

This Instrument Prepared by:
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Re: LM 4 Page: 154

DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
GATLINBURG FALLS RESORT
A PLANNED UNIT DEVELOPMENT

THIS DECLARATION, made as of the 7th day of March, 2003, by Gatlinburg Falls, LLC (hereinafter referred to as the "Declarant").

ARTICLE I
STATEMENT OF PURPOSE AND
IMPOSITION OF COVENANTS

Section 1.1. Imposition of Covenants. The Declarant hereby makes, declares and establishes the following covenants, conditions, restrictions and easements (these "Covenants") which shall affect a certain 8.96 acre parcel of property described upon plat of record at Large Map Book 4, Page 154, in the Sevier County Register of Deeds Office (the "Property"). From this day forward, the Property shall be held, sold and conveyed subject to the Covenants. The Covenants shall run with the land and shall be binding upon all persons or entities having any right, title or interest in all or any part of the Property, including Declarant, and their heirs, successors and assigns, and their tenants, employees, guests and invitees, and these Covenants shall inure to the benefit of each owner of the Property.

Section 1.2. Statement of Purpose. These Covenants are imposed for the benefit of all owners of parcels of land located within the Property. These Covenants create specific rights and privileges which may be shared and enjoyed by all owners and occupants of any part of the Property.

Section 1.3. Declarant's Intent. Declarant desires to ensure the attractiveness of the individual home sites, and improvements within the Property; to prevent any future impairment of the Property; and to preserve, protect and enhance the values and amenities of the Property. It is the intent of Declarant to guard against the construction on the Property of improvements or structures built of improper or unsuitable materials or with improper quality or methods of construction. Declarant intends to encourage the construction of attractive permanent improvements of advanced technological, architectural and engineering design, appropriately located to preserve the harmonious development of the Property. Declarant desires and intends to develop a quality residential project on the Property that may include limited commercial facilities, residential facilities of all types, and recreational facilities and amenities.

ARTICLE II
DEFINITIONS

The following terms, as used in this Declaration, are defined as follows:

Section 2.1. "Adjoining Land" "Adjoining Property" shall mean land contiguous with the Property or contiguous with any Exclusion Property, whether or not owned by Declarant, which is or may be made subject to this Declaration as provided in Section 13.4 below.

Section 2.2. "Gatlinburg Falls" shall mean the planned unit development created and encumbered by this Declaration, consisting of the Units and Common Area located within the bounds of the 8.96 acre tract displayed upon the Plat (the "Property" being synonymous with "Gatlinburg Falls").

Section 2.3. "Gatlinburg Falls Resort Documents" shall mean the basic documents creating and governing Gatlinburg Falls, including but not limited to this Declaration, the Articles of Incorporation and Bylaws of the Association, the Design Guidelines, and any procedures, rules, regulations or policies adopted under such documents by the Association or the Design Review Committee.

Section 2.4. "Exclusion Property" shall mean that property owned by Declarant which is not subjected to the terms of the Gatlinburg Falls Resort Documents and may be used by Declarant or any other party for non-residential purposes. The Property benefitted by these Restrictions is limited to that 8.96 acre parcel approved by the Gatlinburg Planning Commission for sites 1 through 24 and 48 through 53. The 9.4 acre, 7.13 acre, 2.99 acre and 1.84 acre parcels shown at Large Map Book 4, Page 154, are not subjected to these Restrictions and the Declarant expressly reserves the right to develop these parcels in the Declarant's discretion, for any governmentally permitted use. No assurances are made by Declarant as to the density, use, construction style or other future use of the Exclusion Property, and development of the Property in accordance with this Covenant shall not be deemed an implied guarantee or assurance that the Exclusion or Adjoining Property will be developed in a similar manner. The Declarant reserves the right to incorporate one or more parcels of Exclusion or Adjoining Property into Gatlinburg Falls, but such incorporation and Restriction shall only be by written instrument as provided in Article XIII.

Section 2.5. "Gatlinburg Falls Resort Rules" shall mean the rules adopted by the Association as provided in Section 3.6 below.

Section 2.6. "Annexation" shall mean the process by which portions of Adjoining Land, Expansion Property, or in the Declarant's absolute discretion, Exclusion Property, are made subject to this Declaration pursuant to Article XIII below.

Section 2.7. "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Association which have been or will be filed with the Secretary of State to create the Association.

Section 2.8. "Assessments" shall mean annual, special and default Assessments levied pursuant to Article IV below to meet the estimated cash requirements of the Association.

Section 2.9. "Association" shall mean the Gatlinburg Falls Resort Owners Association, Inc., a nonprofit membership corporation, or any successor of the corporation by whatever name, charged with the duties and obligations set forth in this Declaration. It is the intent of the Developer that the Association will, as each new phase or section, if any, is developed, assume governance (as more particularly set forth herein) of each new phase or section, unless specifically stated to the contrary.

Section 2.10. "Board of Directors" or "Board" shall mean the Board of Directors of the Association, which is the governing body of the Association.

Section 2.11. "Building" shall mean a building or structure constructed on a Homesite, Unit, Site or Condominium Unit.

Section 2.12. "Building Site", "Site", "Homesite", "Condominium Unit" or "Unit" shall mean that portion of private property conveyed to an Owner upon which the residence is constructed and each of these five terms are synonymous. Units are depicted upon the Condominium Plat as sites 1 through 24 and 48 through 53.

Section 2.13. "Bylaws" shall mean the Bylaws of the Association which establish the methods and procedures of its operation.

Section 2.14. "Common Area" or "Open Space" shall mean any real property in which the Association owns an interest for the common use and enjoyment of all the Members. Common area is limited to property lying outside of the boundaries of Units 1 through 24 and 48 through 53 but within the bounds of the 8.96 acre parcel shown upon the Plat of record at Large Map Book 4, Page 154, or property specifically deeded in the future to the Association as "Common Area".

Section 2.15. Reserved.

Section 2.16. "Covenants", "Covenant", "Restrictions" or "Declaration" shall mean this instrument.

Section 2.17. "Declarant" or "Developer" shall mean Gatlinburg Falls, LLC, or its successors or assigns.

Section 2.18. "Declaration of Annexation" shall mean a written declaration prepared and recorded in accordance with the provisions of Article XIII below to incorporate Adjoining Land, Expansion Property, or Exclusion Property (in Declarant's absolute discretion) into Gatlinburg Falls.

Section 2.19. "Design Guidelines" shall mean the guidelines and rules published and amended and supplemented from time to time by the Design Review Committee.

Section 2.20. "Design Review Committee" or "Committee" shall mean the committee formed pursuant to Article VI below to

maintain the quality and architectural harmony of Improvements in Gatlinburg Falls.

Section 2.21. "Expansion Property" shall mean property neither adjoining Gatlinburg Falls or its Exclusion Property which is annexed and made subject to these Covenants.

Section 2.22. Reserved.

Section 2.23. "Improvement(s)" shall mean all Buildings and structures, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, Recreational Facilities, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" does include both original improvements and all later changes and improvements.

Section 2.24. "Maintenance Fund" shall mean the fund created by Assessments and fees levied pursuant to Article IV below to provide the Association with the funds required to carry out its duties under this Declaration.

Section 2.25. "Manager" shall mean such person or entity retained by the Board of Directors to perform certain functions of the Board pursuant to this Declaration or the Bylaws.

Section 2.26. "Member" shall mean any person or entity holding membership in the Association.

Section 2.27. "Mortgage" shall mean any mortgage, deed of trust or other document pledging any portion of the Property or interest therein as security for the payment of a debt or obligation.

Section 2.28. "Mortgagee" shall mean a beneficiary of a Mortgage as well as a named mortgagee.

Section 2.29. Reserved.

Section 2.30. "Owner" shall mean the record owner, whether one or more persons or entities of a fee simple title to any Homesite, Building Site, or Unit but shall not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a Mortgage, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceedings.

Section 2.31. "Plat" or "Condominium Map" shall mean the Gatlinburg Falls Phase I map displaying Units 1 through 24 and 48 through 53 and Common Area, all of which exists within the bounds of a 8.96 acre parcel of property as more particularly described at Large Map 4, Page 154, as such maps may be amended from time to time.

Section 2.32. "Project" shall mean separately designated and developed area constructed upon a portion of the Property or

Annexed Property and comprised of discrete types of development or use, including without limitation, the following types of uses:

Section 2.32.1. A Condominium Project;

Section 2.32.2. A Horizontal Property or Planned Unit Development or a residential development of duplex or single-family detached houses;

Section 2.32.3. A residential development of townhomes or zero-homesite-line homes for single-family use;

Section 2.32.4. A parking structure;

Section 2.32.5. A commercial structure of any kind, including retail, restaurant, lounge or recreational uses; or

Section 2.32.6. Any other separately-developed area within Gatlinburg Falls Resort devoted to a specific purpose. Any such Project shall be designated as such in the Project Declaration.

Section 2.33. "Project Assessments" shall mean Assessments levied pursuant to a specific Project Declaration.

Section 2.34. "Project Association" shall mean any association established for a specific Project pursuant to a Project Declaration.

Section 2.35. "Project Common Area" shall mean the area within a Project restricted in whole or in part to common use primarily by or for the benefit of the Owners within the Project and their families, tenants, employees, guests and invitees.

Section 2.36. "Project Declaration" shall mean a declaration of covenants, conditions and restrictions establishing a plan of condominium ownership, townhome ownership, horizontal property regime ownership, planned unit development ownership or otherwise imposing a unified development scheme on particularly described real property.

Section 2.37. "Project Documents" shall mean the basic documents creating and governing a particular Project, including the Project Declaration, the Articles of Incorporation and Bylaws of the Project Association, and any procedures, rules, regulations or policies adopted under the Project Documents by the Project Association. Any future phases of Gatlinburg Falls may be, but are not required to be, developed under separate Project Documents.

Section 2.38. "Project Parcel" shall mean the portion of real estate upon which a Project is located, as indicated, if appropriate, on the Plat, Horizontal Property, or Condominium Map relating to the Project and as designated by Declarant in the Project Declaration. Adjoining, Expansion or Exclusion Property (in the absolute discretion of Declarant) may be developed under these Covenants without establishing a separate Project or Project Documents to govern its use and enjoyment. Adjoining, Expansion or Exclusion Property shall only become subject to these Restrictions upon written declaration specifically subjecting such property to Restrictions. The doctrine of negative reciprocal implied restrictions shall not apply to any Adjoining, Expansion or Exclusion Property.

Section 2.39. "Property" shall include and only include the real estate initially subjected to this Declaration (8.96 acre parcel) and any additional real property from time to time made specifically subject to these Covenants pursuant to the provisions of this Declaration.

