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Heather Dawbarn, Register
Rutherford County Tennessee
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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR WESTWIND RESERVE**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WESTWIND RESERVE (the "Declaration") is, made, entered, and declared as of this 22nd day of January, 2021, by Cornerstone Development, LLC (the "Developer"), and any and all persons, firms, or corporations presently owning or hereafter acquiring any of the within described property. This Amended and Restated Declaration of Covenants, Conditions and Restrictions amends and replaces in its entirety the document recorded in Record Book 2022, page 3595, Register's Office for Rutherford County, Tennessee.

WITNESSETH:

WHEREAS, Developer is the owner of certain real property in Rutherford County, Tennessee, known as WESTWIND RESERVE, which is shown on the Plat of record in Plat Book 44, page 297, of the Register's Office of Rutherford County, Tennessee (hereinafter referred to as "Westwind Reserve" or the "Subdivision");

WHEREAS, it is to the benefit, interest and advantage of Developer and of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions, restrictions, assessments, and liens governing and regulating the use and occupancy of such property be established, fixed, and set forth and declared to be covenants running with the land;

WHEREAS, the Developer, now desires to establish restrictions applicable to such property in accordance with the terms of this Declaration;

NOW, THEREFORE, in consideration of the premises, Developer, with any and all persons, firms, corporations, or other entities hereafter acquiring all or any of the property hereafter described (the "Property"), that the Property shall be hereinafter subjected to the following restrictions, covenants, conditions, assessments and liens (collectively, the "Restrictions") relating to the use and occupancy thereof and relating to the use, occupancy, and maintenance of such portions of the same as at present or in the future shall be designated as common areas, said Restrictions to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title, or interest in or to the Property or any part thereof and which shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

The following words, when used in this Declaration or any amendment or supplement hereto, shall, unless the context shall clearly require to the contrary, have the following meanings:

1.1 "Additional Phases" shall mean the additional acreage that may be added to the development in one or more Phases at the sole discretion of the Developer, together with the Common Areas as shown on the Plat amendment(s) to be filed in connection therewith.

1.2 "Association" shall mean and refer to WESTWIND RESERVE HOMEOWNERS ASSOCIATION, INC., a not-for-profit corporation organized and existing under the laws of the State of Tennessee, its successors and assigns.

1.3 "Common Area" or "Common Areas" shall mean and refer to any and all real property owned by the Association, and such other property to which the Association may hold legal title, whether in fee or for a term of years, for the non-exclusive use, benefit, and enjoyment of the members of the Association, subject to the provisions hereof, and such other property as shall become the responsibility of the Association, through easements or otherwise, including any recreational areas, i.e., playgrounds or walking trails, which may be constructed initially by the Developer or thereafter by the Association. Common Areas with respect to the properties made subject to this Declaration, whether at the time of filing of this Declaration or subsequently by Supplementary Declaration(s) shall be shown on the Plat(s) of WESTWIND RESERVE and designated thereon as "Common Areas" or "Open Space" or such comparable designation.

1.4 "Declaration" shall mean and refer to this Declaration or Covenants, Conditions, and Restrictions for Westwind Reserve applicable to the Properties that is to be recorded in the Office of the Register of Deeds for Rutherford County, Tennessee, any amendments hereto and any Supplementary Declarations upon the creation of Additional Phases.

1.5 "Detached Homes" shall mean those homes that are free-standing and which shall be constructed in certain areas of the Properties as shown on the Plat(s).

1.6 "Developer" shall mean and refer to Cornerstone Development, LLC, a Tennessee limited liability company, its successors and assigns.

1.7 "Lot" shall mean and refer to any plot of land to be used for single-family residential purposes and so designated as a Lot upon the Plat.

1.8 "Member" shall mean and refer to any person who shall be an Owner and, as such, a member of the Association.

1.9 "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee interest in any Lot or portion of a Lot, excluding, however, those parties having such interest merely as security for the performance of an obligation.

1.10 "Occupant" shall mean and refer to any person or persons in possession of a Lot or home thereof other than an Owner.

1.11 "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust, or other legal entity.

1.12 "Phase I" shall refer to the property initially subjected to this Declaration containing 62 Lots as shown on the Plat of that phase recorded in the Register's Office for Rutherford County, Tennessee.

1.13 "WESTWIND RESERVE" shall mean and refer to that certain residential community known as WESTWIND RESERVE which is being developed on real property now owned by Developer in Rutherford County, Tennessee, together with such additional thereto as may from time to time be designated by Developer in accordance with the terms of this Declaration.

1.14 "Plat shall mean and refer to the Final Plat of record in Plat Book 44, page 297, of the Register's Office of Rutherford County, Tennessee.

1.15 "Properties" shall mean and refer to any and all of that certain real property which is now within, or which may hereafter be bought within, that certain residential subdivision being developed by Developer in Rutherford County, Tennessee, which subdivision in and shall be commonly known as WESTWIND RESERVE.

1.16 "Successor Developer" shall mean and refer to any person (including any affiliate of the original developer) who shall acquire the right to construct Additional Phases (as defined herein) adjacent to and able to be included in a general development plan of WESTWIND RESERVE.

1.17 "Supplementary Declaration(s)" shall mean one or more supplementary declarations that may be recorded from time to time to create Additional Phases or to or amend this Declaration as expressly permitted hereunder.

