. At the first meeting, the Lot or Owners shall, among other business, elect two (2) members of the first Board of Directors (“First Board”) and the developer shall be entitled to appoint one person to be a Board member. Those candidates for election as Director receiving the greatest number of votes cast either in person, or by proxy, at the meeting shall be elected. Directors, except for members of the First Board, Interim Board, and the member appointed by the Developer shall hold office for the term of one (1) year and until his or her successor shall be elected and qualified. One (1) member of the First Board shall hold office until the second annual meeting of the Association’s Lot or Lot Owners, one (1) member of the First Board shall hold office until the third annual meeting of the Association’s Lot or Owners. The member of the Board appointed by the Developer shall hold office at the pleasure of such Developer until all units owned by Developer are sold.

(b) Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be the Developer’s appointed member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members. The Developer shall be the nominating committee until DECEMBER 31, 2009, or as long as Developer owns 51% of the lots in Bird’s Eye View.

Section 2. Qualification. Except for those persons making up the Interim Board, and the Director appointed by the Developer, each Director shall be a Lot Owner or the spouse of a Lot Owner (or, if a Lot Owner is a trustee of a trust, a Director may be a beneficiary of such trust, and if a Lot Owner or such a beneficiary is a corporation or partnership, a Director may be an officer, partner or employee of such Lot Owner or beneficiary). If a Director shall cease to meet such qualifications during his term, such Director shall cease to be a Director and his or her place on the Board shall be deemed vacant.

Section 3. Regular Meetings. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

Section 4. Special Meetings. Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

Section 5. Notice of Meetings. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days’ notice to each Director of the date, time and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in any one (1) adjournment.

Section 6. Waiver of Notice. If a Director attends or participates in a meeting, he or she waives any required notice to him or her of the meeting unless the Director at the beginning of the

meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 7. Quorum and Voting. A quorum of the Board of Directors consists of a majority (but no fewer than two (2)) of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors, except as otherwise provided in these Bylaws.

Section 8. Vacancy. If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors or a vacancy resulting from a removal of a Director with or without cause:

(a) The Lot Owners may fill the vacancy;

(b) The Board of Directors may fill the vacancy; or

(c) If the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all Directors remaining in office.

Any Director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director succeeded. [Notwithstanding the other provisions of this Section, in the event the deed of trust beneficiary holding the largest number of deeds of trust on Lots chooses not to appoint a Director, it shall be the Board which shall by majority vote of the remaining Directors fill such vacancy, but only for a term of one (1) year at a time.]

Section 9. Removal of Directors. The Lot Owners may remove any one (1) or more Directors, with or without cause, at any special meeting that is specifically called for that purpose.

Section 10. Action Without Meeting. Action that is required, or permitted to be taken, at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent(s) shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes filed with the Association's records.

Section 11. Indemnification. With respect to claims or liabilities arising out of service as a Director of the Association, the Association shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 12. Immunity. To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

Section 13. Compensation. Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by the Lot Owners.

Section 14. Powers and Duties. The Board shall have the following powers and duties:

(a) to elect and remove the officers of the Association as hereinafter provided;

(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 of the Lot Owners, upon such terms and for such compensation and with such authority as the Board may approve; [provided, however, that the First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property for a term as approved by said First Board, but not to exceed one (1) year, and in accordance with Section 29(h) of the Master Deed; provided further, that the Board shall not have the authority to adopt any form of management of the

Property which excludes professional management by an independent agent;

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

(e) to adopt rules and regulations, with written notice thereof to all Lot 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;

(f) to provide for the maintenance, repair, and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the 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;

(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, but only as allowed by law;

(j) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Lot Owners their respective shares of such estimated expenses, as hereinafter provided;

(k) unless otherwise provided herein or in the Master Deed, to comply with the instructions of a majority of the Lot Owners (as said majority is defined in Section 1(j) of the Master Deed), as expressed in a resolution duly adopted at any annual or special meeting of the Lot Owners;

(l) to resolve or mediate disputes, conflicts or problems between Lot Owners;

(m) when necessary, to interpret the rules and regulations of the Association and the Master Deed;

(n) to exercise all other powers and duties of a board of administration as referred to in the Horizontal Property Act of the State of Tennessee and all powers and duties of the Board of Directors referred to in the Master Deed or these Bylaws.