Section 2.40. "Recreational Facilities" shall mean any amenities specifically deeded from Declarant to the Association.

Section 2.41. "Supplemental Covenants" shall mean additional or further restrictive covenants imposed on a portion or portions of the Property from time to time.

Section 2.42. Reserved.

Section 2.43. "Voting Unit" shall mean any one of the interests in the Property designated in Section 3.4 below, to which a right to vote in Association matters is allocated.

ARTICLE III THE ASSOCIATION

Section 3.1. Establishment of Common Area. Declarant may hereafter deed to the Association certain parts of the Property as Common Area intended for common use by the Owners in Gatlinburg Falls Resort. As of the date of recording of these restrictions for Gatlinburg Falls, the Common Areas and/or Open Space is that portion of the 8.96 acre parcel restricted by this Covenant except for the numbered Units. Regardless of any conflicting provision herein, no portion of the 9.4 acre, 7.13 acre, 2.99 acre or 1.84 acre tracts of property shown upon the plat at Large Map 4, Page 154, shall be considered Common Area, Open Spaces, a portion of the Property or Gatlinburg Falls, said tracts of property being Exclusion Property and subject to these Restrictions only upon Declarant's express annexation pursuant to Article XIII, with annexation of such tracts or their development or use to be in Declarant's sole discretion. The right to use Common Area initially benefits the Owners of the sites shown upon the 8.96 acre parcel, but in the event of annexation, additional Owners shall be entitled to use of the original Common Area and additional Common Area within the annexed property shall become available to the Phase I Owners.

Section 3.2. Association's Responsibility for Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management, ownership and control of the Common Area and Open Space dedicated under Section 3.1 above and all improvements on the Common Area (including furnishings and equipment related thereto), and shall keep it in good, clean and attractive condition and repair consistent with the requirements of a first class residential and recreational community pursuant to the terms and conditions of this Declaration. The Association will be responsible for the upkeep of any roads and/or drives after they are completed, whether or not formally designated as Common Area.

Section 3.3. Membership. Every Owner, by virtue of being an Owner, and for so long as he is an Owner, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Homesite, Unit or Condominium Unit. No Owner, whether one or more persons, shall

have more than one membership per Homesite, Unit or Condominium Unit owned but all of the persons owning each Homesite, Unit or Condominium Unit shall be entitled to rights of membership and of use and enjoyment appurtenant to such ownership. The Articles of Incorporation and Bylaws of the Association may set forth additional classifications of membership, which members may or may not be Owners.

Section 3.4. Classes of Membership and Voting Rights. The Association shall have two classes of voting membership:

Class A: Class A Members shall be all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one vote (exercised jointly by all Owners of the Unit) for each Homesite, Unit or Condominium Unit, according to the Plat recorded in the office of the Sevier County Register, Sevier County, Tennessee, as such body of votes are expanded by the incorporation of additional property (Lots/Units) into Gatlinburg Falls. When more than one person holds an interest in any Voting Unit, all such persons shall be Members. The vote for such Voting Unit shall be exercised as the Owners among themselves determine, and the Secretary of the Association shall be notified of such designation prior to any meeting. In the absence of such advice, the vote allocated to the Voting Unit shall be suspended in the event more than one person or entity seeks to exercise the right to vote. Any Owner of a Voting Unit which is leased may assign his voting right to the tenant, provided that a copy of the instrument of assignment is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right.

Class B: The Class B member(s) shall be Declarant and any successor of Declarant who took or takes title to all or part of the Property (as potentially expanded by annexation) for the purpose of development or sale and who is designated as a successor Declarant in a recorded instrument executed by Declarant. Class B members shall be entitled to three votes for each Unit, Homesite or Condominium Unit owned. Upon sale of a unit to a person not qualified as Declarant, the Unit shall qualify for Class A voting rights as opposite to Class B.

Section 3.4.1. Adjoining, Expansion or Exclusion Property. In the event of annexation of Adjoining, Expansion or Exclusion Property, the annexed Units, Sites, Homesites or Condominium Units shall each likewise have Class A or Class B membership, based upon Declarant or Non-Declarant ownership, and will participate in the affairs of the Association as if the annexed Adjoining, Expansion or Exclusion Property and its respective Units, Homesites, Sites or Condominium Units were originally a part of the Property subject to this Declaration.

Section 3.5. Compliance with Documents. Each Owner shall abide by and benefit from the provisions, covenants, conditions and restrictions contained in the Project Documents and Gatlinburg Falls Resort Documents.

Section 3.6. Rules and Regulations. The Association, from time to time and subject to the provisions of the Gatlinburg Falls Resort Documents, may adopt, amend and repeal rules and regulations, to be known as the "Gatlinburg Falls Resort Rules" governing, among other things and without limitation:

Section 3.6.1. The use of Open Space;

Section 3.6.2. The use of private roads;

trash;

Section 3.6.3. Collection and disposal of garbage and

Section 3.6.4. The burning of open fires;

Section 3.6.5. The control of animals;

Section 3.6.6. Parking restrictions and limitations;

Section 3.6.7. The posting of maximum speeds for vehicular traffic and other traffic rules;

Section 3.6.8. Establishment of times or other restrictions when commercial vehicles may be permitted to use any or all of the roads;

Section 3.6.9. The types of vehicles (other than conventionally equipped passenger automobiles) and the times when any vehicle or motorized vehicle or device may be permitted to use the roads within Gatlinburg Falls Resort or any other area of the Property; and

Section 3.6.10. A schedule of fines for the infraction of the Gatlinburg Falls Resort Rules or the Project Documents.

A copy of the Gatlinburg Falls Resort Rules in effect shall be distributed to each Member of the Association, and any change in the Gatlinburg Falls Resort Rules shall be distributed to each Member within a reasonable time following the effective date of the change.

Section 3.7. Reserved.

Section 3.8. Assistance to Design Review Committee. The Association shall in all respects cooperate with and assist the Design Review Committee in the complete attainment of the Committee's functions, and in the enforcement of its guidelines, rules, regulations and decisions.

Section 3.9. Reserved.

Section 3.10. Management. The Association may employ or contract for the services of a Manager or Management Company. In regard to any such contract, no such employment shall be by a contract having a term of more than three years.

Section 3.11. Ownership of Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interests within Gatlinburg Falls Resort and conveyed to the Association by Declarant.

Section 3.12. Roads and Streets. With the exception of any roads dedicated to the City of Gatlinburg, the Association shall be responsible for the maintenance of all roads, streets and drives within Gatlinburg Falls Resort either conveyed by Declarant to the Association or actually constructed to serve Units. The Board shall cooperate with the applicable traffic and fire control

officials to post public and private drives, roads and street with traffic control, fire lane and parking regulation signs. Until conveyance by deed by Declarant to Association, Declarant may relocate platted roads and/or right of ways, it being expected that given topography and efforts to integrate roadways into the natural lay of the land that roadways may be modified before final paving. Upon completion of the roads and determination that the road is reasonably certain to be in its proper location, Declarant shall convey the same to Association. Thereafter, the Association is specifically empowered to execute deeds or right of ways to modify right of way location or road location, and to clear title problems caused by uncertainty as to the specific bounds of Common Area or Roads in regard to Units, Sites, Homesites or Condominium Units.

Section 3.13. Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and Mortgagees, current copies of the Gatlinburg Falls Resort Documents, and the books, records and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

Section 3.14. Successor to Declarant. The Association may succeed to all of the rights, duties and responsibilities of Declarant under this Declaration upon deed or other specific written conveyance by Declarant to Association, such deed to specifically state that the rights of the Declarant are being transferred. The Association may delegate any of such rights, duties or responsibilities to the Design Review Committee or to any other committee or entity which it may choose to form or designate.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.1. Creation of the Lien and Personal Obligation for Assessments. Upon conveyance by the Declarant to a non-declarant person, each Unit, Condominium Unit, or Homesite and the owners thereof, whether or not it shall be so expressed in the deed, shall incur and be deemed to covenant and agree to pay to the Association: (1) annual Assessments or charges as provided in this Declaration for the purpose of funding the Maintenance Fund; (2) special Assessments for capital improvements and other purposes as stated in this Declaration, such annual and special Assessments to be fixed, established and collected from time to time as provided below; and (3) default Assessments which may be assessed against an Owner's Homesite, Unit or Condominium Unit pursuant to the Gatlinburg Falls Resort Documents for failure to perform an obligation under the Gatlinburg Falls Resort Documents or because the Association has incurred an expense on behalf of the Owner under the Gatlinburg Falls Resort Documents. The annual, special and default Assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Unit, Homesite, or Condominium Unit, against which each such Assessment is made until paid. Each such Assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the Owner of such Unit, Homesite or Condominium Unit at the time when the Assessment fell due. Until modified by the Board, the initial Assessment shall be \$900.00 to \$1,320.00 per year per Unit (depending upon Unit type).

Section 4.2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and occupants of Gatlinburg Falls Resort and for the improvement and maintenance of the Common Area including but not limited to the payment of taxes and insurance on the Common Area and repair, replacement and additions to any improvements on the Common Area, reserve accounts, repayment of Declarant loans to Association for improvement of property which becomes Common Area or for legal fees incurred for Association documents or matters (such as costs of Covenant preparation, modification, Homeowners Association incorporation, etc.), the cost of labor, equipment, materials, management and supervision and the salary or fee of the Manager or Management Company. An initial mandatory membership fee of \$900.00 to \$1,400.00 per Unit (depending upon Unit type) shall be due at closing at the transfer from the Declarant to a non-declarant Owner, such initial fee to be paid at closing, or if not paid, to constitute a lien and personal obligation in the same respect as the annual Assessments. Such funds shall be used by the Association for cost of completion of improvements to Common Areas or to repay loans for improvement of Common Areas and later for general Association purposes and for the purposes listed above.

Section 4.3. Calculation and Apportionment of Annual Assessments. The Board of Directors shall prepare a budget by December 1 of each year estimating its net cash flow requirements for the next year and an estimate of the Assessments to be charged each Owner, and the Board shall distribute the proposed budget to the Owners. On or before February 1 of the succeeding year, the Board shall approve the budget in final form, and shall determine, levy and assess the Association's annual Assessments for that year, which assessment shall be retroactive to January 1. Each budget shall include funds for establishing and maintaining reserves for periodic repairs, replacement and maintenance of any improvements on the Open Space which must be replaced on a periodic basis, and for taxes, capital improvements, deficiencies from the prior year's Maintenance Fund and other purposes and shall include any expected income and surpluses from the prior year's Maintenance Fund.

