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**AMENDED AND RESTATED CONSOLIDATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR ROYAL OAKS VILLAS [FORMERLY  
TOWNHOUSE PROPERTIES OF ROYAL OAKS SUBDIVISION,] PHASE \_\_,  
SECTION \_\_**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Royal Oaks Villas [formerly Townhouse Properties of Royal Oaks Subdivision Phase \_\_, Section \_\_, a Planned Unit Development] ("Amended and Restated Villa Declaration") is made and entered into by at least 75% of the Lot Owners subject to the Original Declaration of Covenants, Conditions and Restrictions for townhouse Properties of Royal Oaks Subdivision, Phase \_\_, Section \_\_, a Planned Unit Development of record in Misc. Book \_\_ Page \_\_ in the Register's Office for Blount County, Tennessee ("Original Declaration") and is intended to replace and supplant in full the Original Declaration, as amended.

**WITNESSETH:**

WHEREAS, the Original Declaration was recorded by Declarant Royal Oaks Partnership I ("Declarant") to apply to certain lands described in Map File \_\_\_\_ in the Register's Office for Blount County, Tennessee (Subject Property"), to which map specific reference is hereby made for a more particular description, as the same may have been amended from time to time; and

WHEREAS, the Declarant no longer has rights in the Subject Property; and

WHEREAS, the Subject Property is also subject to a Declaration of Covenants and Restrictions of Royal Oaks Development Company, Inc. for the larger Royal Oaks community placed of record on December 18, 1990, in Misc. Record Book 99, Page 298 in the Register's office for Blount County, Tennessee ("Master Declaration"); and

WHEREAS, the purpose of the Original Declaration was to provide for townhouse or garden-type living units within Royal Oaks; and

WHEREAS, for the efficient operation, maintenance, and preservation of the values and amenities within said townhouse or garden type living units that a separate Association, originally called Royal Oaks Golf Villas Homeowners Association, Inc. and now called Royal Oaks Villas Homeowners Association, Inc. and referred to as "Villas Association," was created as a Tennessee non-profit corporation and has been assigned certain maintenance, and administration rights, duties, and obligations, as well as administrating rights, duties, and obligations, as well as administrating and enforcing the additional covenants and restrictions placed thereon herein and collecting and delivering the additional assessments and charges hereinafter created; and

WHEREAS, owners of Townhouse Lots, as hereinafter described, shall be members of both the Royal Oaks Property Owners Association, Inc., as required under the Master Declaration and of the Townhouse Association; and

WHEREAS, the Original Declaration may be amended by its terms in Article IX, Section 10 by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners after the initial twenty (20) year period from recording of the Original Declaration; and

WHEREAS, more than twenty (20) years has passed since the recording of the Original Declaration; and

WHEREAS, numerous other lots are also subject to nearly identical restrictions as those found in the Original Declaration, and the owners of such lots are members of the Townhouse Association and are also part of what was referred to as "Royal Oaks Golf Villas" and now referred to as "Royal Oaks Villas;" and

WHEREAS, it is desirable for all such lots to come together to be subject to a uniform set of restrictive covenants; and

WHEREAS, it is the intent of the undersigned Owners of Lots to adopt the following Amended and Restated Townhouse Declaration, along with other Members in the Townhouse Association, in order to consolidate the restrictive covenants governing Royal Oaks Villas through the filing of multiple amendments for the restrictive covenants in effect for Royal Oaks Villas.

NOW, THEREFORE, the Subject Property shall be held, transferred, conveyed and occupied subject to the covenants, easements, charges and liens set forth in this Amended and Restated Townhouse Declaration which are for the purpose of protecting the value and desirability of said property and shall be binding on all parties having all right, title and interest in the Subject Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## **ARTICLE I**

### **DEFINITIONS**

Section 1. **"Association"** shall mean and refer to Royal Oaks Property Owners Association, Inc.

Section 2. **"Villas Association"** shall mean and refer to Royal Oaks Villas Homeowners Association, Inc., its successors and assigns.

Section 3. **"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 Subject Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. **"Lot"** shall mean and refer to any plat of land shown upon any recorded subdivision map of the Subject Property.

Section 5. **“Board” or “Board of Directors”** shall mean and refer to the Board of Directors of the Association.

## **ARTICLE II** **MEMBERSHIP AND VOTING RIGHTS**

Section 1. **Membership.** In addition to being a member of the Association, every owner of a Lot shall be a member of the Villas Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2. **Voting.** Members shall have one vote for each Lot owned in Villas Association business. When a Lot is owned by more than one member, the Owners must determine among themselves how to vote for the Lot. In order to be eligible to vote, the Owner(s) must be current on all payments due to the Association at the time of the vote.

## **ARTICLE III** **COVENANTS FOR MAINTENANCE ASSESSMENTS**

Section 1. **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Villas Association: 1) Annual assessments or charges; (2) Special assessments, with such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late fees, costs and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, late fees, and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such Lot 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 Townhouse Assessments.** The assessments levied by the Villas Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties.

Section 3. **Annual Townhouse Assessments** The Board of Directors will set the annual assessment for the HOA in December for the following year. In no event may the Board set the annual assessment higher than 10% of the previous year's assessment without the approval of a majority (51%) of the membership. Funds from assessments will be used for professional and other services for the Villas Association, administrative costs, and the work and services described below for certain exterior features and areas on the Lots. If funds are insufficient, the Board will levy a special assessment as described in Section 5.

