

FOR

GRANDVIEW VILLAGE RESORTS

This **Declaration of Covenants and Restrictions** is declared as of this the 1st day of October, 1998, by **Grandview Village Resorts**, a joint venture consisting of **Highland Resort Enterprises, Inc.**, a Florida corporation, **N&S Phoenix Enterprises, Inc.**, a Florida corporation, and, **Mountaineer Investments, Inc.**, a Tennessee corporation (hereinafter called the Developer).

WITNESSETH:

**WHEREAS**, Grandview Village Resorts, a joint venture, is the developer of the lands hereinafter described in Article II of this Declaration; and,

**WHEREAS**, the Developer is developing said lands as part of a common master plan of development and may add other lands to the development as herein provided under Article II and intends to create thereon a residential and commercial community with streets, water systems, recreational facilities of various types, and other common facilities for the use and benefit of the owners of said properties described herein and the properties that may be added as provided under Article II; and,

**WHEREAS**, the Developer wishes to provide a method for the construction and maintenance of these facilities in order to provide for the preservation of property values in the community and for the maintenance of the streets, water systems, and recreational and common facilities, and to accomplish this purpose intends and does hereby subject the real property described in Article II, together with such additions as may hereinafter be made to the property in accordance with the provisions of Article II, to the covenants, restrictions, liens, and charges hereinafter set forth for the benefit of said property and each owner thereof; and,

**WHEREAS**, Grandview Village Resorts Homeowners Association, a non-profit corporation, organized and existing under and by virtue of the laws of the State of

or Supplemental Declaration of Covenants & Restrictions See Misc. Book 24, pg. 444 Rec'd 3-9-00 at 9:30 A.M.  
or Supplement Declaration of Covenants & Restrictions See Misc. Book 25, pg. 119 Rec'd 10-25-00 at 2:30 P.M.  
or Supplement restrictions in Misc. Book 27, pg. 622 Rec'd 9-3-2 at 8:30 A.M.

Tennessee, and with its principal office located at Grandview Village Resorts, Spencer, Tennessee, has joined in this Declaration intending to bind itself to perform certain functions as hereinafter set forth and to exercise the powers and duties as provided herein.

**NOW, THEREFORE**, in consideration of the premises, the Developer declares that, except as otherwise provided herein, the real property described in Article II, and such authorized additions thereto as may hereinafter be made, is and shall be held, transferred, sold, conveyed, and occupied, subject at all times to the covenants, restrictions, easements, liens, and charges (collectively referred to as the Covenants and Restrictions) hereinafter set forth.

**ARTICLE I**  
**DEFINITIONS**

The following words, when used in this Declaration, or any supplement hereto, or upon the plat of any properties described in Article II or any additional plats made subject to the provisions of this Declaration as provided in Article II, shall have the following meanings:

(A) **Property** shall mean and include all properties which are subject to this Declaration, including all additional lands which may hereafter become subject to the Declaration in the manner provided in Article II.

(B) **Homeowners Association or Association** shall mean and refer to the **Grandview Village Resorts Homeowners Association**, a Tennessee non-profit corporation, its successors and assigns.

(C) **Common Properties** shall mean and refer to those areas so designated upon any recorded subdivision plat of the property which are intended to be devoted to the common use and enjoyment of Owners of the properties and shall also mean and refer to any improvements or areas designated by the Developer as Common Property in writing on the plat or by recorded instrument delivered to the Association. No property shall be deemed

See Supplement Declaration of Covenants & Restriction in M28, PG. 509 Rec'd 6-12-03 at 9: 461

Common Property by implication or otherwise, unless specifically so designated by the Developer as herein provided.

(D) **Limited Common Properties** shall mean and refer to those areas of land so designated upon any recorded subdivision plat of the property intended to be devoted to the common use and enjoyment of the owners of specifically designated property and, also those areas so designated from time to time by the Developer for the purposes aforesaid.

(E) **Roads and Streets** shall mean and refer to every way for passage by vehicle, whether or not dedicated to the owners exclusively or the general public, and whether or not known by the name of road, street, avenue, place, lane, or other name. The designation shall not mean private driveways.

(F) **Utility Easement** shall mean and refer to those areas of land designated on any recorded subdivision plat of the property as "Utility Easements", or as may be provided in or by this Declaration, or any Supplemental Declaration.

(G) **Reserved Properties** shall mean and refer to those areas of land designated on any recorded subdivision plat of the property as "Reserved Properties" and to any other area included within the perimeter of any recorded plat and not identified thereon as Common Property or as platted lots or dedicated roads and streets.

(H) **Lot** shall be the numbered lots in the numbered or named blocks as shown on any recorded subdivision plat of the properties. Lot shall also mean a Living Unit, including a Living Unit that is subdivided for interval ownership as may be reflected upon any recorded subdivision plat and/or Declaration of Covenants and Restrictions, including Declaration of Interval Ownership, and/or Supplemental Declarations filed of record. All owners of intervals within a Lot or Living Unit shall be considered as Co-owners of said Lot or Living Unit.