Section 4.4. Special Assessments. In addition to the annual Assessments authorized by Section 4.1 above, the Board of Directors may levy in any fiscal year one or more special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Area or Open Space, including the necessary fixtures and personal property related thereto, or to make up any shortfall in the current year's budget. Notice of the amount and due dates for such special Assessments must be sent to each Owner (or Project Association as provided in this Declaration) at least 30 days prior to the due date.

Section 4.5. Uniform Rate of Assessment. After conveyance by the Declarant, both annual and special Assessments must be fixed at a uniform rate for each type of Homesite, Unit or Condominium Unit classified by use or by Project, but the basis and rate of Assessments for each Project or each type of use may be varied.

Section 4.6. Date of Commencement of Annual Assessments: Due Dates. The annual Assessments shall commence as to each Unit, Homesite or Condominium Unit on the first day of the month

following the conveyance of the Unit, Homesite or Condominium Unit to an Owner. The first annual Assessment shall be prorated according to the number of months remaining in the calendar year. Assessments shall be collected on a periodic basis as the Board of Directors may determine from time to time but until the Board directs otherwise, Assessments shall be due on the first day of the next month following conveyance from Declarant and Owner, and on the first of each month thereafter, in an amount of one-twelfth (1/12) of the annual assessment. Assessments shall be due in advance as opposed to in arrears (i.e. the monthly assessment due August 1 of any year is for August 1 through August 31).

Section 4.7. Default Assessments. Any monetary fines assessed against an Owner pursuant to the Gatlinburg Falls Resort Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Gatlinburg Falls Resort Documents, shall be a default Assessment and shall become a lien against such Owner's Unit, Homesite or Condominium Unit which may be foreclosed or otherwise collected as provided in this Declaration.

Section 4.8. Effect of Nonpayment of Assessment: Lien, Remedies of Association. Any Assessment installment whether pertaining to annual, special or default Assessments, which is not paid within 30 days of its due date shall be delinquent, incur an automatic late fee in the amount of 10% of said Assessment, and the Assessment together with late fee shall bear interest at 12% per annum. In the event that an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

Section 4.8.1. Suspend the voting rights of the Owner during any period of delinquency;

Section 4.8.2. Accelerate all remaining Assessment installments for the calendar year in question so that unpaid Assessment for the remainder of the calendar year shall be due and payable at once;

Section 4.8.3. Bring an action at law against any Owner personally obligated to pay the delinquent installments;

Section 4.8.4. File a statement of lien with respect of the Homesite, Unit or Condominium Unit, and foreclose as set forth in more detail below. The Association may file a statement of lien by recording with the Register's Office of Sevier County, Tennessee, a written statement with respect to the Homesite, Unit or Condominium Unit, setting forth the name of the Owner, the legal description of the Homesite, Unit or Condominium Unit, the name of the Association, and the amount of delinquent Assessments then owing, which statement shall be duly signed and acknowledged by an agent of the Association or by the Manager, and which shall be served upon the Owner of the Homesite, Unit or Condominium Unit by mail to the address of the Homesite, Unit or Condominium Unit or at such other address as the Association may have in its records for the Owner. Thirty days following the mailing of such notice, the Association may then proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of deeds of trust under the statutes of the state of Tennessee, by judicial foreclosure, or by Sessions or other judicial action for debt and/or lien declaration and/or foreclosure. Such lien shall be in

favor of the Association. The Association shall be entitled to recover as a part of any action, the interest, costs and attorney fees with respect to the action. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Area or abandonment of his Homesite, Unit or Condominium Unit. The remedies herein provided shall not be exclusive and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 4.9. Successor's Liability for Assessment. In addition to the personal obligation of each non-Declarant Owner to pay all Assessments thereon and the Association's perpetual lien for such Assessments, all successors to the fee simple title of a Homesite, Unit or Condominium Unit except as provided in Section 4.10 below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses and attorney fees against such Homesite, Unit, or Condominium Unit without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor. Such successor owner shall be entitled to rely on the written statement of status of Assessments by or on behalf of the Association under Section 4.13 below.

Section 4.10. Subordination of the Lien. The lien of the Assessments provided for in this Declaration shall be subordinate to the line of any Mortgage in favor of a federally or state licensed bank or mortgage company. The lien of the Assessments shall be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Tennessee, including the right and equity of redemption. No sale or transfer shall relieve a Homesite, Unit or Condominium Unit from liability for any Assessments or from the lien thereof. However, sale or transfer of any Homesite, Unit or Condominium Unit pursuant to a decree of foreclosure (provided by a state or federal licensed bank or mortgage company, or by M.E.R.S., Inc.) or by a trustee's foreclosure, or any other proceeding or deed in lieu of such Assessments as to installments which became due prior to such sale or transfer, and the amount of such extinguished lien may be reallocated and assessed to all Homesites, Units and Condominium Units as a common expense at the direction of the Board of Directors. Any foreclosure must be an "arms-length" transaction for the purpose of collecting a bona fide debt as opposed to being instigated primarily for the purpose of extinguishing the lien for Assessments created hereunder.

Section 4.11. Notice of Action. Any Mortgagee who makes a prior written request to the Secretary of the Association and furnishes its name and address and the legal description of the Homesite, Unit, or Condominium Unit in which it has an interest to the Secretary shall be entitled to timely written notice of any delinquency in payment of an annual, special or default Assessment levied against the Homesite, Unit or Condominium Unit encumbered by its Mortgage, or any other default by the Owner under the Project Documents, which has continued for a period of 60 days or more. In addition, any such Mortgagee shall be entitled to cure such delinquency and obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 4.12. Exempt Property. Without limiting other exemptions referenced herein, the following portions of the Property shall also be exempt from the Assessments, charges and liens created under this Declaration:

Section 4.12.1. All properties to the extent of any easement or other interest therein dedicated and accepted by any municipality or Sevier County, Tennessee, and devoted to public use;

Section 4.12.2. All utility lines and easements;

Section 4.12.3. All Common Areas, Open Spaces and Units not yet conveyed by Declarant; and

Section 4.12.4. Any Recreational Facilities.

Section 4.12.5. Any Exclusion Property unless or until annexation.

Section 4.13. Statement of Status of Assessments. Upon request, the Association shall give written statements as to liens due upon any Homesite, Condominium Unit, or Unit to any bank, attorney or title company assisting in the sale of a unit or lot.

Section 4.14. Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made.

ARTICLE V PROPERTY RIGHTS OF OWNERS

Section 5.1. Owners: Easements of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment of the Open Space and Common Area which shall be appurtenant to and shall pass with the title to every Homesite, Lot, Unit or Condominium Unit, subject to the easements and divestment set forth in this Article.

Section 5.2. Delegation of Use. Any Owner may delegate, in accordance with the Gatlinburg Falls Resort Documents and Association rules, his right of enjoyment in the Common Area, Open Space and facilities to his tenants, employees, family, guests or invitees.

Section 5.3. Recorded Easements. The Property, and all portions thereof, shall be subject to all easements shown on any recorded Plat, or any portion thereof, and to any other easements of record or of use as of the date of recording of the Original Declaration.

Section 5.4. Easements for Encroachments - Divestment.

Section 5.4.1. Lot and Road Encroachments. Due to the mountainous topography within Gatlinburg Falls, the Declarant reserves the right, power and authority to vary the location of Units (whether Unit, Homesite or Condominium Unit) or roads (including drives and access easements) from the location as shown upon the recorded plat (Large Map 4, Page 154). In the event that a roadway (driveway, etc.) is relocated, the Owner's and

Association's interest in the real estate upon which the road was platted shall automatically terminate and the Owner's and Association's interest shall shift to the road as actually constructed. When a road as constructed varies from the road as platted (both in terms of the roadway and any associated right of way), then the interest of the Owner and Association in the platted but unused land (including associated right of way) is divested from such Owner and Association and vested in the party properly entitled to such property. For example, in the event a road as constructed is shifted and residences are built upon what was formally platted road, the interest of the Owners and Association in such property is divested from them and vested in the particular Owners of Units constructed upon the formally platted road. Each Owner, by virtue of accepting title to any portion of the property does hereby grant to the Association an irrevocable power of attorney coupled with an interest to convey Common Areas and/or Open Space by deed, and in so doing, pass title to any legal or equitable interest of the individual owners in the Common Area or Open Space. By virtue of this power, one of the Association's obligations will be to execute instruments, deeds, etc. to clear title to individual Homesites, Units or Condominium Units from claims of common ownership. In regard to individual Homesites, Units or Condominium Units, the dimensions of each lot or unit is displayed upon the respective plat. The Declarant reserves the right to shift the location of the lots, with each lot being approximately centered around the residence constructed thereon. In the event a Unit, Condominium Unit or Homesite is shifted from its platted location, the interest of the Association and Owners is divested from the Association and Owners and vested in the person or entity receiving title to the Unit, Homesite or Condominium Unit. Regardless of anything to the contrary herein or in any other previously executed instrument, the description of each Unit, Condominium Unit or Homesite shall be conclusively established (subject to later correction or revision) in the initial deed from Declarant to a non-declarant person or entity, and such deed shall pass the real estate described free from legal or equitable claims of the Association or individual Owners to common ownership of Common Areas or Open Space. Real estate that was initially platted as being within a numbered Unit, Condominium Unit or Homesite which is not actually included in a Unit, Condominium Unit or Homesite shall be automatically deemed Common Area (providing the property surrounding it is "Common Area"). It is the intent of this section to provide an automatic system of resolving title issues regarding rights in common versus private ownership. Should uncertainty still remain, the Declarant, in this section and others, reserves the right to resolve such issue by deeding, and the Association is authorized to deed any rights in common (Common Areas/Open Spaces) to any specific person or entity. The Association's right to convey Common Area is entirely independent of the Owner's power of attorney coupled with an interest deemed granted by each Owner, and this power of attorney couple with an interest is in addition to the Association's unfettered right and authority to convey Common Area/Open Space. The Association, and not individual Owners, shall be deemed to be the legal and equitable Owner of the Common Area.

Section 5.4.2. Porch and Deck Encroachments. Subject to Declarant or Association approval, any Owner shall have a perpetual easement to install, maintain, upkeep, repair and replace porches and decks across their Unit or lot line and over and upon Common Areas, it being expected that one or more of the residences constructed within Gatlinburg Falls shall have such "encroachments". The Association may execute instruments from time

to time to relieve any title companies, attorneys or lenders of uncertainty concerning this issue, including, if required, deeding fee simple title to the property actually encroached upon. Neither the Declarant, the Association or any Owner shall have the right to bring suit for removal of any improvements encroaching upon Common Area or Open Spaces, provided that the encroaching improvement was either built as part of the original construction of a Unit or residence or approval in writing in terms of location, construction and size by the Association or Declarant.

