IN THE CHANCERY COURT FOR GRUNDY COUNTY, TENNESSEE
AT ALTAMONT

THE RETREAT AT SUNSET BLUFF
HOMEOWNERS' ASSOCIATION, Inc.
RETREAT VACATIONS, LLC, AND
THE RETREAT AT SUNSET BLUFF,
LLC
Plaintiffs/Counter-Defendants,

CASE No. 7078

v.

BRANDI N. THIGPEN CHRISTOPHER M. THIGPEN
PAUL BABIN, SOMSAMAY MURPHY,
RICHARD W. PACQUIN, AND GWEN D. PACQUIN,
TRUSTEES OF THE PAQUIN FAMILY TRUST,
WILLIAM SALTER, JASON SHINTON, KELLY
SHINTON, SAM DALTON, REBECCA LEE RANZ,
JOSHUA HUGHES, KINDLE
HUGHES, BETH W. RINER, MICHAEL REITZ,
JALISA REITZ, LINDA RANZ,
JENNIFER M. RASMUSSEN, NOAH J. RASMUSSEN,
JENNIFER W. CAMPBELL. WILLIAM W. CAMPBELL,
WILLIAM WALLACE, SHIRLEY A. WALLACE,
JOHN M. RODDY, ELIZABETH S. RODDY,
CHARLIE MIRANDA, DANIELLE MIRANDA,
STEPHE J. FERRARI, MIRELLA POHAN FERRARI,
JAMES WHITBY, HOLLY WHITBY,
TIMOTHY MANN, RACHAEL MANN,
BRETT GIPSON, CHRISTINE GIPSON,
THE NANCY C HOVER REVOCABLE
TRUST DATED NOVEMBER 11, 2020.
WILLIAM CLAYTON WALLACE, II,
JENNIFER BUCK WALLACE, TROY FANELLI,
MACKENZIE FANELLI, CHARLES M. MUSGROVE,
NANCY B. MUSGROVE, FRANK HORDOS,
SARAH A. HORDOS ROBERT BROOKBANK,
ANNA BROOKBANK. JUDY L. KNAPP,
PATRICK GAST, JAMIE HAMMILL,
CHRISTOPHER LAWSON CUNNIGHAM,
RACHEL DIANE CUNNINGHAM,
PECK FAMILY REVOCABLE LIVING TRUST
AGREEMENT DATED JULY 10. 2024,
TYLER FLORES, ANDREA FLORES,
AND JUSTIN WEIDENHAMER.
Defendants/Counter-Plaintiffs.

FILED
DATE July 10, 2026
Megan Rollins
MEGAN ROLLINS
GRUNDY CO. CLERK & MASTER

v.
William Claude Hayes, III
Third Party Defendant.

DEFENDANTS' ANSWER AND COUNTER-COMPLAINT FOR DECLARATORY RELIEF AND DAMAGES

The above-named Defendants ("Defendants" or "Lot Owners"), by and through undersigned counsel, answer Plaintiffs' First Amended Verified Complaint (the "Complaint") as follows:

1. Defendants admit the allegations in paragraphs 1 through 54 of the Complaint.
2. Defendants admit the allegations in paragraph 55 of the Complaint.
3. Defendants admit the allegations in paragraphs 56 through 122 of the Complaint, except that Defendants lack sufficient information to admit whether Retreat Vacations, LLC is licensed by the Tennessee Real Estate Commission as alleged in paragraph 78. Defendants further deny that any agreement between Retreat Vacations, LLC and Hayes, acting for or through the Association, is valid, enforceable, or binding as alleged in paragraph 81, and deny any allegation in those paragraphs that characterizes the Lot Owners' actions or the September 2025 documents as valid, proper, or binding. As stated further below, anyone who conducts business with Retreat Vacations, LLC could be subject to double liability due to a lien over Retreat Vacations, LLC receivables.
4. Defendants admit the factual allegations in paragraphs 123 through 138 of the Complaint, except that no copy was sent to the Declarant or Claude Hayes as alleged in paragraph 125. Defendants deny any suggestion that the Lot Owners acted improperly, without authority, or in violation of any governing document or law.
5. Defendants deny the allegations in paragraph 139 of the Complaint and demand strict proof.
6. Defendants deny the allegations and requested declarations in paragraph 143 of the Complaint and demand strict proof.

7. Defendants deny the allegations in Count Two (Breach of Contract, paragraphs 144-149) and Count Three (Specific Performance, paragraphs 150 et seq.) to the extent those claims depend on the premise that the Lot Owners' special meeting, election, or March 2026 Amendment were improper or breached any contract or governing document. Defendants aver that the Lot Owners acted lawfully after declarant control ended and took appropriate steps to transition governance and correct the invalid September 2025 Amendment.
8. Defendants admit that the Period of Declarant Control terminated on November 12, 2025, as alleged in the Complaint, including paragraph 134. After that date, the Lot Owners had authority to elect directors and amend the governing documents by the required vote. Any post-termination action by the Declarant affecting the rights of Lot Owners or other third parties is unenforceable under Tennessee law.
9. Defendants deny all remaining allegations, legal conclusions, and requests for relief in the Complaint that are not expressly admitted above. Defendants further deny that Plaintiffs are entitled to any relief.

AFFIRMATIVE DEFENSES

1. Failure to State a Claim. The Complaint fails to state a claim upon which relief may be granted. The Lot Owners acted within their rights as Association members after the Period of Declarant Control ended, including by transitioning governance and addressing the September 2025 Amendment recorded by a dissolved entity.
2. Unclean Hands. Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands. Plaintiffs, through the administratively dissolved Declarant and Claude William Hayes, recorded the September 2025 Amendment without legal authority under Tenn. Code Ann. § 48-249-605. An administratively dissolved LLC may act only as necessary to wind up

and liquidate; it may not continue to amend the governing documents of an active subdivision. Plaintiffs now seek to undo the Lot Owners' good-faith corrective actions while disregarding their own breaches, self-dealing, and failure to transition control.