(I) **Commercial Lot** shall mean and refer to any lot so designated upon any recorded subdivision plat of the properties, or as may be so designated by the Declaration, or any Supplemental Declaration.

(J) **Residential Lot** shall mean and refer to any Lot so designated upon any recorded subdivision plat of the properties, or as may be so designated by this Declaration, or any Supplemental Declaration.

(K) **Living Unit** shall mean and refer to any portion of a building situated upon the properties designed and intended for use and occupancy as a residence by a single family, or by *interval owners where the Developer has dedicated the Living Unit to interval ownership.*

(L) **Single Family Detached** shall mean and refer to any building intended for use as a Living Unit and not attached to any other building.

(M) **Single Family Attached** shall mean and refer to any building containing one or more Living Units attached to one another, but each Living Unit being located on a separate parcel of land.

(N) **Multifamily Structure** shall mean and refer to any building containing two or more Living Units located on a single parcel of land.

(O) **A Parcel of Land** shall be either a single lot, less than a lot, more than a lot, or several lots, or a plot of land described by a metes and bounds description.

(P) **Owner** shall mean and refer to the record owner of a parcel of land, including the Developer, or other record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon the properties. All owners of intervals located within a Lot or Living Unit shall be considered as co-owners of said Lot or Living Unit.

(Q) **Member** shall mean and refer to all those persons or entities who are members of the Association as provided in Article III hereof.

(R) **Developer** shall mean **Grandview Village Resorts**, a joint venture, its successors and assigns.

(S) **Assessments, Dues, and Dues Assessments.** These words and each of them where used herein shall mean and include dues charged by the Association as an annual

assessments or charges which the Association may impose on its membership in accordance with its Charter and Bylaws and this Declaration.

(T) **Interval Ownership** shall mean a concept whereby Lots or Living Units are conveyed for periods of time, the owner receiving a stated time period for a term of years, together with a remainder over in fee simple as tenants in common with all other owners of unit weeks in each particular Lot or Living Unit, from such date under such conditions and for such time as may be provided in the Supplemental Declarations filed of record creating such Interval Ownership Regimes.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

**Section 1. Properties subject to this Declaration.** The real property described on Exhibit "A" attached hereto is made subject to this Declaration. All recording references herein are to the Register's Office of Van Buren County, Tennessee.

**Section 2. Additions of Property.**

(a) Developer shall have the right, but not the obligation, to bring within the plan of this Declaration additional properties, regardless of whether or not said properties are presently owned by the Developer, in future stages of the development. Under no circumstances shall this Declaration or any Supplemental Declaration bind the Developer to make any further additions of properties to the Declaration.

(b) The additions authorized hereunder shall be made by filing of record a Supplemental Declaration of covenants and restrictions with respect to the additional property which shall extend the plan of the covenants and restrictions of this Declaration to such property, and the Owners, including the Developer, of Lots and Living Units in such additions shall be entitled to all privileges herein provided.

(c) Such Supplemental Declaration may contain such complementary additions and modifications of the covenants 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. Such Supplemental Declaration may contain provisions wherein Lots owned by the Developer shall not be considered part of the properties until such time as such Lot has been duly sold and a membership in the Association issued in connection therewith.

**Section 3. Additions Limited to Developer.** No one other than the Developer shall have the right to place additional lands under the Declaration or to cause additional lands to be entitled to the benefits arising hereunder, unless the Developer shall agree in writing with the Association that such additional lands may be included hereunder.

**Section 4. Negative Reciprocal Easements and Implied Restrictions.** The Developer may own or acquire real property contiguous to or in the vicinity of the property subjected to this Declaration on Exhibit "A". The Developer is not obligated to bring such property under the operation of this Declaration and no implied restrictions or negative reciprocal easements shall be deemed to arise or apply to such property.

### **ARTICLE III**

#### **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

**Section 1. Membership.** The Developer shall be a member of the Association so long as it shall be the record owner of a fee interest in any Lot or Living Unit which is part of the properties and is subject by covenants of record to assessment by the Association. Also, every person or entity who is a record owner of a fee, or an undivided one-half fee interest, in any Lot or Living Unit or the record owner of a Unit committed to interval ownership, which is subject by covenants of record to assessment by the Association, or who has entered into a contract of purchase with the Developer covering such a Lot, Living Unit, or Interval Ownership Unit, shall be a member of the Association, provided that any such person or entity (except the Developer) who holds such interest merely as security for the performance of an obligation shall not be a member.

**Section 2. Classes of Membership and Voting Rights.** The following classes

of membership are established:

(A) **Regular Memberships.** Every person who owns at least an undivided one-half interest in fee simple in any Lot or Living Unit sold by Developer where the purchase price has been fully paid, shall be a Regular Member of the Association. If the ownership of a Lot or Living Unit is so divided that no person owns as much as an undivided one-half interest, then a majority of the co-owners may designate not more than two of the co-owners to be the members of the Association for such Lot or Living Unit. There shall be one vote for each Lot or Living Unit, and if there is more than one owner, then the co-owners must designate the member who is entitled to vote.