ARTICLE 2

PROPERTIES SUBJECT TO THIS DECLARATION

2.1 **Initial Property Subject to Declaration.** The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Rutherford County, Tennessee, and is more particularly described and shown on Exhibit "A" attached hereto and made a part hereby, by this reference, WESTWIND RESERVE, is to be built in two or more Phases, each of which may comprise a number of sections for construction purposes (a "Construction Section"). All of the real property shown on Exhibit "A" shall be submitted to these Restrictions.

2.2 **Additional Phases.** Without further assent or permit, Developer and any Successor Developer hereby reserves the right to subject to these restrictions all or part of contiguous property, in one or more Additional Phases, in order to extend the scheme of this Declaration and to bring in such additional contiguous Properties within the jurisdiction of the Association.

2.3 **Supplementary Declarations.** The additions herein authorized shall be made by filing of record one or more Supplementary Declarations in respect to the creation of Additional Phases or the addition of other Properties to be then subject to this Declaration and which shall extend the jurisdiction of the Association to such property and thereby subject such addition to assessment for its just share of the Association's expenses and shall also require the filing of such additional plats as are required for such sections in the Register's Office for Rutherford County, Tennessee. Each Supplementary Declaration must subject the added property or additional Lots to the conditions and restrictions contained herein.

2.4 **Consent to Rezoning.** Every Owner shall be deemed to have consented to any rezoning that may be necessary or desirable for the development of such property as part of WESTWIND RESERVE. Owners of any Lots in the additional property shall succeed to all of the rights and obligations of membership in the Association.

2.5 **Extension of Development Rights to Adjacent Property.** The Developer and any Successor Developer shall have the rights described in this Article 2, exercisable without approval of the Association or any other person or entity. The Developer or such Successor Developer shall have the voting rights as specified hereinafter with respect to any added Lots, subject to the original limitations as to duration of weighted voting.

2.6 **Construction Sections.** The Developer may submit more unimproved property than is immediately anticipated to be used or improved to the terms and conditions of these restrictions, in order to insure and demonstrate its intentions with respect to such property and to assure that such property will be developed subject to the covenants and restrictions contained in this Declaration and such land shall initially constitute the Lot. No additional "Lots" shall be deemed to have been created on such property until such time as the final plat approving such construction section has been approved and recorded in the Register's Office for Rutherford County, Tennessee. At such time as the final plat is recorded, all Lots depicted thereon, and Common Areas shown thereon, shall be owned and used in accordance with the terms of this Declaration.

2.7 **Association Rights.** The Association may not assert as a reason to object to the new development plat the fact that existing Association facilities will be additionally burdened by the property to be added by the new development or that the type of home or size of Lot in any future construction differs from that of the initial construction, or any subsequent Construction Section, it being acknowledged that the developer intends to construct single family homes within WESTWIND RESERVE. Prior to the sale of any Lot in an additional Construction Section, the Developer may modify any preliminary plan to reconfigure Lots or create additional amenities or Common Areas without the consent of any Owner. After the sale of any Lot within an additional Construction Section, the Developer may only make such modification or reconfiguration with the consent of the Owners of Lots within said Construction Section.

Article 3

ARCHITECTURAL, MAINTENANCE, AND USE RESTRICTIONS

3.1 **Single-Family Residential Construction Minimum Requirements.**

(a) No building or other structure shall be erected, altered or permitted to remain on any Lot other than one (1) single-family residential dwelling with a minimum of 1,400 square feet of heated living space, excluding unfinished basements, crawl spaces, porches, patios, and garages.

(b) All exterior facades of the homes must comply with Appendix A, item 28, of the City of Murfreesboro Zoning Ordinance for RS-6 zoning.

(c) All porches, stoops, walks and driveways shall be poured gray concrete.

(d) All residential dwellings must have an attached one (1) car or more garage.

(e) The primary main roof gable for each home must have a minimum roof pitch of six (6) to twelve (12). Secondary dormers or shed roofs must have a minimum roof pitch of four (4) to twelve (12). No houses with roof pitches less steep than this minimum shall be allowed.

(f) All roofs must have dimensional shingles unless any other type of roofing material receives the prior written approval of the Association in accordance with Section 3.2 hereof.

3.2 **Approval of Plans.**

(a) No construction, reconstruction, remodeling, alteration or addition of or to any structure, building, fence, wall, drive, or improvement of any nature shall be constructed without obtaining the prior written approval of Developer, as to the location, plans, and specifications therefor. As a prerequisite to consideration for approval, and prior to the commencement of the contemplated work, two (2) complete sets of building plans and specifications shall be submitted. Developer shall be the sole arbiter of such plans and may withhold its approval for any reasons, including purely aesthetic reasons. It is expressly acknowledged that construction undertaken by Developer shall be conclusively deemed to comply with the foregoing. Upon giving approval, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans.

(b) At such time as Developer divests itself of all Lots within the development (or at such earlier time as Developer, in its sole discretion, determines), the right of approval of plans for further construction, reconstruction, remodeling, alterations, and additions shall thereafter vest exclusively in the Association and in its Board of Directors, or such committees of the Association as shall be appointed by its Board of Directors.