3. Equitable Estoppel / Waiver / Laches. Plaintiffs are estopped from challenging the Lot Owners' assumption of governance. The Declarant's dissolution, its failure to timely transition control, its post-dissolution recording of the September 2025 Amendment, and Plaintiffs' failure to promptly turn over records or seek appropriate relief bar the claims asserted in the Complaint.

4. Laches/ Unclean Hands- Retreat Vacations, LLC. Defendants affirmatively aver that recently issued UCC lien notices and related financing-statement materials concerning Retreat Vacations, LLC show among other things, an asserted purchase of future receivables, a claimed perfected security interest in present and future accounts and proceeds, a demand that account debtors remit funds directly to the secured party, and warnings of potential double liability for payments made to Retreat Vacations, LLC after notice. Those facts support Defendants' defenses and Counter-Plaintiffs' claims which include Plaintiffs and Counter-Defendants failed to protect the Association and Lot Owners, engaged in self-interested or conflicted conduct, and should not have the ability to have exclusive control over short term rental properties. A redacted copy of the lien-notice materials is attached hereto as Exhibit A.

5. Mootness / Lack of Standing. To the extent the Association is now governed by a duly elected homeowner Board, Plaintiffs lack standing to assert claims on behalf of the Association, or those claims are moot. The current Board is the proper party to act for the Association on governance matters.

6. Reservation of Rights. Defendants reserve the right to assert additional defenses, including statute of limitations, failure of consideration, setoff, and any other defense supported by discovery or further proceedings.

WHEREFORE, Defendants respectfully request that the Court:

A. Dismiss the Complaint in its entirety with prejudice;

B. Award Defendants their costs and reasonable attorneys' fees incurred in defending this action; and

C. Grant such other and further relief as the Court deems just and proper.

COUNTER-COMPLAINT AND THIRD-PARTY COMPLAINT FOR DECLARATORY RELIEF, DAMAGES, AND OTHER APPROPRIATE RELIEF

Defendants/Counter-Plaintiffs and Third-Party Plaintiffs, lot owners in The Retreat at Sunset Bluff Subdivision (collectively, "Counter-Plaintiffs," "Third-Party Plaintiffs," or "Lot Owners"), by and through undersigned counsel, file this Counter-Complaint and Third-Party Complaint for declaratory relief, damages, and other appropriate relief against Counter-Defendants The Retreat at Sunset Bluff, LLC (the "Declarant" or "Developer") and Retreat Vacations, LLC ("Retreat Vacations"), and against Third-Party Defendant Claude William ("Chip") Hayes ("Hayes"), and state as follows:

I. I. PARTIES

II. JURISDICTION AND VENUE

1. Counter-Plaintiffs own lots in The Retreat at Sunset Bluff Subdivision and are members of the Association. The Association exists for the benefit of its members and should be under the care, custody, and control of the Lot Owners acting through their duly elected Board. For

that reason, the Association is not properly aligned as a plaintiff against its own members in this action.

2. The Retreat at Sunset Bluff Homeowners' Association is a Tennessee nonprofit corporation created to govern the Subdivision. Its current Board is made up of Lot Owners elected after declarant control ended, and the Association's rights, records, property, funds, and governance should be controlled by that homeowner Board.

3. Counter-Defendant Retreat Vacations, LLC is a Tennessee limited liability company owned and controlled by Hayes. It has been involved in short-term rental management and related activities within the Subdivision and has derived income from those activities.

4. Counter-Defendant The Retreat at Sunset Bluff, LLC was the original declarant and developer. It marketed and sold lots and recorded the Original Declaration and early amendments. The Tennessee Secretary of State administratively dissolved the entity on August 11, 2025.

5. Third-Party Defendant Claude William Hayes controlled the Declarant, Retreat Vacations, LLC, and related entities involved in the Subdivision, including Oakstone and Land and Capital entities referenced in the development. Hayes directed the development, sales, governance, and post-dissolution conduct at issue.

III. FACTUAL ALLEGATIONS

6. The Retreat at Sunset Bluff is a planned residential and vacation community in Grundy County, Tennessee. It was marketed and sold as a luxury tiny community with residential lots, common areas, infrastructure, amenities, and Association-governed property for the benefit of the lot owners.

7. Beginning in or around 2020, the Declarant, acting by and through Hayes, marketed and sold lots in the Subdivision through recorded documents, plats, maps, written materials, oral representations, sales communications, and other promotional materials.

8. Counter-Defendants represented that the Subdivision would be properly developed, governed, maintained, and administered. They also represented that annual and special assessments paid by Lot Owners would be used to maintain, protect, and improve the Subdivision and its common areas.

9. On or about November 5, 2020, the Declarant recorded the Original Declaration for The Retreat at Sunset Bluff in Record Book 1123, Page 118, in the Register's Office of Grundy County, Tennessee. The Original Declaration created the Association, imposed covenants running with the land, and addressed assessments, common areas, architectural review, rental use, governance, and developer control.

10. On July 15, 2022, the Original Declaration was amended when Declarant caused to be recorded that certain Amendment to Declaration of Covenants, Conditions and Restrictions of The Retreat at Sunset Bluff in Record Book 1149, Page 2171, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee (the "First Amendment to Declaration"). A copy of the First Amendment to Declaration is attached to Plaintiffs' First Amended Complaint as Exhibit 7.

11. On July 6, 2023, the Original Declaration was amended again when Declarant caused to be recorded that certain Amendment to Declaration of Covenants, Conditions and Restrictions of The Retreat at Sunset Bluff in Record Book 1153, Page 1968, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee (the "Second Amendment to Declaration").

A copy of the Second Amendment to Declaration is attached to Plaintiffs' First Amended Complaint as Exhibit 8.

12. On July 25, 2023, the Original Declaration was amended again when Declarant caused to be recorded that certain Amendment to Declaration of Covenants, Conditions and Restrictions of The Retreat at Sunset Bluff in Record Book 1153, Page 2749, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee (the "Third Amendment to Declaration"). A copy of the Third Amendment to Declaration is attached to Plaintiffs' First Amended Complaint as Exhibit 9.

