

**FIRST AMENDED RESTRICTIVE COVENANTS APPLYING TO
HARVEST GROVE, SECTION IV**

The undersigned, HARVEST GROVE, LLC, a Tennessee Limited Liability Company, being the Owner and Developer in fee simple of the real estate that has been subdivided and named HARVEST GROVE, SECTION IV, according to survey and plat, which plat is of record in Plat Book 31, page 67, of the Register's Office of Rutherford County, Tennessee, and having heretofore prepared, executed and recorded certain Restrictive Covenants applying to said referenced subdivision, which Restrictive Covenants are of record at Record Book 711, page 1139, said Register's Office, and currently owning at least two-thirds of the lots in said Development does hereby, by these presents, amend said Restrictive Covenants as follows:

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1. By inserting the following immediately after the first paragraph of the referenced Covenants:

**ARTICLE I
DEFINITIONS**

The following words, when used herein, shall have the following meanings:

SECTION 1. The "Architectural Review Committee" or "Committee" or "ARC" shall mean a committee organized by the Developer for the purpose of overseeing and controlling new construction, etc., during the build out of HARVEST GROVE, SECTION IV.

SECTION 2. The "Association" shall mean HARVEST GROVE, SECTION IV HOMEOWNERS ASSOCIATION, a Tennessee not-for-profit corporation, its successors and assigns organized by the Developer for the purpose of owning and maintaining the Common Area and which has as its members every Lot Owner subject to assessment as hereinafter provided. The By-Laws of the Association are attached hereto and are incorporated herein by reference. The By-Laws may be amended from time to time as provided for therein.

SECTION 3. "Builder" shall mean and refer to any person who is in the business of constructing single family residences and who acquires any Lot(s) in the Subdivision for the purpose of constructing a single family residence thereon for sale to a third party customer of the Builder.

SECTION 4. "Common Area or Common Areas" shall mean and refer to any and all real property owned by the Association, and such other property to which the Association may hold legal title, whether in fee or for a term of years, for the non-exclusive use, benefit and enjoyment of the members of the Association, subject to the provisions hereof, and such other property as shall become the responsibility of the Association, through easements or otherwise, including any recreational areas, which may be constructed initially by the Developer whether thereafter by the Association. Common Areas with respect to the property made subject to this Declaration, whether at the time of filing of this Declaration or subsequently by Supplemental Declarations shall be

shown on the Plat(s) for HARVEST GROVE, SECTION IV and designated thereon as "Common Areas" or "Open Space" or "Preservation Areas".

SECTION 5. "Declaration" shall mean this instrument, as the same may be amended and/or supplemented from time to time as provided for herein.

SECTION 6. "Developer" shall mean this instrument, as the same may be amended and/or supplemented from time to time as provided for herein.

SECTION 7. "House" shall mean and refer to a building situated upon any Lot designated and intended for use and occupancy as a residence by a single family.

SECTION 8. "Lot" shall mean any lot shown on any recorded plats of the Property. A Lot shall not include any dedicated streets and roadways.

SECTION 9. "Lot Owner" or "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 10. "Master Plan" shall mean and refer to the Master Plan which plan has been given preliminary approval by the Murfreesboro Planning Commission for the development of the Subdivision on the Property. Developer reserves the right to amend the Master Plan at any time as well as any amendments thereof and such rights shall include without limitation the right to reconfigure Lots, increasing or decreasing the number of different Lot types, and adding or removing property from the Subdivision.

SECTION 11. "Occupant" shall mean or refer to any person or persons in possession of a lot or home other than a Lot Owner.

SECTION 12. "Person" shall mean or refer to a natural person, as well as a corporation, partnership, firm, association, trust, or other legal entity.

SECTION 13. "Plat(s)" shall mean and refer to the plat(s) for HARVEST GROVE, SECTION IV to be recorded in the Rutherford County Register of Deeds Office subdivision the Property into lots and reflecting thereon the public streets, common areas, and utility easements and other matters normally shown on subdivision plats. The Property may be platted in two or more phases/sections.

SECTION 14. "Property" shall mean the real property submitted to this Declaration as shown on plat of record at Plat Book 31, page 67, Register's Office Rutherford County, Tennessee. The Property shall not include any public streets and roadways shown on the Plat. As provided in this Declaration, the Developer shall have the right to subject certain additional real property to the terms of this Declaration and in such event such additional property shall be deemed to be included within the definition of "Property".

SECTION 15. "Subdivision" shall mean and refer to HARVEST GROVE, SECTION IV to be platted on the Property.