(c) Developer, the Association and the individual members thereof shall not be liable for any act or omission in performing or purporting to perform the functions delegated hereunder. In the event that Developer or the Association fails to indicate its approval or disapproval within thirty (30) days after the receipt of the required documents, approval will not

be required and the related covenants set out herein shall be deemed to have been fully satisfied. Approval or disapproval by Developer or the Association shall not be deemed to constitute any warranty or representation by it including, without limitation, any warranty or representation as to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Anything contained in this paragraph 3.2, or elsewhere in this Declaration to the contrary notwithstanding, Developer and the Association are hereby authorized and empowered, at their sole and absolute discretion, to make and permit reasonable modifications or deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Lot and of the size and location of any such building or improvement when, in their sole and final judgment, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Properties and the improvements as a whole; provided, however, such modifications and deviations must comply with all applicable ordinances and regulations established by local governmental entities or bodies with jurisdiction over WESTWIND RESERVE.

Developer may require the submission to it of such documents and items, including as examples, but without limitation, written requests for and description of the variances requested, plans, specifications, plot plans and samples of material(s), as it shall deem appropriate, in connection with its consideration of a request for a variance. If Developer shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing its decision to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted, and alternate fence height approved or specifying the location, plans and specifications applicable to an approved outbuilding), and signed by Developer. Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (i) written notice of disapproval from Developer or the Association or (ii) failure by Developer to respond in writing to the request for variance. In the event Developer or any successor to the authority thereof shall not then be functioning, no variances from the covenants herein contained shall be permitted, it being the intention of Developer that no variances be available except at its discretion. Developer shall have no authority to approve any variance except as expressly provided in this Declaration.

3.3 **Structural Compliance.** All structures shall be built in substantial compliance with the plans and specifications therefor, approved by Developer or the Association as provided in paragraph 3.2 above.

3.4 **Improvement and Setback Restrictions.** No building or structure, or any part thereof, shall be located on any Lot nearer to the front line, the rear line, or any side line than the minimum building setback lines required by Rutherford County, Tennessee and as may be shown on the recorded plans. For purposes of determining compliance with this requirement, porches, wing walls, eaves, and steps extending beyond the outside wall of a structure shall be considered as a part thereof. No encroachment upon any utility easements reserved on the Plat shall be authorized or permitted.

3.5 **Re-subdivision of Lots.** No Lot shall be re-subdivided, nor shall any building be erected or placed on any such re-subdivided Lot, unless such re-subdivision is approved by the Association, as well as any governmental authority having jurisdiction. Developer, however, shall have the right, but not the obligation, to re-subdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the Properties, and such Lots, as re-platted, shall be subject to this Declaration as if such Lots were originally included herein. Any such re-plat must comply with applicable re-platting ordinances, statutes, regulations and requirements.

3.6 **Walls, Fences and Hedges.** Prior to the construction of any wall or fence, the Developer or Association (as the case may be) must approve in writing plans submitted by the owner in accordance with section 3.2 of this Declaration. Such plans shall include details of location, style and construction materials for the proposed wall or fence. No wall or fence shall be erected or maintained nearer to the front lot line than the front building line on such Lot, or on corner lots nearer to the side Lot line than the building line of adjacent houses parallel to the side street. Fences shall not exceed six (6) feet in height. Unless otherwise approved in writing by the Developer or the Association, all fencing shall be constructed of black aluminum or western cedar. Any wooden fencing may be stained, but no wooden fences may be painted. The Owner thereof shall maintain any wall or fence erected on a Lot. No fence shall be constructed or maintained between the front of any home and the street. No hedgerows shall be planted or maintained between the front minimum set back line and the street.

3.7 **Roofing Material.** The roof of any building (including any garage) shall be constructed or covered with dimensional shingles. Any other type of roofing material shall be permitted only in the sole discretion of the Association upon written request in accordance with Section 3.2 hereof.

3.8 **Swimming Pools.** Swimming pools shall be allowed only on Lots approved by the Association and shall be located at the rear of the residence. All swimming pools shall have a perimeter enclosure, the plans for which, including landscaping plans, must be approved in writing by the Association in accordance with Section 3.2 hereof. Above-ground pools are strictly prohibited.

3.9 **Storage Tanks and Refuse Disposal.** No exposed above-ground tanks or receptacles shall be permitted for the storage or fuel, water, or any other substance, except for refuse produced through daily living and of a nature which is satisfactory for pick-up by the local Department of Public works or its equivalent. Incinerators for garbage, trash, or other refuse shall not be used or placed on any Lot. All equipment, coolers, and garbage cans shall be concealed from the view of neighboring Lots, roads, streets and open areas.

3.10 **Clothes Lines.** Outside clotheslines shall not be permitted.

3.11 **Signs and Advertisements.** No sign, advertisement, billboard or advertising structure of any kind shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon; provided that this requirement shall not preclude the installation by Developer and/or any builder of signs identifying the entire residential development and provided further that this requirement shall not preclude the placement by Lot Owners of "For

Sale" signs in the front of individual residences of such size, character, and number as shall from time to time be approved by the Association. Lot Owners may display "For Rent" or "For Lease" signs, not larger than 24" x 24", only on the inside of front windows of their dwelling. The Association shall have the right to remove any such unapproved sign, advertisement, billboard or structure that is placed on said Lots, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

3.12 **Use of Temporary Structure.** No mobile home, camper, trailer, basement, tent, shack, garage, barn, utility shed, structure of a temporary character or other outbuilding shall be erected, moved onto any Lot or used at any time as a residence, nor shall any residence of a temporary character be permitted. No structure of any kind except a permanent dwelling house may be occupied as a residence, and the outside of any dwelling house (including landscaping) must be completed before occupancy. The Developer or its assigns may use temporary structures as building or sales offices and for related purposes so long as Developer owns any property within WESTWIND RESERVE.

