

THIS DECLARATION PREPARED BY
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RESTRICTIVE COVENANTS AND CONDITIONS APPLYING TO THE
SUBDIVISION NAMED THE WOODS AT MARTIN'S BEND

F & I, a Tennessee general partnership, being the owner in fee simple of the real estate that has been subdivided and named THE WOODS AT MARTIN'S BEND, according to a survey and plat of same of record in Plat Book 31, page 44, of the Register's Office of Rutherford County, Tennessee, and which plat is made a part hereof by reference, does hereby agree and bind itself, its successors and assigns that all the property described in said Plat Book 31, page 44, as well as any further properties incorporated therein in the future shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties having any right, title or interest to be property of any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE ONE

DEFINITION

A. Association. Association shall mean and refer to THE WOODS AT MARTIN'S BEND HOMEOWNER'S ASSOCIATION, INC., its successors and assigns.

B. Owner. Owner shall mean and refer to the record owner (including Declarant), whether one or more person(s) or entities, of a common fee simple title to any lot which is a part of the property, including the contract seller, but excluding those having such interest merely as security for the performance of an obligation.

C. Property. Property (whether singular or plural) means all the land, property and space specifically referred to and designated in this declaration (by amendment or otherwise), and any other lot in The Woods at Martin's Bend Subdivision, Rutherford County, Tennessee, which owner elects to join the Association according to the specific terms and conditions contained herein, and all improvements and structures erected, constructed or contained therein or thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Owner.

D. Common Areas. Common areas shall mean all real property and the improvements thereon owned or maintained by the Association for the common use and enjoyment of the owners. The common area contemplated to be owned by the Association in the future includes, but not limited to, and without limiting the definition

of the Common areas, decorative entrances into the subdivision and any areas lying within or adjacent to the roads which are desirable for the Association to maintain and landscape, street islands, street signs, recreational facilities, gates, boundary walls and fences, detention area, median areas, playground, park and so forth, if applicable. The common areas may be owned by the Association in fee or for a term of years, but for the non-exclusive use, benefit and enjoyment of the owners subject to the provisions of this declaration.

E. Lot. Lot shall mean and refer to any numbered plot of land shown upon any recorded subdivision map for the properties with the exception of the common area and dedicated streets, if any. Title to lots will be held by an owner or owners in fee simple. Proposed lots in future sections which are not now platted and which are added to the subdivision shall automatically become a part of the Association when the first lot is sold in the new platted Section. An Amendment to this Declaration and new or amended Plat shall be recorded simultaneously.

F. Residence of. Residence of 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.

G. Board of Directors or Board. Board of Directors or Board shall mean the governing body of the Association as provided in this declaration, the Articles of Incorporation and the By-laws thereof.

H. Member. Member shall mean and refer to every person or entity who holds membership in the Association.

I. Declarant. Declarant shall mean and refer to F & I, a Tennessee general partnership, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purposes of development. Declarant shall be synonymous with developer for the purposes of this Declaration.

J. Common Expenses. Common expenses mean and include (a) expenses of administration, operation, management, repair or replacement of the common areas of the project; (b) expenses declared common by the provisions of the Declaration, or the Charter, or the By-Laws of the Association against the common areas of the project; (c) all sums lawfully assessed by the Board; and (d) expenses as provided in any duly authorized management agreement.

K. By-Laws. By-Laws means the By-Laws of The Woods at Martin's Bend Homeowner's Association, Inc.

L. Plat. Plat means the plat survey of the Property of record in Plat

Book 31, Page 44, Register's Office of Rutherford County, Tennessee, showing the number of each Lot and expressing its area, location and other data necessary for identification and any new or amended plats added pursuant to this Declaration. Developer is authorized and empowered irrevocably to amend the plat (without joinder of any Lot Owner) to reflect as-built construction, to correct mistakes and to more clearly define common elements.

M. Impositions. Impositions shall mean and refer to any annual assessments, special assessments, supplemental landscape assessments, or any other charges by the Association against one or more Lots owned by an Owner together with costs of enforcement and reasonable attorneys fees in connection therewith, and shall additionally include, to the extent authorized by the provisions herein, interest thereon.