ARTICLE II
MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Every Lot Owner who is subject to assessment by the Association as hereinafter provided shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment. When any Lot is owned of record in joint tenancy, tenancy in common, tenancy by the entirety, or by some other legal entity, their membership as to such Lot shall be joint and the rights of such membership (including the voting power arising therefrom) shall be exercised as specified herein. A corporate member's vote shall be cast by the president of the member corporation or by any other officer or proxy appointed by the president or designated by the Board of Directors of such corporation. When two or more persons hold an interest in any Lot as owners thereof, all such persons shall be members. The vote for such Lot shall be exercised by one of such persons as proxy or nominee for all persons holding an interest as owners in the Lot and in no event shall more than one vote be cast with respect to any Lot, except as provided above with respect to Developer. If joint owners are unable to specify by their majority vote how their vote shall be cast, then no vote shall be cast with respect to such Lot.

SECTION 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Lot Owners, with the exception of the Developer or its assignees as hereinafter provided, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Developer and any assignee of the Developer to whom such rights have been assigned in writing. The Class B member shall be entitled to four (4) votes for each Lot owned. For voting purposes, any and all Lots shown on the Master Plan but not yet platted shall also be counted as Lots owned by the Developer or its assignee and the Owner of any such unplatted Lots shall be entitled to four (4) votes for each Lot owned prior to the termination of the Class B Membership and one vote for each unplatted Lot thereafter.

SECTION 3. The Class B memberships shall continue until the earlier of (i) one year after 100% of the total Lots shown on the Master Plan have been sold by the Developer, (ii) ten (10) years from the latter of the date hereof or the date of the last supplement to this Declaration, or (iii) the Developer's election by notice to the Association to relinquish such additional voting rights (hereinafter referred to as the "Transfer of Control") after which time the Class B membership interest shall terminate and Developer shall have only one vote for each Lot that it owns.

SECTION 4. First Meeting of Members. The first regular annual meeting of the Members may be held, subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, that the first meeting may (if necessary to comply with Federal Regulations) be held no later than the earlier of the following events: (a) four months after all of the Lots have been sold by the Developer, or (b) fourteen years following conveyance of the first Lot by the Developer.

SECTION 5. Acceptance of Development. By acceptance of a deed to a Lot, any purchaser of a Lot shall be deemed to have accepted and approved the entire plans for HARVEST GROVE, SECTION IV Development, and all improvements constructed by that date, including, without limitation, the utilities, drains, roads, sewers, landscaping, Common Area amenities, and all other improvements as designated on the plat and as may be supplemented by additional plats upon completion of development of any portion of the Subdivision. Such purchaser agrees that all improvements constructed after the date of purchase consistent with such plans, and at the same quality of then existing improvements, shall be accepted.

**ARTICLE III
COVENANT FOR ASSESSMENTS FOR THE ASSOCIATION**

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. All Lot Owners by acceptance of a deed for any Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay the Association: (1) annual assessments or charges, (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, and (3) any other amounts properly assessed against a Lot Owner by the Association, including fines, late fees or any other amounts. The annual and special assessments and any other amounts properly charged to a Lot Owner by the Association, together with interest, costs and reasonable attorney's fees as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made from the date when due until the same is paid in full or otherwise discharged. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Lot Owner at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title of said person unless expressly assumed by them.

SECTION 2. PURPOSE OR ASSESSMENTS. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Lot Owners, to provide for the maintenance of the Common Area, to pay the fees of any management agent the Association may employ to manage the affairs of the Association, and to pay other reasonable and necessary expenses of the Association including the repayment of any loans or advances from the Developer. An adequate reserve fund for the maintenance, repair and replacement of items maintained by the Association pursuant to this section shall be established and funded by regular monthly payments.

SECTION 3. ANNUAL ASSESSMENT.

- (a) Until January 1, of the year immediately following the conveyance of the first Lot by Developer the annual

assessment shall be One hundred and Ninety and 00/100 Dollars (\$190.00) per Lot payable on or before January 1 of each year. Payment shall be considered late after January 15 and a late fee equal to one percent (1%) of the owing sum per month shall be added.

- (b) The Board of Directors of the Association shall thereafter fix the annual assessment.
- (c) In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment to pay in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property, if any, related thereto.

SECTION 4. MANAGEMENT FEE. Upon the transfer of any dwelling house, a management fee in the amount of One hundred and fifty and NO/100 Dollars (\$150.00) shall be payable by the new homeowner unto the Association to partially defray the expenses associated with a professional management company which the Association has employed to oversee the Development. The Board of Directors of the Association shall have the authority to adjust said management fee from time to time as said Board may deem appropriate.