Should any interval ownership property be subjected to this Declaration, those interval owners owning a Unit Week shall be a Regular Member/Interval Owner of the Association. Such member shall be entitled to exercise the privilege of Regular Membership only during the period of their Unit Week. With regard to interval ownership property subjected to this Declaration, each Living Unit subjected to interval ownership shall be entitled to one (1) vote in the affairs of the Association. The manner of casting the vote of interval owners shall be determined by the Supplemental Declaration creating the interval ownership regime.

(B) **Business Memberships.** Each entity, other than a person who owns the fee simple interest in any Lot or Living Unit, shall hold a Business Membership in the Association, and as such, shall be entitled to designate two persons to enjoy the privileges of membership in accordance with the rules of the Association. There shall be one vote for each Lot or Living Unit, and the two members designated as being entitled to the privileges of membership shall be entitled to designate which member votes the membership.

(C) **Developer Membership.** The Developer, its successors and assigns, shall hold a Developer Membership for each Lot or Living Unit which it owns. The Developer, and its designated officers and agents, shall be entitled to all privileges of Regular

Membership, and shall have the privilege of issuing temporary guest cards as it may deem necessary to assist in the sale and development of the property, so long as it shall be a member. The Developer shall be entitled to ten (10) votes in the affairs of the Association for each Lot or Living Unit of which it is the record owner or for which it holds the first lien to secure the unpaid balance of the purchase price, whether such Lot or Living Unit is subject to an outstanding contract for sale to a purchaser or not, provided such Lot or Living Unit is part of the properties.

(D) **Associate Membership.** The Developer contemplates sale of associate memberships in the Association. If Associate Memberships are created, the terms, conditions, rights and privileges of such memberships shall be established by appropriate Supplemental Declaration approved by the Association.

#### ARTICLE IV

#### UTILITY EASEMENTS

The Developer hereby reserves and is given a perpetual, alienable, and releasable easement, privilege and right on, over, and under the grounds as hereinafter designated of the properties to erect, maintain, and use electric and telephone poles, wires, cables, conduits, water mains, 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, telephone, gas, lighting, heating, water, drainage, sewerage, cable television, computer services, and other conveniences or utilities on, in, over, and under all of the Common Properties upon the properties and on, in, over, and under all of the easements, including but not limited to, roads and streets, shown on any subdivision plat of the properties (whether such easements are shown on said subdivision plat to be for drainage, utilities or other purposes) and unless shown otherwise on the face of any plat filed of record, in, over, and



under a 10-foot strip at the back of each lot of the properties and on, in, over, and under a 10-foot strip along the interior of all side lot lines of each lot of the properties and on, in, over, and under a 10-foot strip at the front of each lot of the properties. The Developer shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements, and rights referred to in this Section or any such privileges, easements, and rights reserved on any plat of the properties. The owners, other than the Developer, of the Lot or Lots subject to the privileges, rights, and easements referred to herein shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment of facilities placed on, over or under the property which is subject to said privileges, rights, and easements. All such easements, including those designated on any plat of the properties, are and shall remain private easements and the sole and exclusive property of the Developer.

## ARTICLE V

### RESERVED PROPERTIES

Any area upon a plat covered by this Declaration or any Supplemental Declaration designated as "Reserved Properties" shall remain the privately-owned and the sole and exclusive property of the Developer, and neither this Declaration nor any Supplemental Declarations nor the plats in connection with same shall be in any way apply to such Reserved Properties unless at a later time such property shall be included under the provisions of the Declaration or a Supplemental Declaration as provided in Article II hereof. The eighteen (18) hole executive golf course contemplated to be built on a portion of the property depicted as Phase I subjected to this Declaration as Exhibit "A", shall specifically be Reserved Property. The Developer reserves the right to construct one or more golfing villas on portions of the golf course property designated as Reserved Property contemplated to be built on a portion of the property depicted on Exhibit "A".

**PLAN FOR CONSTRUCTION AND MAINTENANCE  
OF COMMON PROPERTIES**

**Section 1. Water Systems.** It is contemplated the water system shall be constructed by the Developer. The Developer shall be the sole judge as to the time when the water system shall be constructed and extended. In the event the Developer shall decide it is not economically feasible to extend the water system to a particular area, it shall not be obligated to do so until such time as it shall become economically feasible. The Developer shall determine the most feasible manner of providing for a permanent central water system and may, but shall not be obligated to, transfer ownership to the Association, in which event, the water system shall become a Common Property and shall be operated, maintained, and improved by the Association and all revenues shall belong to the Association. The Developer may, but shall not be obligated to, transfer ownership of the water system to a utility district of system providing water to the property. Water wells shall be allowed, provided that they meet all applicable federal, state, and local laws and regulations and further provided that well water and city water shall not be cross-connected.

