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THIS INSTRUMENT PREPARED BY COSTNER & GREENE, ATTYS., 315 HIGH ST.,  
MARYVILLE, TN 37804 BY: STEVEN J. GREENE C&G-7883 dp/

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR LOTS 1, 2, 46, 47, 48 & 49 OF MONTGOMERY FARMS, PHASE  
ONE**

THIS DECLARATION, made on the date hereinafter set forth by **MONTGOMERY FARMS, LLC**, a Tennessee limited liability company with its principal office located in Blount County, Tennessee, hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, Declarant is the owner and developer of certain property in Blount County, Tennessee, which is more particularly described as Lots 1, 2, 46, 47, 48 & 49 of Montgomery Farms, Phase One as shown by map of the same of record in Map File \_\_\_\_\_ in the Register's Office for Blount County, Tennessee, and intends to erect thereon, a residential community, together with other areas for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of the areas as described herein, and desires to subject the above described Lots to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

NOW, THEREFORE, Declarant hereby declares that all of the Lots described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

**ARTICLE I**

**DEFINITIONS**

Section 1. **"Association"** shall mean and refer to MONTGOMERY FARMS, PHASE ONE HOMEOWNERS ASSOCIATION, INC., an association of the owners of the Lots located and being in MONTGOMERY FARMS, PHASE ONE, map for which is of record in Map File \_\_\_\_\_ in the Register's Office for Blount County, Tennessee, and such other additional and future maps of MONTGOMERY FARMS as may be properly approved and recorded at the Register's Office for Blount County, Tennessee.

Section 2. **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, provided however, that the purchaser at a foreclosure sale or trustee's sale shall be deemed an owner.

Section 3. **"Properties"** shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. **"Lot"** shall mean and refer to the tracts of land so designated as Lots on the plat hereinabove referred to recorded in the Register's Office for Blount County, Tennessee, and all future plats or maps of MONTGOMERY FARMS to be approved and recorded at the Register's Office for Blount County, Tennessee. For all purposes hereunder, it shall be understood and agreed that Declarant shall be the owner of all said Lots, save and except only those particular Lots which Declarant conveys in fee simple by recordable deed from and after date hereof.

Section 5. **"Declarant"** shall mean and refer to Montgomery Farms, LLC, its successors and assigns.

Section 6. **"Member"** shall mean and refer to every person or entity who holds membership in the Association.

Section 7. **"Common Area"** shall mean the drainage easement and drainage facilities located within said drainage easement located on Lots 46, 47, 48, 49 and upon the remaining lands of Montgomery Farms, LLC (Record Book 2414, Page 1057 in the Register's Office for Blount County, Tennessee) and the sign easement located on Lot No. 2, all as more particularly described on map Montgomery Farms, Phase One of record in Map File \_\_\_\_\_ in the Register's Office for Blount County, Tennessee and upon any future plats of Montgomery Farms as may be properly approved and recorded in said Register's Office. The owners of each lot within Montgomery Farms, Phase 1 and the owners of each lot in any future phases, shall have an undivided shared ownership of said drainage easement area and shall be noted on each deed for lots within the development. Any common areas are to be used by the Association at the time of conveyance of the first Lot and shall be subject to any conditions, limitations and easements as set forth on the recorded plat or plats hereinafter referred to.

## **ARTICLE II**

### **BOARD OF DIRECTORS AND OFFICERS**

The business of this corporation shall be conducted by a Board of Directors. The first Board of Directors of the Association shall consist of three (3) members to be elected by the members of the Association annually. The Declarant may also be a board member. All of the Board of Directors shall be members of the Association. The executive officers of the Association shall be a President, a Secretary and a Treasurer, whom shall be elected from among themselves by the Board of Directors at any meeting. Any person may hold two or more offices, except that the President shall not also be the Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. An Annual members' meeting shall be held at the office of the Association or at such other place designated by the Board of Directors at 7:00 p.m. on the 1st day of May of each year and for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next succeeding business day.

## **ARTICLE III**

### **MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment within the residential community known as Montgomery Farms, Phase One.