Section 15. Non-Delegation. Nothing in this Article or elsewhere in these Bylaws 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 the Lot Owners.

ARTICLE III **Officers**

Section 1. Designation. At each regular meeting, the Directors present at said meeting shall elect the following officers of the Association by a majority vote, provided a quorum exists:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Lot Owners, and who shall be the chief executive officer of the Association; shall see that orders and resolutions of the Board are carried out; shall sign all contracts, leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes, deeds of trust and loan agreements.

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Lot Owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the Managing Agent; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(c) a Treasurer, who shall be responsible for financial records and books of account and

the manner in which such records and books are kept and reported; shall receive and deposit in appropriate bank account all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members; and

(d) such additional officers as the Board shall see fit to elect.

Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office. Each officer shall hold office for the term of one (1) year and until a 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 remaining Directors at a special meeting of said Board. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded.

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 Lot Owners.

Section 6. Removal. The Board of Directors may remove any officer at any time with or without cause.

Section 7. Indemnification. With respect to claims or liabilities arising out of service as an officer of the Association, the Association shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

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 salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses. To the extent that the assessments and other cash income collected from the Lot Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account any estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

Section 2. Assessments. An estimated annual budget for each fiscal year shall be approved by the Board and copies thereof shall be furnished by the Board to each Lot Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Lot Owner shall pay, as such Owner's respective monthly assessment for the common expenses, one-twelfth (1/12) of such Owner's proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Lot Owner shall be in accordance with such Owner's respective ownership interest in the Common Elements as set forth in the Master Deed. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Lot Owner shall continue to pay each month the amount of such Owner's respective monthly assessment as last determined. Each Lot Owner shall pay such Owner's monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Lot Owner, other than the Developer, Byrd's Eye View, LLC, shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Lot, the Common Elements, or the Limited Common Elements. All Lots in the current phase(s) of the project shall be allocated their appropriate full assessments except those Lots retained by the developer.

Section 3. Partial Year or Month. For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Lot Owner shall be proportionate to the number of months and days in such period covered by such budget. Each Lot Owner shall pay such Owner's assessment for the following month or fraction of a month, which assessment shall be in proportion to the Owner's respective ownership interest in the Common Elements and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

Section 4. Annual Report. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Lot Owner, and to any other party required by the Master Deed, a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated common expenses and limited common expenses for the remainder of such year will be inadequate, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Lot Owner, and thereupon a supplemental assessment shall be made to each Lot Owner for such Owner's proportionate share of such supplemental budget.

Section 6. Expenditures. Except for the Management Agreement described in Article II, Section 14(c) hereof and expenditures and contracts specifically authorized by the Master Deed and Bylaws, the Board shall not approve any expenditure in excess of Ten Thousand (\$10,000.00) Dollars unless required for emergency repair, protection or operation of the Common Elements or Limited Common Elements, nor enter any contract for more than three (3) years without the prior approval of fifty (50) percent of the votes of the Lot Owners.

Section 7. Lien. It shall be the duty of every Lot Owner to pay such Owner's proportionate share of the common expenses and limited common expenses, as provided in the Master Deed, and as assessed in the manner herein provided.

If any Lot Owner shall fail or refuse to make any such payment of the common expenses or limited common expenses when due, the amount thereof, together with interest thereon at the rate of ten percent (10%) per annum after said common expenses become due and payable, shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Lot Owner in the Property, provided, however, that such lien shall be subordinate to the lien of a recorded deed of trust on the interest of such Lot Owner, except for the amount of the proportionate share of common expenses and limited common expenses which are due and payable from and after the date on which such deed of trust beneficiary either takes possession of the Lot, accepts a conveyance of any interest therein (other than as security), or files suit to foreclose on its deed of trust.

The Association or its successors and assigns, and the Board or its agents, shall have the right to enforce the lien as provided in the Master Deed, and there shall be added to the amount due the costs of any suit maintained to enforce the lien and other fees and expenses, together with legal interest and reasonable attorneys' fees. Furthermore, if any Lot Owner shall fail or refuse to pay when due such Owner's proportionate share of the common expenses or limited common expenses and such Lot Owner withholds possession of such Owner's Lot after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Lot. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Horizontal Property Act, the Master Deed or these Bylaws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

Section 8. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in a book in chronological order of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the common expenses and limited common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine. Said book and the vouchers shall be available for examination by all Lot Owners at convenient hours on working days which shall be set and announced for general knowledge.

