

This instrument prepared by:  
James S. Stephens  
209 E. McLean Street  
Manchester, TN 37355

## Piney Creek Airpark

### DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION is made to be effective the \_\_\_\_ day of January, 2007, by Joseph L. Greenwell, Jennifer Neil, Jeffrey R. Greenwell, and Lisa Greenwell, (herein Developer)

#### BACKGROUND

1. Developer, as the owner of certain real property located in Grundy County, Tennessee, desires to create thereon a development known as Piney Creek Airpark (sometimes herein the Development) to be located upon the real property more particularly described in Exhibit A attached hereto and incorporated herein (the Property).
2. Developer desires to provide for the preservation of the land and home values when and as the Property is improved and desires to subject the Property to certain covenants, restrictions, easements, affirmative obligations, charges and liens as hereinafter set forth.

NOW, THEREFORE, The Developer subjects the Property to the terms of this Declaration and declares that the Property is and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens hereinafter set forth (the Declaration). The terms and provisions hereof shall be covenants running with the Property and each portion thereof.

#### 1. PLAN OF DEVELOPMENT and LAND USE

Developer has established a general plan of development for the Property as a residential airpark community. All Owners and occupants are hereby given notice that use of their Lots is limited by the covenants and restrictions. Each Lot Owner, by acceptance of a deed, acknowledges and agrees that the use, enjoyment and marketability of his or her property is subject to the covenants and restrictions herein.

#### 2. OWNERS ASSOCIATION

In furtherance of preservation of the general plan of development, a governing body shall

be created by the Developer hereafter which shall be designated as the Owners Association. Bylaws, dues, membership rights and other rules of governance shall be established at anytime hereafter in the Developer's discretion, but shall be done prior to the sale of all the lots. Such bylaws shall establish a board of directors which shall be responsible for conducting business of the Association. Such Bylaws shall specify the terms of the directors of the association and practice and procedure for conducting business in furtherance of maintaining the goals of the Development as stated herein.

No rule or action by the Owners Association shall unreasonably impede the Developer's right to develop in accordance with its master plan and the recorded survey plans for the Property. Neither shall the Owners Association establish any rule that conflicts with these covenants and restrictions herein

The Owners Association shall not make any assessment modification, abridge the rights of Owners to the common areas or undertake expenditures beyond the maintenance of existing structures without adequate notice to all Owners and the concurrence of a majority of property Owners.

Each Owner shall have a voting share based upon the number of acres owned, with one vote per full acre. Membership in the Association is limited to deed Owners of property.

Directors and officers of the Association shall not have personal liability for damage or loss caused by their actions as officers or directors when acting in good faith, unless such actions are found to be done with willful or deliberate intent to cause harm.

**NOTICE OF CHANGES.** The Owners Association shall provide 30 days notice in writing mailed to all owners' permanent address as provided by the owners to the association. Such notice shall advise homeowners of any proposed change in Association Regulations, Architectural Control, change in dues to Owners or any other change which will impact any lot owner's use of their lot. Changes shall be made by vote of the Homeowners Association Members.

Such changes shall occur only after deliberation by the Association governing body in an open meeting conducted pursuant to "sunshine" laws incumbent governing bodies, in which owners or those appearing by proxy have an opportunity to voice their opinions. However, any action responding to an urgent or emergency situation requiring action where it is not reasonable or possible to provide this notice is exempted from this notice. Any action taken by the Association in response to such situation shall be effective only until the exigent circumstances has subsided or until there is time to adequately notify lot owners.

## **ENFORCEMENT.**

The Association, or any Unit Owner, or the Developer shall have the right to enforce, by any proceeding at law or in equity, including injunctive relief, all restrictions, easements, covenants, conditions, assessments and liens now or hereafter imposed by the provisions of this Declaration, including the right to levy fines of up to \$50.00 per occurrence (each day's violation being considered a separate occurrence) for each violation. Failure by the Owners Association, the Developer or any Unit Owner to enforce any restriction, easement, covenant, condition, assessment and lien herein contained shall in no event be deemed a waiver of the right to do so thereafter.

## **3. USE OF PROPERTY**

Residential - No Lot shall be used except for single-family residential purposes and purposes consistent with an airpark community.

One Dwelling - No building shall be erected, altered, placed, or permitted to remain on any lot other than one single-family dwelling plus any hangars, garages, or other outbuildings as approved by the developer or the Owners Association.

