

# DECLARATION OF COVENANTS AND RESTRICTIONS

## TELLICO VILLAGE, TENNESSEE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Cooper Communities, Inc., a Delaware corporation, hereinafter called "Developer", has acquired certain lands adjacent to Tellico Reservoir and lying in Loudon and Monroe Counties, Tennessee, from the Tellico Reservoir Development Agency, an agency created under the laws of the State of Tennessee and organized and existing pursuant to Act of April 1, 1982, Pub. Ch. No. 679, codified at Section 641701 et. seq. of the Tenn. Code Ann., hereinafter called "TRDA"; and

WHEREAS, Developer has acquired certain agreements for the management of the Tellico Reservoir Shoreline Strip between 805 M. S. L. and 820 M. S. L. adjacent to the lands acquired from TRDA and for the issuance of permits for the construction, operation and maintenance of certain water use facilities thereon from the Tennessee Valley Authority, a corporate agency and instrumentality of the United States organized and existing pursuant to the Tennessee Valley Authority Act of 1933, 48 Stat. 58, as amended, 16 U.S.C. Sections 831831dd (1976; Supp. V, 1981), herein after called "TVA"; and

WHEREAS, Developer, with the encouragement and assistance of TRDA and TVA in order to further the orderly economic development of the Tellico Reservoir project area and increase the public benefit to be derived therefrom, desires to create upon said lands, together with any additions thereto as hereinafter provided, to the extent economically feasible a residential and commercial community with streets, water and sewer utility systems, recreational facilities, greenbelt areas and other common facilities for the use and benefit of said community; an

WHEREAS, Developer desires to provide for the construction of the facilities aforesaid and also desires to provide for the preservation of the values and amenities in said community and for the maintenance of said facilities and, to this end, desires to subject the initial phase of such lands, together with such additional phases as may hereafter be added thereto in accordance herewith, 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 thereof, and

WHEREAS, Developer has deemed it necessary and desirable, for the efficient construction of the common facilities and the preservation of the values and amenities in said community, that an agency be created to which should be delegated and assigned certain construction, maintenance and administration rights, duties and obligations with respect to the common facilities, as well as administering and enforcing the covenants and restrictions herein and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has encouraged and participated in the formation of the Tellico Village Property Owners Association, a nonprofit corporation organized and existing under and by virtue of the laws of the State of Tennessee, hereinafter called "Association", with its principal office to be located within Tellico Village, Tennessee, for the purpose of exercising the functions aforesaid, which said Association joins in the execution of this instrument for the

purpose of indicating its agreement to perform the obligations placed upon it by this Declaration, as well as any Supplemental Declarations hereafter placed of record pursuant hereto and whether or not executed by it;

NOW THEREFORE, the Developer declares that the real property described in Section 1 of Article 11 hereof, and any additions thereto as may hereafter be made pursuant to Section 2 of Article 11 hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (some times referred to as "covenants and restrictions") hereinafter set forth.

## **ARTICLE I**

### **Definitions**

In addition to other definitions herein provided and except where it is clearly evident from the context that a different meaning is intended, the following terms shall have the following meanings when used in this Declaration, any Supplemental Declaration, any record plat of the lands covered hereby, and any other documents related to the Project:

- (1) "Declaration" means this instrument as extended or supplemented from time to time in the manner herein provided.
- (2) "Developer" means Cooper Communities, Inc., a Delaware corporation, its successors and, assigns.
- (3) "Association" means Tellico Village Property Owners Association, Inc., a Tennessee non-profit corporation, its successors and assigns.
- (4) "Project" means all real property concurrently herewith or in the future subjected to this Declaration.
- (5) "Common Property" means any property, real, personal or mixed, owned or leased by the Association, those areas reflected as such upon any recorded subdivision plat of The Project, and those areas so designated from time to time by the Developer, intended to be devoted to the common use and enjoyment of the Owners.
- (6) "Limited Common Property" means those areas reflected as such upon any recorded subdivision plat of The Project and those areas so designated from time to time by the Developer, intended to be devoted to the common use and enjoyment of the owners of specifically designated property.
- (7) "Lease Agreement" means that certain lease agreement between the Association and TRDA for certain lands to be used as Common Properties as hereinafter provided.
- (8) "Private Streets" shall mean and refer to every way of access for vehicles which is not dedicated to the general public but is designated as either Common Property or Limited Common Property. The fact that a Private Street shall be known by the name of street, road, avenue, way, lane, place or other name shall in nowise cause the particular street to be public in nature despite the fact that streets under general definitions are not private in

nature.

(9) "Public Streets" shall mean and refer to all ways of access for vehicles which are dedicated to the general public.

(10) "Utility Easements" shall mean and refer to those areas of land designated for such purposes on any recorded subdivision plat of The Project or as may be provided for in or by this Declaration or any Supplemental Declaration.

(11) "Reserved Properties" shall mean and refer to those areas of land designated as such on any recorded subdivision plat of The Project.

(12) "Lot" shall be the numbered lots or numbered and lettered lots in the numbered blocks as shown on any recorded subdivision plat of The Project.

(13) "Commercial Lot" shall mean and refer to any Lot so designated upon any recorded subdivision plat of The Project, or as may be so designated by this Declaration or any Supplemental Declaration.

(14) "Residential Lot" shall mean and refer to any Lot so designated upon any recorded subdivision plat of The Project, or as may be so designated by this Declaration or any Supplemental Declaration.

(15) "Cooper Share Lot" shall mean and refer to any Lot so designated upon any recorded subdivision plat of The Project, or as may be so designated by this Declaration or any Supplemental Declaration.

(16) "Living Unit" shall mean and refer to

any portion of a building situated upon The Project designed and intended for use and occupancy as a residence by a single family.

(17) "Single Family Detached" shall mean and refer to any building intended for use by a single family and not attached to any other building.

(18) "Single Family Attached" shall mean and refer to any building containing two or more Living Units attached but each Living Unit located on a separate Parcel of Land.

(19) "Multi-family Structure" shall mean and refer to any building containing two or more Living Units located on a single Parcel of Land.

(20) "A Parcel of Land" may be less than a lot, a single lot, more than a lot, several lots, or a plot of land described by a metes and bounds description.

(21) "Member" means all those persons or entities who are members of the Tellico Village Property Owners Association, Inc. as hereinafter provided.

(22) "Owner" means the Developer and any person, firm, corporation, partnership, association or other legal entity, or any combination thereof, owning of record or purchasing from the Developer a fee interest in a Lot, Living Unit or Cooper Share, or who has

purchased or is purchasing an Associate Membership from the Developer.

(23) "Occupant" means any person or persons in possession of a Unit.

(24) "Household" shall mean those who dwell under the same roof and constitute a family.

(25) "Common Expense" means all expenses incurred by the Association for the construction, maintenance, repair, replacement, operation, management and administration of The Project and the Common Property, together with any expenses which are the specific responsibility of an individual Owner which are paid by the Association and charged to the responsible Owner as a Personal Charge for reimbursement.

(26) "Assessment" means such amounts as are required by the Association for payment of the Common Expenses and levied against the Owners by the Association in accordance herewith.

(27) "Personal Charge" means any expense or charge of the Association for which a specific Owner is liable.

(28) "Master Plan" means that certain master plan for development of the Project consisting of Volumes I through VII as prepared by Cooper Consultants, Inc. and submitted to TRDA by the Developer at the time of closing of the purchase of the initial lands covered hereby.

(29) "Shoreline Strip" means those certain lands of the Tellico Reservoir owned by TVA and lying between 805 M.S.L. and 820 M.S.L. and adjacent to The Project.

(30) "Shoreline Strip Rules" means those certain rules heretofore agreed to between TVA, TRDA and Developer for the management of the Shoreline Strip to effect a reasonable balance between use of the Shoreline Strip by abutting property owners and use by the general public.

(31) "Water Use Facilities Permit" means that certain agreement between TVA, TRDA and the Developer to provide for the issuance of TVA Section 26a permits for the construction, operation and maintenance by abutting property owners of certain boat dock water use facilities within the Shoreline Strip.

