

**Declaration of Covenants Conditions and Restrictions  
for Oakmont PD, Parcel 1, Phase 1**

This declaration, made this 18th day of December, 1996, by South Oak Joint Venture, composed solely of Waldo, LLC, a Tennessee Limited Liability Company, and Landmark Builders, incorporated, a Tennessee corporation, hereinafter referred to as "Declarant."

2022 amendments filed 11/15/22 are included in this document.

Witnesseth:

Whereas, Declarant is the owner in fee simple of certain property located in the city of Collierville, county of Shelby, state of Tennessee, described as lots numbered 1 through 79 inclusive as shown on plat of record in plat book 160, page 67, in the Registrar's office of Shelby County, Tennessee (the Property); and

Whereas, Declarant desires to provide for the preservation of the values and amenities on the property and to this end desires to subject the property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner there of; and

Whereas, Declarant has deemed desirable, for the efficient preservation of the values and amenities and said property, to create an agency to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions and collecting and dispersing the assessments and charges hereinafter created; and

Whereas, Declarant will incorporate under the laws of the state of Tennessee as Oakmont Planned Development Homeowners Association, Inc., a nonprofit, nonstock corporation, for the purpose of exercising the functions aforesaid;

Now, therefore, Declarant hereby declares that the property shall be held, transferred, sold, conveyed, hypothecated or encumbered, used and occupied, subject to the covenants, restrictions, easements, conditions, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth which shall run with the property and be binding on all parties having any right, title or intent in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**Article I  
Definitions**

The following words when used in this declaration shall have the following meanings:

**Section 1. "Association"** shall mean and refer to Oakmont Planned Development Homeowners Association, Inc., a nonprofit, nonstock corporation incorporated under the laws of the state of Tennessee, its successors and assigns.

**Section 2. “Architectural Review Committee” or “Committee”** shall mean the committee which shall have the responsibility of the enforcing the restrictions set forth in this declaration for the development of each lot.

**Section 3. “Declarant”** shall mean and refer to South Oak Joint Venture, with offices at 7520 Capital Drive, Germantown, Tennessee 38138, its successors and assigns.

**Section 4. “Declaration”** shall mean this declaration of covenants, conditions and restrictions, and any supplementary declaration filed hereto, as this declaration may, from time to time, be amended in accordance with its terms.

**Section 5. “Lot”** shall mean and refer to the plots of land designated with numbers 1 through 79 inclusive, as shown on plat of record in Plat Book 160, page 67, in the Register’s Office of Shelby County, Tennessee, (the plat). ~~No lot shall be used except for private residential purposes except for such non-residential uses as may be permitted by the zoning laws of Shelby County, Tennessee, from time to time.~~ Nothing in this Section or herein elsewhere shall be construed to prohibit the Declarant from the use of any lot or lots which Declarant owns for promotional or display purposes as “models”. For all purposes hereunder, it shall be understood and agreed that Declarant shall be the owner of all said lots, save and except only those particular lots which Declarant conveys in fee simple title by record deed from and after date hereof.

#### 2022 Amendment

1. REVISION ON RESTRICTIONS REGARDING BUSINESS ACTIVITIES: The second (2<sup>nd</sup>) sentence of Article I, Section 5 of the Declaration; the first (1<sup>st</sup>) sentence of Article VIII, Section 1 of the Declaration, and Paragraph 1 of the Plat Restrictive Covenants are hereby deleted in their entirety with the following substituted in their place:

Anything in the Declaration to the contrary notwithstanding, no recurring business activity of any kind whatsoever shall be conducted on any Lot (for the purposes of this Amendment and the Declaration, “recurring business activity” does not prohibit telecommuting, but does prohibit any nuisance or increased business traffic to and from the Lot as determined by the Board in its sole and reasonable discretion).

**Section 6. “Member”** shall mean and refer to every person or entity who holds membership in the association.

**Section 7. “Owner”** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation; provided, however, that the purchaser at a foreclosure sale or a trustee’s sale shall be deemed an owner.

**Section 8. "Person"** shall mean an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.

**Section 9. "Property"** shall mean and refer to that certain real property here and above described and such additions thereto as may be brought within the jurisdiction of the Association.

**Section 10. "Residential Community"** shall mean the development known as Oakmont PD, Parcel 1, Phase 1.

**Section 11. "Class A Lot"** shall mean the lot or lots owned by an owner, with exception of Declarant.

**Section 12. "Class B Lot"** shall mean the lot or lots owned by Declarant.

**Section 13. "Common Area"** shall mean all real property, easements and property rights owned or assigned, now are in the future, to the Association for the common use and enjoyment of the members of the Association, including, without limitation, the 20 foot landscape and fence easement on lots 1, 2, 21 and 22, as shown on the plat (the landscape and fence easement) and all improvements thereon. These improvements shall include without limitation, an entryway, fencing, landscaping, sprinkler system and lighting. The common area does not include fee title to any real estate at the time of recordation hereof.

## **Article II The Property**

**Section 1. Property Subject to Declaration.** The property shall be held and used subject to this declaration.

**Section 2. Roads and Utilities.** The roads within the property are public property. Pipes, lines, cables and other means of utility service, etc. shall also be public property.

## **Article III Property Rights**

**Common Area.** The common area and the owners' rights thereto shall be subject to the following provisions:

- A. The right of the Declarant and of the Association to protect and maintain same.
- B. The right of the Declarant and the Association to protect, maintain and inspect the improvements thereon.
- C. The right of the Association to regulate the location of all improvements thereon and use thereof and to provide for and establish easements thereon.
- D. The right of the association to borrow money for the purposes as provided for herein.

- E. The right of the association to merge with any other association.

#### **Article IV Maintenance and Repair**

**Section 1. Association Responsibilities.** Except as otherwise stated in this declaration, the association shall provide and pay for all maintenance and expenses for the common area.

**Section 2. Owners.** Each owner shall be responsible for the maintenance, painting, and proper upkeep of his lot and all improvements thereon. In the event the owner of any lot shall fail to maintain his lot and the improvements thereon in a manner reasonably satisfactory to the board of directors, and in keeping with other lots, the association, after approval by 2/3 vote of the board of directors, shall have the right, through agents and or employees, to enter upon said lot and to repair, maintain and restore the lot and the improvements thereon. The cost of said maintenance shall be a binding obligation of the owner as well as a lien on the lot in question upon recording of such notice with the office of the Register of Shelby County, Tennessee. Any lien so recorded shall at all times be subordinated to the lean of any deed of trust. In addition to the costs as set forth herein, the owner shall be responsible for all court cost, reasonable attorneys' fees and interest from the date of any expenditure at the maximum legal rate allowed in the state of Tennessee.

#### **Article V Membership and Voting Rights**

**Section 1. Members.** Every person who is the record owner of a fee or undivided fee interest in any lot within the property shall be a member of the Association; provided, however, that anyone who holds such interest solely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any lot. Ownership of such light shall be the sole qualification for membership.

**Section 2. Classification of Members.** Members shall be divided into two classes denominated as Class A members and Class B members and defined as follows:

- A. Class A members shall be all owners, with the exception of Declarant. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership. When more than one person holds such interest or interest in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot. In the event joint owners of a lot have not determined among themselves as to the mode and manner of a vote, then, in that event, the vote associated with that lot shall be excluded.
- B. Class B member shall be the Declarant, who shall be entitled to three votes for each lot in which it holds the interest required for membership. The Class B membership rights

shall cease and be conveyed to the Class A membership upon the happening of either of the following events, whichever occurs earlier:

- i. when all the lots are deeded to Class A members; Or
- ii. when Declarant formally conveys the Class B membership to the Class A membership.

From and after the happening of these events, whichever occurs first, the Class B member shall be deemed to be a Class A member, entitled to one vote for each lot in which it holds the interest required for such membership.

**Section 3. Voting.** At every meeting of the Members, each of the Members shall have the right to cast his vote as defined by Article V, Section 2, on each question. The vote of the Members representing a 51% majority of the total votes cast with respect to any question, in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of statute or of the corporate charter, or this declaration, or of the By-laws, a different vote is required, in which case the express provision shall govern and control. The vote for any membership which is owned by more than one person may be exercised by any of them present at any meeting unless an objection or protest by any other owner of such membership is noted at such meeting. In the event all of the Co-owners of any membership who are present at any meeting of the members are unable to agree on the manner in which the vote for such membership shall be cast on any particular question, then such votes shall not be counted for purposes of deciding that question. ~~No members shall be eligible to vote, either in person or by proxy, or to be elected to the board of directors, who is shown on the books or management accounts of the Association to be more than 30 days delinquent in any payment due to the Association.~~

2022 Amendment

VOTING RIGHTS IN THE DECLARATION AND THE BYLAWS: The fifth (5<sup>th</sup>) sentence (being the final sentence) of Article V, Section 3 of the Declaration and the fifth (5<sup>th</sup>) sentence (being the final sentence) of Article IV, Section 7 of the Bylaws are here hereby deleted in their entirety.

~~**Section 4. Proxies.** Any member may appoint any other member or the Declarant or any other person permitted by law or by the Association's By-laws as his proxy. In no case may any member except the Declarant cast more than one vote by proxy in addition to his own vote. Any proxy must be in writing and filed with the secretary of the Association and must comply with all requirements imposed by law or by the Association's By-laws. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.~~

2022 Amendment

PROXIES: Article V, Section 4 of the Declaration and Article IV, Section 8 of the Bylaws are hereby deleted in its entirety with the following substituted in their place:

Every Member entitled to vote at a meeting may do so either in person or by written proxy, which proxy shall be filed with the Secretary before being voted. Such proxy shall entitle the holders thereof to vote at any adjournment of such meeting, but shall not be valid after the

final adjournment thereof. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise provided in the proxy.

**Section 5. Quorum.** The presence, either in person or by proxy, of members representing at least 25% of the votes of each Class of Members entitled to be cast with respect to any question, shall be requisite for, and shall constitute a quorum for the transaction of business at all meetings of Members in accordance with the provisions of the By-laws. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the act of the members, except when approval by a greater number of members is required by this Declaration, the Articles of Incorporation or the By-laws of the Association. In determining whether a quorum is present, proxies may be counted as members present.

## **Article VI Covenant for Maintenance Assessments**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** Each owner at the time of acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- A. Annual or monthly assessments or charges;
- B. Special assessments for capital improvements or repairs, such assessments to be fixed, established and collected from time to time as hereinafter provided.
- C. Emergency assessments as provided for in the By-laws, such assessments to be fixed, established and collected from time to time as hereinafter provided.