Section 5.5. Utility Easements. There is hereby created a general easement upon, across, over, in and under the Property for ingress and egress and for installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer or sand-filtration systems, gas, telephone, electrical and a master communications system. By virtue of this easement it shall be expressly permissible and proper for the companies providing electrical and telephone and other communication services to install and maintain necessary equipment on the Property and to affix and maintain electrical, communications and telephone wires, circuits and conduits under the Property. No water, sewer, gas, telephone, electrical or communications lines, systems or facilities may be installed or relocated on the surface of the Property unless approved by Declarant or the Association. Such utilities temporarily may be installed above ground during construction, if approved by the Declarant or Association. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the Association and the Declarant; shall complete its installation and maintenance activities as promptly and expeditiously as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, either Declarant or the Association shall have, and are hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Common Area or Open Space without conflicting with the terms of this Declaration. This general easement shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property. In the event any phase or section of any phase is served by a public or private utility and repair or replacement is required, then the phase(s) or sections(s) served by the system shall divide the repair or replacement cost pro-rata.

Section 5.6. Reservation for Expansion. Declarant hereby reserves to itself and for Owners of Homesites and Units in all future phases or sections, if any, of Gatlinburg Falls a perpetual easement and right-of-way for access over, upon, and across the Common Areas and Gatlinburg Falls roads, drives and ways for construction, utilities, drainage, ingress and egress and for use of the Common Areas and Open Space. The location of these easements and rights-of-way must be approved and may be documented by Declarant or the Association by recorded instruments. Each phase of Gatlinburg Falls shall have the right to use and enjoy the Open Space, Common Area and Recreational Facilities of other phases, unless such use is otherwise limited or restricted by Declarant. Phase I roads, for example, may be extended across Common Area to connect to Phase II roads, etc.

Section 5.7. Reservation of Easements, Exceptions and Exclusions. Declarant reserves to itself and hereby grants to the Association (but subject to the Declarant's rights reserved herein) the concurrent right to establish, from time to time, by declaration or otherwise, utility and other easements, permits or licenses over the Common Area or Open Space, for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas and to create other reservations, exceptions and exclusions for the best interest of all the Owners and the Association, in order to serve all the Owners within Gatlinburg Falls Resort as initially built and expanded. Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, and to create other reservations, exceptions and exclusions convenient or necessary for the use and operation of any other property of the Declarant.

Section 5.8. Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 5.9. Maintenance Easement. An easement is hereby reserved to the Declarant, and granted to the Association, and any member of the Board of Directors or Manager, and their respective officers, agents, employees and assigns upon, across, over, in and under the Units, Homesites or Condominium Units, and a right to make such use of the Homesites, Condominium Units, Units, as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Gatlinburg Falls Resort Documents including the right to enter upon any Unit, Homesite or Condominium Unit, for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Homesite as required or permitted by the Gatlinburg Falls Resort Documents. Nothing provided herein shall create an obligation upon the Association to enter upon any Unit, Homesite or Condominium Unit to provide maintenance or repairs regardless of circumstances.

Section 5.10. Drainage Easement. An easement is hereby reserved to Declarant and granted to the Association, its officer, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the Property for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Best efforts shall be made to use this easement so as not to disturb the uses of the Owners, the Association and the Declarant, as applicable, to the extent possible, to complete such drainage work promptly and expeditiously, and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work.

Section 5.11. Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Open Space and the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights

shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Homesite, Unit or Condominium Unit by that Owner or his family, tenants, employees, guests or invitees.

Section 5.12. Easements Deemed Created. All conveyances of Homesites, Condominium Units or Units made after the date of the Original Declaration whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article V, even though no specific reference to such easements or to this Article V appears in the instrument for such conveyance.

Section 5.13. Reserved.

Section 5.14. No Partition of Common Area. The Common Area, after deeding, shall be owned by the Association, and no Owner shall bring any action for partition or division of the Common Area. By acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived such Owner's rights to institute or maintain a partition action or any other action designed to cause a division of the Common Area, and this section may be pleaded as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Association, and hereby agrees to reimburse the Association for its costs, expenses and reasonable attorney fees in defending any such action.

Section 5.15. Relocation of Homesites. Declarant may move or relocate Homesites, Units, Sites or Condominium Units (regardless of distances, great or small) in order to accommodate the topography of the particular site by simply filing an amended plat with the Unit, Homesite or Condominium Unit that has moved or relocated being designated by an "R". For example, if Homesite 14 is moved or relocated, it shall be designated on the revised map as "14R". Declarant may add additional homesites to Gatlinburg Falls Resort, which homesites may be located within area previously designated as Common Area, provided such addition is approved by the applicable Municipal Planning Commission. Aside from the replatting procedure, the precise location of each Unit shall also be evidenced by the Unit's physical location when constructed, and this location will typically be established by physical monuments or a tie-in bearing and distance from a physical monument. In the event of any uncertainty or ambiguity as to the precise location of a Unit, Homesite or Condominium Unit within the Common Area or Property, the Declarant retains the right to conclusively establish such location with a recorded instrument depicting such location (map) or other written and recorded instrument, such as an Affidavit of Boundary Location.

ARTICLE VI DESIGN REVIEW COMMITTEE

Section 6.1. Membership. There is hereby established a Design Review Committee which shall be responsible for the establishment and administration of Design Guidelines to carry out the purposes and intent of this Declaration. The Committee shall be composed of three persons, who need not be Member of the Association. All of the members of the Committee shall be appointed, removed and replaced by Declarant in its sole discretion, until 75% of the residences within Gatlinburg Falls are completed or until the Declarant transfers specifically in writing

its power to appoint to the Association. After such time, the Committee shall be appointed by the Board of Directors of the Association. The Committee may meet either formally or informally.

Section 6.2. Purpose. The Committee shall review, study and either approve or reject proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in the rules and regulations of the Committee and the Design Guidelines adopted and established from time to time by the Committee.

Section 6.2.1. The Committee shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Building Site, height, grade and finished ground elevation and all aesthetic considerations set forth in this Declaration or in the Design Guidelines. The color of the any residence may not be changed without the Committee's specific written approval.

Section 6.2.2. No Improvement on the Property shall be erected, placed or altered on any Homesite, Unit, or Condominium Unit nor shall any construction be commenced until plans for such Improvement shall have been approved by the Committee or Declarant ; provided, however, that improvements and alterations which are completely within a Building may be undertaking without such approval.

Section 6.2.3. The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties subject to appeal as provided in the Bylaws.

Section 6.3. Organization and Operation of Committee.

Section 6.3.1. Term. The term of office of each member of the Committee, subject to Section 6.1, shall be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Committee member die, retire, become incapacitated or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 6.1.

Section 6.3.2. Chairman. So long as Declarant appoints the Committee, Declarant shall appoint the chairman. At such time as the Committee is appointed by the Board of Directors, the chairman shall be elected annually from among the members of the Committee by majority vote of said members.

Section 6.3.3. Operations. The chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Committee prior to any meeting. The notice shall set forth the time and place of the meeting, and notice may be waived by any member. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, a temporary successor.

Section 6.3.4. Voting. The affirmative vote of a majority of the members of the Committee shall govern its actions

and be the act of the Committee. A quorum shall consist of a majority of the members.

Section 6.3.5. Expert Consultation. The Committee may avail itself of technical and professional advice and consultants as it deems appropriate.

Section 6.4. Expenses. Except as provided below, all expenses of the Committee shall be paid by the Association. The Committee shall have the right but not the obligation to charge a fee for each application submitted to it for review, in an amount which may be established by the Committee from time to time, and such fees shall be collected by the Committee and remitted to the Association to help defray the expenses of the Committee's operation. Until January 1, 2008, the filing fee shall not exceed \$250.00 per dwelling unit but may be subject to reasonable increase after the date as determined by the Board on recommendation from the Committee.

Section 6.5. Design Guidelines and Rules. The Committee shall adopt, establish and publish from time to time Design Guidelines, which shall be an Gatlinburg Falls Resort Document. The Design Guidelines shall not be inconsistent with this Declaration but shall more specifically define and describe the design standards for Gatlinburg Falls Resort and the various uses within Gatlinburg Falls Resort. The Design Guidelines may be modified or amended from time to time in writing by the Committee. Further, the Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements provided such variance is in writing. Compliance with the Gatlinburg Falls Resort design review process is not a substitute for compliance with Sevier County or any City building, zoning and subdivision regulations and each Owner is responsible for obtaining all approvals, licenses and permits as may be required prior to commencing construction.

Section 6.6. Procedures. As part of the Design Guidelines and Rules, the Committee shall make and publish such rules and regulations as it may deem appropriate to govern its proceedings. Appeals shall be conducted as provided in the Bylaws.

Section 6.7. Limitation of Liability. The Committee shall use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the Committee, nor any individual Committee member, shall be liable to any person for any official act of the Committee in connection with submitted plans and specifications. Approval by the Committee does not necessarily assure approval by the appropriate governmental board for Sevier County, Tennessee or any City with regulatory authority. Notwithstanding that the Committee has approved plans and specifications, neither the Committee nor any of its members shall be responsible or liable to any Owners, Declarant, or contractor with respect to any loss, liability claim or expense which may arise by reason of such approval of the construction of the Improvements. Neither the Board, the Design Review Committee or any agent thereof, nor Declarant or any of its partners, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Gatlinburg Falls Resort Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all

events, the Committee shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Committee's decision. The Association, however, shall not be obligated to indemnify each member of the Committee to the extent any such member of the Committee shall be adjudged to be liable for wilful misconduct in the performance of his duty as a member of the Committee, unless and then only to the extent that the Court in which such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 6.8. Certificate of Compliance. Upon payment of a reasonable fee established from time to time by the Board, and upon written request of any Owner or his agent, an existing or prospective Mortgagee, or a prospective grantee, the Committee shall issue an acknowledged certificate setting forth generally whether, to the best of the Committee's knowledge, the Owner is in violation of any of the terms and conditions of the Gatlinburg Falls Resort Documents. Unless such request shall be complied with within 30 days after receipt of the request, it shall be conclusively presumed that the Owner and the Owner's Improvement are in conformance with all the terms and conditions subject to the control of the Committee.

ARTICLE VII CONSTRUCTION AND ALTERATION OF IMPROVEMENTS

Section 7.1. General. The Design Guidelines and the general instruction set forth in these Covenants shall govern the right of an Owner or other entity to construct, reconstruct, refinish, alter or maintain any Improvement upon, under or above any of the Property (except as provided in Section 6.2.2 above), and to make or create any excavation or fill on the Property, or make any change in the natural or existing surface contour or drainage or install any utility line or conduit on or over the Property.