## **ARTICLE II**

### **Property Subject To This Declaration**

**Section 1. Existing Property.** The existing real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located and situated in the county of Loudon, State of Tennessee, to-wit:

Blocks 1-4, Chota Hills Subdivision, Tellico

Village, Tennessee per plat recorded in PLAT CAB. C, SLIDE 1, Register's Office, Loudon County, Tennessee; and

Blocks 5-6, Chota Hills Subdivision, Tellico

Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 1, Register's Office, Loudon County, Tennessee; and

Blocks 1-4, Toqua Shores Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 2, Register's **Office**, Loudon County, Tennessee; and

Blocks 5-9, Toqua Shores Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 2, Register's Office, Loudon County Tennessee; and

Blocks 10-12, Toqua Shores Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 3, Register's Office, Loudon County, Tennessee; and

Blocks 13-16, Toqua Shores Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 3, Register's Office, Loudon County, Tennessee; and

Blocks 1-5, Toqua Hills Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 4, Loudon County, Tennessee; and

Blocks 1-4, Toqua Point Subdivision, Tellico Village, Tennessee, **per** plat recorded in PLAT CAB. C, SLIDE 4, Register's Office, Loudon County, Tennessee; and

Blocks 5-6, Toqua Point Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 5, Register's Office, Loudon County, Tennessee; and

Blocks 7-10, Toqua Point Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 5, Register's Office, Loudon County, Tennessee; and

Blocks 11-16, Toqua Point Subdivision, Tellico Village, Tennessee, per plat recorded in PLAT CAB. C, SLIDE 6, Register's Office, Loudon County, Tennessee.

**Section 2. Additions to Existing Property.** Additional lands of the Developer situated in Loudon and Monroe Counties, Tennessee, as well as any other lands hereafter acquired by the Developer, whether or not so situated, may become subject to this Declaration in the following manner:

(A) The Developer, its successors and assigns, shall have the right, but not the obligation, to bring additional properties within the plan of this Declaration in future stages of development regardless of whether said properties are presently owned by the Developer. Any additions to The Project shall be compatible with the Master Plan which has been prepared and heretofore made public by the Developer. Such proposed additions, if made, shall become subject to Assessments as hereinafter provided. Under no circumstances shall this Declaration or any Supplemental Declaration or such Master Plan bind the Developer, its successors and assigns, to make the proposed additions or in anywise preclude the Developer, its successors and assigns, from conveying the lands included in the Master Plan, but not having been made subject to this Declaration, free and clear of this Declaration or any Supplemental Declaration.

(B) The additions authorized hereunder shall be made by filing of record a Supplemental

Declaration with respect to the additional property which shall extend the plan of this Declaration to such property, and the Owners, including the Developer, in such additions shall immediately be entitled to all privileges herein provided.

(C) Such Supplemental Declarations, if any, may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties as are not inconsistent with the plan of this Declaration, In no event, however, shall such Supplemental Declarations revoke, modify or add to the covenants, conditions and restrictions established by this Declaration or any Supplemental Declaration with respect to the then Existing Property.

**Section 3. Limitation on Additions.** No one other than the Developer, its successors and assigns, shall have the right to subject additional lands to this Declaration unless the Developer, its successors and assigns, shall indicate in writing to the Association that such additional lands may be included hereunder.

### **ARTICLE III**

#### **Association Membership And Voting Rights**

**Section 1. Membership.** The following classes of membership in the Association are hereby established subject to the limitations herein set forth:

(A) General Membership: Every person or entity, other than the Developer, Associate Member or CooperShare Member, who is the record owner of a fee interest in or who is purchasing from the Developer a fee or undivided fee interest in a Lot or Living Unit which is subject to being assessed by the Association, even though such Assessment has not yet commenced, shall be a General Member of the Association. General Members shall be entitled to the privileges of membership.

(B) Associate Membership: In order to provide operating revenue to the Association and enhance utilization of the recreational facilities during the early development of The Project the Developer shall have 1,000 Certificates of Associate Membership in the Association. Such Associate Memberships may be sold by the Developer and shall not require the ownership of a Lot or Living Unit. Any person who owns or is purchasing from the Developer an interest in such Associate Memberships shall be entitled to the privileges of Membership in the Association except as hereinafter provided. At the expiration of fifteen (15) years from the date of recording of the Declaration or upon the completion of five thousand five hundred (5,500) Living Units, whichever is later, the Members other than Associate Members shall, at the next annual meeting of the Membership, vote on the issue of continuing the Associate Memberships. If a majority of the total votes cast favor continuing said Associate Memberships, said Associate Memberships shall continue for a period of five (5) years. At the expiration of said term of years, there shall be another like vote at the annual meeting of Members and a like vote every five (5) years thereafter until, if ever, a majority of the voters elect to terminate said Associate Memberships. Upon such termination, the Association shall be required to promptly purchase any such Associate Memberships which have been sold by the Developer from the then Owners at a price equal to ten percent (10%) of the original purchase price of said Associate Membership from the Developer. Except as to the Developer, Associate Memberships may be owned only by natural persons and are not

transferable other than between spouses and shall terminate in the event of the death of both spouses. Such Associate Memberships may also be terminated by the Developer for failure of the purchasing Owner to pay in full the purchase price therefor from the Developer or any other breach of such contract of purchase in accordance with the terms of such contract of purchase or by the mutual cancellation of such contract of purchase by the parties thereto, and by the Association for the failure to pay any assessments or other amounts owed by the Owner therefor to the Association or for any other breach by such Owner of this Declaration which failure to pay or breach shall not be cured within six (6) months after notice to such Owner by the Association. Notwithstanding anything hereinabove to the contrary, upon the termination of an Associate Membership, for any reason whatsoever other than the vote of

the Association Membership as hereinabove **provided**, the Developer shall have the right, but not the obligation, to create and sell an additional Associate Membership in the place thereof, without payment of any kind by the Developer therefor, so long as the total of the outstanding Associate Memberships does not exceed 1,000 and so long as such Associate Memberships have not been terminated by vote of the Association Membership as hereinabove provided.

(C) CooperShare Membership: A CooperShare Lot or Living Unit is subject to the same assessment obligations and voting rights as any other Lot or Living Unit, and Owners thereof are entitled to the same privileges of Membership in the Association as other Lot or Living Unit Owners except as hereinbelow provided. Every person or entity, other than the Developer, who is the record owner of a fee or undivided fee interest in or who is purchasing from the Developer a fee or undivided fee interest in an interval ownership use period in a CooperShare Lot or Living Unit, which CooperShare Lot or Living Unit is subject to being assessed by the Corporation, even though such assessment has not yet commenced, shall be a CooperShare Member. A CooperShare Member shall be entitled to all privileges of Membership as other Lot or Living Unit Owners except that such shall be limited to that period of time each year consistent with such CooperShare interval ownership period.

(D) Developer Membership: The Developer, its successors and assigns, shall be a Member of the Corporation so long as it shall be the record owner of a fee or undivided fee interest in any Lot, Living Unit or Associate Membership which is subject to being assessed by the Corporation, even though such assessments have not yet commenced, and shall further be a Member until it is paid in full for every such Lot, Living Unit or Associate Membership it shall sell. The Developer, its successors and assigns, shall be entitled to the privileges of a Member for each such Lot, Living Unit or Associate Membership and shall be further entitled to the issuance of Membership guest cards during such Membership to the extent it may deem necessary in its sole discretion to assist in the development and sale of Lots, Living Units and Associate Memberships.

Notwithstanding anything hereinabove to the contrary, these provisions for Membership are not extended to any person or entity other than the Developer who holds such interest merely as security for the performance of an obligation.

**Section 2. Voting Rights.** All those persons or entities as defined in Section 1 of this Article 111, with the exception of Developer, who hold the interest required for Membership by Section 1 of this Article III and have paid the Developer in full for the purchase price of the Lot, Living Unit or Associate Membership shall jointly be entitled to one (1) vote for such Lot, Living Unit **or** Associate Membership. When more than one person and/or entity holds such

interest in a single Lot, Living

Unit or Associate Membership, the vote for such Lot, Living Unit or Associate Membership shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any single Lot, Living Unit or Associate Membership.

The Developer shall be entitled to two (2) votes for each Lot, Living Unit or Associate Membership in which it holds the interest required for membership by Section 1 of this Article III until such time as it shall cease to be a record owner thereof and shall have been paid in full therefor. The Developer shall continue to have the right to cast votes as aforesaid even though it may have contracted to sell the Lot, Living Unit or Associate Membership or may have same under a mortgage or deed of trust.