Declarant covenants to be responsible for the initial capital improvements for development of the property all as shown on the plat. The annual, special and emergency assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with such interest, cost and reasonable attorneys' 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 not pass to his successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** Each Class A member shall pay to the association a sum equal to the Member's proportionate share of the sum required by the Association, as estimated by its Board of Directors, to meet its annual expenses, payable either in monthly or annual installments as so determined by the Board of Directors, including, but in no way limited, to the following:

- A. The cost of all operating expenses of the Association and services furnished including charges by the Association for its facilities, if any;
- B. The amount of all taxes and assessments levied against the Association or upon any property which it may own or which it is otherwise required to pay, if any;
- C. The cost of extended liability insurance and the cost of such other insurance as the association may determine;

- D. The cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and or reserve for replacements;
- E. The estimated cost of repairs, maintenance and replacement of any easements and improvements to common areas as called for here in.

**Section 3. Maximum Annual Assessment.** For 1997, the maximum annual assessment shall be \$100 per lot.

- A. After 1997, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- B. After 1997, the maximum annual assessment may be increased above 10% by a vote of 2/3 of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose,
- C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

**Section 4. Special Assessment for Capital Improvements.** In addition to the regular assessments authorized by this article, the Association may levy in any assessment year special assessment or assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, or for such other purposes as the Board of Directors may consider necessary, provided that such assessment shall have the assent of the Members representing 2/3 of the total number of votes of each class eligible to be cast in person or by proxy.

**Section 5. Emergency Assessments.** In the event of any emergency situation, condition, or currents affecting the life, health, safety or welfare of members or property of members, the Board of Directors, acting pursuant to this Section may declare an emergency assessment in such amount and payable at such time as the Board of Directors, in its sole discretion, shall deem necessary. Such emergency assessment, except for the amount and time of payment, shall be governed by all other provisions of this declaration. Such assessment shall be borne pro rata, as provided for elsewhere herein, by all Members of the Association. The Board of Directors shall be fully protected and not liable for any mistake in judgment here under if the emergency assessment was made in good faith.

**Section 6. Notice and Quorum for any Action Authorized Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this article shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be 1/2 of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**Section 7. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all lots and will be collected on a monthly or annual basis at the election of the Board of Directors.

**Section 8. Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence for 1997 and shall become due on the date of closing of the sale of said lot from the Declarant to the owner. Assessments shall be prorated for the year of sale. The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every owner subject thereto. The due date shall be established by the Board of Directors. The association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

**Section 9. Non-payment of Assessments.** ~~Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within 30 days after the date when due shall bear a late charge of \$25 and interest at the rate of 10% per annum.~~ Such assessment with late charge and interest and the cost of collection thereof, as hereinafter provided, shall thereupon become a continuing lien upon the lot or lots belonging to the member against whom such assessment is levied and shall bond such lot or lots in the hands of the of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the member to pay such assessment shall, however, remain his personal obligation for the statutory period and a suit to recover a money judgment for non-payment of any assessment levied pursuant to the By-laws, or any installment thereof, may be maintained without foreclosing or waving the lien herein and by the aforesaid statute created to secure the same.

The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the lot or lot subject to the prior mortgages or deeds of trust upon the lot or lots, then belonging to said Member; In either of which events, the Association may collect from the said Member, interest, cost and reasonable attorneys' fees. No owner may waive or otherwise escape liability for the assessments provided herein by non-use of the common area or abandonment of his lot.

For the purpose of enforcing the lien of any unpaid and delinquent assessment, each owner grants the Board of Directors of the Association irrevocably the power to sell his lot at public outcry to the highest and best bidder for cash. The Board of Directors is authorized to make such public sale if and only if such sale is made subordinate to any prior recorded mortgage or deed of trust up on the lot. The Association is hereby authorized to take any and all courses of action available to them for the collection of the assessment which the laws of the state Tennessee allow. Any such sale shall be made after first advertising the sale of said property for 21 days by 3 weekly publications in a newspaper of general circulation in the county of Shelby,



state of Tennessee, giving notice of time and place of such sale and by written notice of the time and place of such sale of the owner's lot. Any sale of a lot to enforce the lien for delinquent and unpaid assessments shall be free from equity of redemption, homestead and dower and all other exemptions, all of which are expressly waived by the owners; And any such sale of the lien enforced thereby shall take precedence over and have priority over any and all other liens of every nature against the lot, except real estate and ad valorem taxes assessed against the lot, and prior recorded mortgages or deeds of trust. ~~The proceeds of any such sale, whether under the power of sale or by foreclosure suit, shall be applied first to the payment of the expenses of protecting the property and the expenses of litigation, attorneys' fees and sales commission; And second, to the payment of real estate and ad valorem taxes assessed against the lot and any prior recorded mortgages or deeds of trust; and third, to the payment of all amounts due to the Association under the terms of the declaration and By-laws; And the balance, if any, to the owner whose lot is sold.~~ Upon any default in the payment of any assessment, the Board of Directors shall have the right to all rents, issues and profits from the lot in default and shall have the right to secure the payment through notice to those in possession of the lot or by entry into possession in the same manner as the mortgagee entering into possession following default.

All rights, remedies and privileges granted to the Board of Directors or an owner, pursuant to any terms, provisions and covenants or conditions of the Declaration and By-laws shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Declaration and By-laws or at law or in equity.

The Association may notify the holder of any first mortgage or deed of trust on any lot for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of 60 days and in any other case where the owner of such lot is in default with respect to the performance of any other obligation here under for a period in excess of 60 days. Nothing herein contained shall obligate a holder of any first mortgage to collect any delinquent assessment.

#### 2022 Amendment

**DELINQUENT ASSESSMENTS – LATE FEES AND LATE CHARGE:** The first (1<sup>st</sup>) sentence of Article VI, Section 9 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

Any assessments levied pursuant to this Declaration, or any installment thereof, which is not paid within thirty (30) days after the date when due shall bear interest at the maximum legal interest rate per annum and be subject to a late charge as determined by the Board of Directors, from time to time.

#### **ORDER OF PAYMENT IN THE EVENT OF NON-JUDICIAL FORECLOSURE:**

The fifth (5<sup>th</sup>) sentence of the third (3<sup>rd</sup>) paragraph of Article VI, Section 9 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

The proceeds of any such sale, whether under the power of sale or by foreclosure suit, shall be applied as follows: **(i)** to the payment of all costs, charges, and expenses of executing this conveyance and enforcing said lien as herein provided; also, an attorneys' fees which arise on account of the execution of this conveyance, or the enforcement of said lien and the expenses of any such litigation; **(ii)** to the payment of all the Assessments herein secured, and any sums expended in the protection of the Lot as herein authorized; **(iii)** to the payment of all taxes and other recorded liens which may be unpaid on the Lot; and **(iv)** the residue, if any, will be paid to Trustors, their order, representatives, or assigns.

~~**Section 10. Acceleration of installments.** Upon default in the payment of any one or more installments of any assessment levied pursuant to this Declaration, or any other installment thereof, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable and full.~~

2022 Amendment

**REMOVAL OF ACCELERATION OF INSTALLMENTS:** Article VI, Section 10 of the Declaration is hereby deleted in its entirety.

**Section 11. Priority of Lien.** The lien established by this article shall have preference over any other assessments, liens, judgments or charges of whatever nature, except as herein limited.

~~**Section 12. Subordination of the Lien to Mortgages.** Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration upon any lot shall be subordinate to, and shall in no way affect the rights of, the holder of any indebtedness secured by any recorded first mortgage (meaning a mortgage with a priority over all other mortgages) upon such interest made in good faith and for value received; Provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such lot pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser at such sale of the lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.~~

~~No amendment to this Section shall affect the rights of the holder of any such mortgage or the indebtedness secured thereby recorded prior to the recommendation of such amendment unless the holder thereof or the indebtedness secured thereby shall join in the execution of such amendment.~~

~~Failure to pay any assessment provided for herein shall not constitute a default under any such deed of trust or mortgage.~~

2022 Amendment

**SUBORDINATION AND MORTGAGE PROTECTION:** Article VI, Section 12 of the Declaration is hereby deleted in its entirety with the following substituted in its place (it is the intent of the Association and its Members that this amendment to Article VI, Section 12 of the Declaration only apply to those holders of deeds of trust or mortgages on Lots that are recorded after the date of recordation of this Amendment):

The lien of the assessments provided for herein shall be subordinate to the lien of *ad valorem* real estate taxes and of any prior recorded first mortgage or first deed of trust on any Member Lot (but only if such assessments and all costs associated therewith, including attorney's fees, were paid in full prior to the date of recordation of the mortgage or deed of trust). The lien established by the Declaration shall have preference over all other mortgages, deeds of trusts, assessments, liens, judgments, or charges of whatever nature. Foreclosure, sale, or other conveyance (such as a deed in lieu of foreclosure) pursuant to any such first mortgage or first deed of trust shall extinguish such lien for assessments due prior to such foreclosure or sale but only if such assessments and all costs associated therewith, including attorney's fees, were paid in full prior to the date of recordation of the mortgage or deed of trust (but such assessment lien shall attach to any excess proceeds of the foreclosure), and no such foreclosure or sale shall relieve such Lot from liability for any future assessments or liens.

## **Article VII**

### **Architectural and Building Restrictions**

**Section 1. Architectural Review Committee.** The Architectural Review Committee shall have the responsibility of enforcing the restrictions set forth in this article for the development or redevelopment of each lot.

**Section 2. Approval of Development.** Before commencing the construction, reconstruction, remodeling, alteration, or addition of any building or structure, fence, wall, driveway, or other improvement of any nature, the owner shall first submit its building plans, specifications, site layout plans, utility plans, grading and drainage plans, and landscape plans (collectively the plans) of all improvements to the Architectural Review Committee for its written approval. The building plans shall include floor plans, design sections, elevations, material selections and color schemes. The plan shall include all materials for driveways, walls, fences and swimming pools. In the event the Architectural Review Committee shall fail to approve or disapprove in writing the plans within 30 days after they have been received by the Architectural Review Committee, such approval will not be required and this covenant shall be deemed to have been satisfied. The plans shall be delivered to the Architectural Review Committee in person or by certified mail at the address to be designated from time to time by Declarant or the Association.

Plans for any improvements must conform to certain restrictions as set forth in this article, and further must conform to the other requirements of this Declaration. The Architectural Review Committee shall be the sole judge or arbiter of such conformance or non-conformance. Further the Architectural Review Committee may approve or disapprove plans when the Architectural Review Committee, in its sole discretion, determines that the proposed improvements or any

feature of the plans are not architecturally or aesthetically compatible with the development of the property.

If the Architectural Review Committee approves the plans, the actual construction in accordance with the plans shall be the responsibility of the owner; Provided, however upon the completion of the improvements, and prior to occupancy, the owner shall notify Declarant, who shall have 10 days thereafter in which to have the improvements inspected by the Architectural Review Committee to ensure that the construction was completed in accordance with the plans approved by the Architectural Review Committee prior to construction. In the event that the Architectural Review Committee shall fail to approve or disapprove in writing the completed improvements within 10 days after receipt of notice from the owner that the improvements are completed, such approval shall not be required and these covenants will be deemed to have been satisfied. In the event an owner has made changes from the original plans approved by the Architectural Review Committee and such changes were not previously approved by the Architectural Review Committee, occupancy of the subject improvements shall be delayed until the necessary corrections have been made. In the event any owner shall fail to complete the construction in accordance with the approved plans or to maintain the improvement situated upon his lot in a manner satisfactory to the Architectural Review Committee, the Architectural Review Committee may, upon the vote of 2/3 of the committee members, and after 10 days notice in writing to the owner, and in the event of his continued failure to commence the correction of the matter in issue, enter upon said lot and complete, repair, maintain or restore the exterior of the improvements erected there on. The cost of such exterior maintenance shall be added to and become a part of the assessment to which such lot the subject and the owner shall be personally liable for the cost of such maintenance so incurred.