13. The Original Declaration, provided that the Period of Declarant Control would end on the later of five years after the first conveyance of a lot to a third-party purchaser or when three-fourths of the lots had been conveyed, subject to any earlier termination by Declarant election.

14. The First Amendment to Declaration, Second Amendment to Declaration, and Third Amendment to Declaration governed the Subdivision only to the extent they were lawfully adopted and consistent with the governing documents and applicable law.

15. During developer control, Counter-Plaintiffs and other Lot Owners paid assessments, followed the governing documents, and complied with architectural requirements. In doing so, they reasonably expected Counter-Defendants to administer the Association properly, maintain common areas, protect Association assets, provide financial transparency, and transition control when required.

16. Counter-Defendants did not deliver important parts of what they promised or undertook to provide. Common areas, amenities, infrastructure, governance, records, financial

transparency, and Association assets were not completed, maintained, funded, administered, or turned over as required by the governing documents and as represented to Lot Owners.

17. Specifically, Counter-Defendants marketed and sold lots for residential use, including lots promoted with incredible bluff-side views, hiking trails, playgrounds, common areas, pavilions, swimming pools, and other amenities. A copy of certain marketing materials Counter-Defendants used and upon which Counter-Plaintiffs relied when purchasing their properties is attached hereto as Exhibit B.
18. Furthermore, Counter-Defendants marketed and sold lots with the promise that Counter-Plaintiffs and other Lot Owners could enjoy the amenities of other subdivisions owned and controlled by Counter-Defendants. These subdivisions consisted of The Retreat at Water's Edge, LLC and The Retreat at Deer Lick Falls.
19. Despite these representations, Defendants did not deliver material aspects of what they promised or represented. By way of example, pools were never constructed, trails were not installed or completed, roads were improperly installed, septic design and drainage were inadequate, and common-area obligations were not funded or managed in a manner that protected the Development and its owners.
20. In the other subdivisions, pools were never constructed, trails were not installed or completed, docks and kayak-access features were not fully completed or maintained, and a pool house and cabana were promised in marketing materials but not delivered.
21. Counter-Plaintiffs reasonably relied on these recorded documents, marketing materials, representations, and the apparent plan for the Development when purchasing lots and investing substantial sums in homes, furnishings, and related improvements.

22. Counter-Defendants also failed to provide a full and timely accounting of Association funds, expenditures, contracts, records, member information, vendor relationships, and transactions involving Hayes-affiliated entities, despite requests from Lot Owners and despite their duties to the Association.

23. Upon information and belief, Counter-Defendants caused or allowed the Association to enter into or maintain arrangements with Retreat Vacations, LLC and other Hayes-affiliated entities. Those arrangements benefited Hayes and his entities at the expense of the Association and Lot Owners.

24. Upon information and belief, Retreat Vacations, LLC profited from, or attempted to control, short-term rental management in the Subdivision through arrangements created while Hayes and his affiliated entities controlled the Declarant, the Association, and the governance structure.

25. Further, Recent lien-notice materials concerning Retreat Vacations, LLC and Hayes reflect that Retreat Vacations, LLC sold or assigned future receivables to a third-party funding company. The funding company claims a perfected security interest in Retreat Vacations, LLC's present and future accounts and proceeds and directed persons owing funds to Retreat Vacations, LLC to remit payment directly to the funding company rather than to Retreat Vacations, LLC. The materials further warned that payment to Retreat Vacations, LLC after notice could expose the payor to double liability. (See Exhibit A)

26. These lien notices show that Retreat Vacations, LLC's rental-management and receivables arrangements created or threatened competing claims to the Association or Lot Owners, and support the need for an accounting, turnover of contracts and records, and relief against Counter-Defendants and Hayes.

27. On or about August 11, 2025, the Tennessee Secretary of State administratively dissolved the Declarant, The Retreat at Sunset Bluff, LLC. At that time, obligations to the Association and Lot Owners remained unresolved, including obligations concerning governance, records, common areas, taxes, amenities, and transition of control.

28. Under Tenn. Code Ann. § 48-249-605, an administratively dissolved limited liability company may continue its existence only for the purpose of winding up and liquidating its business and may not carry on business except as necessary to wind up and liquidate.

29. Amending subdivision governing documents that affect the ongoing rights, obligations, governance, rental rights, assessments, common areas, and property interests of third-party Lot Owners is not winding-up activity.

30. On September 18, 2025, the Declarant recorded a document titled Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Retreat at Sunset Bluff in Record Book 1162, Page 2684, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee (the "Restated Declaration"). A copy of the Restated Declaration is attached to Plaintiffs' First Amended Complaint as Exhibit 10.

31. The Restated Declaration was invalid when recorded because it was executed and recorded after the Declarant had been administratively dissolved and after the Declarant lacked authority to continue exercising developer governance or amendment powers for an active subdivision. At a minimum, it did not become effective as a governing document against the Lot Owners unless and until it was approved or ratified by the members at the March 2026 member meeting.

32. The Period of Declarant Control terminated no later than November 12, 2025, as alleged in the Complaint. Upon that termination, the Declarant no longer possessed unilateral governance under the governing documents.

33. After developer control ended, authority over the Association shifted to the Lot Owners acting under the governing documents and Tennessee law, including the right to elect directors and amend the governing documents by the required vote.

34. Only after the Declarant had been dissolved and developer control had ended did the Lot Owners exercise their rights to call and notice Association meetings for the purpose of amending and correcting the document purporting to be the September 2025 Amendment and electing a new HOA Board.

35. Those notices were properly called by more than 10% of the Owners, as required by the governing documents. A copy of the notice sent to Ghertner Management Company is attached hereto as Exhibit C.

36. Ghertner promptly sent a notice to all Lot Owners on March 6, 2026. The notice correctly described the date, time, and location of the meeting, as well as the purpose of the meeting and the requirements necessary to conduct it. A meeting was set for March 18, 2026. A copy of the notice of the meeting is attached as Exhibit D.