**Section 2. Roads and Streets.** It is contemplated the roads and streets shall be constructed by the Developer in accordance with the specifications in effect at that time by the public authorities of Van Buren County, Tennessee. It is anticipated that the roads within the Properties shall remain private roads and shall not be turned over to public authorities for maintenance. The Developer shall be the sole judge as to when such roads and streets, whether dedicated to the public or designated 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 roads and streets will be improved. In the event the Developer shall decide it is not economically feasible to extend improved roads and streets to a particular area, it shall not be obligated to do so. To the extent not provided by public authorities, the cost of maintenance, capital improvements, operation, taxes and other expenses incident to the roads and streets, regardless of whether dedicated to the public or designated as Common Properties, shall be

borne by the Association which may levy assessments against each Lot and Living Unit as herein provided.

**Section 3. Golf Course and other Recreational Facilities.** The Developer may construct a golf course and other recreational facilities, including parks and recreational plots. The Developer shall be sole judge as to the time when the golf course and other recreational facilities shall be constructed and, if the Developer should decide that it is not economically feasible to construct any or a portion of such facilities, it shall not be obligated to construct same. Any golf course or other recreational facility constructed by the Developer shall remain the sole and exclusive property of the Developer, unless specifically designated as Common Property as provided herein.

## **ARTICLE VII**

### **PLAN FOR CONSTRUCTION AND MAINTENANCE OF LIMITED COMMON PROPERTIES**

**Section 1. Construction and Maintenance.** Developer may designate certain facilities as Limited Common Properties for the benefit of a particular area or for the benefit of particular classes of Association membership. Developer may also, but shall not be required to, restrict the right of owners of Lots or Living Units in specific areas from using some or all of the Common Properties. Maintenance, capital improvements, operation, taxes, and other expenses incident to these 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 of the Association. If owners in a certain area are restricted in their use of Common Properties of the Association, then the Association shall determine an equitable allocation of the dues and assessments charged or chargeable by the Association for use and maintenance of its various Common Properties so that such owners will be chargeable only with the share allocable to the Common Properties benefiting them. In order

to perform construction and maintenance on Limited Common Properties built by Developer, Developer may organize a non-profit corporation, such as by way of example a condominium, townhouse, or timeshare association, which shall have as members all those owners of Lot and Living Units entitled to the use and enjoyment of the particular Limited Common Properties and the non-profit corporation shall have, as to such Lots and Living Units, the same powers which the Association has as provided in this Declaration, including the power to levy dues and assessments against such particular Lots and Living Units in order to obtain funds for such Limited Common Properties.

**Section 2.** Upon the failure of the non-profit corporation belonging to the owners of the property entitled to the use and enjoyment of the particular Limited Common Properties to provide for the construction and maintenance of the particular 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 of a first deed of trust against such property.

## **ARTICLE VIII**

### **PROPERTY RIGHTS IN THE COMMON PROPERTIES**

**Section 1. Members' Easement of Enjoyment.** Every member, so long as such membership shall continue, shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit.

**Section 2. Title to Common Properties.** The Developer may, but shall not be obligated to, convey title to the Common Properties to the Association after the construction of same.

**Section 3. Extent of Members' Easements.** The rights and easements of

enjoyment created hereby shall be subject to the following:

- (a) the right of the Developer and/or the Association to borrow money for the purpose of constructing, improving, and maintaining the Common Properties and in aid thereof, to mortgage said properties or execute a deed of trust or other trust instrument covering such properties. In the event of default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge service or use charges, admission and other fees as a condition to continued enjoyment by Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members shall be fully restored; and,
- (b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and,
- (c) the right of the Association to suspend the enjoyment rights of any Member for any period during which any assessment, service or use charge, or fine properly imposed remains unpaid, and for any period not to exceed thirty days for any infraction of its published rules and regulations; and,
- (d) the right of the Association to charge reasonable service or use charges, admission, and other fees for the use, service, and enjoyment of 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 sub-paragraph (f) hereof, to another country club, which shall be a non-profit corporation, with the right of the other country club to charge dues to members and permit persons who are not members to become members of the other country club for a membership payment and also for payment of dues, and with the understanding the other country club shall have the right to make rules and regulations which shall be enforceable as to members; and,
- (f) the right of the Developer, until all Lots and Living Units located within the properties shall have been sold, to make use of the Common Properties to encourage sales; and,
- (g) the right of the Association to dedicate, transfer, sell, convey, lease or mortgage all or any part of the Common Properties and to pledge revenues of the Association, including the right to sell and lease back or sell and reacquire all or some parts of said properties to or from any public agency, authority, political subdivision, utility or lending institution for the purpose of improving, maintaining, constructing, or acquiring Common Properties and additions thereto, subject to such conditions and for such consideration as may be determined by the Board of Directors to be in the best interest of the Association in furtherance of its purposes. Such action shall be taken at a regular or special meeting of the Board and notice of the proposed action shall be given in writing to each Board member at least seven days prior to such meeting. Such action must be authorized by a majority of the entire membership of the Board.