In addition to the approval of plans and other matters here in set forth, the Architectural Review Committee shall have the right to waive minor violations and allow minor variances where the same resulted unintentionally or without gross carelessness on the part of any owner and are not materially harmful to the property. If such waiver is granted in writing, then, thereafter such matters so waived shall no longer be deemed a violation of these restrictions. The approval of the Architectural Review Committee of the plans and completed improvements as required above is not intended to be an approval of the structural stability, integrity or design or a completed improvement or of the safety of any component therein but is required solely for the purpose of ensuring compliance with the covenants contained in this declaration, and further, to ensure the harmonious and orderly architectural development and improvement of the property. Notice is hereby given to any future occupant of any such completed improvement and all invitees, business guests and other persons who may from time to time enter or go on or about such completed improvements that no permission or approval granted by Declarant or the Architectural Review Committee with respect to construction pursuant to this declaration shall constitute or be construed as an approval at approval by them of the structural stability, design or any building, structure or other improvement and no liability shall accrue two Declarant or the Architectural Review Committee in the event that any such construction shall subsequently proved to be defective.

The Architectural Review Committee shall be Oakmont Joint Venture until termination of the Class B membership. Thereafter, the Architectural Review Committee shall consist of three members appointed by the Association.

**Section 3. Setback line and Building Envelopes.** Setback lines shall be no less than those required by Shelby County regulations and no less than those shown on the plat. The Architectural Review Committee reserves unto itself, its successors and assigns, the right to control absolutely the precise location and elevation of any house or other structure upon all lots in the subdivision. Such location shall be determined only after reasonable opportunity has been afforded to the owner to recommend a specific site.

**Section 4. Completion Requirements.** Before any house may be occupied it must be substantially complete. Houses shall be completed within twelve months after construction commences.

**Section 5. Standard Elements.** At such time the owner erects his dwelling, he shall construct certain elements by utilizing standard construction details as provided by the architectural review committee and made a part of each formal approval, i.e., driveway intersections with road, house numbering, etc.

**Section 6. Right of Way Obstructions.** Excluding mailboxes, Association owned property and natural or approved vegetation, no obstruction shall be allowed within 10 feet of any right of way.

**Section 7. Equitable and Legal Recourse.** The Association or any owner of any lot contained within the residential community shall have the right to enforce by any proceeding at law or in equity all conditions, restrictions, covenants, reservations and easements herein or herein after contained or otherwise contained in any deed to any lot in the subdivision. Failure by any owner to enforce any of such proceedings shall in no event be deemed a waiver of the right to do so thereafter.

## **Article VIII**

### **Covenants and Restrictions for Use**

**Section 1. Single family detached residential use.** No lot shall be used except for private residential purposes except for such nonresidential uses as may be permitted by the zoning laws of Shelby County, Tennessee. From time-to-time. Nothing in this Section or herein elsewhere shall be construed to prohibit the Declarant from the use of any lot or lots which Declarant owns for promotional or display purposes as "models."

**Section 2. Prohibited uses and nuisances.** In order to provide for congenial occupation of the homes within the residential community, and to provide for the protection of the values of the property, the use of the residences shall be in accordance with the following provisions:

- A. **Declarant uses.** Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant to maintain, during the period of the sale of

said lots or the property, upon such portion of the premises as Declarant deems necessary, such facilities, as in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the sale of said lots, including, but without limitation, a business office, storage area, construction yard, signs, model units and sales office.

- B. **Nuisances and use.** No billboards unsightly objects or nuisances shall be erected placed or permitted to remain on the property nor shall the property be used in any way for any purpose which may endanger the health or unreasonably disturb the owner of any lot or any resident thereof.
- C. **Business activity.** No business activity of any kind whatsoever shall be conducted in any building or in any portion of the property: provided, however, the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any of Declarant, its agents and assigns, during the development and sales period of lots or the property.
- D. **Building material storage.** No building material of any kind or character shall be placed or stored upon any lot until the owner is ready to commence improvements building materials shall not be placed or stored in the street or between the curve and property lines.
- E. **Fences/Walls.** Boundary fences and walls for lots may be erected, provided that the same or approved by the architectural review committee. No fences may be constructed along the street on the front of any lot unless approved by the architectural review committee. No retaining wall shall extend to a height greater than two feet above the earth being retained and no boundary fence nor any fence enclosing a patio or courtyard, shall extend to a height greater than six feet from ground level except with the consent of the architectural review committee. ~~All boundary fences and retaining walls must be of brick stone, stucco or other material agreeable to the architectural review committee.~~

#### 2022 Amendment

**FENCING IN THE CCRs:** The fourth (4<sup>th</sup>) sentence (being the last sentence) of Article VIII, Section 2(E) of the CCRs is hereby deleted in its entirety with the following substituted in its place:

All boundary fences and retaining walls must be of wood, brick, stone, stucco, wrought iron, or material agreed to the Architectural Review Committee.

- F. **Commercial excavation.** No owner shall excavate or extract earth from any of the lots subject to this declaration for any business or commercial purpose no elevation changes shall be permitted which will materially affect the surface grade of a lot unless the consent of the architectural review committee is obtained.
- G. **Yard elements.** Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected or placed on any lot. Any and all equipment, air conditioner condensers, wood piles, garbage cans, refuse or storage piles placed on any lot, whether temporary or permanent shall be walled in to conceal the same from view of

neighboring lots, roads. Plans for all screening walls and enclosures must be approved by the Architectural Review Committee.

- H. **Building materials.** No lumber brick, stone, block, concrete, or other material for building purposes shall be stored on any lot, except for the purpose of construction on such lot, and then only for such length of time as is reasonably necessary for the construction of the improvements then in progress.
- I. **Swimming pools.** Swimming pools must be approved by the Architectural review committee and built in accordance with applicable laws and regulations. No above ground pool shall be allowed.
- J. **Exterior.** Each resident must provide treatment of driveway entrances to provide proper drainage which shall be approved by the committee.
- K. **Utility meters.** All utility meters air conditioning compressors and other like equipment shall be screened with landscaping so as not to be visible from neighboring lots, roads,
- ~~L. **Vehicle and trailer storage.** No recreational vehicles or commercial vehicles, including but not limited to boats, boat trailers, house trailers, horse trailers, motorcycles, trucks or similar type items shall be kept other than in a garage or screened from the view of adjoining neighbors and the street. No automobile or other vehicles shall be continuously or habitually parked on any street or right of way.~~

## 2022 Amendment

**PARKING OF CERTAIN VEHICLES:** Article VIII, Section 2(L) of the Declaration is hereby deleted in its entirety with the following substituted in its place:

but not limited to commercial trucks, boats, boat trailers, house trailers, camping trailers, or similar type vehicles and items shall be kept on any portion of Oakmont or any Lot unless within the enclosed garage or behind a wood fence in the rear yard of a Lot. It is strictly prohibited to store or park junk or inoperable automobiles on or about any of said Lots. All motorized vehicles parked at Oakmont must be licensed and in operating condition.

- M. **Outbuildings, temporary or secondary residences.** No outbuilding, trailer, basement, tent, shack, garage, barn or other outbuilding erected shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Further such outbuilding shall be screened in a manner that they may not be seen from the street.
- N. **Clotheslines.** Outside clotheslines and clothes hanging devices shall not be permitted.
- O. **Eave lights.** Eave lights installed on residences must be adjusted so that the rays of any beam or flood light will be directed so as not to cause a nuisance to any property.
- P. **Garage.** No garage maybe left open to a street for an extended period of time.
- Q. **Signs.** No signs whatsoever except for one for sale sign per lot not to exceed 5 feet, unsightly objects or nuisances shall be erected placed or permitted to remain on the property.
- R. **Obstruction.** Excluding mailboxes, association owned property and natural or approved vegetation, no obstruction shall be allowed within 10 feet of any right of way.

- S. **Resubdivision.** No lot may be further subdivided. No portion of any light may be conveyed except with the prior written approval of the Committee.
- T. **Weeds and debris.** Grass, weeds, vegetation and debris on each lot shall be kept mowed and cleared at regular intervals by the owner thereof so as to maintain the same in a neat and attractive manner. Trees, shrubs, bonds, debris, and plants which die shall be promptly removed from such lots period until a residence is constructed on a lot, Declarant and it's at its option and its discretion, may mow and have dead trees and debris remove from such light and the owner of such lot shall be obligated to reimburse Declarant for the cost of such work should he refuse or neglect to comply with the terms of this paragraph.
- U. **Contiguous lots.** Contiguous lots may be combined, if the lots have the same owner, for the purpose of placing an approved building thereon, if a waiver or modification to the easement shall be granted by the Architectural Review Committee.
- V. ~~**Animals and pets.** No animals, reptiles, livestock, or poultry of any kind shall be raised, bread, pastured or maintained on any lot, except dogs, cats and other household pets, (exclusive of any reptiles or animals aforementioned) which shall be kept in reasonable numbers as pets for the sole pleasure of the occupants, but not for any commercial purpose or use. Horses shall not be allowed on the property at any time. No pets shall be permitted outside the boundaries of the owner's lot unless accompanied by their owner and on a leash. The Association, or any individual resident, may take appropriate measures to ensure compliance with these provisions including having the animal picked up by the appropriate authorities.~~

## 2022 Amendment

**COVENANTS REGARDING PETS:** Article VIII, Section 2(V) of the Declaration is hereby deleted in its entirety with the following substituted in its place:

No animals of any kind shall be raised, bred, or kept on any Lot, except that cats or other household pets may be kept, provided that they: (i) are not kept, bred, or maintained for any commercial purpose and (ii) do not become an unreasonable nuisance or annoyance to neighbors. For the purposes of the Declaration, "household pets" shall include such traditional animals, such as dogs, cats, rabbits, birds, and fish. No reptiles, wildlife, or domestic variations of farm animals shall be kept in or on Lots at Oakmont. The Association may promulgate reasonable rules and regulations regarding the keeping of pets at Oakmont. Lot Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All pets must be kept on a leash when not confined either within the improvements or the fence located upon a Lot. Without limiting the generality of Article VIII hereof, violation of the provisions of this paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to require any pet to be permanently removed from Oakmont. This Article VIII, Section 2(V) shall not prohibit the keeping of fish or a caged household-type bird(s) on a Lot, provided that a bird(s) does not become a nuisance or annoyance to neighbors. Notwithstanding any of the foregoing, however, neither this Article VIII, Section 2(V); any other provision of the Declaration; nor



any rule or regulation of the Association shall be enforced, adopted, or amended so as to prohibit or unlawfully restrict any right of the Owner or occupant of a Lot to keep and use a seeing-eye dog or other properly certified assistive or service animal for purposes provided for in any local, state, or federal law, statute, or ordinance protecting the applicable person's right to do so.