37. Ghertner sent two additional notices to all Lot Owners regarding the March 18, 2026 meeting. The second notice was sent on March 9, 2026, and the third notice was sent on March 18, 2026.

38. Each of the three notices had:

    i. an Agenda (attached as Exhibit E);

    ii. Draft of the 4th Amendment to the Declarations (attached as Exhibit F);

iii. Proxy (attached as Exhibit G); and

iv. Candidate form (attached as Exhibit H).

39. On March 18, 2026, hours before the Special Meeting, the Declarant, in a final attempt to maintain control over the Subdivision, filed an action against the members calling for the Special Meeting.

40. The members met on March 18, 2026, and, with a satisfactory quorum present, the proposed amendment to the Declarations passed well beyond the 67% supermajority requirement. A copy of the Amendment is attached to Plaintiffs' Complaint as Exhibit 19.

41. At the March Special Meeting, after notice was provided, a quorum was present, and the required vote of members was obtained, the Lot Owners elected a new Board of Directors composed of homeowners and authorized the Association to execute and record the March 2026 Amendment.

42. The March 2026 owner action occurred after the September 2025 recording and after declarant control had ended. It confirmed homeowner governance, corrected unauthorized or improper provisions, and restored Association authority to the Lot Owners and their elected Board.

43. So even if the Restated Declaration had some legal effect when recorded, the Lot Owners followed the proper procedure at the March 2026 member meeting to amend, modify, and correct it by the required vote. Under either analysis, the March 2026 member action controls.

44. Rather than cooperate with the transition and turn over records, funds, contracts, bank accounts, and control of common areas, Counter-Defendants, acting through Hayes, filed this

lawsuit challenging the Lot Owners' actions and attempting to preserve or restore developer-affiliated control.

45. This lawsuit has caused the Association and Lot Owners to incur unnecessary expense, uncertainty, disruption, and delay. It has also interfered with the current Board's ability to govern, obtain records, account for funds, protect common areas, and address outstanding obligations.

46. Furthermore, Counter-Defendants also failed to pay real property taxes assessed against common areas and other Subdivision property that they owned, controlled, or administered, or that the Association held while under developer control. They failed to do so despite collecting assessments and representing that community funds would be used to protect and maintain the Subdivision.

47. The unpaid taxes placed common property at risk of court-ordered tax sale. That risk threatened the Lot Owners' use of common areas serving the Subdivision and reflected Counter-Defendants' mismanagement, lack of transparency, and disregard of their obligations to the Association and Lot Owners.

48. The delinquency became serious enough that certain common areas were scheduled for tax sale by the Grundy County Clerk and Master. The Lot Owners, working with the property management company, paid or caused the delinquent taxes to be paid to prevent the loss of common property. As of the date of this filing, the back taxes for both common areas owned by the Declarant are showing unpaid for 2023 through 2025. A copy of the county's tax records is attached hereto as Exhibit I.

49. As a result of Counter-Defendants' conduct, Counter-Plaintiffs and other Lot Owners have suffered and continue to suffer loss of use and enjoyment, out-of-pocket costs, uncertainty

about governance and future obligations, diminished property value, costs related to delinquent taxes and threatened tax sale, and attorneys' fees and expenses incurred to protect the Association and Subdivision.

50. Declaratory and other relief is needed to resolve the parties' rights and obligations, including that the Association should be governed by the Lot Owners through their elected Board and should not be used as a plaintiff against its own members; the validity or effect of the Restated Declaration; the end of declarant control; the validity of the Lot Owners' meetings, election, and March 2026 Amendment; Counter-Defendants' and Third-Party Defendant's duty to turn over records and funds; the duty to account for assessments; and Hayes's personal liability.

IV. CLAIMS FOR RELIEF

COUNT 1 – DECLARATORY JUDGMENT

51. Counter-Plaintiffs reallege and incorporate by reference the preceding paragraphs as if fully set forth herein.

52. An actual and present controversy exists between Counter-Plaintiffs/Third-Party Plaintiffs and Counter-Defendants/Third-Party Defendant over their rights and obligations under the Original Declaration, the First Amendment to Declaration, the Second Amendment to Declaration, the Third Amendment to Declaration, the Restated Declaration, Tennessee law, and the Association's governing documents. The disputed issues include whether the Association should remain under the care and control of the Lot Owners through their elected Board rather than being used as a plaintiff against its own members; the effect of the Declarant's administrative dissolution; the validity or effect of the Restated Declaration; the date and effect of the termination of declarant control; the validity of the Lot Owners' meetings, election, and March 2026 Amendment; the duty to turn over records, funds,

contracts, bank accounts, and control; the duty to account for assessments and expenditures; responsibility for taxes and common-area expenses; the validity of arrangements with Retreat Vacations or other Hayes-affiliated entities; and Hayes's personal liability.