Notwithstanding anything hereinabove to the contrary, a CooperShare Lot or Living Unit shall entitle the Owners thereof to only one (1) vote where any Owner therein other than the Developer shall be entitled to participate in the voting rights, and, in such event, the Developer shall participate in such vote to the same extent pro rata as other Owners therein entitled to participate in such vote.

For purposes of determining the votes allowed herein when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

**Section 3. Easement of Enjoyment Limited.** Unless expanded by the Association as provided in Section 4(F) of Article VIII of this Declaration, Members other than the Developer are limited in their easement of enjoyment of the Common Properties to one Household, with the exception of usage of the Private Streets. When more than one Household holds Membership in a single Lot, Living Unit or Associate Membership, the Household entitled to the easement of enjoyment shall be designated in accordance with and subject to the provisions and restrictions set forth therefor in the By-Laws of the Association.

## **ARTICLE IV**

### **Reservation Of Easements**

**Section 1. Utility and Drainage Easements.** Developer, for itself and its successors and assigns, hereby reserves and is given a perpetual, alienable and releasable blanket easement, privilege and right, but not the obligation, on, in, over and under the lands as hereinafter designated of The Project to install, maintain and use electric, antenna television and telephone transmission and distribution systems, poles, wires, cables and conduits, water mains, water lines, drainage lines and drainage ditches, or drainage structures, sewers and other suitable equipment and structures for drainage and sewerage collection and disposal purposes, or for the installation, maintenance, transmission and use of electricity, cable television systems, telephone, gas, lighting, heating, water, drainage, sewerage and other conveniences or utilities on, in, over and under all of the Common Property, Limited Common Property and the Shoreline Strip, and on, in, over and under all of the easements, including, but not limited to, private and public streets, in place or shown on any subdivision plat of the Project, whether such easements are for drainage, utilities or other purposes, and on, in, over and under a 7 1/2 foot strip along the interior of all lot lines of each Lot in The Project, said 7 1/2 foot strip aforesaid to be parallel to the interior lot lines of the respective Lots. The Developer shall have the unrestricted and sole right and power of alienating and



releasing the privileges, easements, and rights referred to herein with the understanding, however, that the Developer will make such utility easements available to the Association for the purpose of installation of water lines and other water installations and sewer lines and other sewer installations and, in addition, will also make such utility easements available to the Association for any other utilities which the Developer and Association shall agree upon, and for which the Association shall have assumed the responsibility for obtaining additional easements in order that utilities other than sewer and water may be installed. Such utility easements shall be made available to the Association without cost to it. The Association and Owners other than the Developer shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, in, over or under the property which is subject to said privileges, rights and easements, except that the Association shall own all pipes, mains, lines and other equipment or facilities which pertain to the water system and the sewer system installed as Common Properties. All such easements, including those designated on any plat of The Project, not made available to the Association are and shall remain private easements and the sole and exclusive property of the Developer and its successors and assigns. Within these aforesaid easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels within the easements, or which may obstruct or retard the flow of water through drainage channels within the easements.

**Section 2. Easements for Streets.** Developer, for itself and its successors and assigns, hereby reserves a perpetual, alienable and releasable blanket easement, privilege and right, but not the obligation, in, upon, over and across the Common Properties, Limited Common Properties and the Shoreline Strip for purposes of constructing and maintaining such roads, streets or highways as it shall determine to be necessary or desirable in its sole discretion, including such cuts, grading, leveling, filling, draining, paving, bridges, culverts, ramps and any and all other actions or installations which it deems necessary or desirable for such roads, streets or highways to be sufficient for all purposes of transportation and travel. The width and location of the right of way for such roads, streets or highways shall be within the sole discretion of Developer, its successors and assigns, provided, however, that the Developer, its successors and assigns, will use their best efforts consistent with their purposes to lessen any damage or inconvenience to improvements which have theretofore been located upon the property. Developer, its successors and assigns, further reserves the unrestricted and sole right and power of designating such roads, streets or highways as public or private and of alienating and releasing the privileges, easements and rights reserved herein.

**Section 3. Others.** All other easements and reservations as reflected on or in the notes of the recorded subdivision plats of lands within The Project or hereafter granted of record by the Association, in its sole discretion, as to the Common Property, shall be binding upon each Owner and his Lot or Living Unit to the same extent as if set forth herein.

## **ARTICLE V**

### **Reserved Properties**

**Section 1. Reserved Properties.** Any area upon a recorded plat under this Declaration or any Supplemental Declaration, if any, designated as "Reserved Properties" shall remain the sole and exclusive property of the Developer, its successors and assigns, and neither this

Declaration or any Supplemental Declaration or the plats in connection with same shall in anywise apply to such "Reserved Properties" unless at a later time same shall be included thereunder as provided in Article 11 hereof.

**Section 2. Utilities Reserved.** It is contemplated that utilities for The Project other than the water distribution system and sewer distribution system shall be furnished by companies so engaged in the vicinity of The Project. The Developer has and retains the exclusive right to negotiate contracts and agreements with such companies, under such conditions and for such considerations as it shall deem proper under the circumstances. The utilities referred to shall include, but not be limited to, natural, liquefied or manufactured gas systems, electrical systems, sanitation service, telephone systems, and antenna television transmission and distribution facilities.

In the event the Developer cannot negotiate contracts and agreements with local companies to furnish the utility services aforesaid, it may, but shall not be obligated, to organize a company or companies to furnish such utility services and shall have the right to enter into agreements therewith to furnish utility services, even though such companies so organized shall be wholly or partially owned by the Developer. Nothing herein contained shall be construed or interpreted as an obligation on the part of the Developer to provide the utilities reserved.

The Developer shall have the right, but not the obligation, to delegate to the Association the right to enter into contracts with utility companies to furnish certain or all of the utility services aforesaid. In the event of such delegation, the Association shall have the right to so contract and to expend funds of the Association therefor as a Common Expense in order to secure necessary or desirable utility services whether named hereinabove or not.

## **ARTICLE VI**

### **Plan For Construction And Maintenance Of Common Properties**

**Section 1. Water and Sewer System.** It is contemplated that the water system distribution infrastructure and sewer system collection infrastructure serving The Project and the water distribution system and sewer collection system within The Project shall be constructed by the Developer but will be a part of the Common Properties. The Developer shall be the sole judge as to the time when the water system and sewer system shall be constructed and shall also be the sole judge as to when such system shall be extended from time to time. In the event the Developer shall decide it is not economically feasible to extend the water system or the sewer system to areas other than single family lots registered with the Interstate Land Sales Registration Division, Department of Housing and Urban Development pursuant to the Interstate Land Sales Full Disclosure Act, it shall not be obligated to do so. The cost of the acquisition of treated water and sewer treatment from third party sources, construction of water storage facilities and booster chlorinators as needed, maintenance, capital improvements, operation, taxes and other expenses incident to the water system and sewer system and operation of same, shall be paid from Assessments as herein provided and from charges made to Owners for furnishing such services at such prices as shall be fixed from time to time by the Board of Directors of the Association. The Association, through its designated agents or employees, shall have the right to enter upon any Lot or other Parcel of Land to perform the required operation and maintenance to the pumped effluent sewer system and shall further have the right, but not the obligation, to perform any or all service,

repair, replacement or routine inspections in connection with the on-site residential pressure sewer systems and appurtenances thereto and to make a Personal Charge to the Owner for the costs thereof. It is specifically provided that neither the water service nor sewer service will be furnished to the public for compensation and, to the contrary, such services will be limited to Owners, as herein defined, and in the event the services are made available to persons or entities other than Owners, there will be no charge to such persons or entities unless the Association shall have complied with the applicable Tennessee law relative to the sale thereof to the public for compensation.