3.13 **Parking and Storage of Automobiles, Boats, Trailers and Other Vehicles.** No vehicles of any nature, including without limitation passenger vehicles, pickup trucks, SUVs, motorcycles, trailers, boat trailers, travel trailers, inoperative automobiles or campers may be parked or stored in the public street right-of-way or forward of the front property line. Such vehicles and items must be parked or stored so that they are screened from public view, either within the garage or behind a fence that screens such vehicles from public view, unless otherwise approved in writing by the Developer in accordance with paragraph 3.2 above. No semi-tractors, tractor-trailers, buses, delivery vans, moving vans or other large commercial vehicles shall be parked on the streets, driveways or elsewhere within the Properties except for such periods of time as are reasonably necessary for loading and unloading, providing delivery or household moving service(s) or as needed for maintenance, construction or reconstruction work within the Properties. The foregoing shall not apply to construction vehicles of the Developer.

3.14 **Outside Lighting.** Outside lights at eaves and door entrances shall be permitted, but no exterior flashing or high-intensity lights, floodlights, or spotlights on the exterior of any building or elsewhere on a Lot shall be permitted, except with the prior written approval of the Association.

3.15 **Antennae and Satellite Dishes.** All television antennae, satellite dishes, dishes which receive video programming services via multipoint distribution services and any other device used for the reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution (wireless cable) services must be one (1) meter or less in diameter, must be located to the rear of a Lot and not visible from the street (unless such location would preclude reception of an acceptable quality signal) and may not be affixed to any portion of the Common Area. Television antennas must be located to the rear of the roof ridge line, cable or centerline of the principal dwelling. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. No antenna may be erected on a freestanding pole.

3.16 **Window Units.** All supplements to the central air conditioning system must be used, erected, placed or maintained in the rear of the main residential structure. No window or

wall type air conditioning unit shall be placed such that it is visible from the street view of any Lot.

3.17 **Recreational Equipment.** All playground and recreational equipment must be used, erected, placed and maintained to the rear of any Lot. No basketball goals, temporary or permanent, trampolines, or playground equipment shall be placed in the front yard of any home.

3.18 **Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations shall be permitted on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

3.19 **Maintenance.** All Lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective Owners or Occupants. Such maintenance shall include, but not be limited to, painting, repairing, replacing, and caring for roofs, gutters, downspouts, building surfaces, patios, walkways, driveways, and other exterior improvements. The Owner or Occupant of each Lot shall at all times keep all weeds and grass thereon out in a sanitary, healthful and attractive manner and all trees and shrubbery pruned and cut. No Lot shall be used for storage of material and equipment, except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash or rubbish or any kind and the burning (except as permitted by law) of any such materials is prohibited. In the event of default on the part of the Owner or Occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days' written notice thereof, the Association may, subject to approval of its Board of Directors, enter upon said Lot, repair, maintain and restore the same, cut or prune or cause to be cut or pruned, such weeds, grass, trees and shrubbery and remove or cause to be removed, such garbage, trash and rubbish or do any other things necessary to secure compliance with these restrictions and to place said Lot in a neat, attractive, healthful and sanitary condition. In so doing, the Association shall not be subject to any liability for trespass or otherwise. All costs incurred by the Association under this section shall be charged against the Owner of such Lot as the personal obligation of such Owner and as a lien upon the Lot, enforceable and collectible in the same manner and to the same extent as a maintenance assessment. Any Occupant of such Lot shall be jointly and severally liable with the Owner for the payment of such costs.

The Association may contract with one (1) or more landscaping services to provide, grass cutting, lawn maintenance, proper care for all trees, shrubbery and other landscaping, and other necessary maintenance services for the Common Areas, provision for which shall be made in the monthly or annual assessments.

3.20 **Damage, Destruction or Maintenance.** In the event of damage or destruction to any structure located on the Properties, the respective Owner thereof agrees as follows:

(a) In the event of total destruction, the Owner shall promptly clear the Lot of debris and leave the same in a neat and orderly condition. Within 60 days of any insurance settlement, the Owner must commence to rebuild and reconstruct the structure. Any such rebuilding and reconstruction shall be accomplished in conformity with the plans and specifications of the

original structure so destroyed, subject to any changes or modifications as approved by the Developer or the Association, as the case may be, in accordance with Article 3 hereof and all the terms of this Declaration.

(b) In the case of partial damage or destruction, the Owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and restored in a first class condition in accordance with the plans and specifications of the original structure and in conformity with its original exterior painting and décor. Any change or alteration must be approved by the Developer or the Association, as the case may be, in accordance with Article 3 hereof. In no event shall any damaged structure be left unrepaired and unrestored for in excess of sixty (60) days, from the date of the insurance adjustment.

(c) If the correction of a maintenance or repair problem incurred on one Lot necessitates construction work or access on another Lot, both Owners shall have an easement on the property of the other for such purpose. Each party shall contribute equally to the cost thereof, unless such work was necessitated by the fault of an Owner, in which event the Owners shall allocate such cost in proportion to the relative fault of the parties.

3.21 **Use of Premises.** Each Lot shown on the Plat shall be used only for single-family residential purposes and not otherwise. Notwithstanding the foregoing, Developer may maintain, as long as it owns property in or upon such portion of the Properties as Developer may determine, such facilities as in its sole discretion may be necessary or convenient, including, but not without limitation, offices, storage areas, model units and signs, and Developer may use, and permit builders (who are at the relevant time building and selling houses in the development) to use, residential structures, garages or accessory buildings for sales offices and display purposes, but all rights of Developer and of any builder acting with Developer's permission under this sentence, shall be operative and effective only during the construction and sales period within the area. This provision may not be amended, altered or repaired without the prior consent of the Developer.