a. The September 18, 2025 Restated Declaration was void ab initio, invalid, and of no legal force or effect when recorded because it was executed and recorded by an administratively dissolved LLC without authority under Tenn. Code Ann. § 48-249-605, and it did not become effective unless and until approved or ratified by the members at the March 2026 member meeting;
b. Alternatively, if the Restated Declaration was effective when recorded, the Lot Owners followed the proper procedure at the March 2026 member meeting to amend, modify, and correct it, and the March 2026 Amendment is valid and controlling;
c. The Association is not properly aligned as a plaintiff against the Lot Owners and should instead be recognized as an Association governed by its members through the duly elected homeowner Board;
d. The Period of Declarant Control terminated on or before November 12, 2025, and all unilateral powers of the Declarant under the Original Declaration ceased as of that date;
e. The special meeting(s), election of the current Board of Directors, and the March 18, 2026 Fourth Amendment to Amended and Restated Declaration are valid, binding, and enforceable upon the Association and all Lot Owners, whether viewed as approval or ratification of the Restated Declaration or as a valid amendment and modification of it;
f. Counter-Defendants The Retreat at Sunset Bluff, LLC and Retreat Vacations, LLC, and Third-Party Defendant Hayes, have no authority to act on behalf of, or interfere with the governance of, the Association or the Subdivision;
g. Claude William Hayes is the alter ego of The Retreat at Sunset Bluff, LLC and Retreat Vacations, LLC, such that the corporate veils of those entities should be pierced and Hayes held personally liable for their obligations and conduct as alleged herein.
h. Counter-Defendants and Third-Party Defendant must provide a full accounting and turn over all Association records, funds, contracts, bank accounts, member information, tax records, vendor records, plans, and control to the homeowner Board.
i. Counter-Defendants and Third-Party Defendant are responsible for damages, reimbursement, and equitable relief arising from unpaid taxes, threatened tax sale, incomplete or inadequately maintained common areas and amenities, improper governance, and interference with the homeowner Board's authority.
j. A declaratory judgment will resolve uncertainty concerning ownership rights, Association governance, financial accountability, common-area protection, and Counter-Defendants' remaining obligations.

COUNT 2 – BREACH OF THE DECLARATION

AND GOVERNING DOCUMENTS

51. Counter-Plaintiffs reallege and incorporate by reference all prior paragraphs.

52. The Original Declaration and related governing documents imposed duties concerning governance, transition of control, assessments, common areas, architectural review, rental rights, records, financial transparency, and administration of Association property and funds.

53. Counter-Defendants and Third-Party Defendant breached those duties by failing to administer the Association properly; failing to turn over records, funds, and authority to the Association; failing to complete, maintain, or fund promised common areas, amenities, and infrastructure; failing to provide required transparency and records; failing to pay property taxes and other charges affecting common areas placed under their control; using or permitting the use of Association resources in a manner inconsistent with the governing documents and the interests of Lot Owners; recording or relying on the invalid Restated Declaration before member approval or ratification; and interfering with the homeowner Board after declarant control ended.

54. As a direct and proximate result of these breaches, Counter-Plaintiffs suffered damages, including diminished property value, loss of use and enjoyment, out-of-pocket expenses, and other damages to be proven at trial, not to exceed $5,000,000.00.

COUNT 3 – BREACH OF FIDUCIARY DUTY

53. Counter-Plaintiffs reallege and incorporate by reference the preceding paragraphs.

54. During the Period of Declarant Control, and whenever Hayes and The Retreat at Sunset Bluff, LLC exercised control over the Association, its Board, the Architectural Review Committee, and common areas, they owed fiduciary duties to the Association and its members. Those duties included loyalty, care, honesty, good faith, fair dealing, and full disclosure.

55. Counter-Defendants and Third-Party Defendant breached those duties by putting their own financial interests ahead of the Lot Owners' interests; failing to properly transition control; withholding or delaying records, financial information, bank accounts, contracts, tax information, and member information; engaging in or permitting self-dealing with Hayes-affiliated entities, including Retreat Vacations; failing to complete, maintain, fund, or protect common areas, amenities, and infrastructure; failing to pay taxes and protect common property from tax sale; recording or relying on the Restated Declaration before member approval or ratification and then challenging the members' March 2026 action; and pursuing litigation to undermine the transition of Association governance.

56. As a result, Counter-Plaintiffs and the Association suffered damages to be determined at trial. Hayes is personally liable because he directed the conduct at issue, exercised personal control over it, and used the LLCs as his alter egos.

COUNT 4 – PIERCING THE LLC VEIL / PERSONAL LIABILITY OF DEFENDANT HAYES

57. Counter-Plaintiffs reallege and incorporate by reference the preceding paragraphs.

58. At all relevant times, Hayes dominated and controlled The Retreat at Sunset Bluff, LLC, Retreat Vacations, LLC, and related entities. Those LLCs lacked a separate mind, will, or existence apart from Hayes and functioned as his instruments in developing, marketing, governing, and profiting from the Subdivision. Hayes personally directed representations to purchasers, the use of affiliated entities, Association governance and records, decisions regarding common areas and taxes, and the post-dissolution recording of the Restated Declaration.

59. Hayes disregarded corporate formalities, left tax liabilities and other obligations unresolved, caused or allowed the LLCs to be administratively dissolved while duties remained outstanding, and used those entities to avoid personal responsibility.

60. Recognizing the LLCs as separate entities under these circumstances would promote injustice and allow Hayes to avoid responsibility for the conduct alleged in this Counter-Complaint. Equity therefore requires that the corporate veils be pierced and that Hayes be held personally, jointly, and severally liable with the entity Counter-Defendants.

COUNT 5 – INTENTIONAL MISREPRESENTATION, NEGLIGENT MISREPRESENTATION, AND FRAUD IN THE INDUCEMENT

61. Counter-Plaintiffs reallege and incorporate by reference the preceding paragraphs.

62. Counter-Defendants, through Hayes and others acting at his direction, made material representations of existing and future fact. Those representations included that the Subdivision would be properly developed, governed, maintained, and administered; that common areas, amenities, and infrastructure would be completed or maintained for the benefit of Lot Owners; that assessments and Association funds would be used to protect and improve the Subdivision; that Association records, funds, and governance would be handled transparently and properly transitioned; and that Counter-Defendants would take the steps necessary to preserve common areas and related property interests.

63. Counter-Plaintiffs allege that, when those representations were made, Counter-Defendants knew they were false, made them without regard for their truth, negligently supplied false information for the guidance of purchasers, or made promises with no present intent to perform. Counter-Plaintiffs reasonably relied on those representations and omissions when purchasing lots, paying assessments, complying with governing documents, and continuing

to invest in the Subdivision. As a result, Counter-Plaintiffs suffered damages, including diminished property values, out-of-pocket costs, loss of use and enjoyment, increased expenses, uncertainty regarding governance, and other damages to be proven at trial.