### **BUILDING LOCATION; RESUBDIVISION.**

a. Set Back Lines and Utility Easement. - No building shall be located on any Lot nearer than 35 feet to the front lot line or nearer than 30 feet to any side street line. No building shall be located nearer than 30 feet to an interior lot line or taxi way easement for adjoining lots. There shall be a utility easement reserved of 5 feet along all lot lines.

b. Re-Subdivision. - No Lot or Unit shall again be subdivided, re-subdivided, altered, or changed, so as to provide less area in any Unit than the area established by the Plat.

### **NUSIANCES**

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

**AERONAUTIC CONDUCT** The Subdivision is created for the peaceful & safe enjoyment of the land and the skies. All owners, their guests and invitees shall conduct themselves while involved in aviation activities in compliance with the laws and regulations relative to aircraft at state and national level. Flight patterns and approaches to the airfield shall be done by approved approach and take off procedures so as to ensure the safety of community members and property. Failure of any lot owner or its guest or invitee to abide by safe aeronautic practices or other maneuvers of aircraft either on the ground or aloft which are determined by the Owners Association to be a nuisance or hazard to others may result in a suspension of the lot owner's right to use of the air field. Such suspension may be either temporary or permanent depending on the severity and chronicity of the problem. Owners and their guest and invitees shall not utilize aircraft that exceed the capacity for safe landings and takeoffs from the airfield or which cause unreasonable or excessive wear and tear on the landing field or facilities related thereto.

No aviation fuel may be stored in quantities exceeding 55 gallons on the premises of any lot apart from those storage units permitted by the developer or the Owners Association in writing and which conform to federal and state storage standards and which are registered with appropriate authorities.

### **LIVESTOCK AND POULTRY.**

No animals, livestock, or poultry of any shall be raised, bred or kept on any Unit, except that dogs, cats or other household pets may be kept provided they are (1) confined to the Lot of their owners by leash or fence, (2) not kept for any commercial purpose, and (3) not kept in such numbers as to become a nuisance. Horses may be permitted with approval by Developer or Owner Association.

## **GARBAGE AND REFUSE DISPOSAL.**

No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be concealed underground or screened by a fence, hedge, or wall from the view of neighbors or the public.

## **OTHER PROHIBITED OR RESTRICTED ACTIVITIES.**

(a.) **Unlicensed Vehicles.** No currently unlicensed motor vehicle may be kept on any Lot. Moreover, no Lot Owner shall permit any motor vehicles (operable or inoperable) owned by such Lot Owner, or by any person occupying a dwelling, or by any person on the premises as guest or invitee, to remain parked on the transportation easement for more than 24 continuous hours.

ATVs (All Terrain Vehicles) are permitted on property and must always be operated in a safe manner. ATVs or any other type of recreational vehicle are operated at their owner's risk.

(b.) Any flag flown shall be displayed in conformity with state and federal guidelines.

(c.) **No Auto Service.** Automobiles may not be assembled, disassembled or serviced in view of the public on any Lot.

(e.) **No Modular Homes.** There shall be no Modular Homes or single or double wide trailers located upon the property. There shall be no structure of a temporary character and no tent, shack, garage, barn, hangar or other outbuildings shall be used on any lot at any time as a residence, either temporarily or permanently, including during construction of permanent residence, unless approved by Developer.

(f.) No sign of any kind shall be displayed to the public view on any lots except one professional sign of not more than five square feet advertising the property for sale or rent or signs used by a builder to advertise the property during the construction and sales period.

## **REQUIRED MAINTENANCE; ASSOCIATION'S RIGHTS.**

Lots shall be kept clean and mowed, and all dwellings shall be kept neatly painted and in good repair. The Association shall have the right to enter upon any Lot for the purpose of cutting grass, cleaning up such Lot, or painting, repairing and maintaining the dwelling thereon, if same be reasonably required, and to charge the expense thereof as a additional annual assessment to the Unit Owner, which assessment shall be a lien on the Lot and bear interest at the rate of ten percent (10%) per annum from the date the expense is incurred until paid in full. This assessment is not subject to the dollar amount limitations of annual assessments.

## **WATER SUPPLY; SEWAGE DISPOSAL.**

No individual water supply systems shall be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements, standards and

recommendations of both State and Local Public Health Authorities. Approval of such system as installed shall be obtained from such authority. Sewage disposal shall be individual sewage systems (septic tanks and field lines) and shall be designed, located and constructed in accordance with the requirements, standards and recommendations of both State and Local Public Health Authorities. Approval of such system as installed shall be obtained from such authority and any such system must be so approved.