**Section 2. Private Streets.** It is contemplated that the streets shall be constructed by the Developer and that those streets which are not dedicated to the general public will be private streets and a part of the Common Properties. However, the Developer shall be the sole judge as to

when such streets, whether dedicated to the public or as Common Properties, shall be constructed and extended from time to time. The Developer shall also be the sole judge as to the extent the streets will be improved although it is anticipated that same will be constructed and paved in any subdivision of The Project within 24 months after completion of the utility systems in such subdivision. In the event the Developer shall decide it is not economically feasible to extend improved streets to areas other than single family lots registered with the Interstate Land Sales Registration Division, Department of Housing and Urban Development pursuant to the Interstate Land Sales Full Disclosure Act, it shall not be obligated to do so. Upon completion of construction, the cost of maintenance, capital improvements, operation, taxes and other expenses incident to the streets, regardless of whether dedicated to the public or as Common Properties, shall be paid from Assessments as herein provided.

**Section 3. Recreational Facilities.** It is contemplated that the Developer shall construct as Common Properties certain initial recreational facilities consisting of one 18-hole championship golf course, one golf clubhouse, one recreation center including swimming and tennis, and one yacht and country club facility. The Developer shall have the right, but not the obligation, to construct such other recreational facilities as Common Properties in later phases of development as it shall in its sole discretion decide. The cost of maintenance, capital improvements, operation, taxes and other expenses incident to these Common Properties shall be the obligation of the Association and shall be paid from Assessments as herein provided and also from any fees for the use of the Common Properties. The Developer shall be the sole judge as to the time when such recreational facilities shall be constructed and if the Developer shall decide that it is not economically feasible to construct such additional recreational facilities if any, due to the failure to sell sufficient Lots, Living Units and Associate Memberships, it shall not be obligated to construct same.

## **ARTICLE VII**

### **Plan For Construction And Maintenance Of Limited Common Properties**

**Section 1. Construction and Maintenance.** The Developer shall construct as Limited Common Properties such streets, public or private, utility systems, recreational facilities and other facilities as it shall in its sole discretion decide. The cost of maintenance, capital improvements, operation, taxes and other expenses incident to those Limited Common Properties shall be the obligation of the owners of the Lots or Living Units entitled to the use

and enjoyment of the particular Limited Common Properties. In order to perform such obligations, the Owners of the Lots and Living Units entitled to the use and enjoyment of the particular Limited Common Properties may organize a non**profit** corporation to be limited to membership to those Owners of Lots and Living Units entitled to the use and enjoyment of the particular Limited Common Properties and the non-profit corporation shall have all of the powers, including the power to levy assessments against particular Lots and Living Units in order to obtain funds, as the Association has which are referred to in this Declaration.

**Section 2. Failure to Administer.** Upon the failure of the owners of the property entitled to the use and enjoyment of the particular Limited Common Properties to provide for the maintenance, capital improvements, operation, taxes and other expenses incident to the Limited Common Properties, the Association may perform same and apportion the charge against the Lots and Living Units entitled to the benefit of the particular Limited Common Properties and same shall constitute a lien against such property subject only to the lien by reason of a first mortgage or deed of trust against such property.

## **ARTICLE VIII**

### **Property Rights In Common Properties**

**Section 1. Association Powers and Duties.** The operating entity for the Common Properties within The Project shall be the Association. The Association shall have all powers and duties set forth therefor in this Declaration, its Articles of Incorporation and By-Laws, applicable laws, statutes, ordinances and governmental rules and regulations, and all other lawful powers and duties deemed by its Board of Directors as advisable or necessary to carry out its functions. Every Owner, however acquired, shall be bound by this Declaration, the Association Articles of Incorporation, ByLaws and Rules and Regulations, and the above set forth laws, statutes, ordinances and governmental rules and regulations.

**Section 2. Interest of the Association.** All property acquired by the Association, whether real, personal or mixed, whether owned or leased, shall be held, utilized and disposed of by the Association as Common Property for the use and benefit of the Owners within the Project. Except as otherwise specifically provided in this Declaration, any expense of the Association for acquisition, ownership, leasing, administration, maintenance, operation, repair or replacement of the Common Properties shall be treated as and paid for as part of the Common Expense of the Association.

**Section 3. Title to Common Properties.** The water system distribution infrastructure and sewer system collection infrastructure serving The Project and the water distribution system and sewer collection system within The Project constructed by the Developer as a part of the Common Properties shall be owned by the Association and transferred by the Developer to the Association as the same is completed. The Association shall lease all or a substantial portion of the other Common Properties, including but not limited to lands, streets and recreational facilities, pursuant to and as set forth in that certain Lease Agreement between the Association and TRDA. The lands described in said Lease Agreement are currently owned by the Developer and it is contemplated that the Developer shall, within a reasonable time after the completion of construction of any improvements which the Developer intends to locate thereon, cause such land to be conveyed to TRDA for lease to the Association, free from any encumbrances or liens, pursuant to the provisions of said Lease Agreement. The

Developer shall be the sole judge as to the time when the aforesaid improvements, if any, shall be constructed or provided and as to when, if ever, such lands will be so conveyed. The Developer shall have the right, but not the obligation, to provide additional lands and improvements to the Association as Common Properties not contained within said Lease Agreement and to cause same to be conveyed or transferred to the Association as and when it shall in its sole discretion decide. The Association may acquire additional lands and improvements as Common Properties at its own instance, from the Developer or otherwise.

**Section 4. Members Easement of Enjoyment.** Every Member of the Association, so long as such Membership shall continue, shall have a right and easement of enjoyment in and to the Common Properties. Such easements of enjoyment shall, however, be subject to the provisions and limitations thereon as set forth in this Declaration or any Supplemental Declaration, including, but not limited to, the following:

(A) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of constructing, maintaining and improving the Common Properties and in aid thereof to mortgage said property or use any leasehold interest therein as security therefor, provided the rights of such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder until there shall be a default under said mortgage; and

(B) the right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(C) the right of the Association to suspend the enjoyment rights of any Member other than the Developer as provided in this Declaration; and

(D) the right of the Association to charge reasonable admission and other fees for the use, service and enjoyment of any recreational facility or other improvements situated upon the Common Properties; and

(E) the right of the Association to make the golf course and other recreational facilities available by lease, or otherwise, subject to subparagraph (G) hereof, to another Association, which shall be a non-profit corporation, with the right of the other Association to charge dues to Members and to permit persons who are not Members to become members of the other Association for a membership payment and also for payment of dues, and with the understanding the other -Association shall have the right to make rules and regulations which shall be enforceable as to Members; and

(F) except as to the Developer, Membership in the Association shall entitle only one Household to the benefit of the easement of enjoyment as to the Common Properties, provided, however, the Association may enlarge the limitation aforesaid by a majority vote of its Board of Directors and, further provided, this limitation shall not apply to Private Streets; and

(G) the right of the Developer, so long as any Lot, Living Unit or Associate Membership is being held by the Developer for sale in the ordinary course of business, to use such portions of the Common Properties as the Developer shall determine in its sole discretion for the purpose of aiding in such sales, including the right to freely determine its sales tour route through the Project even though traffic is increased in a specific area thereby and to use portions of the Common Properties for parking for prospective purchasers and such other

parties as the Developer determines. Notwithstanding any provisions of this Declaration to the contrary, the Developer shall further have the right to use any Living Unit owned by it for Model Home purposes in the furtherance of its sales program. The foregoing rights shall include the right to display and erect signs, billboards and placards and to store, keep and exhibit same and to exhibit and distribute audio and visual promotional materials upon the Common Properties or in Model Homes; and

(H) the right of Members to the exclusive use of parking spaces as provided in Section 6 hereof; and

(I) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument is signed by Members entitled to cast a majority of all votes, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance thereof.

**Section 5. Guests and Delegation of Easement of Enjoyment.** The Association shall, upon the request of an Owner, issue temporary guest cards for the use of the Common Properties of the Association by guests and invitees of such Owners, provided, however, such temporary guest cards shall be limited to periods not in excess of thirty (30) days and, except as to Developer guests, shall be subject to such other reasonable limitations and rules and regulations as provided therefor by the Association. Notwithstanding anything herein to the contrary, the easement of enjoyment of an Owner of a Living Unit may be transferred to a tenant or lessee who shall occupy such Living Unit of such Owner under a written lease agreement for a term of not less than six (6) months, provided (1) that a copy of such lease agreement is provided to the Association, (2) the Owner shall remain jointly and severally liable with the lessee for any breach of the duties and responsibilities of an Owner under this Declaration, (3) during the period of such lease delegation, the lessee shall have such easement of enjoyment in lieu of the Owner, and (4) such delegation shall be otherwise subject to such reasonable rules and regulations as the Board of Directors of the Association shall from time to time determine.