COUNT 6 – VIOLATION OF TENNESSEE ANTITRUST AND TRADE PRACTICES ACT

64. Counter-Plaintiffs reallege and incorporate by reference all prior paragraphs.
65. Counter-Defendants Developer, Retreat Vacations, and Hayes entered into and maintained arrangements, contracts, agreements, and combinations with a view to lessen, or which tend to lessen, full and free competition in the short-term rental management services market within the Development, and designed or tending to control the price or cost to owners of such services.
66. Hayes, through his common ownership and control of the Developer, Retreat Vacations, and Oakstone, created and enforced exclusive or mandatory arrangements requiring or strongly incentivizing owners to use these affiliated entities for tiny-home purchases and STR management services. These arrangements unfairly restrict owners from participating in the open market and choosing competing providers.
67. Such conduct constitutes an unlawful restraint of trade in violation of Tenn. Code Ann. § 47-25-101 et seq. Counter-Plaintiffs have suffered damages as a direct and proximate result, including higher costs, reduced choice, and diminished property values.
68. Counter-Plaintiffs are entitled to recover damages, including treble damages where permitted, costs, and reasonable attorneys' fees.

COUNT 7 – VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT (TENN. CODE ANN. § 47-18-101 ET SEQ.)

69. Counter-Plaintiffs reallege and incorporate by reference the preceding paragraphs. This Count is asserted against The Retreat at Sunset Bluff, LLC, Retreat Vacations, LLC, and Hayes.

70. Counter-Defendants and Hayes engaged in unfair or deceptive acts or practices affecting trade or commerce in violation of Tenn. Code Ann. § 47-18-104, including representing that goods or services had sponsorship, approval, characteristics, uses, benefits, quantities, affiliations, connections, rights, remedies, or obligations that they did not have or that were prohibited by law.

71. Specifically, Counter-Defendants and Hayes represented, omitted, or caused Lot Owners to understand that the Subdivision, lots, and common areas would have characteristics and amenities that they did not have, including pools, trails, and amenities at other neighboring subdivisions.

72. Those unfair or deceptive acts and omissions included representations concerning the validity and effect of the September 2025 Restated Declaration; the authority of the Declarant after administrative dissolution and after the end of declarant control; and the ability of Lot Owners to choose competing providers rather than Hayes-affiliated entities.

73. Counter-Plaintiffs reasonably relied on these representations and omissions when purchasing lots, paying assessments, complying with governing documents, making improvements, using or attempting to use their lots, participating in governance, and continuing to invest in the Subdivision.

74. As a direct and proximate result, Counter-Plaintiffs suffered ascertainable loss of money or property, including out-of-pocket expenses, costs paid or incurred to protect common property from tax sale, loss of use and enjoyment, diminished property values, increased

expenses, uncertainty regarding governance and property rights, and other damages to be proven at trial.

75. Counter-Defendants' and Hayes's violations were willful or knowing. Counter-Plaintiffs therefore seek actual damages, treble damages where permitted, reasonable attorneys' fees, costs, injunctive relief, and all other relief available under Tenn. Code Ann. § 47-18-109 and applicable law.

COUNT 8 – INJUNCTIVE RELIEF AND TURNOVER OF ASSOCIATION PROPERTY

76. Counter-Plaintiffs reallege and incorporate by reference all prior paragraphs.

77. Counter-Defendants continue to withhold Association records, funds, bank accounts, contracts, member information, tax records, plans, and control of common areas. They also continue to assert authority after declarant control ended and seek to use the Association as a plaintiff against the very Lot Owners who are entitled to govern it. This causes ongoing harm to the Association and Lot Owners for which there is no adequate remedy at law.

78. Counter-Plaintiffs therefore seek temporary, preliminary, and permanent injunctive relief requiring Counter-Defendants to cease interfering with the homeowner Board, stop holding themselves out as having authority over the Association or Subdivision governance, stop using the Association as a plaintiff against its members, turn over all Association property and records, and cooperate in a full and orderly transition of governance and control.

V. DAMAGES

79. As a direct and proximate result of Counter-Defendants' breaches, misrepresentations, fiduciary breaches, self-dealing, and other wrongful conduct, Counter-Plaintiffs have suffered and continue to suffer damages in an amount to be determined at trial, including without limitation:

80. Out-of-pocket costs paid to prevent tax sale of common areas and to protect common property serving the Subdivision;

81. Costs and expenses incurred to organize meetings, elect a homeowner Board, prepare corrective governing documents, and defend against litigation challenging the lawful transition of governance;

82. Diminished market value, loss of use and enjoyment, uncertainty concerning governance, and harm resulting from incomplete or inadequately maintained amenities, infrastructure, and common areas;

83. Improperly levied, misapplied, or unaccounted-for assessments or Association funds, together with any profits or benefits wrongfully retained by Counter-Defendants or Hayes-affiliated entities;

84. Attorneys' fees, costs, expenses, pre-judgment interest, post-judgment interest, and all other relief recoverable under the governing documents, applicable law, or equitable principles.

VI. PRAYER FOR RELIEF

WHEREFORE, Counter-Plaintiffs and Third-Party Plaintiffs respectfully request that the Court enter judgment in their favor and against Counter-Defendants and Third-Party Defendant and grant the following relief:

A. The declaratory judgments set forth in Count I above;

B. Compensatory damages in an amount not to exceed $5,000,000.00 to be determined at trial, including reimbursement of property taxes paid by Lot Owners on behalf of Counter-Defendants, costs incurred to remediate incomplete amenities and infrastructure, diminution in property values, and other consequential damages;

C. Punitive damages in an amount sufficient to punish and deter the willful, malicious, fraudulent, and bad-faith conduct of Counter-Defendants;