- W. **No violation of new rules.** There shall be no violation of any rules which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby authorized to adopt such rules.
- X. **Noise pollution.** No exterior intercom sound system or amplification systems shall be used to transmit sounds of any kind so as to create a noise nuisance.
- Y. **Landscaping.** A landscape plan shall be submitted to the Architectural Review Committee for approval. No landscape improvement shall be out of character with its setting nor adversely impact a neighboring property now or in the future.
- Z. **Timely completion.** From commencement to completion occupancy, the development of a residence or any approved structure shall be substantially completed in 12 months. The date of commencement and the required date for completion will be determined in writing with notification to the owner by the Architectural Review Committee.
- AA. **Vehicle prohibition.** Vehicles which make loud noises or cause excessive pollution are prohibited anywhere on the property.
- BB. **The subdivision plat covenants.** The restrictive covenants set forth in the plat are hereby incorporated herein by reference and shall have the same effect and force as if copied verbatim herein.
- CC. **This line was skipped in the original document.**
- DD. **Additional and separate restrictions.** The Declarant reserves unto himself the right to impose additional and separate restrictions at the time of sale of any of the lots sold by the Declarant, which said restrictions may not be uniform, but may differ as two different plots.

### Section 3.

- A. **Maintenance.** All lots, together with the exterior of all improvements located there on, shall be maintained in a neat and attractive condition by their respective owners.
- B. **Nuisances and unsightly materials.** No houses or other structure on any lot shall be used for any commercial or business purpose. Each owner shall refrain from any act or use of his lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No noxious, offensive or illegal activity shall be carried on upon any lot. Boats may be stored in enclosed or screened areas and must not be visible from neighboring lots, streets, roads or open areas.

**Section 4. Governmental restrictions.** Each owner shall observe all governmental building codes, health regulations and all other regulations applicable to his lot. In the event of any conflict between any provisions of this Declaration, the more restrictive provision shall apply

## Article IX

## Easements

**Section 1. Common area.** The common area is shown on the plat shall be for the common use of the association and its members, subject to rules and regulations adopted by the Association Board of Directors.

**Section 2. Easement for utilities, drainage and related purposes.** The Association is authorized and empowered to grant and shall from time to time grant such licenses, easements and or rights of way for sewer lines, water lines, electrical cables, telephone cables, television and other communication cables, internal and external wiring and antenna, gas lines, storm drains, underground conduits and or such other purposes related to the provisions of Public Utilities and other common services to the residential community as may be considered necessary, appropriate or desirable by the Board of Directors for the orderly maintenance, preservation and enjoyment of the common area or for the preservation of the health, safety, convenience and or welfare of the owners and the Declarant.

**Section 3. General Easement.** The Declarant so long as it shall retain record title to any lot, and the association reserves the right and easement to use to the use of the common areas and any lot or any portion thereof, as may be needed for repair, maintenance or construction on a lot or any other lot or the common area.

**Section 4. Specific easement.** An easement is hereby granted to the Declarant and the Association, five feet wide on all lots of the residential community, immediately adjacent to all roads and rides rights of way, as shown on the plat for the orderly maintenance, preservation and enjoyment of the owners of the lots, or for the preservation of the health, safety, convenience and or welfare of the owners of the lots, all as determined by the Association and the Declarant. Provided, however, the Architectural Review Committee shall have the right to review the easement on any lot, on a lot to lot basis, and remove said easement as may be deemed necessary by the Architectural Review Committee.

**Section 5. Ingress and egress.** An easement is hereby granted to all police, fire protection, ambulance, garbage collection and US Postal Service persons to enter upon the common area in the performance of their duties. Further, an easement is hereby granted to the Association, it's officers, agents, employees and to any management company selected by the Association to enter in or to crossover the common area and any dwelling to perform the duties of maintenance and repair of the dwelling or common area provided for herein. Should any utility request a specific easement by separate, recordable document as to the property, Declarant shall have the right to grant such easement on said property without conflicting with the terms hereof. The easements provided for in this article shall in no way affect any other recorded easements on said premises.

Further, an easement is granted to each owner to enter on or crossover such necessary portion of an adjoining lot for the sole purpose of repairing, maintaining or restoring each owner's lot and all improvements located there on. Any owner that shall enter on or crossover and

adjoining lot for such purpose of repairing, maintaining and restoring such lot and improvements there on shall at all times be responsible to restore the property of the adjoining owner to the same condition as it was immediately prior to such entry, and any entry by an owner upon an adjoining lot for the purposes here in express shall be after written notice has been given to the adjoining owner and the association at least five days prior to such entry.

## **Article X Insurance**

~~**Section 1. Casualty insurance.** There is imposed on the owner of each lot the obligation to carry in full force and effect casualty insurance in limits for the replacement value of lot improvements located thereon. Insurance on the common areas shall be carried and paid for by the Association.~~

2022 Amendment

**INDIVIDUAL INSURANCE:** Article X, Section 1 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

By virtue of taking title to a Lot subject to the terms of the Declaration, each Owner covenants and agrees with all other Owner and with the Association that each individual Owner may carry blanket all-risk casualty insurance on the Lot and structures constructed thereon for the full replacement cost thereof. In the event of damage or destruction by fire or other casualty, the Owner shall, with the concurrence of the mortgagee, if any, upon receipt of any insurance proceeds, construct to repair or rebuild such damage or destroyed portions of the improvements in a workmanlike manner in conformance with the original plans and specifications of the building (including landscaping) or plans otherwise approved in accordance with the Declaration. In the event the Owner refuses or fails to commence to repair or rebuild any and all such damage to his improvements within (30) days, the Association, by and through its Board of Directors, is hereby authorized by such Owner, upon written notice, to repair and rebuild the improvements in a good and workmanlike manner in conformity with the original plans and specifications. The Owner shall then repay the Association in the amount expended for such repairs, including any and all costs, expenses, attorney's fee, and reasonable interest related thereto, and the Association will have a lien securing the payment of the same identical to that provided in Article VI, above, securing the payment of said sums expended and subject to the power of sale and foreclosure as set forth in said article.

**Section 2. Damaged or destroyed dwelling.** The right is given to the Association to require the owner of a damaged or destroyed dwelling to make repairs or replacements in order to restore the dwelling to its condition prior to the damage or destruction, including the right to require that insurance proceeds paid to the owner because of said damage or destruction be applied to the repair or replacement.

## **Article XI General Provisions**

**Section 1. Changes by Declarant.** Notwithstanding anything herein contained to the contrary in addition thereto, the Declarant reserves the right for a period of five years from the date hereof to unilaterally amend this declaration in whole or in part to conform this Declaration to the requirements of any governmental agency, federal, state or local, for the requirements of any lender relative to the development of the property and or to ensure the reasonable development of the property.

**Section 2. Notices.** Any notice required to be sent to any member under the provisions of this declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member on the records of the association at the time of such mailing.

~~**Section 3. Enforcement.** The Declarant, the Association, or any member shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and or to recover damages, and against the land to enforce any lien created by these covenants, and failure by the Association or any member to enforce any covenants or restrictions here in contain shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the Association shall be chargeable to the owner of the lot violating these covenants and restrictions and shall constitute a lien on the lot, collectible in the same manner as assessments hereunder.~~

2022 Amendment

ENFORCEMENT: Article XI, Section 3 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

The Association shall have the right to enforce the covenants and restrictions, and any applicable rules and regulations, contained in this Declaration or applicable to Oakmont, by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any Member to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expenses of enforcement, including court costs, expenses, and attorney's fees, by the Association or Member shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

**Section 4. Hold harmless.** Each owner, recognizing that certain risks are inherent in the building of houses and in activities in and about a residential subdivision, does hereby hold harmless the Declarant, the Association and the directors and officers of the Association for any and all losses, liabilities, or damages which said owner, his family, or guests may sustain resulting from the acts, and or emissions have said entities, except for their gross negligence.

**Section 5. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

**Section 6. Amendment and duration.** The covenants and restrictions of this declaration shall run with and bond the land, shall ensure to the benefit of and be enforceable by the association, or the owner of any lot subject to this declaration, their respective legal representatives, heirs, successors and assigns, for a term of 20 years from the date the plat is recorded, after which time said covenants shall be automatically extended for successive periods of 10 years period this declaration may be amended during the first twenty year. ~~By an instrument signed by not less than 90% of the owners and thereafter by instrument signed by not less than 75% of the owners. Any amendment must be recorded.~~

2022 Amendment

AMENDMENT: The second (2<sup>nd</sup>) and third (3<sup>rd</sup>) sentences of Article XI, Section 6 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

Amendments to the Declaration shall be effected as follows: notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered. An amendment may be proposed either (i) by a majority of the Board of Directors of the Association or (ii) by not less than ten (10%) of the Members of the Association. Proposed amendments must be approved by the affirmative vote of Lot Owners holding two-thirds (2/3<sup>rds</sup>) (being at least 94 Lot Owners) of all Owner votes. In order to be effective an amendment must be (i) executed by the President and Secretary of the Association and (ii) recorded in the Register's Office.

**Section 7. Joinder of interested parties.** These covenants, conditions and restrictions are executed by the Peoples Bank, as to any interest that it has in the property and for the purposes of conformity and title, so that all the property shall at all times be subject to the conditions, covenants and restrictions as set forth in this instrument.

**Section 8. Annexation.**

Additional adjoining residential property and common area property within the vicinity of the property may be annexed to the property by the Declarant.

The addition of additional property shall be made by the filing of record of one or more amendments to this declaration of covenants, conditions and restrictions. Assessments and votes pertinent add two additional property shall be upon annexation, and the common areas of the additional property will be deeded to the association at the time of filing the declaratory as appropriate. All intended improvements of additional property must be substantially completed prior to annexation. All taxes and other assessments relating to additional property, covering any period prior to the addition of such property, must be paid or otherwise satisfactorily provided for by Declarant. In the event of such annexation, Declarant may create

easements between the property and such additional property for the benefit of such additional property without the consent of any owner or the Association.

In the event of a merger or consolidation of another association with the Association, its properties, rights and obligations may, as provided in its charter or by operation of law, be transferred to another surviving or consolidated association, or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this declaration within the existing property, together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenant established by this Declaration within the existing property, except as provided herein.