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

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

Class B. The Class B Member(s) shall be the Declarant and shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on January 1, 2026, provided however, that if the Declarant is unable to fully develop the property and sell all recorded Lots to owners by reason of ban, moratorium or restriction imposed by any government, governmental agency, or public utility, then this date shall be extended for a period equal to the period between the date on which such ban, moratorium or restriction commenced, and the date upon which such

ban, moratorium or restriction terminates or is rescinded, but in no event shall such period be extended for more than five years. From and after the happening of these events, whichever occurs first, the Class B member(s) shall be deemed to be Class A member(s) entitled to one vote for each Lot in which it holds the interest required for membership under Section 1.

## ARTICLE IV

### **CONSENT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them. In view of the fact that Declarant shall incur all of the initial costs of constructing, building, and installing common elements, incurring most of the initial maintenance costs of same, said Declarant shall not be required to pay on lots owned by it any annual or special assessment required hereunder or levied by the Association.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties, and particularly for maintenance and upkeep of the Common Areas, including but not limited to the drainage easement and drainage facilities located therein, located on Lots 46, 47, 48, 49 and upon the remaining lands of the remaining lands of Montgomery Farms, LLC (Record Book 2414, Page 1057 in the Register's Office for Blount County, Tennessee), which shall be maintained in an operable condition and maintenance of the signage and sign easement area located on Lot No. 2. This provision specifically includes future phases of Montgomery Farms which may contain additional drainage facilities or other common elements and all of the owners of lots in Montgomery Farms, Phase 1 and said future phase lot owners shall also be responsible for maintenance of any drainage easement and drainage facilities or other common elements on an equal prorata basis. The owners of each lot within Montgomery Farms, Phase 1 and the owners of each lot in any future phases, shall each be conveyed with an undivided shared ownership interest in said drainage easement area and in any future applicable common areas and shall be noted on each deed for lots within the development.

In the event that the need for maintenance or repair of the improvements described above is caused through the willful or negligent acts of an owner, or through the willful or negligence acts of the family, guests or invitees of an owner, the cost of such maintenance and repair shall be added to and become part of the assessment to which such lot owner is subject.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum Annual Assessment shall be \$300.00 per lot.

(a) From and after the year one assessment the maximum annual assessment shall be set by the Board of Directors. The maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after the first year assessment period, the maximum annual assessment may be increased above 5% by a vote of three-fourths (3/4) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors of the Association may fix the annual assessment to an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures, and personal property related thereto, provided that any such assessment shall have the assent of three-fourths (3/4) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of said Lot (except as provided in Article 4, Section 3 herein). The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## **ARTICLE V**

### **SIGHT DISTANCE EASEMENT**

There shall be a sight distance easement across the front of lots 46, 47, 48 & 49 of Montgomery Farms (contained within the 30' front setback as shown on plat). The primary responsibility for maintenance of the sight distance easement shall be the individual lot owners of said lots. The Homeowner's Association for Montgomery Farms (as registered separate from this plat) shall have the right to enforce the sight distance easement in the event that sight distance easement is not being properly maintained and charge the owner for same. The lot owners shall keep clear and maintain the area identified as "Sight Distance Easement" along Big Springs Road from any permanent vegetation other than grass or sod (to be mowed regularly). No other planted materials or any permanent or temporary structures or signs above ground of any kind are permitted in the sight distance easement.

## ARTICLE VI

### **EASEMENTS MAINTENANCE**

Lots 1, 2 & 46 are subject to applicable maintenance provisions of the two easements for ingress, egress, drainage and utilities as more particularly described below as shown by aforementioned plat of record aforesaid, and subject to the terms and conditions as follows:

AS TO THE 25-FOOT PERMANENT EASEMENT LOCATED PARTIALLY ON LOT NO. 1:

a. That the current and future owners of Lot No. 1 are solely responsible for the maintenance and upkeep expenses of said easement.

b. That Lot No. 1 shall be conveyed with said easement and Lot No 1 shall have access by said easement.

c. That said easement shall remain unobstructed and shall be used for the purpose of ingress, egress, drainage and utilities shall be continually and permanently maintained in a neat and safe condition.

d. In the event either lot owner or their builder causes damage to said easement during construction, the lot owner causing said damage shall be responsible to repair same to its original condition.