Section 7.2. Approval Required. Except to the extent permitted in Section 6.2.2 above, any construction or reconstruction or the refinishing or alteration of any part of the exterior of any Building or other Improvement on the Property is absolutely prohibited until and unless the Owner first obtains written approval from the Design Review Committee and otherwise complies with the provisions of these Covenants. All Improvements shall be constructed only in accordance with approved plans.

Section 7.3. Deemed Nuisances. Every violation of these Covenants is hereby declared to be and to constitute a nuisance and every public or private remedy allowed for such violation by law or equity against a Member shall be applicable. These Covenants may be enforced as provided herein.

Section 7.4. Reserved.

Section 7.5. Construction Methods. Specific rules regarding construction methods, including but not limited to excavation, drainage, utility lines, loading areas, waste storage, trash removal, materials storage and transformers and meters shall be set forth in the Design Guidelines, and all Owners shall comply

with those rules. The Declarant reserves the right to grant variances in the Article VII specifications in the Declarant's absolute discretion. Without limiting the generality of the foregoing, the following specific provisions shall apply:

Section 7.5.1. There shall be no exposed block and all finishes must be of mountain stone colored stucco, stone or artificial stone.

Section 7.5.2. There shall be no exterior sheet type siding such as T-111 or reverse board and batten. Masonite siding is prohibited in any form. Vertical or horizontal board siding will be allowed as long as it is cedar, white pine, hemlock or fir. No vinyl or aluminum siding is allowed, however soffits and guttering may be created using these materials with Declarant's or Homeowners Association written approval.

Section 7.5.3. During construction, any owner/builder shall take proper steps to prevent erosion, mud or silt slides into the streets or common areas. Silt fences are to be erected if necessary to prevent erosion. Driveway construction and site preparation shall be performed by an individual or company approved by the Architectural Review Committee or Declarant.

Section 7.5.4. Upon completion of construction, the owner/builder shall have 20 days to complete final grading, landscaping and/or seeding of disturbed grounds.

Section 7.5.5. All homes shall have dimensional shingles. Metal roofing is prohibited.

Section 7.5.6. All homes shall be constructed from logs, provided that the gable ends may be framed but must be sided with cedar, cypress or other Declarant's or Homeowners Association approved siding. All homes shall have saddle notch or "dovetail" corners unless approved in advance by the Design Review Committee. Future phases or sections may allow for construction with other materials, the allowable construction rules to be set forth in the instruments subjecting the future phase to restrictions.

Section 7.5.7. All homes shall have logs and siding treated with an approved stain and applied according to guidelines established by the Design Review Committee or Declarant. In the event a home needs to be re-stained, the Owner shall be given 60 days written notice that the home must be restained. If the Owner does not complete the restaining within said 60 days, then the Association may perform the work at the Owner's expense.

Section 7.5.8. Interior blinds shall be of natural wood and unpainted so as to allow for a uniform appearance within the subdivision.

Section 7.5.9. All homes shall utilize Geo Thermal heating/cooling (R-30 ceiling, R-19 floors), unless modified by the Association.

Section 7.5.10. Reserved.

Section 7.5.11. No exterior antennae or satellite dishes, regardless of size or location, shall be allowed upon any Unit, Homesite or Condominium Unit.

Section 7.5.12. All homes shall have hot tubs, which shall be approved in advance by the Design Review Committee.

Section 7.5.13. All residences shall have the same exterior wood stain, and shall be restained with the same color until changed by the Association.

Section 7.5.14. No changes to the exterior of any residence shall be made without express written consent of the Declarant or Association.

Section 7.5.15. Reserved.

Section 7.6. Minimum Size of Homes. Every home must contain at least one bedroom and must contain a total of at least 600 square feet of heated living space.

ARTICLE VIII **PROPERTY USE RESTRICTIONS**

Section 8.1. General Restriction. The Property shall be used only for the purposes set forth in these Covenants, as permitted by the applicable ordinances of Sevier County, Tennessee, and the laws of the State of Tennessee and the United States, and as set forth in the Gatlinburg Falls Resort Documents, amendments or specific recorded covenants affecting all of or any part of the Property.

Section 8.2. Prohibited Motorized Vehicles. No trucks, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailers, boats or boat trailers, or similar vehicles other than passenger automobiles or pickup or utility trucks with a capacity of one ton or less or any other motorized vehicles shall be parked, stored, or in any manner kept or placed on any portion of the Property. This restriction, however, shall not be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing service to the Property or for the initial construction by Declarant or the other Owners. No owner, or any guest, rental guest or invitee, shall operate any motorcycle within or upon the Property.

Section 8.3. Excavation. No excavation shall be made except in connection with Improvements approved as provided in these Covenants. For purpose of this Section, "excavation" shall mean any disturbance of the surface of the land (except to the extent reasonably necessary for approved landscape planting) which results in a removal of earth, rock or other substance a depth of more than 18 inches below the natural surface of the land.

Section 8.4. Electrical and Telephone Service. All electrical, gas, cable and telephone service installation will be placed underground. No above-ground storage tanks shall be allowed unless approved by the Committee.

Section 8.5. Water and Sanitation. Each structure designed for occupancy shall connect with water and sanitation facilities as shall be made available from time to time by public or private utilities. In the event a private utility is established to supply water, such relationship and obligations will

be set forth in separate instruments. The Association shall not be responsible for providing utility water unless the Association agrees to such obligation in writing. No portion of the Common Area may be used for a septic field, unless approved by Declarant or the Association.

Section 8.6. Wells. No well from which water, oil or gas is produced shall be dug, nor shall storage tanks, reservoirs, or any installation of power, telephone or other utility lines (wire, pipe or conduit) be made or operated anywhere on the Property except in connection with water wells and works operated by public agencies or duly certified public or private utility companies; provided, however, that the foregoing shall not prevent the drilling of or installation of additional water wells by Declarant or its assigns.

Section 8.7. Signs. No signs of any kind including but not limited to FOR SALE or FOR RENT signs shall be displayed to the public view on or from any portion of the Property except those signs approved by the Declarant or Association.

Section 8.8. Animals. No animals, livestock or poultry of any kind shall be kept, raised or bred on any portion of the Property, except household pets. Household pets shall not be kept outside, except when walked upon a leash. Outdoor cages or dog runs are expressly prohibited.

Section 8.9. Reserved.

Section 8.10. Drainage. No Owner shall do or permit any work, construct any Improvements, place any landscaping, or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Property except to the extent such alteration and drainage pattern is approved in writing by the Committee or the Board of Directors and except for rights reserved to Declarant to alter or change drainage patterns.

Section 8.11. Trash. No trash, ashes, garbage or other refuse shall be thrown or dumped on any land or area within the Property. There shall be no burning or other disposal of refuse out of doors. Each Owner shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be screened from the public view and from the wind and protected from animal and other disturbance.

Section 8.12. Construction Regulations of the Design Guidelines. All Owners and contractors shall comply with the construction regulations portions of the Design Guidelines, as such Guidelines are enacted, modified, replaced or amended. Such regulations may affect, without limitation, the following: trash and debris removal; sanitary facilities; parking areas; outside storage; restoration of damaged property; conduct and behavior of builders, subcontractors and Owners' representatives on the Property at any time; the conservation of landscape materials, construction materials or design; and fire protection.

Section 8.13. Blasting. If any blasting is to occur, the Committee and Declarant shall be informed far enough in advance to allow them to make such investigation as they deem appropriate to confirm that appropriate protective measures have been taken prior to the blasting. Notwithstanding the foregoing, no approval of any blasting by Declarant or the Committee shall in any way

release the person conducting the blasting from any liability in connection with the blasting, nor shall such approval in any way be deemed to make the Declarant or the Committee liable for any damage which may occur from blasting, and the person doing the blasting shall defend and indemnify Declarant and the Committee from any such expense or liability. Declarant or the Committee may impose any reasonable restrictions, including time and date restrictions, on any blasting.

Section 8.14. Temporary Structures. No temporary structures shall be permitted except as may be determined to be necessary during construction and as specifically authorized by the Association.

Section 8.15. Compliance With Laws. Subject to the rights of reasonable contest, each Owner shall promptly comply with the provisions of all applicable laws, regulations, ordinances and other governmental or quasi-governmental regulations with respect to all or any portion of the Property.

Section 8.16. No Outside Banners, Flags, Towels or Clotheslines. No laundry or wash shall be dried or hung outside any Building. No banners or flags shall be hung from individual Units so as to detract from the consistency of the Units. Owners are to take appropriate actions to remind guests not to hang towels or other laundry items from porch rails.

Section 8.17. Parking and Auto Repair. No automobiles or other vehicles shall be parked in any street or upon any portion of the Property except within designated parking areas. No work on automobiles or other vehicle repair shall be performed in any visible or exposes portion of Gatlinburg Falls Resort except in emergencies.

Section 8.18. Abandoned, Inoperable or Oversized Vehicles. Abandoned or inoperable automobiles or vehicles of any kind, except as provided below, shall not be stored or parked on any portion of the Property. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three weeks or longer; provided, however, this shall not include vehicles parked by Owners while on vacation. A written notice describing the "abandoned or inoperable vehicle" and requesting its removal may be personally served upon the Owner or posted on the unused vehicle. If such vehicle has not been removed within 72 hours after notice has been given or posted, the Association shall have the right to remove the vehicle without liability, and the expense of removal shall be charged against the Owner. "Oversized" vehicles, for purposes of this Section, shall be vehicles which are too high to clear the entrance to a residential garage. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment and all other unsightly equipment and machinery may be required by Declarant or the Board of Directors to be stored at a designated location or locations. Travel homes shall not be maintained or parked within or upon the Property, unless the Declarant or Association sets aside a specific area for such vehicles to be parked.

Section 8.19. Antennae. No exterior radio, television microwave or other antenna or antenna dish or signal capture and distribution device shall be permitted without the prior written consent of the Committee or Declarant.

Section 8.20. Outside Burning. There shall be no exterior fires, except barbecues, outside fireplaces, brazier and incinerator fires contained within facilities or receptacles and in areas designated and approved by the Declarant or Committee. No Owner shall permit any condition upon its portion of the Property which creates a fire hazard or is in violation of the fire prevention regulations.

Section 8.21. Inside Burning. Properly installed wood and/or coal stoves shall be permitted only if in compliance with Sevier County building and fire codes and if approved by the Declarant or Committee. No Owner shall permit any condition within his/her residence or Condominium Unit which creates a fire hazard or is in violation of fire prevention regulations.

Section 8.22. Noise. No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or Improvements and except for bells or chimes on chapels, shall be placed or used on any portion of the Property. Owners and guests shall ensure that any allowed household pets are not allowed to become a nuisance to other owners or guests.