## ARTICLE IX

### PROPERTY RIGHTS IN THE LIMITED COMMON PROPERTIES

**Section 1. Owners' Easement of Enjoyment.** Lands designated upon plats as "Limited Common Properties" and also as may be 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 of Lots and Living Units upon the properties. The owners of the specifically designated Lots and 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 construction of any improvements is completed and shall then convey the title of the particular Limited Common Properties to the non-profit corporation created to serve such Limited Common Properties as provided in Article VII; or, if Developer deems it more desirable and the Association agrees, then Developer may convey to the Association and it shall perform as provided in Section 2, Article VII hereof.

## ARTICLE X

### COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1. Creation of Lien.** The Developer for each Lot and Living Unit owned by it within the properties and not subject to an outstanding contract of sale hereby covenants and each Owner of any Lot or Living Unit by acceptance of a deed therefor, or by entering into a contract of purchase with the Developer, whether or not it shall be so expressed in any such deed, contract of purchase, or other conveyance, shall be deemed to

covenant and agree to pay to the Association: (1) annual assessments of charges; and, (2) special assessments for capital improvements, 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 cost of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. The lien for unpaid assessments shall be imposed as provided in Section 7 hereafter and upon such action a proper notice of lien or suit to foreclose shall be filed of record.

**Section 2. Purpose of Assessments.** The assessments levied hereunder by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the properties and, in particular, for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and the improvements situated upon the properties, including but not limited to, the payment of taxes and insurance thereon, and construction of capital improvements, repair, replacement, and additions thereto, and thereof. The limitations aforesaid shall not preclude the use of assessments levied hereunder for maintenance of roads and streets within the properties even though same have been dedicated to the public.

**Section 3. Basis and Maximum of Annual Dues Assessment.** The annual dues assessment for each Lot, Living Unit or Interval Week shall be fixed each year by the Board of Directors of the Association. The annual assessment for Lots or Living Units committed to Interval Ownership may be fixed at a higher rate than the assessment for other memberships but shall not exceed three times the assessment for Regular Memberships.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments, the Association may levy against all members a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the roads and streets or other Common Properties within

the properties, even though same may have been dedicated to the public, and also a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall be for a stated period of time and shall be levied by affirmative vote of 51% of the members who are voting in person or by proxy at a meeting duly called by the Association for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and which shall set forth the purpose of the meeting.

**Section 5. Duties of the Board of Directors.** The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall be sent to every Owner subject thereto. The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein started to have been paid.

**Section 6. Delegation of Collection of Assessment.** The Association may delegate to Developer or other third party the duty of collecting the dues assessments, but all such collections shall belong to the Association. Due to the common interest of the Developer and the Association, the Association, in the delegation of the collection of the assessments, may agree that the failure on the part of an Owner to 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 or Living Unit.

**Section 7. Effect of Non-Payment of Assessment; The Lien; Remedies of Association.** If the assessments are not paid on the date when due, then such assessment shall be deemed delinquent and shall, upon the election of the Association, to declare the entire



assessment due and payable, together with such interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns.

If the assessment is not paid as provided and the Association shall declare the entire assessment due and payable, the assessment shall bear interest from date of delinquency at the highest rate of interest as allowed by law, and the Association may foreclose the lien against said property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Any foreclosure sale conducted pursuant to this Article X shall be free of the right and equity of redemption provided by Tennessee law, which is specifically waived by the property owner by the execution of a contract for purchase of a Lot or Living Unit, or the acceptance of a deed for a Lot or Living Unit in the Properties. Specifically, the Owner, by execution of a contract or acceptance of a deed, waives any right of redemption provided by Tennessee Code Annotated §66-8-101, et seq.

**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 deed of trust lien now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments on any Lot or Living Unit which was subject to an outstanding contract of sale where the purchaser failed to pay such charges and defaulted on the contract to Developer.

**Section 9. Exempt Property.** The following property subject to this

Declaration shall be exempted from the assessments, charge, and lien created herein:

Common Properties  
Limited Common Properties  
Utility Easements and all other easements  
Reserved Properties  
Utilities  
Water Systems and Properties

**ARTICLE XI**

**ARCHITECTURAL CONTROL COMMITTEE**

**Section 1. The Architectural Control Committee (ACC).** The ACC shall be composed of not less than three (3) nor more than seven (7) representatives appointed by and serving at the pleasure of the Board of Directors of the Association. The affirmative vote of a majority of the membership of the ACC shall be required in order to adopt or promulgate any rules or regulations, or to make any findings, determinations, rulings or orders, or to issue any permit, authorization or approval pursuant to directives or authorizations by the ACC. The ACC may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on all Lots or Living Units within the properties and may adopt general statements of policy, all of which may be amended or revoked by the ACC from time to time. The ACC shall also have the authority to appoint committees which shall have such powers and perform such functions as may be designated by the ACC from time to time.