The assessment will pay for the following services as determined needed by the Board:

- a. Siding replacement;
- b. Gutter repair and replacement;

- c. Weed control and fertilization of lawns;
- d. Lawn mowing of Lots.
- e. Irrigation maintenance (only for winterization and de-winterization of irrigation lines) but only for such irrigation lines existing as of the date of the recording of this Amended and Restated Villa Declaration and further only for such irrigation lines installed initially by the developer).

The Owner of the Lot is responsible for all other improvements on the Lot, including but not limited to, the following:

- a. Repair, replacement and maintenance of roofs;
- b. Repair, replacement and maintenance of decks;
- c. Repair, replacement and maintenance of windows;
- d. Repair, replacement and maintenance of exterior doors, including garage doors;
- e. Repair, replacement and maintenance of walls;
- f. Repair, replacement and maintenance of driveways;
- g. Repair, replacement and maintenance shrubbery, trees, and flower beds;
- h. Repair, replacement and maintenance mailboxes;
- i. Venting of dryer;
- j. Gutter replacement and maintenance.
- k. Irrigation line repair and replacement if needed as well as payment for any water used for irrigation.

**Section 4. Special Assessments.** In addition to the annual Villas Association assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of unanticipated expenses, provided that any such assessment shall have the assent of at least **a** majority (51%) of the members voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Notice and Quorum for any Action Authorized Under Section 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all members not less than 30 days or 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 fifty percent (50%) 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 one-half (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 6. Uniform Rate of Assessment.** Annual and special assessments must be fixed at a uniform rate for all Lots.

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

**Section 8. Effect of Nonpayment of Assessments. Remedies of the Association.** Any assessment not paid within ninety (90) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. A late fee may be charged in an amount set by the Board. The Villas Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

**Section 9. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due.

## **ARTICLE IV PARTY WALLS**

**Section 1. Generally.** Each Lot Owner shall own to the center of the common walls of the residence on each Lot. Each wall which is built as part of the original construction of the homes upon the properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

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

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

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

**Section 6. Disputes.** In the event of any dispute arising concerning a party wall, or under the provisions of this article, each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator, and the decision shall be a majority of all the arbitrators.

## **ARTICLE VI CERTAIN MAINTENANCE AND REPAIR NEEDED DUE TO WILLFUL OR NEGLIGENT ACTS**

In the event that the need for maintenance or repair by the Association of gutters or maintenance, repair and replacement of siding on a Lot is caused through the willful or negligent acts of any Owner, or through the willful or negligent acts of the family, guests, or invitees of the Owner of a Lot, the cost of such work shall be added to and become part of the assessment to which such Lot is subject.

## **ARTICLE VII USE OF LOTS**

**Section 1. Easements.** Each Lot is subject to the additional easements for the installation and maintenance of utilities and drainage facilities and for ingress and egress as shown on any recorded plat.

**Section 2. Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot any time as a residence, either temporarily or permanently. All trailers and boats shall be kept, maintained, or stored in the garage.

**Section 3. Nuisance.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

**Section 4. Storage.** All firewood and any other items to be stored must be stored in the rear of the building, and subject to guidelines established from time to time by the Board of the Villas Association.

## **ARTICLE VIII GENERAL**

**Section 1. Enforcement.** The Villas Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provision of this Amended and Restated Villas

Declaration. Failure by the Villas Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party in any enforcement action shall be awarded judgment for reasonable attorney's fees and costs from the non-prevailing party.

**Section 2. Severability.** Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Duration.** The covenants and restrictions of this Amended and Restated Villas Declaration shall run with and bind the land, for a term of twenty (20) years from the date this instrument is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

**Section 4. Amendment** This Amended and Restated Villas Declaration may be amended at any time upon the vote or written consent or combination thereof, of at least fifty-one percent (51%) members of the Association. Any such amendment may be signed by the Association's President and attested to by its Secretary with no individual owner signature pages needed to be recorded. Any amendment must be recorded in order to be valid.

**Section 5. Rules and Regulations of Villas Association.** Rules and Regulations further regulating the use of the Lots are attached hereto as Exhibit A and incorporated reference herein.

IN WITNESS WHEREOF, the Owners in necessary number have signed below:

[signature pages]

## EXHIBIT "A"

### RULES AND REGULATIONS ROYAL OAKS VILLAS

The following rules and regulations shall be binding on all Lot Owners.

1. **Unsightly Objects.** The balconies and porches are intended for patio furniture and limited outdoor appropriate décor only, and no unsightly or excessive items are to be stored or hung on balconies or porches. Balconies and porches must be kept neat and uncluttered.
2. **Garages.** Garage doors are to be kept closed and thus locked at all times except when an Owner is present in garage or when entering car or leaving garage.
3. **Garbage Handling.** Garbage shall be placed in receptacles provided by the City and must be kept in the garage area, except on the date that garbage is picked up.
4. **Equipment Maintenance.** Maintenance of equipment on the Lot is the Owner's responsibility. This includes the heating and ventilation equipment.
5. **Minimum Heat.** The minimum heat required by Owners who are absent during the winter is 50 degrees Fahrenheit.