## **ASSESSMENTS**

Each lot owner shall be assessed annual dues for the upkeep, maintenance and appropriate insurance of common areas as designated on the plat or later dedicated by the developer as a common area, provided such improvements are in keeping with the original purpose of an, airpark community. Such dues -- the amount, frequency and purpose therefore -- shall be determined by the Developer until 100% of the lots platted in each phase of the subdivision are sold, or until the Developer shall formally in writing cede this obligation to the Owners Association. Dues shall be assessed for each lot based upon the prorated share of the total costs to the Subdivision for expenses enumerated below. The dues for each Owner shall be based upon the number of acres owned by the owner divided by the total number of acres owned by private owners. Dues shall become an assessment on the real property, the payment of which shall be secured by a real interest in the property of each lot owner if not paid. A lien is hereby granted by each owner to the Developer and/or the Owners Association to secure payment of the same. This lien may be utilized to force the involuntary sale by foreclosure of the owner's property pursuant to the laws of this state.

Assessments may be made for the purpose of maintaining the common areas as designated on the plat or any areas deeded by Developer or others to the community and accepted by the Owners Association or the Developer. This may include funding the costs of maintenance of grounds, including grass cutting of common areas, insurance, upkeep or improvements of roadways and the airstrip, including resurfacing, lighting, security gates, fencing or related equipment and other areas or service which maintain and benefit the common infrastructure of the subdivision and which enhance the safety and preserve the beauty of the Development. Modification of assessments shall be done only with adequate notice as described herein to all lot owners and by providing to lot owners a forum to present their views. (See General Provisions below)

## **4. ARCHITECTURAL CONTROL**

### **i. APPROVAL OF DEVELOPMENT.**

No structure shall be placed, erected or installed upon any Lot and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials shall take place except in compliance with this Article and approval of the Owners Association or Developer.

Before commencing the construction, reconstruction, remodeling, alteration, or addition of any building or structure, fence, wall, driveway, path or other improvement of any nature, the Lot Owner shall first submit its building plans, specifications, site and landscape plans, drainage plans, and an elevation sketch (collectively the "Plans") to the Owners Association or Developer for its written approval. In the event the Owners

Association or Developer shall fail to approve or disapprove in writing the Plans within thirty (30) days after they have been received, such approval shall be deemed to have been given and this covenant shall be deemed to have been complied with.

Any Lot Owner may remodel, paint or redecorate the interior of structures on his or her lot without approval. However, modifications to the interior of screen porches, decks and similar portions of a structure visible from outside the structure shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

This Article may not be amended without the Developer's written consent so long as the Developer owns any property subject to this Declaration.

Approval of plans for any work done or proposed or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar Plans or other matters subsequently or additionally submitted for approval.

In reviewing each submission, the Owners Association or Developer may consider the quality of workmanship and design, harmony of external design with existing structures and location in relation to surrounding structures, topography and finished grade elevation, among other matters.

## **ii. CONFORMANCE AND GUIDELINES.**

Conformance Required. Plans for all Lot improvements and construction activities must conform to (1) design guidelines adopted by the Owners Association or Developer and made available to Lot Owners prior to the sales of the property and which shall be hereafter recorded in the Grundy County, Tennessee, Register of Deeds' Office at Altamont, TN and (2) any other requirements of this Declaration.

Design guidelines adopted hereafter, or any amendments to the guidelines, shall apply to construction and modifications commenced after the date of adoption or amendment only, and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. The Owners Association or Developer shall make all design guidelines available to Lot Owners and builders who seek to engage in development or construction within the Property. All Lot Owners and builders shall conduct their activities in accordance with the design guidelines set forth herein or as subsequently adopted by the Owners Association or Developer and made available to Lot Owners and builders. In the Developer's discretion, other or additional design guidelines may be recorded in the Grundy County, Tennessee, Register of Deeds' Office at Altamont, TN, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the design guidelines was in effect at any particular date.

## **iii. Architectural Guidelines.**

- (a) Dwelling Quality. Height and size. All dwellings shall be of high quality workmanship and materials. No residence shall be erected on any lot

containing less than 1,500 square feet of living space, exclusive of porches, decks, patios, carports, garages, hangars, lower level of split foyer, lower level of bi-levels, lower level of tri-levels, and finished area of basements of ranch houses. No building, home, hangar, antenna or other structures to be higher than 35 feet unless approved by Owners Association or Developer.