**Section 2. Review by Committee.** No building, fence, wall, improvement or other structure shall be commenced, erected, or maintained upon the properties, nor shall any exterior addition to or change or alterations therein be made until the plans and specifications showing the nature, color, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the ACC. In the event the ACC, or its

designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

**Section 3. Waiver of Liability.** Neither the ACC, its designated committees, Developer, the Association, nor any agent or employee of the foregoing shall be responsible in any way for any failure of the structures to comply with the requirements of this Declaration although a certificate of compliance has been issued, any defects in any plans and specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications and all persons submitting any such plans and specifications, and all persons relying thereon, agree not to sue or claim against the entities and persons referred to in this Article for any cause arising out of the matters referred to in this Article and further agree to and do hereby release said entities and persons for any and every such cause.

## **ARTICLE XII**

### **EXTERIOR MAINTENANCE**

**Section 1.** In the event the Owner of any Lot or Living Unit shall fail to properly provide for exterior maintenance as to buildings or grounds, the Developer or the Association may, but shall not be obligated to, provide exterior maintenance as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements.

**Section 2. Assessment of Cost.** The cost of such exterior maintenance shall be assessed against the Lot or Living Unit upon which maintenance is done and shall be added to and become a part of the annual assessment or charge to which such Lot or Living Unit is

subject under Article X hereof, and as part of such assessment or charge, it shall be a lien subject, however, to the lien of a first deed of trust, and shall become due and payable in all respects as provided in Article X hereof. Upon collection by the Association, the cost shall be paid to Developer, if the Developer has performed the work.

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

### **ARTICLE XIII**

#### **PROTECTIVE COVENANTS**

Attached hereto as Exhibit "B" and incorporated herein by reference as fully as though set forth word for word are Protective Covenants. Such Protective Covenants shall be considered to be part of the "Declaration" and shall apply to and bind all of the properties, unless modified by Supplemental Declaration as additional property is made subject to the Declaration pursuant to Article II.

### **ARTICLE XIV**

#### **GENERAL PROVISIONS**

**Section 1. Duration.** All provisions, 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 Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of 25 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 of two-thirds of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. For purposes of meeting the two-thirds requirements, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted. Provided, however, that no such agreement to change shall be effective unless made and recorded one year 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. Notices.** Any notice given or required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the United States mail with postage paid, addressed 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 3. Enforcement.** Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or entity violating or attempting to violate any covenant, restriction, or Protective Covenant, either to restrain violation or to recover damages, or both, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant, restriction, or Protective Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Should the Association or an Owner file suit to enforce or restrain violation of any provision of these covenants and restrictions, the Protective Covenants provided for in Article XIII, or rules promulgated by the ACC, and should the Association or Owner be successful in the prosecution of said suit, then and in that event, the Association or Owner shall be entitled to recover its costs in the prosecution of the suit, including reasonable attorney fees.

The Association and/or the ACC, under the direction of the Board of Directors of the Association, shall have the authority to promulgate rules for the imposition of fines for continuing violations of these covenants and restrictions, the Protective Covenants provided for in Article XIII, or rules and regulations duly promulgated by the Association and/or the ACC. The Board of Directors of the Association shall adopt such rules and procedures for the imposition of such fines, insuring due process of the procedure adopted. The Association may file suit for the collection of the fines and may sell the property affected to satisfy the lien as provided in Article X, and may generally use the collection mechanisms provided for in Article X or the collection of said fines.

**Section 4. Assignability.** All provisions of this Declaration shall be binding upon and shall inure to the benefit of the parties, their successors and assigns. Developer or the Association may assign or convey all or any part of their rights, privileges, or obligations hereunder at any time, but such assignment or conveyance shall not relieve the assignor from fulfilling its obligations hereunder or causing them to be fulfilled by such assignee.

**Section 5. Amendments.** The provisions of this Declaration may be amended if such amendment is adopted by affirmative vote of a majority vote of the votes cast by the voting members of the Association and such amendment is also adopted by Developer. Any such amendment must be in writing and properly executed and recorded. This amendment procedure is complimentary to and not to be deemed in conflict the provisions of Article XIV, Section 1.

**Section 6. Severability.** Invalidation of any provision, covenant, or restriction contained herein shall not invalidate any other provision and they shall remain in full force and effect.

(a) Those thirty (30) lots numbered 18 through 48 shown, described and depicted on the Plat of Highland Resorts Enterprises, Final Plat of "Highland Resorts Phases I and II", filed of record with the Register of Deeds of Van Buren County, Tennessee on the 30<sup>th</sup> day of September, 1998, in Plat Cabinet 1, page 66. The property herein subjected to this Declaration is part of the same property acquired by Highland Resorts Enterprises, Inc. by deed of record at Deed Book 7, page 17, Register's Office, Van Buren County, Tennessee.

(b) Those twelve (12) lots numbered 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12 and 13, shown, described and depicted on the Plat of Mountaineer Investments, Inc., called "Preliminary/Final Plat of Grandview Village Subdivision", filed of record with the Register of Deeds of Van Buren County, Tennessee on the 8th day of September, 1998, in Plat Cabinet 1, page 63. The property herein subjected to this Declaration is part of the same property acquired by Mountaineer Investments, Inc. by deed of record at Deed Book 7, page 15, Register's Office, Van Buren County, Tennessee.