## 2022 Amendment

PROHIBITION AGAINST LEASING: The Declaration are hereby amended to add the following Article XII:

### ARTICLE XII PROHIBITION AGAINST LEASING

(i) Notwithstanding anything to the contrary herein stated, any person (including any individual or business entity permitted by Tennessee law to hold title to real estate) who becomes an Owner of a Lot at Oakmont after the date of recordation of this Amendment is prohibited from leasing, or entering into a lease-purchase or similar contract for, that Lot or any portion thereof. It shall be a violation of this Article subject to written waiver by the Board of Directors, in their sole and absolute discretion, if an Owner, or if more than one Owner, at least one of the Owners (including an Owner who may own less than 100% of the ownership interest in any Lot) shall not occupy the Lot on a permanent basis. It shall also be a violation of this Article, subject to written waiver of the Board of Directors in their sole and absolute discretion, if any person lives on any Lot without paying any rental or lease payment unless an Owner also occupies such Lot. For purposes of the preceding sentence, it shall not be a violation of this Article if, while an Owner is temporarily absent from the Lot, a person who is not an Owner of that Lot temporarily resides in such Lot. A person who "temporarily resides" in the Lot without violating this Article is meant to include persons commonly known as house sitters or other persons who stay in the Lot while the Owner is absent for the purpose of providing security, or caring for pets, or the like which belong to the Owner, and remain in the Lot while the Owner is absent. Such "Temporary Residence" by a person not an Owner shall not exceed a total of six weeks in any one calendar year.

(ii) Notwithstanding the foregoing, in the event that an Owner, due to medical or health reasons, or for any other good cause, desires to lease a Lot or any part thereof, or if an Owner wishes to extend any period of Temporary Residence as described in the preceding paragraph

for a period longer than six weeks, then such Owner shall make application to the Board of Directors which may, by a majority vote, grant to such Owner an exception to the prohibition against leasing set forth in this

Article upon such conditions and under such circumstances as the Board of Directors, in its sole and absolute discretion, may deem proper or necessary. The Board shall provide written approval or disapproval to any Owner who makes application for an exception to the prohibition against leasing under this Article.

(iii) It is the express intent of this Article that the prohibition against leasing shall apply only to persons who obtain title to their Lot subsequent to the date of recordation of this Amendment. Lot Owners who acquired title to their Lot prior to the date of recordation of this Amendment or who are otherwise exempted from the prohibitions of this Amendment shall be permitted to lease such Lot acquired prior to the date of recordation of this Amendment except as expressly provided in Article XII(vi) below.

(iv) Further, the prohibition contained herein shall not apply to institutional holders of a mortgage or deed of trust who obtain title to a Lot pursuant to foreclosure of such mortgage or deed of trust, as a result of a judicial sale, or any proceeding in lieu of foreclosure (the provisions of this prohibition against leasing shall apply to the holders of a mortgage or deed of trust, involved in seller financing or a similar transaction, who obtain title to a Lot pursuant to foreclosure of such mortgage or deed of trust, as a result of a judicial sale, or any proceeding in lieu of foreclosure). The prohibition against leasing herein contained shall also not apply to: a) individual persons who acquire title to a Lot by devise, inheritance, or operation of law from an Owner who is an Owner on the date of recordation of this Amendment in the Register's Office of Shelby County, Tennessee; b) to any person who is an Owner on the date of recordation of this Amendment and who conveys their Lot to a living trust the beneficiaries of which are the Owners or their spouse, child, parent or sibling; or c) to any spouse, child, parent, or sibling of an Owner who acquires title by *inter vivos* conveyance from an Owner who is an Owner on the date of recordation of this Amendment. In the event of any inconsistencies or contradictory language between this Article and any other provisions of the Declaration, then the provisions of this Article shall control.

(v) If a Lot is owned by a limited liability entity (the "Limited Liability Entity") including, but not limited to, a corporation, whether for profit or not for profit, a limited liability company, limited liability partnership, professional corporation or professional limited liability company, it shall be a violation of this Article, subject to written waiver by the Board of Directors, if the Lot is not occupied on a permanent basis by one of the following: an officer, director, shareholder, member or partner of such Limited Liability Entity.

(vi) The foregoing notwithstanding, all Lot Owners, including those who took title prior to the recordation of this Amendment, are prohibited from leasing all or any portion of their Lot for any period of less than thirty (30) days (the "Temporary Leasing Prohibition"). It is the intent of this paragraph to prohibit transient or short term rentals under arrangements such as a home

exchange or time share, and also under such programs commonly known as “vacation rental by owner” (VRBO), Airbnb, and the like. Notwithstanding the provisions of this Article XII(vi), any Lot Owner may apply for a waiver under Article XII(ii) to the Temporary Leasing Prohibition of this Article XII(vi).

(vii) In the event of any violation of this Article by an Owner, the Association shall be entitled to any remedy available at law or in equity from such Owner including, but not limited to, damages and injunctive relief together with any attorney’s fees incurred by the Association and all costs and expenses of whatever type, kind or nature expended by the Association to enforce any of the provisions of this Article, whether such enforcement is by way of non-judicial or judicial action.

See original document for signatures, joinder of mortgagee, etc.

The original document is recorded with the Shelby County Register of Deeds, December 27, 1996. #GG8311



## **Amendment to Declaration of Covenants, Conditions and Restrictions**

This amendment to declaration made this first day of April 1998, by South Oak Joint Venture hereinafter referred to as "Declarant", composed solely of Waldo, LLC a Tennessee Limited Liability Company, and Harvey and Harvey, LLC a Tennessee Limited Liability Company.

Whereas, Declarant is the owner in fee simple of certain property located in the City of Collierville, County of Shelby, State of Tennessee, described as lots numbered 81 through 141, inclusive, on plat of record in plat book 168, page 11 *re-recorded in plat book 169, Page 1*, in the Register's office of Shelby County, Tennessee, and known as Oakmont PD Phase 3, Parcel 1 (the "property"); and

Whereas, Declarant desires to provide for the preservation of the values and amenities on the property and to this end desires to subject the property to certain covenants, restrictions, easements, charges and liens, each and all of which is and are for the benefit of the property and each owner thereof, and

Whereas, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the property, to have an agency to which should be delegated and assigned the powers of maintaining, administering and enforcing said covenants and restrictions;

Now, therefore, Declarant hereby declares that (1) the property shall be added to and held, transferred, sold, conveyed, hypothecated or encumbered, used and occupied, subject to the covenants, restrictions, easements, conditions, charges and liens set forth in the Declaration of Covenants, Conditions and Restrictions recorded in the Registrar's office of Shelby County, Tennessee, as instrument number GG 8311 (the Declaration) which shall run with the property and be binding on all parties having any right, title or interest in the property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof; (2) the Oakmont Planned Development Homeowners Association, Inc. shall have all the powers concerning the property and its owners as set forth in the declaration; and (3) each owner, as defined in the Declaration, shall be a member of the aforesaid Association.

In witness whereof, the Declarant has caused this instrument to be executed as of the day and year first above written.

*Signatures on original document.*

Recorded with the Shelby County Register of Deeds, April 9, 1998

#HH0838

**Restrictive Covenants**  
**Recorded with Plat December 18, 1996**  
**#GG5124**

1. All lots in this track shall be known and described as residential lots and are not to be resubdivided into smaller lots.
  
2. No building or other structure shall be erected, placed, or altered on any lot in this subdivision until the building plans, specifications, and plot plan showing the location of such building shall have been approved in writing as to the conformity and harmony with existing structures in this subdivision and as to location of building with respect to topography and finished ground elevation by joint venture or a representative duly appointed by said joint venture. In the event that said joint venture, or its designated representative, fails to approve or disapprove such design and location within a period of 30 days after said plans and specifications have been submitted to them or if no litigation to enjoin the erection of such building or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required, and this covenant will be deemed to have been fully complied with, neither the members of the joint venture, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant, the powers and duties of the joint venture, and its designated representative, shall cease on or after October 1, 2013. There after the approval described in this covenant shall not be required unless prior to said date ineffective there on a written instrument shall be executed by then by the then record owners of the majority of the lots in this subdivision and duly recorded, appointing a representative of representatives, who shell there after exercise the same powers previously exercised by the joint venture.

**2022 Amendment**

**DEVELOPER CONTROL OF ARCHITECTURAL APPROVAL: Paragraphs 2 and 16 of the Plat Restrictive Covenants are clarified and amended to provide that any and all approval rights and authority vested in the "developer/joint venture" is vested in the Association's Architectural Review Committee.**

3. Joint venture reserves unto itself the right to impose additional and separate restrictions at the time of sale of any lots by it in this subdivision, which said restrictions may not be uniform but may differ as two different lots.
  
4. No structure shall be erected, placed, altered, or permitted to remain on any lot in this subdivision other than one single family detached dwelling of not more than two stories in height, with one private garage for not more than three cars. Garage shall be side or rear entrance only.
  
5. The minimum set back from street to building shall meet the requirements and approval of the building department of the Town of Collierville, Tennessee, but in no case shall be less than 40 feet (50 feet from curb) and 10 feet side yard setback.

6. No noxious or offensive trade of activity shall be carried on upon any lot nor shall anything be done there on which may be or become an annoyance or nuisance to the neighborhood, including, but not limited to, parking or storage of any large commercial vehicles, equipment or trailers.

7. No trailer, basement, tent, shack, barn, or other outbuilding erected in this tract shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

8. There is a perpetual easement as shown on the recorded plan of the subdivision reserved for utility installation, maintenance, sanitary sewer and storm drainage.

9. The minimum ground floor area of single family dwelling exclusive of one story open porches and enclosed garages, shall be 2500 square feet for a one story dwelling, and 1500 square feet for a 1 1/2 or two story dwelling, provided that the sum of the upstairs and ground floor area is not less than 2500 square feet.

~~10. No fence shall be erected on any corner lot nearer to the street line than the house setback line, nor on any other lot nearer to the street line than the rear house line, except that it shall be permissible to erect a fence from the residence to the side lot line immediately in front of the rear entrance door. Chain link and/or metal fences of any kind are prohibited in this subdivision.~~

2022 Amendment

FENCES: Paragraph 10 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

Boundary fences and wall for Lots may be erected, provided that the same are approved in writing by the Architectural Review Committee. No fences may be constructed along the street in front of any Lot unless approved in writing by the Architectural Review Committee. No retaining wall shall extend to a height greater than two (2) feet above the earth being retained and no boundary fence nor any fence enclosing a patio or courtyard shall extend to a height greater than six (6) feet from ground level except with the written consent of the Architectural Review Committee. All boundary fences and retaining walls must be of wood, brick, stone, stucco, wrought iron, or other material agreeable to the Architectural Review Committee. All fence constructed upon a Lot must comply with any and all applicable governmental regulations.