e. The Homeowner's Association shall have the right to maintain said easement if it is not maintained by the owner of said Lot No. 1 and charge the owner for same. Delinquent costs and fees are subject to reasonable collection cost, attorney fees and interest thereon pursuant to Article IV, Section 1 herein. All unpaid maintenance expense chargeable to any lot owner shall constitute a lien on such lot prior to all other liens except (1) tax liens on the lot in favor of any assessing unit and special district and (2) all sums unpaid on any prior mortgage of record. The Homeowner's Association may file suit to recover money judgment for the unpaid expenses and such shall be maintained without foreclosing or waiving the lien securing the same. Furthermore, such lien may be foreclosed by suit as a remedy by the Homeowner's Association. In any foreclosure the lot owner shall have the power to bid on the lot at the foreclosure sale and to acquire and hold, sell, lease, mortgage and convey the same.

f. That said easement shall run with the title to the lands hereinabove described and be binding upon the parties hereto, their heirs, successors and assigns.

AS TO THE EASEMENT RESERVED FOR INGRESS, EGRESS, UTILITIES, DRAINAGE & FOR FUTURE PUBLIC ROAD LOCATED UPON THE REMAINING LANDS OF MONTGOMERY FARMS LLC BEING SITUATED BETWEEN LOTS 2 & 46:

a. That the current and future owners of Lots 2 & 46 shall have access by said reserved easement from Big Springs Road.

b. That the lot owners using said easement shall be responsible on an equal prorata basis for all upkeep and maintenance costs until said easement is dedicated as a public road.

c. That said reserved easement shall remain unobstructed and shall be used for the purpose of ingress, egress, drainage and utilities shall be continually maintained in a neat and safe condition.

d. In the event either lot owner or their builder causes damage to said reserved easement during construction, the lot owner causing said damage shall be responsible to repair same to its original condition.

e. The Homeowner's Association shall have the right to maintain said easement if it is not maintained by the owner of said Lots No. 2 & 46 and charge the applicable owner for same. Delinquent costs and fees are subject to reasonable collection cost, attorney fees and interest thereon pursuant to Article IV, Section 1 herein. All unpaid maintenance expense chargeable to any lot owner shall constitute a lien on such lot prior to all other liens except (1) tax liens on the lot in favor of any assessing unit and special district and (2) all sums unpaid on any prior mortgage of record. The Homeowner's Association may file suit to recover money judgment for the unpaid expenses and such shall be maintained without foreclosing or waiving the lien securing the same. Furthermore, such lien may be foreclosed by suit as a remedy by the Homeowner's Association. In any foreclosure the lot owner shall have the power to bid on the lot at the foreclosure sale and to acquire and hold, sell, lease, mortgage and convey the same.

f. Upon dedication of said reserved easement as a public road, the owners of Lots 2 & 46 shall have no further responsibility or liability for any maintenance, upkeep or repair of said reserved easement.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

Except for the original construction upon the Lots situated within the property by the Declarant and any improvements to any Lot, accomplished concurrently with said original construction and except for the purposes of proper maintenance and repair or as otherwise in this Declaration provided, it shall be prohibited to install, erect, attach, apply, paste, hinge, screw, nail, build, alter, remove or construct any lighting, shades, screens, awnings, patio covers, decorations, fences, aerials, antennas, radio or television broadcasting or receiving device, slabs, sidewalks, curbs, gutters, patios, porches, driveways, walls or to make any change or otherwise alter (including any alteration of color) in any manner whatsoever of any exterior within Montgomery Farms, Phase One



until the complete plans and specifications showing the location, nature, shape, height, material color, type of construction and/or any other proposed form of change (including, without limitation, any other information specified by the Declarant or its designated committee) shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Declarant, or by any architectural control committee designed by it. In the event the Declarant or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval shall be deemed automatically granted. Any restriction hereunder may be waived by the Declarant in lieu of a committee.

In the event the Architectural Review Committee rejects plans submitted for approval under this covenant, upon written application for approval by One Hundred percent (100%) of lot owners within one hundred fifty (150) feet from all property lines of the affected lot the said proposed plans shall be deemed approved by the Architectural Review Committee.