- (b) Exterior Materials. The exterior of all houses shall be constructed of a natural element, including but not limited to brick, natural stone, natural wood or similar materials approved by the Owners Association or Developer. No aluminum (whether vinyl coated or painted) shall be used on any house on a Lot except for soffit, fascia or other such trim work.
- (c) Colors. All exterior colors must be approved by the Owners Association or Developer. No bright or garish colors will be allowed.
- (d) Zoning. All dwellings must comply with all county zoning and building requirements.
- (e) Metal Roofs. Metal roofs of "standing seam" type which are permanently colored are permitted.
- (f) Outbuildings and Hangars. All outbuildings and hangars are to be constructed of the same quality and matching materials as the residence and approved by the Owners Association or Developer.
- (g) Satellite dishes. No satellite receiving dishes greater than eighteen inches (18") in diameter shall be placed on a Lot. Dishes 18" in diameter or less may be placed on a Lot, if they are affixed to the main house or the attached garage and are not on the front or the front one-half of a side. They shall be placed adjacent to an inside corner or at another similar, less obtrusive location.
- (h) Fences. All fences must be approved by the Owners Association or Developer.

#### **iv. INSPECTION REQUIRED.**

If the Architectural Control Committee approves the Plans, the actual construction in accordance with the Plans shall be the responsibility of the Lot Owner, provided, however, upon completion of the improvements, and prior to occupancy, the Lot Owner shall notify the Owners Association or Developer, who shall have ten (10) days thereafter within which to have the improvements inspected by the Owners Association or Developer to insure that the construction was completed in accordance with the Plans approved by the Architectural Control Committee prior to construction. If the Owners Association or Developer fails to approve or disapprove in writing the completed improvements within ten (10) days after receipt of notice from the Owner that the improvements are completed, such approval shall not be required and these covenants will be deemed to have been complied with.

#### **v. UNAPPROVED CHANGES.**

In the event an Owner has made changes from the original Plans and such changes were not previously approved by the Owners Association or Developer, occupancy of the subject improvements shall be delayed until either approval of the changes is granted or the necessary corrections have been made to bring the improvements into compliance with the approved Plans.

**vi. CONSEQUENCES OF FAILURE TO COMPLY.**

If any Unit Owner shall fail to complete improvements according to the approved plans or to maintain the improvements situated upon the Lot in a manner satisfactory to the Owners Association or Developer, the Association may, upon the vote of two-thirds of the Board of Directors, and after ten (10) Days' written notice to the Lot Owner and in the event of the Lot Owner's continued failure to commence the correction of the matter in issue, enter upon said Unit and remove the non-conforming improvements erected thereon to substantially the same condition as previously existed. The cost of such removal shall be added to and become immediately due and payable within 30 days of demand after which time any unpaid amounts shall become a permanent lien on the property, and the Owners Association or Developer shall be afforded a security interest in the real property upon which the improvements are made for the purposes of securing this assessment. The property shall be subjected to sale if not paid after the 30 days above mentioned. Unpaid amounts bear interest at the rate of ten percent (10%) per annum from the date the expense is incurred until paid in full. This assessment, however, is not subject to the dollar amount limitations of annual assessments.

Any contractor, subcontractor, agent, employee or other invitee of a Lot Owner who fails to comply with the terms and provisions of this Article and any design guidelines adopted and made available or recorded by the Owners Association or Developer may be excluded by the Association from the Property, subject to the notice and hearing procedures contained in the Association's Bylaws.

In addition to the foregoing remedy of removal and assessment, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article, other design guidelines adopted and made available or recorded by the Owners Association or Developer.

**vii. WAIVERS.**

The Owners Association or Developer shall have the right to waive minor violations and allow minor variances from the approved plans, where the same resulted unintentionally or without gross carelessness on the part of any Lot Owner and are not materially harmful to the surrounding Lots or the Property. If such waiver is granted in writing, then, thereafter, such matters so waived shall no longer be deemed a violation of these restrictions.

**viii. APPROVAL IS NO WARRANTY.**

The approval by the Architectural Control Committee or Developer of the Plans and completed improvements as required above is not intended to be an approval of the structural stability, integrity or design of a completed improvement or of the safety of any component therein, but is required solely

for the purpose of ensuring compliance with the covenants contained in this Declaration and, further, to ensure the harmonious and orderly architectural development and improvement of the Property. Notice is hereby given to any future occupant of any such completed improvement, and all invitees, business guests and other persons who may from time to time enter or go on or about such completed improvements, that no permission or approval granted by Architectural Control Committee or Developer with respect to construction pursuant to this Declaration shall constitute or be construed as an approval by them of the structural stability, integrity, soundness, or design of any building, structure or other improvement nor for ensuring compliance with building codes and other governmental requirements. No liability shall accrue for any injuries, damages or loss arising out of or resulting from the manner or quality of approved construction on or modification to any Lot to the Developer, the Architectural Control Committee, or Owners Association, their officers, directors, agents or employees, in the event that any such construction shall subsequently prove to be defective.