SECTION 5. WORKING CAPITAL FEE. Upon the transfer of a new, never occupied, dwelling house unto a retail purchaser, a working capital fee in the amount of One hundred and NO/100 Dollars (\$100.00) shall be payable by the new homeowner to partially defray the expenses associated with maintenance of the common areas of the Development.

SECTION 6. INTENTIONALLY LEFT BLANK

SECTION 7. UNIFORM RATE OF ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate on all Lots and may be collected on a quarterly basis.

SECTION 8. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS DUE DATES. The annual assessments provided for herein shall commence as to Lots not owned by the Developer on the first day of the first month following the closing of the transfer of the first Lot by Developer. As to Lots owned by the Developer, the annual assessments shall commence as to each Lot upon conveyance of such Lot by Developer except for a transfer in which Developer is transferring its rights as Developer. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Lot Owner subject thereto. The assessment shall be paid quarterly on the first day of each quarter by every Lot Owner or in such installments as shall be determined by the Board of Directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance. **Notwithstanding**

anything to the contrary contained herein, assessments shall not commence as to any Lots owned by a Builder until the earlier of (i) one year following the closing date for the purchase of said Lot by Builder from Developer or (ii) the date of receipt of a certificate of occupancy for a single family residence on the Lot.

SECTION 9. EFFECT OF NON-PAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessment not paid by the tenth (10th) day of the month in which it is due shall be subject to a late charge in an amount established by the Board of Directors of the Association and shall bear interest from the due date at the maximum rate allowed by applicable law. The Association may bring an action at law against the Lot Owner personally obligated to pay the same, or foreclose the lien against the Lot, and their shall be added to the amount of such assessment all collection costs, including reasonable attorney's fees, and the costs of bringing such action or foreclosure. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments on any Lot provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed on the Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or form the lien thereof.

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2. Paragraph 14. **ACCESSORY VEHICLES** is hereby amended by deleting said paragraph and substituting therefor the following:

14. All commercial and/or recreational vehicles, such as trucks, boats, golf carts, campers, motor homes and/or yard mowing equipment, and including trailers of every kind and description, must be garaged. The storage of said vehicles is subject to the approval of the Committee. The foregoing notwithstanding, no commercial vehicle of any kind which weighs in excess of 12,000 pounds shall be permitted upon any lot. No inoperable nor junk vehicles shall be parked on any lot, nor on the street. All licensable vehicles shall have current license plates and registration.

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3. Paragraph 19. **ACCESSORY BUILDING** is hereby amended by deleting said paragraph and substituting therefor the following:

19. Any detached garage or other accessory building shall not exceed one and a half story in height and shall be subject to the pro-approval of the Committee. Said building shall be to the rear of the lot, but not less than 20 feet from the rear lot line, nor less than 5 feet from any side lot line, and in no case closer than the house is to any street. Said garage or accessory building shall be erected as one building and no

garage shall contain room for more than three cars. Any accessory building must be of a design and material as would be compatible with the main residence and in compliance with local building codes as approved by the controlling governmental authority.

All other provisions of said referenced Restrictive Covenants are hereby ratified and reaffirmed.

WITNESS OUR HANDS, this 3rd day of July, 2007.

HARVEST GROVE, LLC, a
Tennessee Limited Liability Company

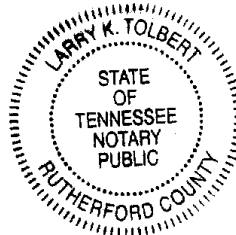
By: *John C. Jones* Chief Manager
JOHN C. JONES, Chief Manager

STATE OF TENNESSEE]
 ss.
RUTHERFORD COUNTY]

Before me, the undersigned authority, a Notary Public in and for said County and State aforesaid, personally appeared JOHN C. JONES, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Chief Manager for HARVEST GROVE, LLC, a Tennessee Limited Liability Company, the within named bargainer, and that he as such Chief Manager executed the foregoing (AMENDMENT) instrument for the purposes therein contained.

WITNESS MY HAND and official seal at office in Murfreesboro, Tennessee, this 3rd day of July, 2007.

[Signature]
Notary Public
My commission expires: **MAY 18 2008**



RF/HARVEST GROVE, SECTION IV AMENDED.RESTRICTIONS07

Jennifer M Gerhart, Register
Rutherford County Tennessee
Rec #: 522861 Instrument #: 1507183
Rec'd: 35.00
State: 0.00
Clerk: 0.00 Recorded
EDP: 2.00 7/5/2007 at 2:07 PM
Total: 37.00 in
Record Book 761 Pgs 1105-1111