Section 8.23. Obstructions. There shall be no obstruction of any pedestrian walkways or interference with the free use of those walkways except as may be reasonably required in connection with repairs. The Owners, their family, tenants, guests and invitees are granted nonexclusive easements to use any pedestrian walkways within the Property. That use shall be subject to the Gatlinburg Falls Resort Rules adopted by the Board from time to time. The Association shall promptly take such action as may be necessary to abate or enjoin any interference with or obstruction of pedestrian walkways, and the Association shall have a right of entry on any part of the Property for the purpose of enforcing this Section, and any costs incurred by the Association in connection with such enforcement shall be specially assessed to the Owners or other persons responsible for the interference.

Section 8.24. Camping and Picnicking. No camping or picnicking shall be allowed within the Property except in those areas designated by the Declarant or the Association for those purposes. The Board, in its discretion, may ban or permit public assemblies and rallies within the Property.

Section 8.25. House Numbers. Each dwelling shall have a house number with a design, construction and location established by the Declarant or Committee.

Section 8.26. Continuity of Construction. All Improvements commenced on the Property shall be prosecuted diligently to completion and shall be completed within 12 months of commencement, unless an exception is granted in writing by the Committee.

Section 8.27. Nuisance. No obnoxious or offensive activity shall be carried on within the Property, nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its occupants.

Section 8.28. General Practices Prohibited. The following practices are prohibited at Gatlinburg Falls Resort:

Section 8.28.1. Allowing concrete supplies and contractors to clean their equipment other than at a location designated for that purpose by the Committee;

Section 8.28.2. Removing any rock, plant material, top soil or similar items from any property of others;

Section 8.28.3. Carrying firearms on the Property;

Section 8.28.4. Use of surface water for construction;
or

Section 8.28.5. Careless disposition of cigarettes and other flammable materials.

Section 8.28.6. There shall be no clear cutting of the trees from any Homesite, Unit or Condominium Unit. All trees shall be preserved to enhance the natural beauty of the Property and only those trees necessary for the construction of homes or other permitted structures may be removed. Any other removal of trees must be approved by the Committee or Declarant.

Section 8.28.7. Placing decorative figures, dolls, gazing balls, or other manmade, produced, manufactured, cast, carved or assembled items within the Common Areas.

Section 8.29. Use. It shall be expressly permissible and proper for Declarant and its employees, agents, independent contractors, successors and assigns involved in the construction of improvements on, or the providing of utility service to, the Property or other real property owned by Declarant, to perform such activities and to maintain upon portions of the Property as they deem necessary and facilities as may be reasonably required, convenient, necessary or incidental to such construction and development of the Property. The permission specifically includes, without limiting the generality of the foregoing, maintaining business offices, storage areas, construction yards and equipment, signs and sales offices. However, no activity shall be performed (aside from construction and its attendant and unavoidable noise) and no facility shall be maintained on any portion of the Property in such a way as to unreasonably interfere with or disturb any purchaser or Owner of a Homesite, Unit or Condominium Unit, or to unreasonably interfere with the use, enjoyment or access of such Owner, its tenants, employees, guests or business invitees, of and to its Homesite, Unit or Condominium Unit.

Section 8.30. Recreational Facilities - Covenants Not to Apply. The provisions of Section 8.1 through 8.27 shall not apply to any Recreational Facilities. The Declarant and any other Owner of a Recreational Facility may adopt rules and regulations governing the use and conduct of those facilities. The Recreational Facilities shall nevertheless have the benefit of the provisions of Article VIII.

Section 8.31. Leasing. The Owner of a Homesite, Unit or Condominium Unit shall have the right to lease such Homesite or Condominium Unit for overnight or longer terms, subject to the following conditions:

Section 8.31.1. All leases lasting fifteen (15) days or more shall be in writing.

Section 8.31.2. The lease shall be specifically subject to the Gatlinburg Falls Resort Documents and any failure of a tenant to comply with the Gatlinburg Falls Resort Documents shall be a default under the lease.

Section 8.31.3. The Owner shall be liable for any violation of the Gatlinburg Falls Resort Documents committed by the Owner's tenant, without prejudice to the Owner's right to collect any sums paid by the Owner on behalf of the tenant.

ARTICLE IX MAINTENANCE

Section 9.1. Association's Responsibility. The Association shall maintain and keep the Common Area and Open Space in good repair, such maintenance to be funded as provided below. This maintenance shall include but not be limited to maintenance, repair and replacement (subject to any insurance then in effect) of all landscaping and other flora, structures and improvements situated within the Open Space or Common Area. The Association may, in the discretion of the Board, assume the maintenance responsibilities set out in any Project Declaration for any Project located on the Property, after giving the responsible Project Association reasonable notice and an opportunity to correct its deficient maintenance. In such event, all costs of such maintenance shall be assessed only against those Owners residing in the Project to which the services are provided. The assumption of this responsibility may take place either by contract or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the community-wide standard of Gatlinburg Falls Resort. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Section 9.2. Owner's Responsibility. Except as provided otherwise in the Gatlinburg Falls Resort Documents, applicable Project Documents, or by written agreement with the Association, all maintenance of the Homesites, Units and Condominium Units and all structures (interior and exterior) thereon shall be the sole responsibility of the Owner thereof, who shall maintain said Homesite or Condominium Unit in accordance with the community-wide standard of Gatlinburg Falls Resort. The Association shall, in the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner does not satisfy such standard, and the Project Association for the Project in which the Homesite, Unit or Condominium Unit is located has failed to adequately provide such maintenance. Before assuming the maintenance responsibilities, the Board shall notify the Owner and the applicable Project Association in writing of its intention to do so, and if such Owner or the Project Association has not commenced and diligently pursued remedial action within 30 days after mailing of such written notice, then the Association shall proceed. The expenses of such maintenance by the Board shall be reimbursed to the Association by the Owner, together with interest at the rate for late Assessments. Such charges shall be a Default Assessment and lien on the Homesite, Unit or Condominium Unit of the Owner.

ARTICLE X
INSURANCE AND FIDELITY BONDS

Section 10.1. Hazard Insurance. The Association shall obtain insurance for all insurable Improvements, if any, on the Common Area in an amount equal to the full replacement value (i.e. 100 percent of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property and other items normally excluded from coverage) which shall include all building service equipment and the like, common personal property and supplies and any fixtures or equipment within the Common Area. Such policy shall include, if applicable and if available at a reasonable price, a standard form of mortgage clause, a "Demolition Cost Endorsement" or the equivalent, an "Increased Cost of Construction Endorsement" or the equivalent, and a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent. In addition, such policy shall, if available at a reasonable cost, afford protection against at least the following:

Section 10.1.1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage;

Section 10.1.2. In the event the Common Area contains a steam boiler, a broad form policy of repair and replacement boiler and machinery insurance in the amount of at least \$100,000.00 per accident per location; and

Section 10.1.3. Such other risks as shall customarily be covered with respect to projects similar in construction, location and use to Gatlinburg Falls Resort.

Section 10.1.4. Regardless of any language to the contrary, each Owner shall be responsible for any loss to the Owner's Unit, both structure and contents.

Section 10.2. Liability Insurance. The Association shall obtain a comprehensive policy of public liability insurance insuring the Association and its Members for all liability for property damage, bodily injury or death in connection with the operation, maintenance, use of the Common Area, Open Space or street and roads within Gatlinburg Falls Resort and legal liability arising out of lawsuits related to employment contracts of the Association. Such comprehensive policy of public liability insurance shall include a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurance company from denying the claim of any Owner because of the negligent acts of the Association or any other Owner, with a limit of not less than \$1,000,000.00 covering all claims for personal injury, including death, or property damage arising out of a single occurrence. Such comprehensive policy of public liability insurance may include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others and, if applicable, elevator collision, garagekeeper's liability, host liquor liability, contractual and all-written contract insurance, employers' liability insurance and such other risks as shall customarily be covered with respect to projects similar in construction, location and use to Gatlinburg Falls Resort.

Section 10.3. Fidelity Insurance. The Association shall obtain fidelity bonds to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of or administered by the Association. In addition, if responsibility for handling funds is delegated to a Manager, such bonds shall be required for the Manager and its officers, employees and agents. Such fidelity coverage shall name the Association as an obligee and shall be written in an amount equal to at least 150 percent of the estimated annual operating expenses of Gatlinburg Falls Resort, including reserves. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions.

Section 10.4. Provisions Common to Hazard Insurance, Liability Insurance, and Fidelity Insurance. Any insurance coverage obtained by the Association under the provisions of Sections 10.1, 10.2 and 10.3 above shall be subject to the following provisions and limitations:

Section 10.4.1. The named insured under any such policies shall be the Association, as attorney-in-fact for the Owners, or its authorized representative, including any trustee with which the Association may enter into any insurance trust agreement, or any successor trustee (each of which is sometimes referred to in this Section 10.4 as the "Insurance Trustee") who shall have exclusive authority to negotiate losses under such policies. The Association is the only party due proceeds from damage or injury to Common Areas and Open Spaces.

Section 10.4.2. In no event shall the insurance coverage obtained and maintained pursuant to such Sections be brought into contribution with insurance purchased by the Owners, occupants or their Mortgagees.

Section 10.4.3. The policies shall provide that coverage shall not be prejudiced by (a) any act or neglect of the Owners when such act or neglect is not within the control of the Association or (b) by failure of the Association to comply with any warranty or condition with regard to any portion of Gatlinburg Falls Resort over which the Association has no control.

Section 10.4.4. The policies shall provide that coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days prior written notice to any and all First Mortgagees and insureds named in the policies.

Section 10.4.5. The policies may contain a waiver of subrogation by the insurer as to any and all claims against the Association and any Owner and their respective agents, employees or tenants and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

Section 10.4.6. All policies of property insurance shall provide that, notwithstanding any provisions of the policies which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any Insurance Trustee) or when in conflict with the provisions of any

insurance trust agreement to which the Association may be a party or any requirement of law.

Section 10.4.7. All policies shall be written with a company licensed to do business in Tennessee and holding a rating of B/VI or better in the financial category as established by A.M. Best Company, Inc., if reasonably available or if unavailable, the most nearly equivalent rating or better.

Section 10.4.8. If reasonably available, all casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Sevier County, Tennessee, area.

Section 10.4.9. No policy may be canceled, invalidated or suspended on account of the conduct of any member of the Board of Directors, officer or employee of the Association or its duly authorized Manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, any Owner or Mortgagee.