(c) Those four (4) lots numbered 14, 15, 16 and 17, shown, described and depicted on the Plat of Mountaineer Investments, Inc., called "Final Plat of Grandview Village Subdivision", filed of record with the Register of Deeds of Van Buren County, Tennessee on the 8th day of September, 1998, in Plat Cabinet 1, page 64. The property herein subjected to this Declaration is part of the same property acquired by Mountaineer Investments, Inc. by deed of record at Deed Book 7, page 15, Register's Office, Van Buren County, Tennessee.

**PROTECTIVE COVENANTS**

**FOR**

**GRANDVIEW VILLAGE RESORTS**

1. These Protective Covenants shall apply to all of the Properties as provided in the Declaration. They shall also apply to additions to the 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.

2. The lots designated as residential in Grandview Village Resorts shall be used for residential purposes only. No business or commercial activity shall be allowed to be conducted on or from any such lot, unless the lot is designated as commercial property on the subdivision plat. Except for the business of the Developer in furtherance of its sales program, the practice of any profession or the carrying on of any businesses is prohibited within any area designated as residential upon any recorded subdivision plat of the Properties.

3. Only one (1) single family dwelling shall be erected on each lot. Each dwelling shall contain not less than 1,200 square feet of heated and enclosed floor space, exclusive of porches, garages, terraces, and patios. In addition to the dwelling, one (1) detached garage or storage building may be constructed on each lot, provided, however, any such detached garage or storage building shall be built of the same or substantially similar material as that of the dwelling. A detached garage or storage building may be built contemporaneously with or after construction of the dwelling house but not before.

4. No mobile home, modular home, manufactured home, trailer, or similar structure shall be allowed on any lot. No trailer, mobile home, or any other type of movable home, basement, tent, or garage shall at any time be used as a residence on said property. No structure shall be moved from another site to a lot in the subdivision.



5. No basement, foundation, or unfinished dwelling shall be used for residential purposes, and no dwelling shall be occupied until construction has been substantially completed. Construction of a dwelling shall be substantially completed within nine (9) months from the date of commencement, unless the time for completion is extended by the ACC upon application and good cause shown.

6. No lot shall be resubdivided, provided, however, nothing herein contained shall prevent the owner of two or more adjoining lots from considering the combined area of the two or more lots as one building lot, in which event, the set-back lines for building purposes and the easements reserved for utilities shall be construed and interpreted to apply to the outside lines of the two or more combined lots and not to the line which is common to both lots or the interior lines of the lots, if more than two lots are combined. If two or more lots are combined under the provisions of this paragraph, they may not in the future be resubdivided.

7. Driveways must have a metal culvert of sufficient size so as not to restrict the drainage of ditch lines, properly installed and covered with stone. Within one (1) year from the date of completion of construction of a dwelling on a lot in the subdivision, a driveway to said home must be paved with concrete or asphalt, or at a minimum, have a compacted gravel surface for up to 20-ton vehicular load capacity.

8. Unless otherwise designated on a subdivision plat, all buildings shall be set back at least thirty-five (35) feet from the roadway. No building or dwelling shall be constructed closer than ten (10) feet to a side lot line. In addition to the easements retained by the Developer in the Declaration, a utility easement is retained for the benefit of owners of lots in the subdivision ten (10) feet to the left, right, and parallel to all common side lot lines in the subdivision.

9. All homes shall have a sewage disposal system approved by the Van Buren County Health Department. No mineral solvents, hydrocarbon substances, or acids shall be discharged into any septic drainage system, storm drain, or any other open surface.

10. Water wells shall be allowed provided that they meet all applicable federal, state, and local laws and regulations, and further provided that well water and city water shall not be cross-connected.

11. No animals shall be allowed in the subdivision, with the exception of domestic dogs and cats.

12. No noxious or offensive activity shall be permitted on any lot or parcel of land in the subdivision, nor shall anything be done thereon which shall be or become an annoyance or nuisance to the neighborhood.

13. No lot or parcel of land in the subdivision shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, including but not limited to, junk automobiles of any sort and household waste which shall be kept in sanitary containers. All such containers or other similar equipment for the storage and disposal of garbage or waste materials shall be kept in a clean and sanitary condition.

14. All dwelling houses erected on lots or parcels of land herein restricted to residential use only shall be constructed in a good and workmanship like manner and shall be maintained at all times in a good state of repair. Any exposed block foundations shall be faced with brick, stone, stucco, or other material approved by the ACC. Any building erected shall have a solid foundation and no imitation siding shall be used thereon.

15. No private basketball posts, goals or nets shall be allowed on individual lots.

16. Any fences constructed are subject to approval by the ACC, but in no event shall a fence be approved that will inhibit game migration.