D. Injunctive relief requiring Counter-Defendants, Third-Party Defendant, and Hayes individually to: (i) immediately turn over to the current Board of the Association all records, funds, bank accounts, contracts, rental-management agreements, receivables records, lien notices, UCC financing statements, secured-party communications, payment directives, account-debtor communications, and documents concerning any sale, assignment, pledge, security interest, or encumbrance of Retreat Vacations, LLC's present or future accounts, proceeds, or rental-management revenue connected to the Subdivision; (ii) identify all persons or entities claiming any lien, security interest, assignment, purchase right, power of attorney, or payment right in such receivables or proceeds; (iii) cease holding themselves out as having any authority over the Association or Subdivision governance; (iv) cease using or aligning the Association as a plaintiff against its own members; and (v) take all actions necessary to effect a complete and orderly transition;

E. An accounting of all assessments collected, expenditures made, profits derived by Counter-Defendants during the period of developer control and thereafter, and all revenue, receivables, payments, commissions, management fees, rental proceeds, merchant-cash-advance proceeds, secured obligations, liens, UCC filings, assignments, payment demands, and competing claims relating to Retreat Vacations, LLC or any Hayes-affiliated rental-management or receivables arrangement connected to the Subdivision;

F. Reasonable attorneys' fees and costs of this action pursuant to Section 2.17;

G. Pre- and post-judgment interest; and

H. Such other and further relief, both legal and equitable, as the Court deems just and proper.

Respectfully submitted,

AUSTIN, DAVIS & MITCHELL

Thomas K. Austin BPR# 31009
PO BOX 666
Dunlap, TN 37327
423-949-4159
tkaustin@admtnlaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this pleading has been served upon the opposing party, or counsel for all parties at interest in this cause by delivering a true and exact copy of said pleading to the office of said counsel or by placing a true and exact copy of said pleading in the U.S. Mail addressed to the opposing party or said counsel at office, with sufficient postage thereupon to carry the same to its destination.

Tyler R. Moffatt
Moffatt & Moffatt
117-B South Church Street
Mountain City, TN 37683
Mountain City, TN 37683
tyler@moffatandmoffatt.com

Erica R. Chessor
Henry & McCord, PLLC
303 North Jackson Street
Tullohomas, TN 37388
echessor@henry-mccord.com

This 8th day of July 2026.

By: ______________________
THOMAS K. AUSTIN

EXHIBIT A

[redacted]

To Whom It May Concern:

Please see the enclosed letter and supporting documents, requesting that all funds due and owing to Merchant be remitted to Berkovitch & Bouskila, PLLC as attorney:

RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS and CLAUDE WILLIAM HAYES 3RD

14377 US HWY 41
FRANKLIN, TN 37067

Sincerely,

Steven Berkovitch Esq.
Berkovitch & Bouskila, PLLC
1545 U.S. 202, Suite 101
Pomona, New York 10970
(212) 729-1477
UCC@BBLawpllc.com

PLEASE RESPOND TO THIS LETTER VIA EMAIL OR FAX:
UCC@BBLAWPLLC.COM
347-342-3192

Frequently Asked Questions

Why am I receiving this notice?
You are receiving this notice because you have been identified as currently or previously transacting with RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS. RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS sold its receivables to SAMSON MCA LLC but has ceased making remittances of those receivables. As of receipt of this notice, you are hereby prohibited from remitting any payments to RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS or any of the debtors listed above. All payments must instead be remitted to SAMSON MCA LLC. Should this lien notice be withdrawn, you will receive a withdrawal notice allowing you to resume business and make payments as usual.

Am I being sued?
No, this is not a notice of a lawsuit.

Do I owe SAMSON MCA LLC any money?
No, but if you owe funds to RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS or any of the debtors listed above, you are required to remit those funds to SAMSON MCA LLC.

I owe money to RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS or any of the debtors listed in the Notice, how much should I pay SAMSON MCA LLC?
You must pay whatever you owe to RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS up to the amount asserted in the Notice. You must continue making payments until you are notified that the balance of $80,960.09 has been satisfied.

Can I wait for RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS's or any of the debtors' consent before I send funds?
No, any funds due to RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS have been sold to SAMSON MCA LLC and as such must be delivered to SAMSON MCA LLC whether or not RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS consents.

Can I just ignore this letter? How will you know if payments are made?
No you cannot ignore this notice. If you are indebted to RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS and you pay RETREAT VACATIONS LLC D/B/A RETREAT VACATIONSafter receipt of this Notice, you will be in violation of your obligations pursuant to the UCC and it may subject you to double liability.

I have additional questions, who should I call?
Call our offices at (212) 729-1477 or send an email to UCC@bblawpllc.com.

June 25, 2026

[redacted]

UCC LIEN NOTICE AND NOTICE OF POWER OF ATTORNEY GRANTED BY MERCHANT TO SAMSON MCA LLC GIVING SAMSON MCA LLC POWER OF ATTORNEY OVER ACCOUNT RECEIVABLES OF MERCHANT

Re: RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS and CLAUDE WILLIAM HAYES 3RD and CLAUDE WILLIAM HAYES 3RD

EIN: [redacted]

SSN: [redacted]

Balance due to SAMSON MCA LLC: $80,960.09

Dear Sir/Madam,

I represent SAMSON MCA LLC in the above matter. This notice is being sent pursuant to UCC 9-406; you may have a balance owed to RETREAT VACATIONS LLC D/B/A RETREAT VACATIONS (the "Merchant"), located at 14377 US HWY 41, FRANKLIN, TN 37067.

Pursuant to the enclosed Agreement, SAMSON MCA LLC purchased $140,800.00 of the Merchant's future accounts. The Agreement was structured so that SAMSON MCA LLC was to receive a portion of all the Merchant's deposits. In accordance with the Agreement, SAMSON MCA LLC filed a UCC-1 financing statement with the Secretary of State of TN, thereby obtaining a perfected security interest in the Merchant's assets, including without limitation the Merchant's accounts receivables. A copy of the UCC-1 is also enclosed herein for your reference.

It has come to SAMSON MCA LLC's attention that you have a balance owed to the Merchant or have been holding funds for the Merchant. This notice is to inform you that by not forwarding said funds to SAMSON MCA LLC you would be in violation of UCC Article 9 as evidenced by the UCC-1 financing statement and security interest referenced herein and hereby interfering with the Agreement entered into by and between the Merchant and SAMSON MCA LLC. Additionally by failing to forward said Funds, you may be subjected to double liability.