The Board shall, upon receipt of ten (10) days' written notice to it or the Association and upon payment of a reasonable fee, furnish to any Lot Owner a statement of account setting forth

the amount of any unpaid assessments or other charges due and owing from such Lot Owner.

Section 9. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance that 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 Lot ownership. When fewer than all the Lot Owners are responsible for the existence of any such lien, the Lot Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

Section 10. Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Lot Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Lot Owners.

Section 11. Association Records. The Association shall keep as permanent records minutes of all meetings of its Lot Owners and Board of Directors, a record of all actions taken by the Lot Owners and the Board of Directors without a meeting and all appropriate accounting records.

Section 12. Records at Principal Office. The Association shall keep at all times a copy of the following records at its principal office:

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) These Bylaws and all amendments thereto;
- (c) Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of Lot Owners or any class or category of Lot Owners;
- (d) The minutes of all meetings of Lot Owners and the records of all actions taken by Lot Owners without a meeting for the past three (3) years;
- (e) All written communications to Lot Owners generally within the past three (3) years, including the past three (3) years' annual financial statements;
- (f) A list of the names and business or home addresses of its current Directors and officers;
- (g) The most recent annual report delivered to the Tennessee Secretary of State; and
- (h) Its Master Deed and all amendments thereto.

Section 13. Annual Financial Statements. The Association shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act.

ARTICLE V Use and Occupancy Restrictions

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

Each Lot Owner shall maintain such Owner's Lot in good condition and in good order and repair, at such Owner's expense, and shall not do or allow anything to be done in such Owners Lot that may increase the cost or cause the cancellation of insurance on other Lots or on the Common Elements. No Lot Owner shall display, hang, store or use any clothing, sheets, blankets, laundry, or other articles outside such Owner's Lot, or which may be visible from the outside of such Owner's Lot (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 Lot, or install outside such Owner's Lot any canopy or awning, or outside radio or television antenna, or Citizens Band radio transmitters, 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 Lot Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a patio that is a Limited Common Element appurtenant to such Owners Lot. No Owner of a Lot shall display, hang, store or use any sign outside such Owner's Lot, in a hallway or elsewhere, or that may be visible from the outside of such Owner's Lot without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion.

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. Animals. No animals shall be raised, bred, or kept in any Lot, except for dogs, household cats and small birds owned as household pets by a Lot 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, and provided that said pet shall not in the judgment of the Board constitute a nuisance to others.

All dogs owned by Lot Owners and kept in a Lot shall be on leash while outside the Lot. All such dogs shall be exercised by the Owner at places on the Property that do not interfere with the use and enjoyment of the same by other Owners. An Owner shall be responsible for all damage to Common Elements caused by said Owner's dog.

Section 3. 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. The Board may provide a dumpster for common use of all owners.

Section 4. Use by Developer. During the period of sale by the Developer of any Lots, 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 Lots. While the Developer owns any of the Lots and until each Lot 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 Lots as a model Lot or Lots and may use one or more of such unsold or unoccupied Lots as a sales office, and may maintain customary signs in connection therewith.

Section 5. Storage. Articles of personal property belonging to any Lot Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing and other articles, shall not be stored or kept in common areas. Storage of boats, trailers, campers, and motor homes on the Property shall not be permitted.

Section 6. Wiring. No Lot 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 direction.

ARTICLE VI Contractual Powers

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one 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 corporation 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.

ARTICLE VII Amendments

These Bylaws may be amended or modified from time to time by action or approval of two-thirds (2/3) of the Lot Owners casting one (1) vote for each Lot owned, as provided in Article I, Section 7 of these Bylaws. Such amendment(s) shall not be operative until they are recorded in the office of the Register of Deeds for Sevier County, Tennessee. These Bylaws shall not be amended by the Board of Directors.

ARTICLE VIII Deeds of Trust

Section 1. Notice to Board. A Lot Owner who mortgages his Lot shall notify the Board of the name and address of the deed of trust beneficiary and shall file a copy of the note and deed of trust with the Board. The Board shall maintain such information in a book entitled "Deeds of Trust on Lots."

Section 2. Notice of Unpaid Common Charges. The Board, whenever so requested in writing by a deed of trust beneficiary of a Lot, shall promptly report any then unpaid assessments, fees or common charges due from, or any default by, the Owner of the mortgaged Lot.