~~11. No satellite dishes or other exterior antennas shall be installed larger than 18 inches.~~

2022 Amendment

SATELLITE DISHES: Paragraph 11 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

Except as otherwise provided herein, radio, television transmission receiving towers, and/or antennae are not acceptable and will not be approved or allowed. Without prior written approval and the authorization of the Architectural Review Committee, as such term is defined in the Declaration, no exterior satellite dish or antennae shall be placed, allowed, or maintained upon any portion of the improvements located upon a Lot in Oakmont nor upon any structure situated upon a Lot in Oakmont. In the event such approval is granted, the size and location must be approved by the ARC with such satellite dish or antennae being placed at the rear of the improvements constructed upon the Lot. This section is intended to comply with existing OTARD (Over the Air Reception Device) regulations as such may be amended from time to time. Anything in the CCRs to the contrary notwithstanding, a Lot Owner may install or have installed one (1) satellite dish or antennae designed to receive video programming services, of less than one (1) meter in diameter, on the improvements on his or her Lot without any authorization or approval from the ARC provided such satellite dish is installed on the rear of such improvements and is otherwise not readily visible from right-of-way to the front of such improvements.

~~12. All windows in this subdivision are to be wood.~~

2022 Amendment

WINDOW REQUIREMENTS: Paragraph 12 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

All windows installed on improvements in Oakmont shall be made of materials approved by the Association's Architectural Review Committee.

~~13. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until October 1, 2013, at which time said covenants shall be automatically extended for successive periods of 10 years each, by vote of the majority of then owners of the lots in this subdivision.~~

2022 Amendment

CONFIRMATION AND FUTURE AMENDMENT OF THE PLAT RESTRICTIVE COVENANTS: Paragraph 13 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

These covenants are to run with the land and shall be binding on all parties claiming under them until January 1, 2050, at which time said covenants shall be automatically extended for successive periods of ten (10) years each unless terminated in writing by a vote of two-thirds (2/3rds) of the Lot Owners, as evidenced by their respective signatures. By recording this Amendment, the Lot Owners approving this Amendment expressly agree and confirm that the Plat Restrictive Covenants apply to and encumber Oakmont.

14. If the parties here too, or any of them, or their heirs assigns, shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any other person or persons owning real property situated in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant in either to prevent him or them from so doing or to recover damages or other dues for such violation.

15. Invalidation of any of these covenants by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

16. No detached outbuildings of any type shall be erected, placed, or altered on any lot in this subdivision until building plans have been approved in writing by said developer/joint venture. Any outbuilding shall be constructed, after approved to the conformity and harmony with existing structure on said lot.

**2022 Amendment**

**DEVELOPER CONTROL OF ARCHITECTURAL APPROVAL: Paragraphs 2 and 16 of the Plat Restrictive Covenants are clarified and amended to provide that any and all approval rights and authority vested in the "developer/joint venture" is vested in the Association's Architectural Review Committee.**

17. All residential structures in this subdivision are to have architectural/dimensional shingle roofs.

**Restrictive Covenants  
Recorded with Plat April 7, 1998  
#HG8959**

1. All lots in this track shall be known and described as residential lots and are not to be re subdivided into smaller lots.

2. No building or other structure shall be erected, placed, or altered on any lot in this subdivision until the building plans, specifications, and plot have been approved in writing as to the conformity and harmony with existing structures in this subdivision and as to location of building with respect to topography and finished ground elevation by joint venture, or a representative duly appointed by said joint venture. In the event that said joint venture, or its designated representative, fails to approve or disapprove such design and location within a period of 30 days after said plans and specifications have been submitted to them, or if no litigation to enjoin the erection of such building or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required. And this covenant will to be deemed to have been fully complied with, neither the members of the joint venture, nor its designated representative, shall to be entitled to any compensation for services performed pursuant to this covenant. The powers and duties of the joint venture, and its designated representatives, Chelsea's on or act after October 1st, 2013. Thereafter, the approved the approval described in this covenant shall not to be required unless, prior to said date, and effective there in they're on, a written instrument shall be executed by the then

record owners of the majority of the lots in this subdivision and duly recorded, appointing a representative of representatives who shall thereafter exercise the same powers previously exercised by the joint venture.

3. Joint venture reserves unto itself the right to impose additional and separate restrictions at the time of sale of any lot by it in this subdivision, which said restrictions may not to be uniform but made differ as to different lots.

4. No structure shall to be erected, placed, altered, or permitted to remain on any lot in this subdivision other than one single family detached dwelling of not more than two stories in height, with one private garage for not more than three cars. Garage shall to be side or rear entrance only.

5. The minimum set back from street to building for the R1 large lots shall meet the requirements and approval of the building department of the Town of Collierville, Tennessee, but in no case shall be less than 40 feet (50 feet from curb) and 10 feet side yard setback. The small lots shall have the following setbacks:

Front yard: 25 feet at building line with front load garage; 15 feet on houses with side loading garages

Side yard: 1 foot or five feet with a minimum of 6 feet between structures

Rear yard: 25 feet; Double frontage shall be 40 feet

6. No noxious or offensive trade of activity shall to be carried on upon any lot nor shall anything to be done there on which may to be or become an annoyance or nuisance to the neighborhood, including, but not limited to, parking or storage of any large commercial vehicles, equipment or trailers.

7. No trailer, basement, tent, shack, barn, or other outbuilding erected in this track shall be at any time to be used as a residence, temporarily or permanently, nor shall any structure of a temporary character to be used as a residence.

8. There is a perpetual easement as shown on the recorded plan of the subdivision reserved for utility installation, maintenance, sanitary sewer and storm drainage.

9. The minimum ground floor area of single family dwelling for the R1 large lots exclusive of one story open porches and enclosed garages, shall to be 2500 square feet for a one story dwelling, and 1250 square feet for a 1 1/2 story or two story dwelling, provided that the sum of the upstairs and ground floor area is not less than 2500 square feet. The minimum ground floor area of a single family dwelling for the small lots exclusive of one story open porches and enclosed garages, shall to be 2000 square feet for a one story dwelling, and 1000 square feet for a 1 1/2 or two story dwelling, provided that the sum of the upstairs and ground floor area is not less than 2000 square feet.

10. Boundary fences and walls for lots may be erected provided that the same are approved by the Architectural Review Committee. No fences may be constructed along the street on the front of any lot unless approved by the Architectural Review Committee. No retaining wall shall extend to a height greater than two feet above the earth being retained and no boundary fence nor any fence enclosing a patio or courtyard shall extend to a height greater than six feet from the ground level except with the consent of the Architectural Review Committee. All boundary fences and retaining walls must be of brick, stone, stucco or other material agreeable to the Architectural Review Committee.

11. No satellite dishes or other exterior antennas shall be installed.

12. All windows in the subdivision are to be wood.

13. These covenants are to run with the land then shall be binding on all parties and all persons claiming under them until October 1st, 2012, at which time said covenants shall be automatically extended for successive periods of 10 years each unless changed by a written vote of the majority of the then owners of the lots in the subdivision.

14. If the parties hereto, or any of them, or their heirs assigns, shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any other person or persons owning real property situated in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for such violation.

15. Invalidation of any of these covenants by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

16. No detached outbuildings of any type shall be erected, placed, or altered on any lot in this subdivision until building plans have been approved in writing by said developer/joint venture. Any out building shall be constructed, after approved to the conformity and harmony with existing structure on said lot.

\* All fences constructed within front yards must meet Town of Collierville zoning requirements per Section 2-205.

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38120

DRM File No.: 151021.0000

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR OAKMONT P.D., PARCEL 1, PHASE 1

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR OAKMONT P.D., PARCEL 1, PHASE 1 (this "Amendment") is made as of this 15th day of November 2022, by OAKMONT PLANNED DEVELOPMENT HOMEOWNERS' ASSOCIATION, INC., a Tennessee non-profit corporation (the "Association"), for that certain residential development situated in the Town of Collierville, Shelby County, Tennessee, more commonly known as **OAKMONT** ("Oakmont").

WITNESSETH:

WHEREAS, that certain Declaration of Covenants, Conditions and Restrictions for Oakmont P.D., Parcel 1, Phase 1 (as amended, the "Declaration"), dated December 18, 1996, recorded as Instrument No. GG 8311 in the Register's Office of Shelby County, Tennessee (the "Register's Office"), as amended by Instrument No. HH 0838, governs that certain residential development situated in the Town of Collierville, Shelby County, Tennessee, more commonly known as "Oakmont", which is administered by the Association; and

WHEREAS, the Association was formed pursuant to that certain Charter of Oakmont Planned Development Homeowners' Association, Inc. (the "Charter") filed with the Tennessee Secretary of State as Control No. 000323735, a copy of which is recorded in the Register's Office as Instrument No. GH 8640; and

WHEREAS, the Association is governed by those certain "By-laws of Oakmont Planned Development Homeowners' Association, Inc." (the "Bylaws") which are separately recorded in the Register's Office as Instrument No. 21079828; and

WHEREAS, Oakmont is more particularly shown on those certain plats (collectively, the "Plats") recorded in the Register's Office in: **(i)** Plat Book 160, Page 67, re-recorded in Plat Book 162, Page 13, and Plat Book 246, Page 33, and **(ii)** Plat Book 169, Page 1, with Oakmont consisting of one hundred forty (140) residential lots (each a "Lot") as more particularly shown and depicted on the Plats; and



**WHEREAS**, the Plats contain certain restrictive covenants (the “Plat Restrictive Covenants”), which pursuant to Paragraph 13 of the Plats may be amended by the vote of a majority of the Lots in Oakmont (being 71 Lot Owners); and

**WHEREAS**, as amended herein, a majority of the Lot Owners at Oakmont ratify and confirm that the Plat Restrictive Covenants apply to and are binding upon the Lots in Oakmont as of the recordation of this Amendment; and

WHEREAS, the Association intends to amend the Declaration, the Bylaws, and the Plats as more particularly provided herein; and

WHEREAS, Article XI, Section 6 of the Declaration provides that the Declaration may be amended at a meeting of the membership of the Association by an instrument signed by Owners holding not less than seventy-five percent (75%) (being 105 Lot Owners) of the votes at any time; and

WHEREAS, Article X, Section 1 of the Bylaws provides that the Bylaws may be amended at a meeting of the membership of the Association by the affirmative vote of a majority of a quorum of the Members entitled to vote; and

**WHEREAS**, as of the recordation of this Amendment, restrictions on long-term leasing in Declaration shall be governed by the provisions of Tenn. Code § 66-27-701, *et seq.* (the “Act”); and

**WHEREAS**, the terms and provisions of this Amendment comply with the Act; and

WHEREAS, a meeting of the membership of the Association has been held, or this Amendment has been approved by the Association in accordance with the terms and provisions of Tenn. Code § 48-57- 108 without a meeting, and: (i) with regard to those amendments to the Declaration, this Amendment to the Declaration was properly approved and signed by Owners holding not less than seventy-five percent (75%) of the votes of the membership with their signatures evidenced by those certain attachments attached hereto and made a part hereof, collectively, as EXHIBIT “A”; (ii) with regard to those amendments to the Bylaws, this Amendment to the Bylaws was properly approved by Owners holding not less than a majority of a quorum of the votes of the membership; and (iii) with regard to those amendments to the Plats, this Amendment to the Plats was property approved by a majority of the Lot Owners at Oakmont, as confirmed by the signatures of the President and Secretary of the Association below.