**Section 6. Parking Rights.** Subject to reasonable rules and conditions, the Association shall maintain and designate at least one parking space conveniently located with respect to each Living Unit for which the Developer may request same and such parking space shall be for the exclusive use of Members residing therein, their families and guests. The use of such space by any other Member or person may be prohibited and/or enjoined by the Association or the Members entitled thereto. The right of the exclusive use of such parking space and to its maintenance and designation by the Association shall be appurtenant to and shall pass with title to each such Living Unit.

**Section 7. Access to Private Streets.** Each Owner shall have a right of ingress and egress and passage over all Private Streets which are Common Properties for himself, members of his Household, and his guests and invitees, subject to such limitations (except such limitations shall not **apply** to Developer) as the Association may impose from time to time as to guests and invitees. Such right in the Private Streets shall be appurtenant to and shall pass with the title and equity to every Lot, Living Unit and Associate Membership. All Private Streets shall further be subject to a right-of-way for the agents, employees and officers of Loudon County (and other counties when applicable), State of Tennessee, and any other

governmental or quasi-governmental agency having jurisdiction in Tellico Village to permit the performance of their duties, including, but not limited to, school buses, mail vehicles, emergency vehicles and law enforcement vehicles. Section 3 of this ARTICLE VIII shall in nowise apply to the rights conferred by this Section.

## **ARTICLE IX**

### **Property Rights In Limited Common Properties**

**Section 1. Owners' Easement of Enjoyment.** Lands so designated from time to time by the Developer shall be devoted to the common use and enjoyment of the Owners of specifically designated Lots and Living Units to the exclusion of the common use and enjoyment of other Owners. The Owners of the specifically designated Lots or Living Units, subject to ARTICLE IV hereof, shall have a right and easement of enjoyment in and to the particular Limited Common Properties and such easement shall be appurtenant to and shall pass with every such specifically designated Lot or Living Unit.

**Section 2. Title to Limited Common Properties.** The Developer may retain the legal title to the Limited Common Properties until the Owners of Lots and Living Units entitled to the easement of enjoyment as to the particular Limited Common Properties shall have constructed the permanent improvements thereon and provided for maintenance of same. At such time, the Developer shall convey the title to the particular Limited Common Properties to such entity as the Owners shall direct, and on failure of the Owners to perform or direct the conveyance of the title as to the particular Limited Common Properties, then the Developer shall convey to the Association, and it shall perform as provided in Section 2 of ARTICLE VII hereof.

## **ARTICLE X**

### **Covenant For Maintenance Assessments**

**Section 1. Creation of Lien.** The Developer subject to the provisions hereinafter set forth, for each Lot, Living Unit and Associate Membership owned by it within the Project, hereby covenants and each Owner of a lot, Living Unit, or Associate Membership, other than the Developer, by acceptance of a deed or certificate therefor or by entering into a contract of purchase with the Developer therefor, whether or not it shall be so expressed in any such deed, certificate, contract of purchase or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual Assessments, and (2) Special Assessments, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual and Special Assessments, together with such interest thereon and costs of collection thereof, including a reasonable attorneys fee, as hereinafter provided, shall be a continuing charge and lien upon the Lot, Living Unit and Associate Membership against which each such Assessment is made. Each such Assessment, together with such interest, costs and reasonable attorneys fees, shall also be the personal obligation of the Owners of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

**Section 2. Purpose of Annual Assessments.** The Annual Assessments levied hereunder by the Association shall be used exclusively for the purpose of promoting the recreation,

health, safety and welfare of the Owners and in particular for the construction, leasing, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoy

ment of the Common Properties and the improvements situated thereupon, including, but not limited to, the water system and sewer system, taxes and insurance on the Common Properties, maintenance, repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof The limitation aforesaid shall not preclude the use of Assessments levied hereunder for maintenance of streets within the Project, even though same may have been dedicated to the public.

**Section 3. Basis and Maximum Annual Assessment.** Until January 1 of the year immediately following the date of this Declaration, the maximum Annual Assessment shall be Three Hundred Dollars (\$300.00) per Lot, Living Unit or Associate Membership, provided, however, such Annual Assessment as to Commercial Lots shall be one such assessment for each business establishment located thereon as determined by the existence of separate water meters therefor. From and after January 1 of the year immediately following the date of this Declaration, the Annual Assessment aforesaid may be increased each year above the Annual Assessment for the previous year by majority vote of the Board of Directors of the Association and without a vote of the Membership, provided, however, that such increase shall not in any one year exceed the greater of **five** percent (5%) or increases in the Consumer Price Index for the twelve (12) month period ending June 30 of the preceding year using the "All Urban Consumer, U.S. City Average" for "General Summary, All Items" as promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor or, if such is not available, any other reliable governmental or other non-partisan publication evaluating similar information. Unless the Annual Assessments shall be increased as aforesaid, they shall remain at the rate prevailing for the previous year. From and after January 1 of the year immediately following the date of this Declaration, the Annual Assessment may be changed prospectively from the amounts hereinabove set forth in any year, without limitation on the amount of such change, by a majority vote of Members voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors of the Association may at any time after consideration of current income and expense and the future income requirements of the Association, within its discretion, **fix** the Annual Assessment at an amount less than the amounts aforesaid.

**Section 4. Special Assessments.** In addition to the Annual Assessments, 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 any construction or reconstruction, unexpected repair or replacement of the water system, sewer system and streets within the Project, even though such streets may have been dedicated to the public, and also any desired repair, replacement or improvement of facilities of the Association and/or the construction, of any capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the votes of Members voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Notice and Quorum for Any Action of Members Authorized Under Sections 3 and 4.** Written notice of any meeting of the Membership called for the purpose of taking any action authorized under Section 3 or 4 hereof 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 a majority of all votes 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 ninety (90) days following the preceding meeting.

**Section 6. Date of Commencement of Assessments and Application thereof to Lots, Living Units and Associate Memberships.** Annual Assessments shall commence and become due and payable as to each Lot, Living Unit and Associate Membership on the date fixed by the Board of Directors of the Association for commencement, provided, however, no Assessments shall be applicable to or payable with respect to any Lot, Living Unit or Associate Membership until the first day of the second month following the execution of a contract of sale by the Developer with respect to such Lot, Living Unit or Associate Membership and, further provided, no Assessment shall commence upon a Lot, Living Unit or Associate Membership where such contract of purchase is terminated by reason of a failure of down payment or recession thereof pursuant to any right granted by any public and/or governmental authority or agency. Each initial Annual Assessment on a Lot, Living Unit or Associate Membership shall be prorated according to the number of months remaining in that calendar year. Written notice of Assessments shall not be required. The due date of any Special Assessment shall be **fixed** in the resolution authorizing such Assessment and may also be payable monthly within the discretion of the Board of Directors. The Association shall, upon demand and for which a reasonable charge may be imposed, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot, Living Unit or Associate Membership have been paid, which certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

**Section 7. Non-Payment of Assessments.** If any Assessments are not paid on the date when due, then such Assessments shall become delinquent and the Association shall have the right to declare the Assessments for the entire year due

and payable, together with such interest thereon and costs of collection thereof as hereinafter provided. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and both actions shall be cumulative and neither shall preclude the other. No Owner may waive or otherwise escape liability for the Assessments by nonuse of the Common Properties or abandonment.

If Assessments have become delinquent, such Assessments shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner to pay such Assessments shall remain his personal obligation and shall not pass to successors in title unless expressly assumed by them. Such delinquent Assessments shall bear interest from the date of delinquency at any lawful rate as determined from time to time by the Board of Directors of the Association or, if not so determined, the rate of 10% per annum. In the event a judgment is obtained, such judgment shall include interest on the Assessments as above provided and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action.

**Section 8. Subordination of the Lien to Mortgages.** The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon the properties subject to Assessment. While an ordinary sale or transfer shall not affect the Assessment lien, any sale or transfer which is subject to any **first**

mortgage or deed of trust pursuant to a decree of foreclosure or proceeding in lieu of foreclosure shall extinguish the lien of such Assessments which became due prior to such sale or transfer. No such sale or transfer shall relieve such property from liability for any Assessments thereafter becoming due or from the subsequent lien thereof except with respect to any future such decree of foreclosure or proceeding in lieu of foreclosure.