Section 3. Notice of Default. The Board, when giving notice to a Lot Owner of a default in paying common charges or other default, shall send a copy of such notice to each deed of trust beneficiary of record covering such Lot whose name and address has theretofore been furnished to the Board and which has requested in writing to be sent a copy of such notice(s).

Section 4. Examination of Books. Each Lot Owner, and others as specified in the Master Deed, shall be permitted to examine the books and records of the Association, current copies of the Master Deed and Bylaws, and rules and regulations of the Association during normal business hours and upon request.

Section 5. Interest of Valid First Lien Deed of Trust. The interest of a valid first lien deed of trust shall be superior to the interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first lien deed of trust has incorporated the terms of these Bylaws, the Master Deed and the contract in its deed of trust, then said first lien deed of trust may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust, notwithstanding any enforcement instituted by the Board.

ARTICLE IX Definition of Terms

The terms used in these Bylaws, to the extent they are defined herein, shall have the same definition as set forth in the Master Deed for the horizontal property regime known as "**BIRD'S EYE VIEW, A PLANNED UNIT DEVELOPMENT**" as such may be amended from time to time, which Master Deed is recorded in the office of the Register for Deeds of Sevier County, Tennessee.

The term "member," as used in these Bylaws, generally means "Lot Owner" as defined in the Master Deed, "Deed of trust," as used herein, includes a mortgage; and "deed of trust beneficiary" includes a mortgagee and a holder of a deed of trust.

ARTICLE X Miscellaneous Provisions

Section 1. No Seal. The Association shall have no seal.

Section 2. Notices. Whenever notice is required to be given to Lot Owners, Directors or officers, unless otherwise provided by law, the Master Deed, the Charter or these Bylaws, such notice may be given in person or by telephone, telegraph, mail or private carrier. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified

United States mail, return receipt requested, and addressed to the respective address which appears for each such person on the books of the Corporation. Written notice sent by mail to Lot Owners shall be deemed to have been given when it is mailed. Any other written notice shall be deemed to have been given at the earliest of the following:

- (a) When received;
- (b) Five (5) days after its deposit in the United States mail if sent first class, postage prepaid; or
- (c) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

Section 3. Waiver of Notice. Whenever any notice is required to be given under the provisions of any statute, or of the Master Deed, the Charter or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon, and delivered to the Secretary of the Association and included in the minutes or corporate records, shall be deemed equivalent thereto.

Section 4. Negotiable Instruments. All checks, drafts, notes or other obligations of the Association shall be signed by such of the officers of the Association or by such other person(s), as may be authorized by the Board of Directors.

Section 5. Deposits. The monies of the Association may be deposited in the name of the Association in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

Section 6. Committee Members. With respect to claims or liabilities arising out of service as a member of a committee duly appointed by the Board of Directors of the Association, the Association shall indemnify and advance expenses to each such present and future committee member (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 7. Developer. With respect to claims or liabilities arising out of service as an agent of the Association, the Association shall indemnify and advance expenses to the Developer (its officers, employees and successors) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect or as hereafter adopted or amended.

ARTICLE XI Conflicts

These Bylaws are set forth to comply with the requirements of Chapter 27 of Title 66, Tennessee Code Annotated, as it may be amended from time to time, and to allow the Bylaws to control in specific situations where such law allows. In case any of the Bylaws conflict with the provisions of said statute or of the Master Deed, the provisions of said statute or of the Master Deed, as the case may be, shall control.

The undersigned hereby certifies that the foregoing Bylaws were duly adopted as the Bylaws of **BIRD'S EYE VIEW HOA, INC.**

DATED the ____ day of _____, 2007.

RONNIE LEMMOND

STATE OF TENNESSEE
COUNTY OF SEVIER

Personally appeared before me, the undersigned authority, a Notary Public, **RONNIE LEMMOND**, with whom I am

personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that they executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this _____ day of _____, 2007.

NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT "D"
**TO THE MASTER DEED OF BIRD'S EYE VIEW, A PLANNED
UNIT DEVELOPMENT**

CHARTER

OF

BIRD'S EYE VIEW HOA, INC.