The Declarant shall retain full control of the Architectural Review Committee until 100% of the lots have been conveyed, or until, in his sole discretion, Declarant appoints three lot owners to act as said Committee. After 100% of the lots have been sold, all members of the Architectural Review Committee shall be appointed by the Directors elected.

## **ARTICLE VIII**

### **RESTRICTIONS ON USE**

Section 1. Residential Use. No Lot shall be used except for private residential purposes except for such non-residential uses as may be permitted by the zoning laws of the applicable government authority, from time to time. Nothing in this section, or herein elsewhere, shall be construed to prohibit the Declarant from the use of any Lot or Lots which Declarant owns for promotional or display purposes as models or from leaving any Lot or Lots which Declarant owns except that Declarant shall nevertheless be bound by the provision of Section 2.

Section 2. Leasing. No Lot within the residential community shall be rented for transient or hotel purposes or in any event for any period less than six (6) months. No portion of any Lot (other than the entire Lot) shall be leased for any period. Any owner of any Lot who shall lease such Lot shall do so in writing and promptly following the execution of any such lease, forward a conformed copy thereof to the Board of Directors. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the Lot shall be subject and subordinate in all respects to the provisions of this Declaration and to such By-Laws, rules and regulations, or other "House Rules" as the Board of Directors of the Association may from time to time promulgate. The provisions of this subsection shall not apply to any institutional mortgagee or any Lot who comes into

possession of the Lot as a result of a foreclosure sale or other judicial sale or as a result of any proceeding in lieu of foreclosure.

Section 3. Prohibited Use and Nuisances. In order to provide for a congenial occupation of Montgomery Farms, Phase One and to provide for the protection of the values of the entire development, the construction of the buildings and the use of the residence and Lot shall be in accordance with the following provisions:

(a) Said property is hereby restricted to residential dwellings for residential use. All buildings and structures erected upon said property shall be of new construction, and no buildings or structures shall be moved from other locations onto said property and no subsequent buildings or structures, other than single family dwellings and cluster dwellings or single-family townhouses. All dwellings must have a two-car garage. Storage buildings, detached garages, in-ground pools and above ground pools with attractive fencing are permitted and all matters regarding said storage buildings, detached garages, pools and fencing and location thereof are subject to approval by the Architectural Review Committee.

(b) Each Lot shall be conveyed as a separately designed and legally described freehold estate subject to the terms, conditions and provisions hereof.

(c) No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots except that a total of two (2) dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. More than two (2) household pet may be kept according to the discretion of the Developer. It shall be the prerogative of the Board of Directors to determine if the keeping of any animal is such to create a nuisance and in the event the Board so finds, the owner shall remove said animal or animals. No household pet shall be allowed to roam the neighborhood or shall be left outside barking for 15 minutes or more nor shall any doghouse, kennel, dog lot etc. be constructed on any Lot without prior written consent of the Architectural Review Committee.

(d) No advertising signs (except two of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on said property, nor shall said property be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any Lot or any resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of said property; provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboard or the construction and maintenance of buildings, if any, of

Declarant, their agents and assigns, during the construction and sale period of Montgomery Farms, Phase One.

(e) No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any owner or owners in favor of the other owners.

(f) No structure of temporary character, trailer, basement, tent, shack, garage, barn, greenhouse or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently. Nothing contained in these covenants and restrictions shall prevent the Declarant or any person designated by the Declarant from erecting or maintaining such temporary trailers, dwellings, model houses or other structures as the Declarant may deem advisable for development purposes.

(g) No junk or inoperable cars shall remain on any Lot. Boats, recreational vehicles, campers and trailers may be kept but must be kept along the side or rear of the dwelling or in a garage, but not along any street.

(h) All fencing shall be of wrought iron, wood, brick, vinyl, powder-coated aluminum or other material acceptable to the Architectural Review Committee, and shall be constructed so as to be aesthetically compatible with the construction and style of the dwelling. All fences, including color, height and design, are subject to Architectural Review Committee and further subject to any government ordinances regarding placement. No fences of any kind shall be allowed in the area defined from the front corners of any dwelling to the front lot line of any lot; however a privacy fence between units is allowed but is subject to approval from the Architectural Review Committee. Chain link fences are not permitted.