17. After a home is completed, a lot must be well maintained which shall specifically include keeping any lawns well mowed no higher than four (4) inches; no accumulation of weeds and tall grass; and, the removal of dead or damaged trees or limbs promptly. Should an owner not properly maintain his lot, the Association, after giving the owner appropriate notice and an opportunity to rectify the situation, shall be allowed to

perform the required maintenance and charge the cost of that maintenance to the individual owner, plus a ten percent (10%) administrative fee. Such costs may be collected under the collection mechanism of Article X of the Declaration.

18. No live tree with a circumference of over twelve (12) inches shall be allowed to be cut without the express consent of the ACC.

19. No damming or obstruction of creeks or streams shall be allowed.

20. Recreational vehicles, travel trailers, boats, boat trailers, and similar devices shall not be parked at individual residences but must be parked in designated areas.

21. No motorized vehicles, such as motor bikes, four wheelers, three wheelers, dirt bikes, or similar vehicles shall be allowed on walking trails or common areas, except the Developer's use for upkeep and maintenance.

22. There shall be no hunting or discharge of any firearms within the Grandview Village property at any time.

23. All signs are prohibited in areas zoned upon any recorded subdivision plat as residential, except:

(a) Signs erected by the Association for identification of streets, traffic control and directional purposes;

(b) Signs of a temporary nature advertising property for sale and construction signs which shall not exceed five square feet in area; and,

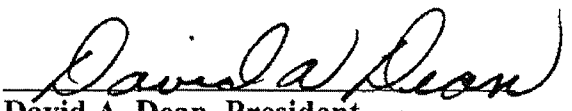
(c) Signs erected by the Developer in connection with its sales program.

24. No provision of these Protective Covenants shall preclude the Developer in furtherance of its sales program from erecting, maintaining, and utilizing model houses in area zoned upon a recorded subdivision plat as residential for such purposes as it may consider necessary during its sales program.


IN WITNESS WHEREOF, the parties hereto have executed this Declaration on the day and date first above written.

**GRANDVIEW VILLAGE RESORTS**, a joint venture, consisting of **Highland Resorts Enterprises, Inc.**, a Florida corporation; **N&S Phoenix Enterprises, Inc.**, a Florida corporation; and, **Mountaineer Investments, Inc.**, a Tennessee corporation


By: **Highland Resorts Enterprises, Inc.**, a Florida corporation, one of the joint venturers

  
David A. Dean, President

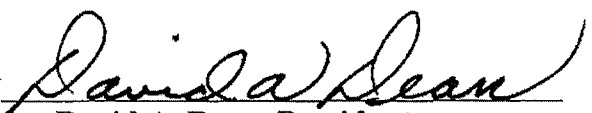
By: **N&S Phoenix Enterprises, Inc.**, a Florida corporation, one of the joint venturers

  
Norwin Schoenherr, President

By: **Mountaineer Investments, Inc.**, a Tennessee corporation, one of the joint venturers

  
Kathryn Tuttle, President

**GRANDVIEW VILLAGE RESORTS  
HOMEOWNERS ASSOCIATION**

By   
David A. Dean, President

State of Tennessee )  
 )  
County of Cumberland )

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **David A. Dean**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be President of **Highland Resorts Enterprises, Inc.**, a Florida corporation, one of the joint venturers of **Grandview Village Resorts**, a joint venture, and that he as such officer of such joint venturer, being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of Highland Resorts Enterprises, Inc., by himself as such officer.

WITNESS my hand and seal of office on this the 1st day  
of October, 1998.



My commission expires: 9/10/2001

NOTARY PUBLIC

State of Tennessee )  
 )  
County of Cumberland )

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **Norwin Schoenherr**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be President of **N&S Phoenix Enterprises, Inc.**, a Florida corporation, one of the joint venturers of **Grandview Village Resorts**, a joint venture, and that he as such officer of such joint venturer, being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of N&S Phoenix Enterprises, Inc, by himself as such officer.

WITNESS my hand and seal of office on this the 1st day  
of October, 1998.



My commission expires: 9/10/2001

NOTARY PUBLIC

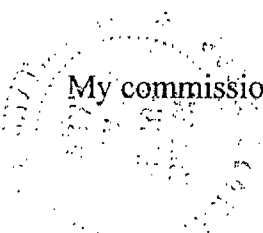
State of Tennessee )  
 )  
County of Cumberland )

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **Kathryn Tuttle**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself to be President of **Mountaineer Investments, Inc.**, a Tennessee corporation, one of the joint venturers of **Grandview Village Resorts**, a joint venture, and that he as such officer of such joint venturer, being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of Mountaineer Investments, Inc., by herself as such officer.

WITNESS my hand and seal of office on this the 1st day  
of October, 1998.

  
\_\_\_\_\_  
NOTARY PUBLIC

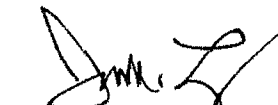
My commission expires: 9/10/2001



State of Tennessee )  
 )  
County of Cumberland )

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **David A. Dean**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be President **Grandview Village Resorts Homeowners Association**, a corporation, and that he as such officer, being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal of office on this the 1st day  
of October, 1998.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 9/10/2001