The undersigned, acting as the incorporator(s) of a corporation under the Tennessee Nonprofit Corporation Act, adopt(s) the following Charter for such corporation:

1. The name of the corporation is **BIRD'S EYE VIEW HOA, INC.**

2. This corporation is a mutual benefit corporation.

3. The street address of the initial registered office of the corporation is 150 Court Ave, Sevierville, TN 37862, and the initial registered agent for the corporation at that office is **Charlie R. Johnson.**

4. The name and address of the incorporator is:

CHARLIE R. JOHNSON
150 COURT AVENUE
SEVIERVILLE, TN 37862

5. The street address of the principal office of the corporation is

6. The corporation is not for profit.

7. The corporation shall have members. The members of the corporation shall be the owners of lots of **BIRD'S EYE VIEW PLANNED UNIT DEVELOPMENT**. Upon the conveyance or transfer of the ownership interest in a unit or lot of the Planned Unit Development, the new owner or owners shall succeed to the former lot owners' or unit owners' membership, and the membership of the former unit or lot owner or owners shall terminate.

8. To the extent allowed by the laws of the State of Tennessee, no present or future director of the corporation (or his or her estate, heirs and personal representatives) shall be liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director (or his or her estate, heirs and personal representatives) shall be further eliminated or limited to the fullest extent allowed by the laws of the State of Tennessee, as may hereafter be adopted or amended.

9. With respect to claims or liabilities arising out of service as a director or officer of the corporation, the corporation shall indemnify and advance expenses to each present and future director and officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

10. The purposes for which the corporation is organized are: to operate a management association solely to provide for the acquisition, construction, management, maintenance and care of association property; and generally to engage in any other lawful endeavor or activity in furtherance of the foregoing, so long as such endeavor or activity does not prevent the corporation from being, or maintaining its status as, a homeowners association as defined by Section 528(c)(1) of the Internal Revenue Code of 1986, or corresponding section of any future federal income tax code.

11. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its directors, officers, members or other private individuals or persons, except that the corporation shall be authorized and empowered to:

- (a) pay reasonable compensation for goods and services rendered,
- (b) rebate excess membership dues, fees or assessments, and
- (c) make payments in furtherance of the purposes set forth in the paragraph just above.

12. Upon dissolution, after all creditors of the corporation have been paid and any excess membership dues, fees or assessments have been rebated, its assets shall be distributed amongst the lot owners in equal value based upon the Lot owners prorated share.

DATED the _____ day of _____, 2007.

CHARLIE R. JOHNSON, INCORPORATOR

**EXHIBIT E TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BIRD'S EYE VIEW, A PLANNED UNIT DEVELOPMENT**

RESTRICTIONS ON USAGE AND BUILDING RESTRICTIONS

Section 1. Code Requirements. All building plans, material and specifications must conform to "Southern Building Code" and Architectural Review Committee.

Section 2. General Contractors. All General Contractors building in **BIRD'S EYE VIEW** must be approved by the Architectural Review Committee.

Section 3. Exterior Walls. All homes in **BIRD'S EYE VIEW** are to have log exterior walls. Log or pine siding only in gabled exterior ends.

Section 4. Porch and Deck Material. All porch and deck floors must be constructed of high quality water resistance material (5/4 recommended).

Section 5. Foundations. All main structure foundations must be constructed of continuous concrete block or solid poured concrete. All exposed concrete foundations must be stuccoed or better an earth tone color, or foundations can be finished with mountain stone or artificial stone.

Section 6. Exterior Stain. All exteriors shall be stained upon completion and maintained to prevent "natural" discoloration and deterioration of exterior.

Section 7. Roof. Primary roof must be minimum 5/12 pitch, other attached roofs 3/12 pitch minimum. Roof surfaces, twenty-five year (minimum) fiberglass architectural shingles, all

roofing materials and colors to be approved by Architectural Review Committee. Green color roofs are preferred.

Section 8. Fireplaces. Fireplace chimneys shall be constructed of natural stone, or artificial stone.

Section 9. Flooring. Carpet, tile and wood are allowed. Consult Architectural Review Committee for specifications.

Section 10. Guttering. All homes must have continuous gutters on both sides to allow for adequate drainage.

Section 11. Landscaping. All landscaping designs, materials, and installation must be approved by Architectural Review Committee prior to construction.

Section 12. House Location. House location on lot, site excavation, utilities, driveway/parking areas, and foundation conformation on all lots shall be determined by the Developer. Developer reserves this right to insure that house location conforms to original lot design layout regarding privacy to neighboring homes, preservation of trees, greenways, and access.