Section 10.5. Officers' and Directors' Personal Liability Insurance. To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance shall be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

Section 10.6. Workers Compensation Insurance. The Association shall obtain workers compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

Section 10.7. Other Insurance. The Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 10.8. Insurance Obtained by Owners. It shall be the responsibility of the individual Owners and at their expense to make arrangements in regard to title insurance on their Homesites or Condominium Units upon any resale for hazard insurance on the Improvements, personal property and furnishings located on their Homesites or within their Condominium Units and for public liability insurance covering their Homesites and Condominium Units. In addition, each Owner may obtain such other and additional insurance coverage on and in relation to his Homesite or Condominium Unit as such Owner concludes to be desirable; provided, however, that none of such insurance coverages obtained by an Owner shall affect any insurance coverages obtained by the Association nor cause the diminution or termination of the coverage obtained by the Association. Any such insurance obtained by an Owner shall include a waiver of the particular insurance company's right of subrogation against the Association and other Owners.

ARTICLE XI
DAMAGE OR DESTRUCTION

Section 11.1. Association as Attorney in Fact. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for the purpose of dealing with the Improvements on the Common Area upon damage or destruction as provided in this Article or a complete or partial taking as provided in Article XII below. The Association shall additionally serve as the Owner's true and lawful attorney-in-fact to convey any Owner's specific interest (although none is intended under these Restrictions) in the Common Area, Open Space or Recreational Areas. The Association may pass title to any Common Area, Open Space or Recreational Area owned legally or equitably by the Association (or any Owner) by proper execution of a deed conveying the described property, or bill of sale if personal property. Acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner shall constitute appointment of the attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney in fact. The power of attorney is coupled with an interest and may not be revoked, modified, replaced or amended without the Association's express written approval.

Section 11.2. Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Common Area in Gatlinburg Falls Resort, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Area so damaged or destroyed. "Repair and reconstruction" as used in this Article XI shall mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

Section 11.3. Repair and Reconstruction. As soon as practical after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney in fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 11.4. Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 4.4. above, levy, assess and collect in advance from all Owners without the necessity of a special vote of the Owners except as provided in Section 4.4, a special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

Section 11.5. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in Section 4.4. above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as special Assessment to the Association under Section 11.4 above, or if no special Assessments were made, then in equal shares per Homesite or Condominium Unit, first to the Mortgagees and then to the Owners, as their interests appear.

Section 11.6. Decision Not to Rebuild. If Owners representing at least 67 percent of the total allocated votes in the Association and 67 percent of the First Mortgagees (based upon one vote for each Mortgage owned) of the Homesites and Condominium Units agree in writing not to repair and reconstruct and no alternative improvements are authorized, then and in that event the Property shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition and any remaining insurance proceeds shall be distributed in equal shares per Homesite or Condominium Unit first to the Mortgagees and then to the Owners, as their interests appear.

Section 11.7. Damage or Destruction Affecting Homesites, Units or Condominium Units. In the event of damage or destruction to the Improvements located on any of the Homesites or constituting a Condominium Unit, the Owner thereof shall promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within 180 days from the date of such damage or destruction, or if repair and reconstruction is commenced but then abandoned for a period of more than 90 days, then the Association may, after notice and hearing as provided in the Bylaws, impose a fine of not less than \$50.00 per day on the Owner of the Homesite or Condominium Unit until repair and reconstruction is commenced, unless the Owner can prove to the satisfaction of the Association that such failure is due to circumstances beyond the Owner's control. Such fine shall be default assessment and lien against the Homesite or Condominium Unit as provided in Section 4.7 above.

ARTICLE XII CONDEMNATION

Section 12.1. Rights of Owners. Whenever all or any part of the Common Area shall be taken or conveyed in lieu of and under threat of condemnation by the Board of Directors as acting attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking but the Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding unless otherwise prohibited by law.

Section 12.2. Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which Improvements have been constructed, then, unless within sixty days after such taking Declarant and Owners representing at least 67 percent of the votes in the Association shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Common area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors and the Design Review Committee. If such Improvements are to be repaired or restored, the provisions in Article XI above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on the Common area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed in equal shares per Homesite or Condominium Unit, first to the Mortgagees and then to the Owners, as their interests appear.

ARTICLE XIII EXPANSION

Section 13.1. Reservation of Right to Expand. Declarant reserves the right but shall not be obligated to expand the effect of this Declaration to include all or part of any Adjoining, Expansion or Exclusion Property or any property subsequently acquired by Declarant. The Declarant makes no implied or express assurances that any Adjoining, Expansion or Exclusion property shall be developed in the same manner or put to the same use or type of use as the property restricted by this Declaration. Declarant shall have the unrestricted right to transfer to any other person this right to expand by an instrument duly executed and recorded. The Declarant shall pay all taxes and other governmental Assessments relation to the Expansion Property until expansion.

Section 13.2. Declaration of Annexation. Such expansion may be accomplished by recording a Declaration of Annexation in the records of the Register's Office for Sevier County, Tennessee, describing the real property to be expanded and submitting it to the covenants, conditions and restrictions contained in this Declaration. Such Declaration of Annexation shall not require the consent of Owners. Any such expansion shall be effective upon the filing for record of such Declaration of Annexation unless otherwise provided herein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion. Upon the recording of any such Declaration of Annexation, the definitions used in this Declaration shall be expanded automatically to encompass and refer to Gatlinburg Falls Resort as expanded unless modified in the instrument resulting in the expansion. Such Declaration of Annexation may add, delete or modify provisions of this Declaration as it applies to the Expansion, Adjoining or Exclusion Property added. The expansion shall result in "dilution" of voting power in the Association by virtue of adding additional Homesites, Units, Sites or Condominium Units entitled to vote in the affairs of the Association and such

"dilution", an anticipated result of expanding the membership in the Association, is not grounds for objection to expansion. As an alternative to a Declaration of Annexation, the Declarant may also record a new complete set of restrictions or a new master deed to apply specifically to the new phase or section of the same phase. Unless otherwise provided in writing, one Association will govern the affairs of all phases and sections of Gatlinburg Falls, regardless of method, Declaration of Annexation or new Master Deed.

Section 13.3. Incorporation of Additional Expansion Property. Real property which is not part of the Expansion, Exclusion or Adjoining Property may be incorporated into the Property with the consent of the Declarant or upon 75% vote approval within the Association.

Section 13.4. Incorporation of Adjoining Lands. Any owner or owners of Adjoining Land (other than Declarant) may apply to Declarant to have the Adjoining Land made subject to this Declaration. Upon the written approval of Declarant to the inclusion of such Adjoining Land, the Declarant may make it subject to this Declaration by executing an instrument in writing which shall satisfy the requirements above for a Declaration of Annexation. That instrument shall also be executed by Declarant or the Board of Directors, as applicable, as evidence of their approval, and shall be recorded in the records of the Register's Office for Sevier County, Tennessee. Thereafter, such Adjoining Land shall be subject to this Declaration, and this Declaration shall be expanded as provided above in the case of Expansion Property incorporated into the Property.

ARTICLE XIV TRANSFER FEE

Section 14.1. Transfer Fee. To provide additional funds for payment of the operating expenses of the Association, which will in turn inure to the benefit of all Owners, there is hereby imposed on all of the Property except Common Area or any Recreational Facilities the following restriction and obligation:

From and after the initial conveyance of a Homesite, Unit or Condominium Unit from Declarant to a non-declarant Owner, there shall be imposed on each Owner of a Homesite, Unit or Condominium Unit the obligation to pay to the Association a transfer fee in the amount of \$100.00 paid upon transfer of the Homesite, Unit or Condominium Unit on the occasion of each transfer, defined below. The transfer fee is imposed not as a penalty and not as a tax but as a means of supplementing the Assessments provided for in this Declaration. The Board of Directors may increase the transfer fee, provided no increase may exceed 10% per year calculated from the initial year of recording of this instrument.

Section 14.2. Definitions.

Section 14.2.1. Transfer. For the purposes of this Article, "transfer" shall be defined as any conveyance, assignment, lease or other disposition of the ownership of a Homesite, Unit or Condominium Unit, whether occurring in one transaction or in a series of related transactions and whether structured as a transfer of all right, title and interest or of the beneficial ownership. "Transfer" shall be deemed to include a transfer of the equitable interest under an installment land contract, whether or not

recorded and whether or not the purchaser has fulfilled all conditions which would entitle the purchaser to receipt of a deed. "Transfer" shall also be deemed to include the transfer (as defined in this Section) of any partial ownership in the Homesite or Condominium Unit when title to such property is held by a group of one or more persons. "Transfer" further includes but is not limited to (a) the conveyance of fee simple title to any Homesite or Condominium Unit, (b) the transfer of more than 50 percent of the outstanding shares of the voting stock of a corporation which, directly or indirectly, owns one or more Homesites or Condominium Units, (c) a lease for a period of more than 10 years, (d) the transfer of more than 50 percent of the interest in net profits or net losses of any partnership, joint venture or other entity which, directly or indirectly, owns one or more Homesite or Condominium Unit, and (e) any conveyance designed primarily for the avoidance of the payment of the transfer fee provided for in this Article.

"Transfer" shall not be deemed to include (a) conveyance by gift, devise or inheritance, (b) conveyance by the Owner to such Owner's spouse or children, or to a trust of which such persons are the beneficiaries, (c) conveyance by one joint Owner to one or more other joint Owners of the same Homesite or Condominium Unit, (d) upon the dissolution of a professional corporation which is an Owner, the conveyance to the shareholders of the corporation as joint owners; (e) upon the formation of a professional corporation, the conveyance by joint owners to such professional corporation, (f) upon the admission of a new partner to a partnership which is an Owner or to a partnership formed by an Owner, the conveyance of an individual's interest in the Homesite or Condominium Unit to such new partner or the conveyance upon the withdrawal of a partner from a partnership, (g) encumbrance of a Homesite or Condominium Unit by a mortgage or deed of trust, or other common form of security instrument, (h) a bona fide deed conveyed from an Owner to a Mortgagee or beneficiary of a deed of trust in lieu of foreclosure, (i) the first conveyance by a Mortgagee or beneficiary of a deed of trust after such Mortgagee or beneficiary obtains title by foreclosure or by a deed in lieu of foreclosure, (j) the conveyance from the Owner to a corporation which it controls, which controls it, or which is under common control with it, (k) any conveyance to the United States or any agency or instrumentality thereof, the State of Tennessee, any county, city and county, municipality, metropolitan district or other governmental or quasi-governmental entity, (l) any conveyance to the Association and (m) a lease for a term of ten years or less, counting initial and all renewal terms.

Section 14.2.2. Purchaser. "Purchaser" shall be deemed to be the transferee (aside from the Declarant) under any deed or other instrument evidencing a transfer as defined herein.