3.22 **Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, pastured, or maintained on any Lot, except household pets such as small dogs and cats which may be kept thereon in reasonable numbers as pets for the sole pleasure of the Owner or Occupant, but not for any commercial use or purpose. The owner of any pet shall keep the pet confined to the Lot at which said pet-owner resides. No pets shall be allowed to roam free. If, at any time, the Board of Directors determines that a pet has become a nuisance as a result of excessive or recurrent noise, damage to real or personal property of the Association or its Members, the deposit of bodily waste outside of the Lot at which the pet-owners resides, or otherwise, the Association is entitled to an injunction from the Chancery Court for Rutherford County, Tennessee, requiring the pet-owner to move the offending pet from WESTWIND RESERVE. All costs incurred by the Association as a result of any enforcement proceeding commenced under this section, including reasonable attorney's fees, shall be recoverable from the offending Lot owner and/or Occupant in the lawsuit.

3.23 **Nuisances and Unsightly Materials.** No house or other structure on any Lot shall be used for any business or commercial purpose. Each Owner or Occupant shall refrain from any act or use of his Lot that could reasonably cause embarrassment, discomfort, annoyance, or

nuisances to others. No noxious, offensive, or illegal activity shall be carried out upon any Lot. No motorcycle, motorbike, motor scooter, or any other unlicensed motorized vehicle may be operated on or in the Common Areas. No Lot shall be used, in whole or in part, for the storage of rubbish of any character whatsoever, nor shall any substance, thing, or material be kept upon any Lot which will emit foul or noxious odors. Each owner or Occupant shall refrain from any activity or from maintaining any thing or material that produces noise that disturbs the peace and quiet enjoyment of the Owners or Occupants of surrounding Lots or property. The foregoing shall be construed to prohibit the temporary deposits of trash and other debris for pick-up by garbage and trash removal service units.

3.24 **Hobbies and Activities.** No illegal or inherently dangerous activity or hobby, including, without limitation, the assembly and disassembly of motor vehicles or other mechanical devices, the shooting of firearms, fireworks, or pyrotechnic devices of any type or size, and other such activities shall be pursued or undertaken on any part of any Lot or upon the Common Areas without the express written consent of the Association.

3.25 **Visual Obstruction at the Intersection of Public Streets.** No object or thing which obstructs sight lines or elevations between two (2) feet and six (6) feet above the surface of the streets shall be placed, planted or permitted to remain on any corner Lot within the triangular area formed by the curb lines of the streets involved and a line running from the curb line to curb line at points twenty-five (25) feet from the junction of the street curb lines. The same limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line and the edge of a driveway.

3.26 **Governmental Restrictions.** Each Owner shall observe all governmental building codes, health regulations, zoning ordinances, and other regulations applicable to his Lot. In the event of any conflict or overlap between any provision of any such governmental code, regulation, or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

3.27 **Roads.** It shall be obligatory upon all owners of the Lots in this subdivision to consult with the Chief Engineer of the Highway Department or the Traffic and Parking Commission of Murfreesboro, Tennessee, or their equivalent before any driveways, culverts, other structures or grading are constructed within the limits of any dedicated roadway, and such placement or construction shall be done in accordance with the requirements of the said agencies applying to such roads in order that the roads or streets within the subdivision which would be affected by such placement or construction may not be disqualified for acceptance by the County into the public road system.

3.28 **Easement for Roads & Utilities.** The right is expressly reserved to the Developer, its representatives, heirs, successors and assigns, to construct all streets, roads, alleys, or other public ways and utilities as now, or hereafter may be, shown on the Plat(s), at such grades or elevation as they, in their sole discretion, may deem proper; and, for the purpose of constructing such streets, roads, alleys or public ways, Developer additionally, shall have an easement, not exceeding (10) feet in width, upon and along each adjoining Lot, for the construction of proper bank slopes in accordance with the specifications of the government body or agency having jurisdiction over the construction of public roads; and no Owner of any Lot shall have any right

of action or claim for damages against anyone on account of the grade of elevation at which such road, street, alley or public way may hereafter be constructed, or on account of the bank slopes constructed within the limits of the said ten (10) foot easement.

ARTICLE 4

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

4.1 **Membership.** Every person or entity who is the Owner of record of a fee interest in any Lot shall be a Member of the Association, subject to and bound by this Declaration and the Association's Articles of Incorporation, the Bylaws of the Association and such rules and regulations as may be adopted by this Association. When any Lot is owned of record in joint tenancy, tenancy in common, tenancy by the entirety, or by some other legal entity, the Association membership as to such Lot shall be joint and the rights of such membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section 4.2 below.

4.2 **Voting and Voting Rights.** The voting rights of the membership shall be appurtenant to the ownership of the Lot. The Owner of each Lot shall be entitled to one (1) vote; provided that Developer shall be entitled, for each Lot that it owns, to three (3) votes until such time as one hundred percent (100%) of the Lots subjected to this Declaration by this instrument or planned to be added to this development by the Developer by Supplementary Declaration have been sold by the Developer after which time Developer shall have only one (1) vote for each Lot that Developer owns. When two (2) or more persons hold an interest in any Lot as Owners thereof, all such persons shall be Members. The vote for such Lot shall be exercised by one (1) of such persons as proxy or nominee for all persons holding an interest as Owners in the Lot; and in no event, shall more than one (1) vote be cast with respect to any Lot, except as provided above with respect to Developer. Notwithstanding the above, the Developer shall have one more vote than all the outstanding votes of owners so long as Developer has not sold all of the lots or property planned by the Developer to be brought into the Westwind Reserve. Furthermore, Developer shall have the right to veto any action of the Association so long as Developer has not sold all of the lots or property planned by the Developer to be brought into the Westwind Reserve.