NOW, THEREFORE, the Declaration, the Bylaws, and the Plats are hereby amended as follows:

1. REVISION ON RESTRICTIONS REGARDING BUSINESS ACTIVITIES: The second (2<sup>nd</sup>) sentence of Article I, Section 5 of the Declaration; the first (1<sup>st</sup>) sentence of Article VIII, Section 1 of the

Declaration, and Paragraph 1 of the Plat Restrictive Covenants are hereby deleted in their entirety with the following substituted in their place:

Anything in the Declaration to the contrary notwithstanding, no recurring business activity of any kind whatsoever shall be conducted on any Lot (for the purposes of this Amendment and the Declaration, "recurring business activity" does not prohibit telecommuting, but does prohibit any nuisance or increased business traffic to and from the Lot as determined by the Board in its sole and reasonable discretion).

2. VOTING RIGHTS IN THE DECLARATION AND THE BYLAWS: The fifth (5<sup>th</sup>) sentence (being the final sentence) of Article V, Section 3 of the Declaration and the fifth (5<sup>th</sup>) sentence (being the final sentence) of Article IV, Section 7 of the Bylaws are here hereby deleted in their entirety.

3. PROXIES: Article V, Section 4 of the Declaration and Article IV, Section 8 of the Bylaws are hereby deleted in its entirety with the following substituted in their place:

Every Member entitled to vote at a meeting may do so either in person or by written proxy, which proxy shall be filed with the Secretary before being voted. Such proxy shall entitle the holders thereof to vote at any adjournment of such meeting, but shall not be valid after the final adjournment thereof. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise provided in the proxy.

4. DELINQUENT ASSESSMENTS – LATE FEES AND LATE CHARGE: The first (1<sup>st</sup>) sentence of Article VI, Section 9 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

Any assessments levied pursuant to this Declaration, or any installment thereof, which is not paid within thirty (30) days after the date when due shall bear interest at the maximum legal interest rate per annum and be subject to a late charge as determined by the Board of Directors, from time to time.

5. ORDER OF PAYMENT IN THE EVENT OF NON-JUDICIAL FORECLOSURE:

The sixth (6<sup>th</sup>) sentence of the third (3<sup>rd</sup>) paragraph of Article VI, Section 9 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

The proceeds of any such sale, whether under the power of sale or by foreclosure suit, shall be applied as follows: **(i)** to the payment of all costs, charges, and expenses of executing this conveyance and enforcing said lien as herein provided; also, an attorneys' fees which arise on account of the execution of this conveyance, or the enforcement of said lien and the expenses of any such litigation; **(ii)** to the payment of all the Assessments herein secured, and any sums expensed in the protection of the Lot as herein authorized; **(iii)** to the payment of all taxes and

other recorded liens which may be unpaid on the Lot; and **(iv)** the residue, if any, will be paid to Trustors, their order, representatives, or assigns.

**6. REMOVAL OF ACCELERATION OF INSTALLMENTS:** Article VI, Section 10 of the Declaration is hereby deleted in its entirety.

**7. SUBORDINATION AND MORTGAGE PROTECTION:** Article VI, Section 12 of the Declaration is hereby deleted in its entirety with the following substituted in its place (it is the intent of the Association and its Members that this amendment to Article VI, Section 12 of the Declaration only apply to those holders of deeds of trust or mortgages on Lots that are recorded after the date of recordation of this Amendment):

The lien of the assessments provided for herein shall be subordinate to the lien of *ad valorem* real estate taxes and of any prior recorded first mortgage or first deed of trust on any Member Lot (but only if such assessments and all costs associated therewith, including attorney's fees, were paid in full prior to the date of recordation of the mortgage or deed of trust). The lien established by the Declaration shall have preference over all other mortgages, deeds of trusts, assessments, liens, judgments, or charges of whatever nature. Foreclosure, sale, or other conveyance (such as a deed in lieu of foreclosure) pursuant to any such first mortgage or first deed of trust shall extinguish such lien for assessments due prior to such foreclosure or sale but only if such assessments and all costs associated therewith, including attorney's fees, were paid in full prior to the date of recordation of the mortgage or deed of trust (but such assessment lien shall attach to any excess proceeds of the foreclosure), and no such foreclosure or sale shall relieve such Lot from liability for any future assessments or liens.

**8. FENCING IN THE CCRs:** The fourth (4<sup>th</sup>) sentence (being the last sentence) of Article VIII, Section 2(E) of the CCRs is hereby deleted in its entirety with the following substituted in its place:

All boundary fences and retaining walls must be of wood, brick, stone, stucco, wrought iron, or material agreed to the Architectural Review Committee.

**9. PARKING OF CERTAIN VEHICLES:** Article VIII, Section 2(L) of the Declaration is hereby deleted in its entirety with the following substituted in its place:

No recreational or commercial vehicles, including but not limited to commercial trucks, boats, boat trailers, house trailers, camping trailers, or similar type vehicles and items shall be kept on any portion of Oakmont or any Lot unless within the enclosed garage or behind a wood fence in the rear yard of a Lot. It is strictly prohibited to store or park junk or inoperable automobiles on or about any of said Lots. All motorized vehicles parked at Oakmont must be licensed and in operating condition.

**10. COVENANTS REGARDING PETS:** Article VIII, Section 2(V) of the Declaration is hereby deleted in its entirety with the following substituted in its place:

No animals of any kind shall be raised, bred, or kept on any Lot, except that cats or other household pets may be kept, provided that they: **(i)** are not kept, bred, or maintained for any commercial purpose and **(ii)** do not become an unreasonable nuisance or annoyance to neighbors. For the purposes of the Declaration, "household pets" shall include such traditional animals, such as dogs, cats, rabbits, birds, and fish. No reptiles, wildlife, or domestic variations of farm animals shall be kept in or on Lots at Oakmont. The Association may promulgate reasonable rules and regulations regarding the keeping of pets at Oakmont. Lot Owners must pick-up all solid wastes of their pets and dispose of such wastes appropriately. All pets must be kept on a leash when not confined either within the improvements or the fence located upon a Lot. Without limiting the generality of Article VIII hereof, violation of the provisions of this paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to require any pet to be permanently removed from Oakmont. This Article VIII, Section 2(V) shall not prohibit the keeping of fish or a caged household-type bird(s) on a Lot, provided that a bird(s) does not become a nuisance or annoyance to neighbors. Notwithstanding any of the foregoing, however, neither this Article VIII, Section 2(V); any other provision of the Declaration; nor any rule or regulation of the Association shall be enforced, adopted, or amended so as to prohibit or unlawfully restrict any right of the Owner or occupant of a Lot to keep and use a seeing-eye dog or other properly certified assistive or service animal for purposes provided for in any local, state, or federal law, statute, or ordinance protecting the applicable person's right to do so.

**11. INDIVIDUAL INSURANCE:** Article X, Section 1 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

By virtue of taking title to a Lot subject to the terms of the Declaration, each Owner covenants and agrees with all other Owner and with the Association that each individual Owner may carry blanket all-risk casualty insurance on the Lot and structures constructed thereon for the full replacement cost thereof. In the event of damage or destruction by fire or other casualty, the Owner shall, with the concurrence of the mortgagee, if any, upon receipt of any insurance proceeds, construct to repair or rebuild such damage or destroyed portions of the improvements in a workmanlike manner in conformance with the original plans and specifications of the building (including landscaping) or plans otherwise approved in accordance with the Declaration. In the event the Owner refuses or fails to commence to repair or rebuild any and all such damage to his improvements within (30) days, the Association, by and through its Board of Directors, is hereby authorized by such Owner, upon written notice, to repair and rebuild the improvements in a good and workmanlike manner in conformity with the original plans and specifications. The Owner shall then repay the Association in the amount expended for such repairs, including any and all costs, expenses, attorney's fee, and reasonable interest related thereto, and the Association will have a lien securing the payment of the same identical to that provided in Article VI, above, securing the payment of said sums expended and subject to the power of sale and foreclosure as set forth in said article.

**12. ENFORCEMENT:** Article XI, Section 3 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

The Association shall have the right to enforce the covenants and restrictions, and any applicable rules and regulations, contained in this Declaration or applicable to Oakmont, by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any Member to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expenses of enforcement, including court costs, expenses, and attorney's fees, by the Association or Member shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

13. AMENDMENT: The second (2<sup>nd</sup>) and third (3<sup>rd</sup>) sentences of Article XI, Section 6 of the Declaration is hereby deleted in its entirety with the following substituted in its place:

Amendments to the Declaration shall be effected as follows: notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered. An amendment may be proposed either **(i)** by a majority of the Board of Directors of the Association or **(ii)** by not less than ten (10%) of the Members of the Association. Proposed amendments must be approved by the affirmative vote of Lot Owners holding two-thirds (2/3<sup>rds</sup>) (being at least 94 Lot Owners) of all Owner votes. In order to be effective an amendment must be **(i)** executed by the President and Secretary of the Association and **(ii)** recorded in the Register's Office.

14. PROHIBITION AGAINST LEASING: The Declaration are hereby amended to add the following Article XII:

#### ARTICLE XII PROHIBITION AGAINST LEASING

(i) Notwithstanding anything to the contrary herein stated, any person (including any individual or business entity permitted by Tennessee law to hold title to real estate) who becomes an Owner of a Lot at Oakmont after the date of recordation of this Amendment is prohibited from leasing, or entering into a lease-purchase or similar contract for, that Lot or any portion thereof. It shall be a violation of this Article subject to written waiver by the Board of Directors, in their sole and absolute discretion, if an Owner, or if more than one Owner, at least one of the Owners (including an Owner who may own less than 100% of the ownership interest in any Lot) shall not occupy the Lot on a permanent basis. It shall also be a violation of this Article, subject to written waiver of the Board of Directors in their sole and absolute discretion, if any person lives on any Lot without paying any rental or lease payment unless an Owner also occupies such Lot. For purposes of the preceding sentence, it shall not be a violation of this Article if, while an Owner is temporarily absent from the Lot, a person who is not an Owner of that Lot temporarily resides in such Lot. A person who "temporarily resides" in the Lot without violating this Article is meant to include persons commonly known as house sitters or other persons who stay in the Lot while the Owner is absent for the purpose of providing security, or caring for pets, or the

like which belong to the Owner, and remain in the Lot while the Owner is absent. Such "Temporary Residence" by a person not an Owner shall not exceed a total of six weeks in any one calendar year.

(ii) Notwithstanding the foregoing, in the event that an Owner, due to medical or health reasons, or for any other good cause, desires to lease a Lot or any part thereof, or if an Owner wishes to extend any period of Temporary Residence as described in the preceding paragraph for a period longer than six weeks, then such Owner shall make application to the Board of Directors which may, by a majority vote, grant to such Owner an exception to the prohibition against leasing set forth in this

Article upon such conditions and under such circumstances as the Board of Directors, in its sole and absolute discretion, may deem proper or necessary. The Board shall provide written approval or disapproval to any Owner who makes application for an exception to the prohibition against leasing under this Article.