**Section 9. Exempt Property.** The following property subject to the Declaration shall be exempt from the Assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Properties; (c) the Limited Common Properties; (d) utilities; (e) utility easements and all other easements; (f) any Reserved Properties; and (g) any Lot, Living Unit or Associate Membership owned or held by the Developer prior to the initial sale or contract to sell by the Developer and excluding and exempting any such Lot, Living Unit or Associate Membership sold or contracted to be sold by the Developer which does not remain effective by reason of failure of down payment or rescission pursuant to any right granted or created by any public and/or governmental agency or authority.

### **Section 10. Delegation of Collection of**

**Assessment.** The Association may delegate the collection of the Assessments herein provided to the Developer, its successors and assigns to be accomplished at the expense of the Association.

Due to the common interest of the Developer and the Association, the failure on the part of an Owner pay an Assessment as herein provided shall be a reason or ground for which the Developer may rescind a contract of sale as to a Lot, Living Unit or Associate Membership.

## **ARTICLE XI**

### **Architectural Control Committee**

Except as to original construction by the Developer, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Project or the Shoreline Strip, nor shall any exterior addition, change or alteration be made thereto, until and unless the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design, location in relation to surrounding structures and topography and compliance with this Declaration and the Protective Covenants contained herein by the Architectural Control Committee of the Association. The Committee shall make such determinations by majority vote and the determination of the individual committee members shall be upon the exercise of the sole and absolute discretion of such member. Such Committee shall be composed of three (3) or more representatives appointed by the Board of Directors of the Association. In the event said Committee fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been properly submitted to it in accordance with reasonable rules and regulations which may be adopted thereby, approval will not be required and this provision will be deemed to have been fully complied with, except to the extent such construction is in violation of the Protective Covenants, Shoreline Strip Rules or Water Use Facilities Permit. The Architectural Control Committee shall have the right to set reasonable charges and fees within their discretion necessary to offset expenses incurred by them in connection with the performance of their duties hereunder and the failure to pay same shall be grounds for withholding **approval** hereunder. The Architectural Control

Committee, through its members or duly authorized agents or employees, shall have the right, after reasonable notice to the owner, to enter upon any Lot, Living Unit or the Shoreline Strip area at reasonable hours for the purpose of the performance of its functions hereunder.

## **ARTICLE XII**

### **Exterior Maintenance**

**Section 1. Failure to Maintain by Owner.** In the event the Owner of any Lot or Living Unit shall fail to properly provide for exterior maintenance thereof, the Association may, but shall not be obligated to, provide such exterior maintenance as follows: cut, trim, care for and maintain trees, shrubs and grass, or repair, replace and care for walks, roofs, gutters, downspouts, exterior building surfaces, windows, fascia, doors, decks and other exterior improvements, including repainting or staining as needed.

**Section 2. Assessment of Cost.** The cost of such exterior maintenance shall be assessed by the Association against the Lot or Living Unit upon which such maintenance is done and shall be added to and become a part of the Annual Assessment to which such Lot or Living Unit is subject as a Personal Charge and, as a part of such Annual Assessment, it shall be a lien upon said Lot or Living Unit until paid, subject, however, to any prior lien by reason of a first mortgage or first deed of trust, and shall become due and payable in all respects as provided herein for Assessments.

**Section 3. Access at Reasonable Hours.** For the purpose solely of performing the exterior maintenance authorized by this Article XII, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day except Sunday.

## **ARTICLE XIII**

### **Owner Liability**

Any violations of this Declaration, any Supplemental Declaration, the Association Articles of Incorporation, By-Laws and Rules and Regulations, or any laws, statutes, ordinances, or governmental authority rules and regulations by a family member, guest, lessee, licensee or invitee of any Owner other than the Developer shall be the responsibility of that Owner and all enforcement rights or penalties therefor shall be applicable to said Owner, except as specifically provided to the contrary in such documents or laws, statutes, ordinances, or governmental authority rules and regulations.

In the event an Owner violates or threatens to violate any of the provisions hereof, the Association shall have the right to proceed in any appropriate Court for an injunction to seek compliance. In lieu thereof, or in addition thereto, the Association shall have the right to levy a Personal Charge, enforceable in the same manner as Assessments, against the Owner and his Lot, Living Unit or Associate Membership for such sums as are necessary to enjoin any violation or to remove any unauthorized addition or alteration and to restore the affected property to good condition and repair.

## **ARTICLE XIV**

### **Suspension of Voting Rights and Easement of Enjoyment**

**Section 1. Regular Suspension.** Should an Owner other than the Developer become delinquent in the payment of any Assessment or Personal Charge or violate any other provision of this Declaration, and Supplemental Declaration, or the Association Articles of Incorporation, By-Laws or Rules and Regulations, the Association may deny such Owner enjoyment of the Common Properties until such time as any such delinquent Assessments or Personal Charges and any interest due thereon are paid and any such violations are ceased and any penalties therefor are satisfied.

**Section 2. Penalty Suspension.** The Association shall further have the right in its sole discretion to impose as a Penalty Suspension for any such violations the suspension of such Owners easement of enjoyment for a period not to exceed thirty (30) days for any one violation or occurrence. An Owner must be given such notice and opportunity as is reasonable under the circumstances to refute or explain in person or in writing the charges against him by the Association before any decision of the Association to impose any such Penalty Suspension is enforced.

**Section 3. General.** Any suspension of rights under these provisions shall not be used as a basis for any reduction of Assessments or other charges payable by such Owner.

## **ARTICLE XV**

### **Protective Covenants**

Attached hereto as "Exhibit I" and made a part hereof as fully as though contained herein word for word are the Protective Covenants relative to The Project as well as any other lands which may be added as provided in Article 11 hereof. Every provision of this Declaration shall apply as fully as to the Protective Covenants as if same were set forth herein word for word.

## **ARTICLE XVI**

### **Shoreline Strip Rules And Water Use Facilities Permit**

**Section 1. Ownership and Use of Shoreline Strip.** Ownership of the Shoreline Strip remains in TVA, the operating entity of Tellico Reservoir, which attempts to administer the area in such manner as to effect a reasonable balance between the right of the general public to use the Tellico Reservoir and its shorelands and the right of use and peaceful enjoyment by the owners of abutting lands. TVA, TRDA and the Developer have heretofore entered into an agreement for implementation of the Shoreline Strip Rules and the Water Use Facilities Permit to establish operating guidelines for the management of the Shoreline Strip in order to provide access to Tellico Reservoir by Owners in The Project and to provide for the construction of water use facilities by abutting property owners consistent with the rights of use by the general public. All usages of the Shoreline Strip shall be subject to such Shoreline Strip Rules and Water Use Facilities Permit.

**Section 2. Designation and Transfer of Water Use Facilities Permits.** As development of The Project proceeds, the Developer will divide and designate the Shoreline Strip into Common Shoreline Strips for the mutual use and enjoyment of all Owners, Limited Common Shoreline Strips for the mutual use and enjoyment of the Owners of the Limited Common Properties, Joint Shoreline Strips for the mutual use and enjoyment of the several Owners adjacent thereto, Individual Shoreline Strips for the exclusive use and enjoyment of the Owner adjacent thereto, and as Commercial Shoreline Strips for the use and enjoyment of the Owners of the Commercial Lots. Such designations will be made upon the record plate of lands within The Project lying adjacent to such Shoreline Strip. The Developer shall also, at the time of such designation, assign its rights under said Water Use Facilities Permit to the Association for the Common Shoreline Strips and to the affected Owners for the Joint, Individual and Commercial Shoreline Strips, which rights shall thereafter be appurtenant to and shall pass with the title to such specifically designated Lots, Living Units or other Parcels of Land.

**Section 3. Administration and Enforcement.** TVA and TRDA have retained certain rights with regard to the administration and enforcement of the Shoreline Strip Rule and Water Use Facilities Permit as set forth therein, specifically including, but not limited to, the requirement of certain permits from TVA and other agencies for usage of the Shoreline Strip. Additionally, the Shoreline Strip Rules and the Water Use Facilities Permit require the Architectural Control Committee of the Association to administer the issuance of site specific building permits under the provisions of this Declaration, the Shoreline Strip Rules and Water Use Facilities Permit for the construction, operation and maintenance of water use facilities within the Shoreline Strip. The Association further has the right of enforcement of the provisions of the Shoreline Strip Rules and the Water Use Facilities Permit as set out therein and in this Declaration.

