

# 2009 Covenant Unification Amendment

## AMENDMENT TO RESTRICTIVE COVENANTS

LOTS \_\_\_\_\_ MOUNTAIN SHADOWS ESTATES HAMILTON COUNTY, TENNESSEE

THIS AMENDMENT is hereby made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the Owners of the Lots as described herein.

### WITNESSETH:

WHEREAS, those certain Restrictive Covenants dated \_\_\_\_\_, \_\_\_\_\_, affecting Lots \_\_\_\_\_ in Mountain Shadows Estates (the "Lots") are recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ in the Register's Office of Hamilton County, Tennessee (the "Restrictive Covenants"); and WHEREAS, a Tennessee nonprofit corporation, MOUNTAIN SHADOWS RESIDENTS ASSOCIATION, INC. (the "Association"), has been created under the laws of the state of Tennessee, for the purpose of (i) maintaining and administering the common elements and properties within Mountain Shadows Estates that are devoted to and intended for the common use, benefit and enjoyment of the Owners of the Lots and the other owners of lots within Mountain Shadows Estates, and (ii) enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement as set forth in the By-Laws of the Association and all amendments thereto (together, the "By-Laws"); and WHEREAS, the Owners of the Lots desire to provide for the preservation of the value of the Lots and the homes located thereon and for the efficient administration of the common amenities within Mountain Shadows Estates by hereby declaring that each Owner shall be a member of the Association and each Owner and Lot shall be subject to the By-Laws of the Association, such By-Laws being hereby ratified and incorporated herein and declared to be for the benefit of the Owners and the Lots: and

WHEREAS, as certified by the Secretary of the Association as provided herein and made a part hereof, the requisite percentage of at least sixty-six and two-thirds of the Owners of the Lots affected by the Restrictive Covenants have agreed to amend and change the

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Restrictive Covenants as provided herein and evidence such agreement by entering into this Amendment and having it duly recorded in the Register's Office of Hamilton County, Tennessee.

NOW, THEREFORE, the Restrictive Covenants are hereby amended and the Owners of the Lots have agreed as follows:

1. Every person who is an Owner is and shall be a Member of the Association as more particularly set forth in the By-Laws of the Association. "Owner" shall mean and refer to the Owner as shown by the real estate records in the office of the Register of Deeds of Hamilton County, Tennessee, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Lot, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. 2. Notwithstanding any provisions within the Restrictive Covenants to the contrary, the duties, obligations, rights and other terms and provisions of the Restrictive Covenants shall be carried out by the Association in accordance with the Bylaws, a copy of which is attached hereto as Exhibit "A" and made a part hereof. The Owners of the Lots hereby ratify the By-Laws and agree that the Owners and the Lots are subject to the terms thereof.

3. This Amendment has been voted upon and approved by the Owners in accordance with the terms of the Restrictive Covenants. The Owners have agreed that (i) this Amendment and any future amendment to the Restrictive Covenants as approved by the Owners shall become effective upon its recording with the Register's Office of Hamilton County, Tennessee, and (ii) the President of the Association and Secretary of the Association shall execute, acknowledge and record this Amendment and any future amendment to the Restrictive Covenants as approved by the Owners and the Secretary shall certify on its face that it has been adopted in accordance with the provisions of the Restrictive Covenants; provided, that in the event of the disability or other incapacity of either, the Vice President of the Association shall be empowered to execute, acknowledge and record the amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including, without limitation, any mortgagee, prospective purchaser, tenant, lienor or title insurance company that the amendment was adopted in accordance with the provisions of the Restrictive Covenants.