(i) All satellite dishes shall be placed in an inconspicuous manner not facing the street. The location and size of all satellite dishes are subject to Architectural Review.

(j) There shall be no screening on front porches.

(k) No dwelling shall be erected or permitted to remain in this Subdivision unless it has a minimum of One Thousand Five Hundred (1,500) square feet of enclosed living area, exclusive of open porches, garages or basements. However, in the event the topography of any Lot so dictates, Declarant may, in its sole discretion, construct a dwelling of less than 1,500 square feet.

(l) Owners shall mow their unimproved lot(s) a minimum of twice per year, including at least once in the spring and once in the fall. All improved lots shall be mowed at regular intervals to maintain a neat

appearance. This provision does not apply to any future development property of Declarant herein which shall be mowed by the Declarant at its discretion and any common areas which shall be mowed by the Homeowner's Association. No tree over three inches in circumference shall be cut without the permission of the Architectural Review Committee. The Homeowner's Association shall have the right to mow and maintain any lot not maintained by its owner and charge the owner for same. Delinquent fees are subject to reasonable collection cost, attorney fees and interest thereon pursuant to Article IV, Section 1 herein. Mowing fees shall become a lien on the subject lots, but said liens shall be subordinate to any mortgages obtained by the lot owners unless a lien for unpaid fees is recorded in the Register's Office for Blount County, Tennessee, prior to the recording of the mortgage.

## **ARTICLE IX**

### **ADDITIONAL EASEMENTS**

1. Easements for Utilities: There shall be easements upon, across, over and under all or any portion of all lots within Montgomery Farms, Phase One for ingress, egress, installation, replacing, repairing or maintaining all utilities, including but not limited to, water, gas, electricity, telephone, sewers or television.
2. Easements for Grading: Declarant, its successors and assigns, shall have a five (5) foot easement on each side of all lot lines of each lot within Montgomery Farms, Phase One, for grading, etc.

## **ARTICLE X**

### **ADDITIONAL PROPERTY**

1. Declarant may add additional phases of Montgomery Farms. All or part of these restrictions may or may not apply to said additional phases and future lot owners of additional phases may or may not be a part of Montgomery Farms, Phase One Homeowner's Association.

## **ARTICLE XI**

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall insure to the benefit of and be enforceable by the Association, or the owner of representatives, heirs, successors and assigns for a period of twenty (20) years from the date this Declaration is recorded, unless otherwise expressly limited herein, after which time said covenants shall be automatically

extended for successive periods of ten (10) years each, however, the term and duration of the Homeowner's Association shall not expire for the maintenance of the all common areas and drainage facilities. This Declaration may be amended at any time by instrument signed by owners holding not less than 90% of the votes of the membership. Any amendment must be properly recorded to be effective. These amendment provisions specifically exclude the amendment of any provision dealing with the Homeowners Association's for the maintenance of the common areas and drainage facilities, which may not be amended without the approval of the Planning Commission.

The Declarant reserves the right for a period of three years from the date hereto to unilaterally amend this Declaration in whole or in part to conform this Declaration to the requirements of any governmental agency, federal, state or local, and for the requirements of any mortgage lender, however any such amendments by Declarant shall not be more restrictive for Lots already conveyed and will not lessen requirements that are in keeping with the overall plan or scheme of the subdivision.

Section 2. Notices. Any notice required to be sent to any member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member on the records of the Association at the time of such mailing.

Section 3. Enforcement. The Declarant, the Association, or any member shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any member to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the Association shall be chargeable to the owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectable in the same manner as assessments hereunder.

Section 4. Severability. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions which shall remain in full force and effect.

Section 5. Waiver. No restriction, condition, obligation or provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 6. Gender. Whenever in this Declaration the context so required, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto executed this instrument on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

MONTGOMERY FARMS, LLC

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF BLOUNT

Personally appeared before me, the undersigned authority, a Notary Public in and for said County and State, **JASON E. PANKRATZ**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the within instrument for the purposes therein contained, and who further acknowledged that such person is the **CHIEF MANAGER** of **MONTGOMERY FARMS, LLC**, 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 and official seal at office this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public