Section 14.3. Payment and Reports. The transfer fee shall be due and payable on the date of the transfer. Within ten days after the date of the transfer, a report on forms provided by the Association must be filed with the Secretary of the Association and the payment of the transfer fee shall be delinquent and bear interest and otherwise be treated as a default Assessment if not paid within thirty days after the transfer. If a fair market value determination of purchase or transfer price is made, then the transfer fee shall be due and payable at the date the determination of fair market value is final and shall be delinquent if not paid within thirty days after that date, when it shall bear interest and otherwise be treated as a default Assessment. The report to be

filed with the Association shall, at a minimum, describe the transfer and state the full amount of the purchase or transfer price, the names of the parties to the transfer and the legal description of the Homesite or Condominium Unit transferred. For the purpose of this Article, the date of the transfer shall be the effective date shown on the deed or other instrument evidencing the transfer, or if no date is shown, the date of its recording, or if neither appears, a date determined by the Association in its sole discretion.

Section 14.4. General Provisions. Any payment or report required to be received by the Association shall be deemed received in a timely manner if sent to the address provided for the Association by first class mail, postage prepaid and postmarked no later than the date such payment or report is due, provided that the Association thereby actually receives such payment or report. The Association at its own expense shall have the right at any time during regular business hours to inspect and copy all records and to audit all accounts of any Owner or Purchaser which are reasonably related to the payment of the transfer fee provided for above.

ARTICLE XV FHLMC REQUIREMENTS

Section 15.1. FHLMC Approval Requirements. Unless at least 67 percent of the First Mortgagees (based on one vote for each First Mortgage owned) and Owners representing at least 67 percent of the total allocated votes in the Association have given their prior written approval, the Association shall not be entitled to:

Section 15.1.1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or part of the Common Area (provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this clause);

Section 15.1.2. Change the method of determining the obligations, Assessments, dues or other charges which may be levied against an Owner;

Section 15.1.3. Fail to maintain fire and extended coverage on insurance common property in an amount not less than 100 percent of current replacement cost; or

Section 15.1.4. Use hazard insurance proceeds for losses to common property for other than the repair, replacement or reconstruction of such common property.

Section 15.2. Mortgagees' Rights. Mortgagees of Homesites or Condominium Units, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Area or Improvements thereon and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

ARTICLE XVI
ENFORCEMENT OF COVENANTS

Section 16.1. Violations Deemed a Nuisance. Every violation of this Declaration or any other of the Gatlinburg Falls Resort Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants shall be available.

Section 16.2. Compliance. Each Owner or other occupant of any part of the Property shall comply with the provisions of the Gatlinburg Falls Resort Documents as the same may be amended from time to time.

Section 16.3. Failure to Comply. Failure to comply with the Gatlinburg Falls Resort Documents shall be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws shall be given to the delinquent party prior to commencing any legal proceedings.

Section 16.4. Who May Enforce. Any action to enforce the Gatlinburg Falls Resort Documents may be brought by the Declarant, the Board or the Manager in the name of the Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commence an action within ninety days from notice to enforce the Gatlinburg Falls Resort Documents, then the aggrieved Owner may bring such an action.

Section 16.5. Remedies. In addition to the remedies set forth above in this Article XVI, any violation of the Gatlinburg Falls Resort Documents shall give to the Board, the Manager or the Declarant on behalf of the Owners, the right to enter upon the offending premises or take appropriate peaceful action to abate, remove, modify or replace at the expense of the offending Owner, any structure, thing or condition that may exist thereon contrary to the interest and meaning of the Gatlinburg Falls Resort Documents. If the offense occurs on any easement, walkway, Common Area or the like, the cure shall be at the expense of the Owner or other person responsible for the offending condition.

Section 16.6. Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

Section 16.7. No Waiver. The failure of the Board of Directors, Declarant, the Manager, the Design Review Committee or any aggrieved Owner to enforce the Gatlinburg Falls Resort Documents shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Gatlinburg Falls Resort Documents at any future time.

Section 16.8. No Liability. No member of the Board of Directors, the Declarant, the Design Review Committee, the Manager or any Owner shall be liable to any other Owner for the failure to enforce any of the Gatlinburg Falls Resort Documents at any time.

Section 16.9. Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Gatlinburg Falls Resort Documents, or in any legal proceedings (whether or not suit is brought) for damages or for the enforcement of the Gatlinburg

Falls Resort Documents or the restraint of violations of the Gatlinburg Falls Resort Documents, the prevailing party shall be entitled to recover all costs incurred by it in such action, including reasonable attorney fees as may be incurred or if suit is brought, as may be determined by the court.

ARTICLE XVII
RESOLUTION OF DISPUTES

If any dispute or question arises between the Members or between Members and the Association or the Design Review Committee relating to the interpretation, performance or nonperformance, violation or enforcement of the Gatlinburg Falls Resort Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

ARTICLE XVIII
DURATION OF THESE COVENANTS AND AMENDMENT

Section 18.1. Term. This Declaration and any amendments or supplements hereto shall remain in effect from the date of recording until December 31, 2033. Thereafter, these Covenants shall be automatically extended for successive periods of ten years each, unless otherwise terminated or modified as provided below.

Section 18.2. Amendment. This Declaration, or any provision of it, may be terminated, extended, modified or amended as to the whole or any portion of the Property upon the written consent of Declarant and Owners representing more than 60 percent of the Homesites and Condominium Units in the Property. Amendments made pursuant to this Section shall inure to the benefit of and be binding upon all Owners of any part of the Property, their family, tenants, guests, invitees and employees and their respective heirs, successors and assigns. A certificate of a licensed abstract or title company showing record ownership of the Homesite or Condominium Unit shall be evidence of such ownership for the purposes of any such amendment.

Section 18.3. Reserved.

Section 18.4. Amendment by Declarant. Notwithstanding Section 18.2 or any other provisions of this Declaration, Declarant, by acting alone, reserves to itself the sole right and power to modify and amend this Declaration in whole or in part by executing and recording an instrument setting forth the amendment, provided that such right to amend by acting alone shall cease when Declarant has divested itself of all its Adjoining and Exclusion Property and 85% of all recorded Units within Gatlinburg Falls, as such number of Units has expanded through any annexation.

Section 18.5. Notice of Amendment. Except in the case of amendments made by Declarant pursuant to Section 18.4 above, no amendment of this Declaration shall be effective unless a written notice of the proposed amendment is sent to every Owner at the Owner's address on file with the Association. It shall be the Owner's responsibility to give the Association written notice by certified mail if their address changes.

Section 18.6. Effective on Recording. Any modification or amendment shall be immediately effective upon recording a copy of such amendment or modification, executed and acknowledged by the necessary number of Owners and/or Declarant, so as to show on its face authority to amend. A licensed abstract company or a title company may be entitled but not required to rely on the records of the Sevier County Trustee and/or the Association in determining ownership of the Homesites, Units or Condominium Units. In the event of a conflict between the records of the Trustee and the Association, the Association's records shall control.

Section 18.7. Reserved.

ARTICLE XIX
PRINCIPLES OF INTERPRETATION

Section 19.1. Severability. This Declaration, to the extent possible, shall be construed or reformed so as to give validity to all of its provisions. Any provision of this Declaration found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability (including the limits of the time allowed under the rule against perpetuities less one day) without invalidating any other part hereof.

Section 19.2. Construction. In interpreting words in this Declaration, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. This instrument shall not be construed for or against any party as the documents' drafter.

Section 19.3. Headings. The headings are included only for purposes of convenient reference and they shall not affect the meaning or interpretation of this Declaration.

Section 19.4. Registration of Mailing Address. Each Member shall register his mailing address with the Secretary of the Association from time to time and notices or demands intended to be served upon or given to a Member shall be personally delivered to or sent by mail, postage prepaid, or courier addressed in the name of the Member at such registered mailing address.

Section 19.5. Notice. All notices or requests required shall be in writing. Notice to any Member shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by certified mail, return receipt requested, to the address of such Member on file in the records of the Association at the time of such mailing. Notice to the Board, the Association, the Design Review Committee or the Manager shall be considered delivered and effective upon personal delivery or three days after posting when sent by certified mail, return receipt requested, to the Association, the Board, the Committee or the Manager at such address as shall be established by the Association from time to time by notice to the Members. General notices to all Members or any classification thereof need not be certified, but may be sent regular first class mail.

Section 19.6. Waiver. No failure on the part of the Association, the Board or the Committee to give notice of default or to exercise or to delay in exercising any right or remedy shall operate as a waiver, except as specifically provided above in the event the Board or Committee fails to respond to certain requests. No waiver shall be effective unless it is in writing, signed by the President or Vice President of the Board on behalf of the Association, or by the Chairman of the Committee on behalf of the Committee.

Section 19.7. Limitation of Liability. Neither the Association, the Design Review Committee, nor any officer or member of the Board shall be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the Gatlinburg Falls Resort Documents if the action or failure to act was made in good faith. The Association shall indemnify all of the Committee members and officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles and Bylaws of the Association.

Section 19.8. Conflicts Between Documents. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control. In case of conflict between this Declaration and the Bylaws, the Declaration shall control. In the event of conflict between any marketing, advertising or other written or oral assertions and the Gatlinburg Falls Resort Documents, the Gatlinburg Falls Resort Documents shall control.

Section 19.9. Assignment. Declarant may assign all or any part of its rights and reservations hereunder to any successor who takes title to all or part of the Property for the purpose of development and sale. Such successor shall be identified, the particular rights being assigned shall be specified, all in a written instrument duly recorded in the records of the Register's Office for Sevier County, Tennessee.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day first above written.

GATLINBURG FALLS, LLC.

Richard A. Strauss

BY:

ITS: *Managing Member*

STATE OF Tennessee

COUNTY OF Sevier

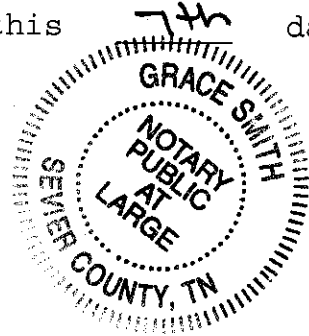
Personally appeared before me, Richard A. Strauss, of GATLINBURG FALLS, L.L.C., the maker, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledge that he is the Managing Member of the maker or a constituent of the maker, and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

WITNESS my hand, at office, this 7th day of March, 2003.

Grace Smith
Notary Public

My Commission Expires: 10-22-05

gat falls restrictions 2/03



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41 PGS : AL - RESTRICTIONS	
ANNETTE 8006-003013529	
Book: 1643 Pages: 467 - 507	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	205.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	207.00

STATE of TENNESSEE, COUNTY of SEVIER
SHERRY ROBERTSON HUSKEY
REGISTER OF DEEDS