4.3 **Method of Voting.** Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or after conveyance by the Member of his Lot. No proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Member's vote shall be cast by the President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation. Voting on all matters except the election of directors may be by voice vote or by show of hands unless a majority of the Members present at the meeting shall, prior to voting on any matters, demand a ballot vote on that particular matter. Where directors or offices are to be elected by the Members, the official solicitation of proxies for such elections may be conducted by mail.

Any action that the Members may take at a meeting may also be taken by written ballot in accordance with the provisions of Tenn. Code Ann. §48-57-108.

4.4 **First Meeting of Members.** The first regular annual meeting of the Members may be held, subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, that the first meeting may be held no later than the earlier of the following events: (a) one year after all of the Lots planned for Westwind Reserve by the Developer have been sold by the Developer; or (b) fifteen years following conveyance of the first Lot by the Developer.

4.5 **Working Capital Fund and Initial Assessments.** The Association shall establish an initial working capital fund equal to \$100 for each lot. Each Lot's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale of each Lot and maintained in an account for the use and benefit of the Association. Amounts paid into the fund shall not be considered as advance payments of regular assessments. The purpose of the fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors. The initial monthly assessments shall be \$25 per month per lot.

4.6 **Acceptance of Development** By the acceptance of a deed to a Lot, any purchaser of a Lot shall be deemed to have accepted and approved the entire plans for the WESTWIND RESERVE development, and all improvements constructed by that date, including, without limitation, the utilities, drains, roads, sewers, landscaping, Common Area amenities, and all other improvements as designated on the Plat, and as may be supplemented by additional plats upon completion of development of the Subdivision. Such purchaser agrees to accept all improvements constructed after the date of purchase consistent with such plans, and of the same quality of the existing improvements. Security may be provided at the Developer's discretion, and no Owner shall have any cause of action against the Developer or the Association for failure to provide adequate security.

ARTICLE 5

COMMON AREA PROPERTY RIGHTS AND MAINTENANCE ASSESSMENTS

5.1 **Common Areas.** Each Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to each Lot as designated upon the Plats, subject only to the provisions of this Declaration and the Charter, Bylaws, and rules and regulations of the Association, including, but not limited to, the following:

(a) The right of the Association to limit the use of the Common Areas to Owners of Occupants of Lots, their families and their guests;

(b) The right of the Association to suspend voting privileges and rights of use of the Common Areas for any Owner whose assessment against his Lot becomes delinquent or who is otherwise in violation of the provisions of this Declaration, the Bylaws of the rules and regulations of the Association; and

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agree upon by the Members; provided that no such dedication or transfer shall be

effective unless the Members entitled to cast at least three-fourths (3/4) of the votes agree to such dedication or transfer and signify their agreement by a signed and recorded written document; and provided further that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevisions, water and sewerage, utilities and drainage facilities upon, over, under and across the Common Areas without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Properties or are otherwise in the best interests of the Association. The Developer shall also have the right to cause the Association to swap property, if necessary to cure any setback or other building regulation violation, provided that the total amount of Common Area shall not be diminished and such transfer is done in accordance with all applicable regulations.

5.2 **Assessments.** For each lot within the development on which a house has been completed, every Owner (except the Developer) covenants and agrees, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, shall be deemed to covenant and agree, to pay the Association monthly or annual assessments or charges for the creation and continuation of a maintenance fund in amounts to be established from time to time by the Board of Directors of the Association in order to maintain, landscape, and beautify the Common Areas, to promote the health, safety, and welfare of the residents of the community, to pay taxes, if any, assessed against the Common Areas, to procure and maintain insurance thereon, to employ attorneys, accountants, and security personnel, and to provide such other services as are not readily available from governmental authorities having jurisdiction over the same. In addition, the Owner of each Lot and each subsequent Owner thereof, by acceptance of his deed, covenants and agrees to pay special assessments as approved by the membership in the manner hereinafter provided. The Developer and all builders shall be exempt from all assessments of any nature.

5.3 **Creation of Lien and Personal Obligation of Assessments.** In order to secure payment of assessments, both monthly or annually and special, as the same become due, there shall arise a continuing lien and charge against each Lot, the amount of which shall include interest at the maximum effective rate allowed by law, costs and reasonable attorney's fees to the extent permissible by law. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment became due; provided that this personal obligations shall not pass to successors in title unless expressly assumed by them. The lien provided for herein, however, shall be subordinate to the lien of any first deed of trust (sometimes hereinafter called "mortgage") on any Lot if, but only if, all such assessments made with respect to such Lot having a due date on or prior to the date such first mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to assessments authorized hereunder having a due date subsequent to the date such first mortgage is filed of record and prior to the satisfaction, cancellation, or foreclosure of the same, or the transfer of the mortgaged property in lieu of foreclosure. The sale or transfer of any Lot shall not affect any assessment lien. The sale or transfer of an Lot that is subject to any first mortgage, pursuant to a foreclosure thereof or under power of sale or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessment, but not the personal obligation of any former title holder, as to payments that became due prior to such sale or transfer and subsequent to the recordation of the first mortgage that has been foreclosed, but the Association shall have a lien upon the proceeds from foreclosure or of sale junior only to the lien of the foreclosed first mortgage. No

sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

5.4 **Levy of Assessments.** The Board of Directors of the Association shall fix the commencement date for monthly or annual assessments on the first day of the month following the conveyance of the first Lot to an Owner and shall provide for a partial assessment between the commencement date and the end of the calendar year next following: Thereafter, monthly or annual assessments shall be levied by the Board of Directors of the Association, by action taken on or before December 1 of each year for the ensuing year. The Board, in its discretion, may provide for the periodic payment of such assessments at some intervals other than monthly or annually. Special assessments may be levied in any year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, if any, including fixtures and personal property related thereto; provided that the same are first approved by the Board of Directors of the Association, recommended to the membership, and subsequently approved by affirmative vote of Members entitled to cast at least two-thirds (2/3) of the votes at a meeting of the Members duly held for that purpose. Written notice of the monthly, annual or special assessment shall be mailed (by U.S. first class mail) to every Owner subject thereto. 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 and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner, but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting the same.

5.5 **Rate of Assessment.** All Lots in the development shall become subject to assessments simultaneously, except that Lots owned by the Developer do not accrue liability for assessments of any nature while owned by the Developer.

5.6 **Effect of Non-Payment of Assessments and Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall be subject to a monthly late fee equal to the greater of twenty-five dollars (\$25.00) or ten percent (10%) of the outstanding balance owed. In addition to the monthly late fee, unpaid assessments shall also bear interest from the due date at the maximum rate allowed by law. The Association, its agents or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs and the Association's reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Owner may avoid liability for the assessments provided for herein by non-use of the Common Areas or abandonment of this Lot.

5.7 **Insurance.**

(a) The Board of Directors of the Association shall determine what insurance and in what amounts shall be necessary for the operation of WESTWIND RESERVE. Until such time as any of the Common Areas of WESTWIND RESERVE are improved, it is anticipated that the only insurance necessary for the operation of the Association shall be general liability insurance for claims arising out of the use of the Common Areas.

(b) In the event that the Board of Directors determines that it will be in the best interest of the Association to obtain insurance on any improvements owned by the Association and constructed in the Common Areas, the Association shall obtain fire and extended coverage insurance covering all such improvements and all personal property, equipment, fixtures and supplies owned by the Association. The face amount of such policy or policies shall not be less than one hundred percent (100%) of the current replacement cost of the property required to be covered by this Section. Such policy shall contain an agreed amount and an inflation guard endorsement, if such can be reasonably obtained, and also construction code endorsements, such as demolition costs endorsement, contingent liability from operation of building laws endorsement and increased cost of construction endorsement. Such policy shall also contain steam boiler and machinery coverage endorsements, if applicable. The insurance policies so purchased shall be purchased by the Association for the use and benefit of individual Owners and their mortgagees. The Association shall issue certificates of insurance to each Owner showing and describing the insurance coverage for the interest of each Owner, and shall develop procedures for the insurance, upon request, of a copy of the policy together with standard mortgagee endorsement clauses to the mortgagees of Owners. To the extent reasonably available, such policy shall waive rights of subrogation against Owners, the Association, and all agents of the Association. The insurance policies purchased by the Association shall also provide, to the extent reasonably available, that the insurance will not be prejudiced by any acts or omissions of Owners that are not under the control of the Association and that such policies will be primary even if the Owner has other insurance that covers the same loss. The insurance policy shall also provide that any applicable insurance trust agreement will be recognized.

(c) If available at reasonable cost, as determined in the sole discretion of the Board of Directors, directors and officers liability insurance may be purchased in amount determined by the Board of Directors.

ARTICLE 6

EASEMENTS

6.1 **General.** The Lots and Common Areas in the Properties subject to this Declaration shall be subject to all easements shown or set forth on the Plat.

6.2 **Development and Construction.** Developer hereby reserves an easement upon, over, and across the Common Areas for purposes of access, ingress and egress to and from Lots during the development of the Properties and during the period of construction of residences on such Lots. Developer shall be responsible for and shall repair all damage to the Common Areas arising out of or resulting from its development of the Properties and construction of residences on the Lots.

6.3 **Emergency.** There is hereby reserved, without further assent or permit, a general easement to any security guards employed by Developer or by the Association, policemen, firemen, ambulance personnel, and all similar persons to enter upon the Properties or any portion thereof which is made subject to this Declaration in the performance of their respective duties.

6.4 **Utilities.** Easements for the installation and maintenance of utilities are served as shown and provided for on the Plat or by separate instrument, and no structure of any kind shall be erected upon any of said easements. Neither Developer nor any utility company using the easements shall be liable for any damage done by either of them or their successors or assigns, or by their agents, employees or servants to shrubbery, trees, flowers or improvements of the Owner located on the land within or affected by said easements. A right of pedestrian access by way of a driveway or open lawn area shall also be granted on each Lot, from the front Lot line to the rear Lot line to any utility company having an installation in the easement. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or public utility company is responsible. Fences shall not be allowed to be constructed over or along said easement for public utilities.

ARTICLE 7

MORTGAGEE RIGHTS AND PROPERTY MANAGEMENT CONTRACTS

7.1 No Owner or any other party shall have priority over any rights of the first mortgagees (or deed of trust holders) pursuant to their mortgages or deeds of trust in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of common facilities.