**Section 4. Association Jurisdiction.** The rights, duties and obligations of the Association as set forth in the Shoreline Strip Rules and Water Use Facilities Permit are hereby subjected to the provisions of this Declaration, whether or not therein expressed. The Association and its Architectural Control Committee shall have all rights, duties and obligations with respect to such Shoreline Strip, Shoreline Strip Rules and the Water Use Facilities Permit as it has with respect to any other lands of The Project as set forth in this Declaration and shall have the right to proceed against any Owner in violation thereof in the same manner.

## **ARTICLE XVII**

### **Miscellaneous Provisions**

**Section 1. Duration.** The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owners subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a **term** of 26 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by the then Owners having two-thirds of the total number of qualified votes in the Association has been recorded, agreeing to change said covenants and restrictions in whole or in part, provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such

change and unless written notice of the proposed agreement is sent to every Owner at least 90 days in advance of any action taken.

**Section 2. Invalidity.** If any of the provisions of this Declaration, any Supplemental Declaration, the Articles of Incorporation or By-Laws of the Association, or any section, clause, phrase, word, or the application thereof, in any circumstance, is held invalid, the validity of the remainder of such instruments and the application of any such provision, action, sentence, clause, phrase or word, in other circumstances, shall not be affected thereby.

**Section 3. Notices.** Any notice required to be sent to any Member or Owner 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 or Owner on the records of the Association at the time of such mailing.

**Section 4. Genders and Plurals.** Whenever the context so requires, use of any gender shall be deemed to include all genders, use of the singular shall include the plural, and use of the plural shall include the singular. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of The Project.

**Section 5. Captions.** The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text.

**Section 6. Enforcement.** Enforcement of this Declaration shall be by any proceeding at law or in equity against any person or entity violating or attempting to violate any covenant, condition or restriction herein, either to restrain violation or to recover damages against the party in violation, and/or against the land to enforce any lien created by these covenants. Failure by the Association, the Developer or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 7. Assignment, Transfer or Conveyance by Developer.** The Developer reserves and shall have the right to assign, transfer or convey any reservations, rights or obligations of the Developer hereunder, and upon such assignment, transfer or conveyance the Developer shall immediately be released and discharged as to any and all liability incident to such reservations, right or obligation.

**Section 8. Applicability.** All provisions set forth herein shall extend to and be binding on the respective legal representatives, heirs, successors and assigns of all parties mentioned herein where

consistent with the context hereof. IN WITNESS WHEREOF, the Developer, joined by the Association for purposes of indicating its agreement hereto, have caused this instrument to be executed by their duly authorized corporate **officers** and their seals affixed as of this 16th day of December p 19 85

ATTEST:

## PROTECTIVE COVENANTS

### EXHIBIT I TO THE DECLARATION

1. **Application.** These Protective Covenants shall apply to all of the Existing Properties. Same shall also apply to additions to Existing Properties unless the Developer shall specifically except from these Protective Covenants such additions or a portion thereof in the Supplemental Declaration by which the Developer subjects such additions to this Declaration. In the event of conflict between these Protective Covenants and the Declaration, the Declaration shall prevail.

2. **Architectural Control Committee.** When the Architectural Control Committee, hereinafter referred to as the A.C.C., is mentioned in these Protective Covenants, it shall mean the Architectural Control Committee of the Association as more particularly described in Article XI of the Declaration. Except as to original construction by the Developer, A.C.C. permits shall be required for any construction activity within The Project as set forth in Article XI of the Declaration and within the Shoreline Strip as set forth in Article XVI of the Declaration. The A.C.C. shall further have the authority, in connection with the issuance of such permits, to adopt such rules, regulations and standards and to adopt such standard building or other codes (or any portion thereof) as it shall deem appropriate or necessary for the proper performance of its function and duties. The Owner, contractor and builder will subject all permitted activities to such inspections as required by the A.C.C. to determine compliance with such A.C.C. permits, the Declaration, these Protective Covenants, the Shoreline Strip Rules and the Water Use Facilities Permit. In the event of any conflict between the provisions of the Declaration, these Protective Covenants and those of the A.C.C. rules, regulations and standards, same shall prevail in that order. In the event of any conflict between the provisions of the Shoreline Strip Rules and the Water Use Facilities Permit with the A.C.C. rules, regulations and standards, the Shoreline Strip Rules and Water Use Facilities Permit shall prevail. All actions of the A.C.C. shall be subject to review by the Board of Directors of the Association and appeals may be taken thereto under such terms and conditions as such Board of Directors may set from time to time.

3. **Amendment, Rescission or Additions.** The Developer, its successors and assigns, may amend, rescind or add to the Protective Covenants from time to time, provided, however, unless the Lots are specifically exempted from the Protective Covenants by the Declaration or a Supplemental Declaration at the time the Lots are subjected to the plan of the Declaration, such amendment, rescission or additions shall not make the Protective Covenants as to those Lots zoned as residential less restrictive for construction of residential buildings than as provided in the standards herein.

4. **Zoning.** The notes upon the recorded subdivision plats shall control as to use of the lots reflected thereon, the residential structure types (Single Family Detached, Single Family Attached, Multi-family Structure and Interval Ownership) which shall be permitted upon Residential Lots, and the minimum square footage of each Single Family Detached Structure, Single Family Attached Structure or Living Unit in a Multi-family structure.

5. **Resubdivision.** No Lot shall be resubdivided except upon written approval of the A.C.C. In the event more Lots are created by any such A.C.C. approved resubdivision than originally

existed, Association Assessments shall apply to such newly created Lots as if such had been contained upon the original plat of such lands. The A.C.C. may permit the construction of a single residence upon two or more Lots by waiver of the 7 1/2 foot utility easement and side yard setback on the appropriate interior lot lines, provided, however, such action by the A.C.C. shall not be construed as a waiver of other matters affecting such Lots, including, but not limited to, the obligation to pay Assessments on each such Lot.

**6. Temporary Structures.** No structure of a temporary character, trailer, tent, shack, garage, or other out-building shall be used on any Lot at any time as a residence, either temporarily or permanently.

**7. Setbacks.** No building shall be placed closer to the front or back lot lines than the setback lines shown therefor on a recorded subdivision plat, provided, however, where such requirements create an undue hardship upon the Owner, such setbacks may be modified by the A.C.C. to the extent necessary to prevent the hardship.

**8. Side Yards.** Where Lots are zoned as a Residential Lot or CooperShare Lot, the following shall apply:

(a) A Single Family Detached Structure or any building incident thereto shall not be closer to a side lot line than 7 1/2 feet, which restrictions may be extended in excess of 7 1/2 feet when necessary for drainage, utility, or screening purposes and the extent thereof is reflected on the recorded subdivision plat, provided, however, where such restrictions create an undue hardship upon the Owner, such restrictions may be modified by the A.C.C. to the extent necessary to prevent the hardship.

(b) A Single Family Attached Structure shall not be required to have a side yard and a common or party wall may be constructed upon the dividing lines between Lots so that the wall may be partially upon one Lot and partially upon the other, or said common wall may be entirely upon one of the two Lots involved.

(c) Multi-family structures shall not be required to have a side yard and may be constructed up to or upon the dividing lines between Lots where approved by the A.C.C.

The A.C.C. shall decide all questions relative to location of structures upon Commercial Lots.

**9. Party Walls.** The following provisions shall **apply** to party walls within The Project:

(a) General Rules of Law to **Apply**. Each wall which is built as a part of the original construction of a structure and placed on the dividing line between Lots shall constitute a Party Wall. To the extent not inconsistent with the provisions of this section, general rules of law regarding Party Walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

(b) Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the wall in proportion to such use.

(c) Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by **fire** or other casualty, any Owner who has used the wall may restore it and if 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 for negligent or willful acts or omissions.