(iii) It is the express intent of this Article that the prohibition against leasing shall apply only to persons who obtain title to their Lot subsequent to the date of recordation of this Amendment. Lot Owners who acquired title to their Lot prior to the date of recordation of this Amendment or who are otherwise exempted from the prohibitions of this Amendment shall be permitted to lease such Lot acquired prior to the date of recordation of this Amendment except as expressly provided in Article XII(vi) below.

(iv) Further, the prohibition contained herein shall not apply to institutional holders of a mortgage or deed of trust who obtain title to a Lot pursuant to foreclosure of such mortgage or deed of trust, as a result of a judicial sale, or any proceeding in lieu of foreclosure (the provisions of this prohibition against leasing shall apply to the holders of a mortgage or deed of trust, involved in seller financing or a similar transaction, who obtain title to a Lot pursuant to foreclosure of such mortgage or deed of trust, as a result of a judicial sale, or any proceeding in lieu of foreclosure). The prohibition against leasing herein contained shall also not apply to: a) individual persons who acquire title to a Lot by devise, inheritance, or operation of law from an Owner who is an Owner on the date of recordation of this Amendment in the Register's Office of Shelby County, Tennessee; b) to any person who is an Owner on the date of recordation of this Amendment and who conveys their Lot to a living trust the beneficiaries of which are the Owners or their spouse, child, parent or sibling; or c) to any spouse, child, parent, or sibling of an Owner who acquires title by *inter vivos* conveyance from an Owner who is an Owner on the date of recordation of this Amendment. In the event of any inconsistencies or contradictory language between this Article and any other provisions of the Declaration, then the provisions of this Article shall control.

(v) If a Lot is owned by a limited liability entity (the "Limited Liability Entity") including, but not limited to, a corporation, whether for profit or not for profit, a limited liability company, limited liability partnership, professional corporation or professional limited liability company, it shall be a violation of this Article, subject to written waiver by the Board of Directors, if the Lot is not

occupied on a permanent basis by one of the following: an officer, director, shareholder, member or partner of such Limited Liability Entity.

(vi) The foregoing notwithstanding, all Lot Owners, including those who took title prior to the recordation of this Amendment, are prohibited from leasing all or any portion of their Lot for any period of less than thirty (30) days (the "Temporary Leasing Prohibition"). It is the intent of this paragraph to prohibit transient or short term rentals under arrangements such as a home exchange or time share, and also under such programs commonly known as "vacation rental by owner" (VRBO), Airbnb, and the like. Notwithstanding the provisions of this Article XII(vi), any Lot Owner may apply for a waiver under Article XII(ii) to the Temporary Leasing Prohibition of this Article XII(vi).

(vii) In the event of any violation of this Article by an Owner, the Association shall be entitled to any remedy available at law or in equity from such Owner including, but not limited to, damages and injunctive relief together with any attorney's fees incurred by the Association and all costs and expenses of whatever type, kind or nature expended by the Association to enforce any of the provisions of this Article, whether such enforcement is by way of non-judicial or judicial action.

15. REMOVAL OF LIEN ON MEMBERSHIP: Article III, Section 3 of the Bylaws is hereby deleted in its entirety.

16. ANNUAL MEETING: Article IV, Section 2 of the Bylaws is hereby deleted in its entirety with the following substituted in its place:

The annual meeting of the Membership of the Association in each year shall be held between the months of January and April, on the particular day, hour, and location as determined and designated by the Board of Directors. Written notification of the Annual Meeting shall be given to the Members as provided in the Bylaws. At such meeting there shall be elected by secret written ballot of Members a Board of Directors in accordance with the requirements of Article V of the Bylaws. The Members may also transact such other business of the Association at the annual meeting as may properly come before them.

17. SIZE OF BOARD OF DIRECTORS: Article V, Section 1 of the Bylaws is hereby deleted in its entirety with the following substituted in its place:

The affairs of the Association shall be governed by a Board of Directors composed of seven (7) persons, all of whom shall be Members of the Association or the spouse of a Member of the Association. This change shall not take effect until the annual election following the recordation of this Amendment, until that time all duly elected Directors shall continue to serve the Association. No Member who is delinquent in the payment of his or her assessment or otherwise in default of the Declaration may serve on the Board (in the event a Director becomes delinquent or otherwise in default of the Declaration, then he or she must resign from the Board and the remaining Directors shall elect a Director to fill such position until the next

annual meeting of the Members at which time the Membership may elect a replacement to fill such Director's unexpired term).

18. DELETION OF NOMINATING COMMITTEE: Article V, Section 4 of the Bylaws is hereby deleted in its entirety.

19. ELECTION AND TERM OF OFFICE OF DIRECTORS: Article V, Section 6 of the Bylaws is hereby deleted in its entirety with the following substituted in its place:

Except as otherwise provided herein, the Members of the Board of Directors shall be elected by written ballot or written proxy at the annual meeting of the Members and shall serve for a three (3) year term or until their successors are elected and qualified. In addition, the terms of the Directors are to be staggered to ensure that Directors with corporate knowledge of the Association remain on the Board. Nominations shall be taken from the floor at the annual meeting. In order to establish the staggered Board of Directors, beginning with the annual meeting in 2023, the Association shall elect seven (7) Directors, of which two (2) Directors shall serve for a three (3) year term, three (3) Directors shall serve for a two (2) year term, and two (2) Directors shall serve for a one (1) year term. In 2024 at the annual meeting, the Association shall elect two (2) Directors to a three (3) year term. Subsequently, all Directors shall be elected to three (3) years terms (unless the Director is being elected to serve an unexpired term). The Association will elect three (3) Directors in 2026, 2029, 2032, 2035, etc.

20. COMPENSATION OF OFFICERS AND DIRECTORS: Article V, Section 9 of the Bylaws is hereby deleted in its entirety with the following substituted in its place:

No compensation or remuneration shall be paid to any officer or Director of the Association. An officer or Director may be reimbursed for expenses paid on behalf of the Association by a majority vote of the Board of Directors after having provided the Board of Directors a written receipt or statement for such expenses or services.

21. AMENDMENTS: Article X, Section 1 of the Bylaws is hereby deleted in its entirety with the following substituted in its place:

These Bylaws may be amended by an affirmative vote of two-thirds (2/3<sup>rd</sup>s) (being 94 Lot Owners) of the Members of the Association at an annual or special meeting. Such changes to these Bylaws must be in writing and executed and acknowledged by the President and Secretary of the Association and recorded in the Register's Office to become effective.

22. DEVELOPER CONTROL OF ARCHITECTURAL APPROVAL: Paragraphs 2 and 16 of the Plat Restrictive Covenants are clarified and amended to provide that any and all approval rights and authority vested in the "developer/joint venture" is vested in the Association's Architectural Review Committee.



23. FENCES: Paragraph 10 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

Boundary fences and wall for Lots may be erected, provided that the same are approved in writing by the Architectural Review Committee. No fences may be constructed along the street in front of any Lot unless approved in writing by the Architectural Review Committee. No retaining wall shall extend to a height greater than two (2) feet above the earth being retained and no boundary fence nor any fence enclosing a patio or courtyard shall extend to a height greater than six (6) feet from ground level except with the written consent of the Architectural Review Committee. All boundary fences and retaining walls must be of wood, brick, stone, stucco, wrought iron, or other material agreeable to the Architectural Review Committee. All fence constructed upon a Lot must comply with any and all applicable governmental regulations.

24. SATELLITE DISHES: Paragraph 11 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

Except as otherwise provided herein, radio, television transmission receiving towers, and/or antennae are not acceptable and will not be approved or allowed. Without prior written approval and the authorization of the Architectural Review Committee, as such term is defined in the Declaration, no exterior satellite dish or antennae shall be placed, allowed, or maintained upon any portion of the improvements located upon a Lot in Oakmont nor upon any structure situated upon a Lot in Oakmont. In the event such approval is granted, the size and location must be approved by the ARC with such satellite dish or antennae being placed at the rear of the improvements constructed upon the Lot. This section is intended to comply with existing OTARD (Over the Air Reception Device) regulations as such may be amended from time to time. Anything in the CCRs to the contrary notwithstanding, a Lot Owner may install or have installed one (1) satellite dish or antennae designed to receive video programming services, of less than one (1) meter in diameter, on the improvements on his or her Lot without any authorization or approval from the ARC provided such satellite dish is installed on the rear of such improvements and is otherwise not readily visible from right-of-way to the front of such improvements.

25. WINDOW REQUIREMENTS: Paragraph 12 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

All windows installed on improvements in Oakmont shall be made of materials approved by the Association's Architectural Review Committee.

26. CONFIRMATION AND FUTURE AMENDMENT OF THE PLAT RESTRICTIVE COVENANTS: Paragraph 13 of the Plat Restrictive Covenants is hereby deleted in its entirety with the following substituted in its place:

These covenants are to run with the land and shall be binding on all parties claiming under them until January 1, 2050, at which time said covenants shall be automatically extended for successive periods of ten (10) years each unless terminated in writing by a vote of two-thirds (2/3rds) of the Lot Owners, as evidenced by their respective signatures. By recording this Amendment, the Lot Owners approving this Amendment expressly agree and confirm that the Plat Restrictive Covenants apply to and encumber Oakmont.

27. RECITALS: The foregoing recitals are true and accurate.

28. CAPITALIZED TERMS: All capitalized terms not otherwise defined in this Amendment

shall have the same meanings provided for in the Declaration and Bylaws.

30. FULL FORCE AND EFFECT: Except as modified herein, all other terms and provisions of the Declaration, Plats, and Bylaws shall remain in full force and effect as if this Amendment had been incorporated in the Declaration, Plats, and Bylaws as originally executed.

31. CONFLICT: In the event of any conflict between the terms and provisions of this Amendment and the Declaration, Plats, or the Bylaws, the terms and provisions of this Amendment shall control.

**32. CERTIFICATION OF MAILING:** By executing this Amendment, the President and Secretary of the Association acknowledge and certify that, in accordance with the Bylaws of the Association, all members of the Association were mailed notice of this Amendment prior to any vote being held on this Amendment in accordance with the Act.

IN WITNESS WHEREOF, a meeting of the membership of the Association has been held, or this Amendment has been approved by the Association in accordance with the terms and provisions of Tenn. Code § 48-57-108 without a meeting, and: (i) with regard to those amendments to the Declaration, this Amendment to the Declaration was properly approved and signed by Owners holding not less than seventy- five percent (75%) of the votes of the membership with their signatures evidenced by those certain attachments attached hereto and made a part hereof, collectively, as EXHIBIT "A"; (ii) with regard to those amendments to the Bylaws, this Amendment to the Bylaws was properly approved by Owners holding not less than a majority of a quorum of the votes of the membership; and (iii) with regard to those amendments to the Plats, this Amendment to the Plats was property approved by a majority of the Lot Owners at Oakmont, as confirmed by the signatures of the President and Secretary of the Association below.