(b) Any agreement for the professional management for the Association, whether it be by the Developer, its successors and assigns, or any other person or entity, shall not be of a duration in excess of three (3) years and may provide for termination without cause on ninety (90) days written notice.

ARTICLE 8

GENERAL PROVISIONS

8.1 **Exercise of Power.** Until such time as the Association is formed and its Board of Directors is elected, Developer shall exercise any of the powers, rights, duties and functions of the Association and/or its Board of Directors.

8.2 **Duration.** The foregoing Restrictions shall be construed as covenants running with the land and shall be binding and effective for fifty (50) years from the date hereof, at which time they shall be automatically extended for successive periods of ten (10) years each unless it is agreed by vote of a majority in interest of the then Owners of the Properties to alter, amend, or revoke the Restrictions in whole or in part. Every purchaser, or subsequent grantee or any interest in the Properties made subject to this Declaration, by acceptance of a deed or other conveyance therefor, agrees that the restrictions set forth in this Declaration may be extended as provided in this paragraph 8.2

8.3 **Amendment.** So long as the Developer owns any property within Westwind Reserve or planned to be annexed to Westwind Reserve by Developer, the Developer may amend any provision of this Declaration without joinder of the Owner of any Lot. This Declaration may

also be amended by the affirmative vote of at least three-fourths (3/4) of the Owners whose Lots are then subject hereto. No such amendment shall become effective until the instrument evidencing such change has been filed of record. Notwithstanding the foregoing, the Owners of Lots then subject hereto shall have no right to amend any provision of the Declaration without the prior written consent of Developer so long as Developer owns any lots or property planned to be annexed to Westwind Reserve by Developer.

Developer further reserves the right to file any amendments that may be necessary to correct clerical or typographical errors in this Declaration, and to make any amendments that may be necessary to conform the Declaration with regulations of the Federal Home Loan Mortgage Corporation, Federal Housing Administration, The Veteran's Administration or other applicable regulations that may be necessary to assure lender approval of the development.

8.4 **Enforcement.** If any person or entity shall violate or attempt to violate any of these restrictions, it shall be lawful for the Association or any person or entity owning any property within WESTWIND RESERVE to bring an action against the violating party at law or in equity to redress the violation or attempted violation, seeking damages, equitable relief or both. The provisions of this paragraph 8.4 are in addition to and separate from the rights of the Association to collect Association fees and assessments. Any failure by Developer, the Association or any property Owner to enforce any of said covenants, restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidity of any one or more of the provisions of this Declaration by judgment or court order shall not affect any of the other provisions not expressly held to be void, nor shall it affect the provisions so voided in circumstances or applications other than those expressly invalidated, and all such remaining provisions shall remain in full force and effect together with the provisions ruled upon as they apply to circumstances other than those expressly invalidated. In the event any action or proceeding is brought to enforce, to challenge, or to determine by declaratory judgment or otherwise, the rights and obligations imposed by this Declaration, the substantially prevailing party in any such action or proceeding shall be entitled to recover from the substantially losing party its costs associated with such action or proceeding, including reasonable attorney's fees.

8.5 **Headings and Binding Effect.** Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraph to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of the Developer and all persons claiming by, through or under Developer.

8.6 **Unintentional Violation of Restrictions.** In the event of unintentional violation of any of the foregoing Restrictions with respect to any Lot, Developer or its successors reserves the right (by and with the mutual written consent of the Owner or Owners for the time being of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

8.7 **Books and Records.** During reasonable business hours, the books and records of the Association shall be subject to inspection by any Member upon five (5) days prior notice. The Charter, the Bylaws of the Association, and this Declaration shall be available for inspection by

any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

8.8 **Conflicts.** In the event of any conflict between the provisions of this Declaration and the Bylaws of the Association, the provisions of this Declaration shall control.

8.9 **Binding Effect.** The provisions of this Declaration shall be binding upon and shall inure to the benefit of the respective legal representatives, successors and assigns of Developer and the present Owners and all persons claiming by, through, or under Developer or the present Owners.

IN WITNESS WHEREOF, Developer has caused this Declaration of Covenants, Conditions & Restrictions to be executed on the day and date first above written.

DEVELOPER:

CORNERSTONE DEVELOPMENT, LLC

By: [Signature]
Title: member

STATE OF TENNESSEE
COUNTY OF RUTHERFORD

Before me, the undersigned, a Notary Public within and for the State and County aforesaid, personally appeared Joseph Mage, with whom I am personally acquainted, and who upon _____ oath acknowledged himself to be the member of Cornerstone Development, LLC, and he as such member, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of Cornerstone Development, LLC by himself as such member.

WITNESS MY HAND and official seal at my office on this the 28rd day of January, 2021.

[Signature]
NOTARY PUBLIC

My commission expires: 11/17/24

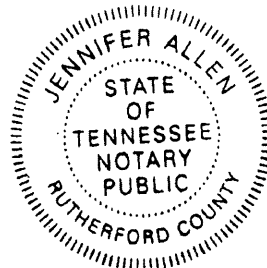


EXHIBIT "A"

BEING all of the property within Westwind Reserve, Section 1, Phase 1 as shown on the plat of record in Plat Book 44, page 297 in the Register's Office for Rutherford County, Tennessee.

BEING the same property conveyed to Cornerstone Development, LLC, by deeds of record in Record Book 1530, page 3035 and Record Book 1627, page 3190, in the Register's Office of Rutherford County, Tennessee.