(d) **Weatherproofing.** Notwithstanding any other provision of this section, an Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

(f) **Arbitration.** In the event of any dispute arising concerning a Party Wall, or under the provisions of this section, each party shall choose one arbitrator, and such arbitrators, as chosen, shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

**10. Land Near Golf Courses and Recreation Areas.** No structure shall be placed nor shall any material or refuse be placed or stored upon any Lot or other Parcel of Land within 20 feet of the property line of any Common Property used as a golf course or permanent recreation area, or as otherwise shown on a record plat of lands with the Project.

**11. Assurance of Completion of Buildings.** Except as to original construction by the Developer, the Owner and any contractor, builder, person or entity constructing a structure upon The Project, shall, prior to beginning the construction of any such structure, furnish the A.C.C. proof that a suitable completion bond has been made to ensure completion of the building, within the required time limits, and to indemnify the Owner against material and mechanic liens. At the same time, there shall be furnished to the A.C.C. satisfactory proof that builders' risk and appropriate workmen's compensation insurance will be in effect for the construction period.

**12. Time for Completion of Buildings.** Commercial Structures, Single Family Attached Structures, and Multi-family Structures shall be completed according to plans and specifications and all applicable permits, codes, standards, rules and regulations applicable thereto, both as to exterior and interior, within such time as shall be fixed by the A.C.C. when the plans and specifications for the particular structure are approved by the A.C.C. The following shall **apply** to the construction of a Single Family Detached Structure, as well as garage and outbuildings permitted:

(a) The exterior of any Single Family Detached Structure, garage, or permitted outbuildings shall be completely finished within six months of start of construction;

(b) The interior of any Single Family Detached Structure, garage or permitted outbuildings shall be completely finished within twelve months of start of construction.

The Owner, contractor and builder will subject all structures to inspection by the A.C.C. as required to determine compliance with completion dates as herein provided or as may be provided by the A.C.C. In the event of non-compliance with completion dates as herein provided, the Association shall have the right, but not the obligation, to hire one or more contractors to perform the work and furnish the materials necessary for compliance and to bill

the Owner for the amount expended plus 10% for administration. In the event the Owner does not pay same, the Association shall have the legal right to **file** a statutory lien against the property involved and proceed in law or equity to sell the property to obtain said charges. All money received over and above said charges and court costs, including a reasonable attorney's fee, shall be paid over to the Owner.

**13. Electric Wiring and Plumbing.** Electric wiring and plumbing installed in any structure erected upon or moved upon The Project shall be in accordance with standards prescribed by these Covenants, and in no event shall such standards be less restrictive than those provided by the Federal Housing Administration or the State of Tennessee.

**14. Sewage Disposal.** No privately owned septic tank or other sewage disposal system shall be permitted upon any Lot or Parcel of Land of The Project except in extraordinary circumstances involving temporary service to a major building, which temporary service must be discontinued when central sewer service becomes available, and only after approval by the Association and TVA, and then not unless such system is designed, located and constructed in accordance with requirements, standards and recommendations of the Tennessee Department of Health and Environment and approved by the A.C.C. In any event, no such privately owned individual system shall be permitted on any single family lot registered with the Interstate Land Sales Registration Division, Department of Housing and Urban Development pursuant to the Interstate Land Sales Full Disclosure Act.

**15. Water Supply.** No privately owned well or other water system shall be permitted upon any Lot or Parcel of Land of The Project unless approved by the Association or unless the Association has indicated it will not make its water system available and then not unless such system is designed, located and constructed in accordance with requirements, standards and recommendations of the Tennessee Department of Health and Environment and approved by the A.C.C. In any event, no such privately owned individual system shall be permitted on any single family lot registered with the Interstate Land Sales Registration Division, Department of Housing and Urban Development pursuant to the Interstate Land Sales Full Disclosure Act.

**16. Outbuildings.** Outbuildings or accessory buildings for residence purposes such as servants' quarters or guest houses, shall be permitted on Lots upon which a Single Family Detached Structure has been constructed or is under construction, provided the building and/or buildings are occupied by servants employed on the premises or by guests and are not occupied otherwise as rental units by nonservant or nonguest occupants, and provided the A.C.C. shall approve the design, plans, specifications, et cetera, of such buildings. Outbuildings or accessory buildings permitted upon Lots or Parcels of Land upon which there is constructed a Commercial Building, Single Family Attached Structures, or Multi-family Structure, shall be entirely within the discretion of the A. C.C.

**17. Protective Screening.** There shall be compliance with all protective screening areas as reflected upon any recorded subdivision plat of The Project. Except as otherwise provided herein regarding street intersections under "Sight Distance at Intersections", shrub plantings, fences or walls shall be maintained throughout the entire length of such areas by the Owner or Owners of such areas at their own expense to form an effective screen in order to protect and beautify the area. No building or structure except a screening fence or wall approved by the A.C.C. or utility or drainage facilities shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for the purpose of installation

and maintenance of screening, utility and drainage facilities.

**18. Sight Distance at Intersections.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**19. Signs.** All signs are prohibited in areas zoned upon any recorded subdivision plat as residential except:

(a) Signs erected by the Association or Developer for identification of streets, neighborhoods, recreational amenities, traffic control and directional purposes;

(b) Signs of a temporary nature advertising property for sale and construction signs, which such signs shall not exceed 1 square foot in area, shall be limited to 1 such sign **per** lot, must be placed upon the specific property involved, and may not be placed for the purpose of advertising that such property is already sold; and

(e) Signs erected by Developer in connection with its sales program.

Except for signs as provided in subparagraphs (a), (b) and (e) above, the erection of signs in areas zoned Commercial upon any recorded subdivision plat shall require a permit of the A.C.C. and no such sign shall be erected without the prior approval of the A.C.C.

**20. Model Houses.** No provision of these Protective Covenants shall preclude the Developer in furtherance of its sales program from erecting and maintaining Model Houses in any area zoned as Residential.

**21. Businesses Prohibited in Residential Areas.** The practice of any profession or the carrying on of any business is prohibited within any area zoned as residential except for the business of the Developer in the furtherance of its sales program and any home occupation which does not create any extraordinary traffic within the subdivision. Said home occupations must, however, first be approved by the A.C.C. and a permit issued therefor.

**22. Utility and Drainage Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved in the Declaration and will be reserved in -any Supplemental Declaration and also will be reserved as indicated upon any recorded subdivision plat of The Project. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels within the easements. 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 the Association, a public authority or a utility company is responsible.

**23. Nuisances.** No obnoxious or offensive activity shall be carried on upon any Lot or Parcel

of Land of The Project.

**24. Livestock and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or Parcel of Land of The Project except that dogs, cats or other household pets which are not considered inherently frightening to the general public may be kept, provided that they are not kept, bred or maintained for any commercial purposes.

**25. Garbage and Refuse Disposal.** No Lot or Parcel of Land of The Project shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in a clean and sanitary container and disposition of same shall be prompt.

**26. Salvage Yards, Etc.** No automobile wrecking, junk, or salvage yards are permitted on any Lot or on any other Parcel of Land within The Project..

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

**28. Cemeteries.** The following standards shall apply to the development and construction of any new cemeteries within The Project:

1. Sites for cemeteries shall be provided access directly from a collector or arterial street. Access to cemeteries shall not be made from residential streets which have residences or lots abutting the street and using it for access.

2. Any new cemetery shall be located on a site containing not less than **five** acres.

3. All cemetery structures, including but not limited to, mausoleums, permanent monuments, or maintenance buildings shall be set back not less than 25 feet from any property line or street right of way.

4. All graves or burial lots shall be set back not less than 25 feet from any property line or street right of way.

**29. A.C.C. Responsibility.** The function of the A.C.C. is designed for the enforcement of the Declaration and these Protective Covenants. The performance of its duties with respect thereto shall be on a best efforts basis in an effort to reasonably protect the aesthetics and property values of The Project and the health, safety and welfare of all of the Owners therein as a community of interests. No warranty or representation is made to or should be implied by any individual Owner that the actions of the A.C.C. in the issuance of permits, inspection and approval of construction, or otherwise, is intended as a tacit approval of the quality, safety, desirability, or suitability of such design or construction.

**30. Enforcement.** These Protective Covenants may be enforced in the same manner as any violation or threatened violation of the Declaration of which these Protective Covenants are a part, including, but not limited to the lien fights of the Association for any costs or charges incurred in connection therewith.