Section 13. Land use and building types. No lot shall be used except for residential purposes and a residential model as approved by the Declarant on the property. Any improvements on a lot for residential purposes shall contain a minimum of 1200 square feet inside heated living space.

Nothing contained herein shall prohibit the monthly or overnight rental of said property. No duplexes, triplexes, fourplexes, apartments nor townhomes shall be allowed on the premises.

Section 14. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or become annoyance or nuisance to the neighborhood.

Section 15. Outside Antennas. No outside radio, television antennas or satellite dishes shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the architectural review committee. The Architectural Review Committee shall not approve a satellite dish greater in diameter than twenty-four (24) inches.

Section 16. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time, except a temporary construction trailer, which shall be removed immediately upon completion of construction.

Section 17. Signs. No sign of any kind shall be displayed to the public view on any Lot except a sign approved by the Architectural Review Committee to identify the lot and the owner of the property.

All unapproved signs shall be removed by the Declarant or the Association!

Section 18. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and shall not be kept except in sanitary containers, of a type approved by the Architectural Review Committee. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be placed in a location that cannot be seen from the street in front of the dwelling. Incinerators and open burning is absolutely prohibited on the premises. All garbage and refuse containers in Bird's Eye View shall be a uniform color, size and shape approved by the Architectural Review Committee.

Section 19. Recreation Vehicles. There shall be no prolonged parking of recreational vehicles, including, but not limited to, camping trailers, boats, motor homes, and the like except in areas specifically designated for this purpose by the Association. Prolonged parking shall be deemed for periods of forty-eight (48) hours or longer. Declarant shall have the right to establish and designate parking areas for recreational vehicles in the common areas.

Section 20. No clear cutting of lots. There shall be no clear cutting of the trees from any lot. Trees shall be preserved to enhance the natural beauty of the development and only those trees necessary for the construction of buildings, driveways and parking on the property shall be removed. Every effort shall be made to preserve any tree ten (10) or more inches in diameter. Trees shall not be removed without permission of the Architectural Review committee.

SECTION 21. MINIMUM SQUARE FOOTAGE. Every dwelling building erected on a lot in the development must have a minimum of Twelve Hundred (1200) square feet of

finished inside heated living space, exclusive of open porches, garages or storage rooms. All buildings shall have quality architectural shingles or metal roofing

SECTION 22. REBUILDING DAMAGED LOTS. Any dwelling or other structure on any lot in the subdivision, which may be destroyed in whole or in part for any reason, must be rebuilt within one (1) year. All debris must be removed and the lot restored to a slightly condition with reasonable promptness, provided that in no event shall such debris remain on any lot longer than sixty (60) days.

SECTION 23. EASEMENTS. (a) The Developer reserves for its self, its successors and assigns, the right to use, dedicate and/or convey to the State of Tennessee, City of Sevierville, County of Sevier, and/or to the appropriate utility company or other companies, rights-of-way or easements on, over or under the ground to erect, maintain and use utilities, electric, telephone, wires, cables, television, conduits, storm sewers, sanitary sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas sewer, water, or other public conveniences or utilities on, in and over strips of land twenty (20) feet in width along the rear property line of each lot and ten (10) feet in width along each side line of each lot; with a further easement reserve to cut or fill a three to one slope along the boundaries of all public or private streets built in the subdivision. Bird's Eye View, LLC, its successors and assigns reserve for themselves an exclusive easement for the installation or maintenance of utilities within the rights-of-way and easement areas referred to.

(b) The Developer its successors, and assigns reserve the right to impose further restrictions and to grant or dedicate additional easements and roadway right-of-way on any unsold lots in the subdivision.

SECTION 24. ENFORCEMENT. Each and every lot owner and future lot owners, in accepting a deed or contract for any lot or lots in Bird's Eye View agrees to adhere to these Protective Covenants governing Bird's Eye View. If said lot owner(s) does not adhere to said covenants and legal action is taken against the party in violation of said covenants, then the lot owner(s) in violation agrees to pay all attorney's fees and other associated costs incurred by other parties who prevail in pursuing legal action to remedy violations of these covenants. The Committee has the right to levy fines as they see fit, if violations occur that the Committee feels have damaged the integrity of the development. These fines if not paid, shall become a lien on the property in violation, and these fines could result in the forced sale of the property to pay the levied fees, if not paid voluntarily.