**ix. ARCHITECTURAL CONTROL COMMITTEE.**

The Architectural Control Committee shall consist of three **(3)** members, initially appointed by Developer. Subject to approval of the Owners Association, the Committee is charged with developing rules and standards to be made available to Owners and prospective buyers. Developer is hereby empowered to appoint their successors should a vacancy occur, and Developer may remove members and replace them at its sole discretion until the sale of all the Lots, at which time the authority to appoint shall automatically be vested in the Owners Association. Members shall serve staggered terms to be determined by the Developer.

**5. GENERAL PROVISIONS**

**COSTS AND ATTORNEYS FEES.**

If the Association, the Developer, or any Unit Owner is successful, or partially successful, by final judicial decree or judgment, in enforcing any restriction, easement, covenant, condition, assessment or lien against a Unit Owner or the Unit, he, she or it shall be entitled to recover all costs, including attorneys' fees, in connection with such enforcement effort, all of which shall constitute further additional annual assessments, bearing interest at ten percent (10%) per annum, against the offending or delinquent Unit Owner and shall constitute a lien against the Unit. This assessment is not subject to the dollar amount limitations of annual assessments.

**JUDICIAL MODIFICATION.**

Any restriction, easement, covenant, condition, assessment or lien, which is found to be unenforceable by a final judicial order, decree, or judgment of a court of competent jurisdiction, shall be modified by the Court to the least extent possible so that the same, as judicially modified, shall be enforceable rather than declared to be invalid.

## SEVERABILITY.

Judicial invalidation of any one of these restrictions, easements, covenants, conditions, assessments or liens shall in no way affect any other provisions which shall remain in full force and effect.

## AMENDMENT.

The restrictions, easements, covenants, conditions, assessments and liens of this Declaration shall run with and bind the land for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the Unit Owners provides otherwise.

In addition to amendments made by the Developer, this Declaration may be amended during **the first forty (40) year period by an instrument signed by not less than Seventy-Five (75%) of the Unit Owners – irrespective of the acreage owned by each owner.**

Any amendment, with all necessary signatures, must be recorded in the Register of Deeds' Office for Grundy County, Tennessee, at Altamont.

Until Developer sells all (100%) of the lots of the Development, Developer may unilaterally amend this Declaration for any purpose necessary to (i) bring any provision into compliance with any applicable government, statute, rule, regulation or judicial determination; (ii) enable any reputable title insurance company to issue title insurance coverage on a Unit; (iii) enable any institutional or governmental lender, purchaser or guarantor of mortgage loan to make, purchase or guarantee mortgage loans on the Units; (iv) enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units; or (v) satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to or use of any Unit previously sold unless the Unit Owner shall consent thereto in writing.

So long as Developer owns any portion of the Development, it may unilaterally amend this Declaration for any other purpose provided the amendment has no material adverse effect upon any right of any Unit Owner. Any such amendment can affect any one Unit or any number of Units, in the Developer's discretion.

If any Unit Owner consents to any amendment to this Declaration or the Association's Bylaws, it will be conclusively presumed that such Unit Owner has the authority to consent, and no contrary provision or any mortgage or contract between the Unit Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of the Developer without the written consent of the Developer or the assignee of such right or privilege.

**BINDING EFFECT.** This Declaration shall be binding upon and inure to the benefit of all persons having any right, title or interest in the Property now or hereafter, or any portion thereof, their heirs, successors, successors-in-title and assigns.

**This Covenant made, declared and established this the date first stated above by:**

\_\_\_\_\_  
Joseph L. Greenwell, Developer

\_\_\_\_\_  
Jennifer Neil, Developer

\_\_\_\_\_  
Jeffrey R. Greenwell, Developer

\_\_\_\_\_  
Lisa Greenwell, Developer

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, a notary public in and for said state and county, appeared JEFFREY R. GREENWELL and LISA GREENWELL, who are both known to me or who provided sufficient proof of their identity and who, upon being placed under oath, did affirm that they did execute this instrument herein for the purposes state herein by each signing their name in their capacity as Developers.

Sworn to and Subscribed before me this \_\_\_\_ day of January, 2007.

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

SEAL

My commission expires: \_\_\_\_\_

STATE Of TENNESSEE  
COUNTY OF \_\_\_\_\_

Before me, a notary public in and for said state and county, appeared JOSEPH L. GREENWELL and JENNIFER NEIL, who are both known to me or who provided sufficient proof of their identity and who, upon being placed under oath, did affirm that they did execute this instrument herein for the purposes state herein by each signing their name in their capacity as Developers.

Sworn to and Subscribed before me this \_\_\_\_ day of January, 2007.

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

SEAL

My commission expires: \_\_\_\_\_