N. Improvements. Improvements shall mean any building, building additions, outbuilding, garage, detached structure, swimming pool, recreational facility, driveway, parking area, walkway, wall, fence, or utility service, or such other improvement or structure constructed or located upon all or any portion of the property. It is intended that this definition of "Improvements" be broad in scope and is intended to encompass any man-made alteration of the condition of the Lot or common area from and after the date of this declaration.

O. Majority or Majority of the Lot Owners. Majority or Majority of the Lot Owners means the owners of more than fifty (50%) percent of the undivided membership in the Association present and then eligible to vote. Any specific percentage of Lot Owners means that percentage of Lot Owners who in the aggregate own such specified percentage of the entire undivided membership in the Association, present and then eligible to vote.

P. Committee. Committee shall mean the Architectural Control Committee established pursuant to Article Five hereof.

Q. Documents. Documents means this document which may hereinafter be referred to as Declaration, the Articles of Incorporation, the By-Laws, the Plat and any amendments of supplements thereto.

ARTICLE TWO

THE ASSOCIATION

A. Organization:

1. The Association is a non-profit Tennessee corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, By-Laws, and this Declaration. Neither the Articles nor the By-Laws shall, for

any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The officers and directors of the Association shall be required to be either (i) members of the Association; or (ii) officers, directors, agents, representatives, or employees of Declarant, or a successor to Declarant.

2. A Board of Directors of the Association, and such officers as the Board may elect or appoint, shall conduct the affairs of the Association in accordance with the The Woods at Martin's Bend Homeowner's Association, Inc. documents. The Board shall, except to the extent specified Membership approval shall be required by the By-Laws or by this declaration, act on behalf of the Association in the implementation of this declaration.

B. Membership:

1. Qualifications: Each owner (including Declarant) of lots in the property specifically referred to in paragraph one hereinabove shall automatically be a member of the Association, and shall be entitled to one (1) membership for each lot owned.

2. Member Rights and Duties: Each member shall have the rights, duties and obligations set forth in the applicable THE WOODS AT MARTIN'S BEND SUBDIVISION documents.

3. Transfer of Membership: The Association membership of each owner (including Declarant) shall be appurtenant to the lot giving rise to such membership, and shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon the transfer of title to said lot, and only to the transferee of the title to such lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new owner thereof.

C. Voting Rights – Members, Classes of Members

1. Class A Members. Class A members shall all be owners with the exception of the Declarant, but in no event shall more than one (1) vote be cast with respect to any lot in this class.

2. Class B Members. Class B members shall be the Declarant and any successor thereto, and shall be entitled to three (3) votes for each lot owned.

3. Manner of Voting. Except as specifically provided elsewhere herein, the Board shall have the authority to regulate the procedural rules governing the voting of Members, the acceptance of proxies from Members, the validity of voice votes,

ballot votes, or other manners of voting, and any regulation of the solicitation of votes or proxies.

D. Duties of the Association.

The Association shall, in addition to such obligations, duties and functions as are assigned to it by other provisions of this Declaration, have the obligations, duties and functions (subject to the provisions of this Declaration), to do and perform each and every one of the following for the benefit of the owners and for the maintenance, administration and improvement of the properties.

1. **Additional Lands.** Accept as part of the property all real estate annexed or added pursuant to this Declaration, and accept all owners thereof as members of the Association, subject to the membership requirements set forth herein and in the By-Laws. Accept all additional new platted sections on the same terms as the sections specifically referred to in paragraph one hereinabove.

2. **Enforcement.** Take such action, whether or not expressly authorized herein or in any other governing declarations, as may reasonably be necessary to enforce the restrictions, limitations, covenants, affirmative obligations, conditions, and other provisions of this Declaration, and the other THE WOODS AT MARTIN'S BEND SUBDIVISION documents.

3. **Operation and Maintenance of Common Area.** To operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the common area, together with all easements for operation and maintenance purposes and for the benefit of the Association or its members over and within the common area and to keep all improvements of whatever kind and for whatever purpose from time to time located thereon in good order, condition and repair, and to maintain any parking areas free and clear of obstructions and unsafe conditions for vehicular use at all times.

4. **Water and Other Utilities.** To acquire, provide and/or pay for water, sewer, garbage disposal, electrical, telephone, gas, and other necessary utility services for the common area.

5. **Taxes and Assessments.** To pay all real and personal property taxes and assessments (if any) separately levied upon or assessed against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring a payment is posted prior to the sale or other disposition of any property to satisfy the payment of such taxes. It is the intent of this Declaration, in as much as the interest of each owner to use and enjoy the common area appurtenant to such owner's lot

that the value of the interest of each owner in such Common Area shall be included in the assessment for each lot, and, as a result, any assessment directly against such common area should be of a nominal nature reflecting that the full value of the same should be included in the several assessments of the various lots.

6. Dedication for Public Use. Upon being directed by Declarant or its successor to do so, to promptly dedicate such streets, roads and drives, and such water, sewer or other utility lines or facilities, and appropriate easements as may be specified by Declarant or its successors to such municipalities, utility companies, political subdivisions, public authorities, or similar agencies or bodies as may be designated by Declarant or its successor.

7. Insurance. To obtain and maintain insurance as provided for by either the By-Laws, this Declaration or the mortgagee protective agreement, referred to in later sections of this Declaration.

8. Rule Making. To make, establish, promulgate, amend and appeal the Association rules as provided for by this Declaration and the other Association documents, except as otherwise provided.

9. Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary or appropriate to enforce or effectuate any of the provisions of this Declaration and the Association rules.

10. Execution of a Mortgagee Protective Agreement. Upon being directed to do so by Declarant, or by a successor to Declarant, during the period in which Declarant is continuing to develop this project or other areas to be annexed into this project, to execute and cause to be recorded from time to time written agreements in favor of holders or insurers of mortgages secured upon portions of the properties, conditioning specified actions of the Association upon specified mortgagee approval, permitting such mortgages or insurers to take certain actions upon the failure of the Association to take specified action or conforming THE WOODS AT MARTIN'S BEND SUBDIVISION documents to the requirements of such mortgages or insurers, providing that any such agreements do not contravene the requirements of THE WOODS AT MARTIN'S BEND SUBDIVISION documents or any applicable law.

E. Powers and Authority of the Association:

The Association shall have all the powers of a non-profit corporation organized under the laws of the State of Tennessee, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-Laws, or this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this

Declaration, the Articles and By-Laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the expense of any of the express powers of the Association, including the following which are listed without intent to limit the foregoing grant:

1. Assessments: To levy assessments on the owners of lots and units and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

2. Right of Enforcement: To enforce in its own name, on its own behalf or on behalf of any owner or owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of any THE WOODS AT MARTIN'S BEND SUBDIVISION covenants, conditions, obligations or duties and to enforce, by mandatory injunction or otherwise, all the provisions of the Declaration, Articles and By-Laws.

3. Easements and Rights of Way: To grant and convey to any third party, easements and rights of way in, on, over, or under the common areas for the purpose of constructing, erecting, operating, or maintaining thereon, therein, or thereunder; (i) overhead or underground lines, cables, wires, conduit or other devices for the transmission of electricity and for lighting, hearing, power, telephone, television, radio, and audio antennae facilities, and for other appropriate purposes; (ii) public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas improvements of facilities and (iii) any similar public or quasi public improvements or facilities.

4. Employment of Manager and Employees: To employ the services of any person or corporation as manager, together with employees, to manage, conduct and perform the business, obligations and duties of the Association as may be directed by the Board, and to enter into contracts for such purpose. Such manager and employees shall have the right of ingress and egress over such portion of the properties as is reasonably necessary for the purpose of performing such business, duties and obligations.

5. Mortgage Protective Agreements: To execute and cause to be recorded from time to time, agreements in favor of holders or insurers of mortgages secured upon portions of the properties. Such agreements may condition specified action, relevant to this Declaration, of the activities of the Association upon approval by a specified group or number of mortgage holders or insurers. Actions and activities which may be so conditioned by such agreement may include, but shall not be limited to, the following: (i) any act or omission which seeks to abandon, partition, subdivide, encumber, sell, or transfer the common area, or any other real estate or improvements owned, directly or indirectly, by the Association for the benefit of any lots; (ii) any change in the method of determining the obligations, assessments, dues, or other charges which may be levied against the owners of lots; (iii) any act or omission which may