Please contact me with any questions.

SBerkowitz

Steven Berkovitch Esq.
Berkovitch & Bouskila, PLLC
1545 U.S. 202, Suite 101
Pomona, New York 10970
(212) 729-1477
UCC@BBLawPLLC.com

Document ID: 03a69d9736e8417691003f35e01cdbf7c3b87505

Sale of Future Receipts Agreement

Seller's Legal Name: RETREAT VACATIONS LLC	D/B/A: RETREAT VACATIONS	Form of Business Entity and State of Incorporation: LLC / TN
Street Address: 14377 US HWY 41	City, State: FRANKLIN, TN	Zip: 37067
Mailing Address:	City, State:	Zip:
Primary Contact Name: CLAUDE W HAYES, 3RD	Primary Contact Title: CEO	Primary Contact Phone Number: 615-927-1413
Primary Contact E-Mail Address: CHAYES@RETREATCONSTRUCTION.COM		
Secondary Contact Name:	Secondary Contact Title:	Secondary Contact Phone Number:
Secondary Contact E-Mail Address:		

Seller's Deposit Account

Name of Depository Institution:__________ ABA Transit/Routing #:__________ Checking Account #:__________

Purchase Price Paid to Seller $110,000.00	Initial Periodic Amount $2,707.69
Purchased Amount of Future Receipts $140,800.00	**What is the Initial Periodic Amount?** The Initial Periodic Amount is an estimate of the Specified Percentage of your average sales revenue. We will debit the Periodic Amount from your Account (as defined herein) each WEEK ON TUESDAYS, subject to your actual revenue. We based the Initial Periodic Amount on information you provided or made available to us to calculate your average revenue over a period of time prior to the date of this Agreement. Please refer to Section 4 of this Agreement for how you can adjust the Periodic Amount.
Specified Percentage 9%	
Periodic Frequency [*WEEKLY*]	

Itemization Of Net Amount Funded To Seller	Purchase Price	$110,000.00	
	Origination Fee	$2,750.00	
	Prior balances	$0.00	
	Processing Fee	$75.00	
	Administrative Fee	$60.00	Administrative Fee (applied on the initial day of funding and every 30 days to follow, until the specified amount is paid in full). NOT INCLUDED IN TOTAL DEDUCTION BELOW
	Returned Payment Fee	$35.00	Per returned payment
	Wire/ACH Fee	$50.00	
	Net Amount Funded to Seller	$107,125.00	

This Sale of Future Receipts Agreement ("Agreement") effective October 27, 2025, is made by and between Samson MCA LLC ("Buyer"), the business identified above ("Seller"), and each Guarantor identified below (each a "Guarantor").

Seller, hereby sells, and assigns to Buyer, without recourse, the Purchased Amount of Future Receipts identified above (the "Purchased Amount") of the proceeds of each future sale made by Seller (collectively "Future Receipts") and will deliver the Specified Percentage of Future Receipts and pay the origination fee identified above (the "Origination Fee") in accordance with this Agreement. Seller, in collecting the Future Receipts, shall be deemed a trustee of the specified percentage of receivables for the benefit of Buyer. It being expressly acknowledged that Merchant is merely holding such funds in trust for the benefit of Buyer and at all times Buyer is the sole owner of its share of the future receipts.

Agreement of Seller: By signing below Seller agrees to the terms and conditions contained in this Agreement, including those terms and conditions on the following pages, and further agrees that this transaction is for business purposes.

Seller: [RETREAT VACATIONS LLC - dba RETREAT VACATIONS]

Agreed to by: CLAUDE W HAYES, 3RD Signature, Claude William Hayes its CEO (Title)

Agreed to by:__________ Signature,__________ its__________ (Title)

Document ID: 03a69d9736e8417691003f35e01cdbf7c3b87505

Agreement of Each Guarantor: By signing below each Guarantor agrees to the terms and conditions contained in this Agreement, including those terms and conditions on the following pages, and further agrees that this transaction is for business purposes.

Notice: This Agreement contains a personal guaranty of performance, and by signing below, you agree that you will be personally liable for the prompt and complete performance of certain obligations of Seller as described in this Agreement.

Name: CLAUDE W HAYES, 3RD Signature: Claude William Hayes

Name: ______________________ Signature: ______________________

Terms and Conditions

1. **Future Receipts.** "Future Receipts" includes all payments made by cash, check, Automated Clearing House ("ACH") or other electronic transfer, credit card, debit card, bank card, charge card (each such card shall be referred to herein as a "Payment Card") or other form of monetary payment in the ordinary course of Seller's business. As payment for the Purchased Amount, Buyer will pay to Seller the Purchase Price, minus any fees and amounts to satisfy prior balances shown above.

2. **Buyer's Acceptance of Agreement.** The obligation of Buyer under this Agreement will not be effective unless and until Buyer has completed its review of the Seller and has accepted this Agreement by delivering the Net Amount Funded to Seller, shown above. Prior to accepting this Agreement, Buyer may conduct a processing trial to confirm its access to Seller's account, shown above (the "Account"), which is held at the bank or depository institution referenced above (the "bank"), and the ability to withdraw the Initial Periodic Amount. If the processing trial is not completed to the satisfaction of Buyer, Buyer will refund to Seller all funds that were obtained by Buyer during the processing trial.

3. **Delivery of Purchased Amount.** Seller shall, on each Remittance Date remit the Specified Percentage of its actually collected receipts to Buyer until such time as the full Purchased Amount, and any and all fees and other charges due to Buyer are fully remitted to Buyer. The Parties agree, solely as a convenience, to utilize the Initial Periodic Amount set forth above, subject to Reconciliation and Adjusting the Periodic Amount as set forth below, in lieu of calculating the Specified Percentage of Seller's actually collected receipts on daily basis. Seller authorizes Buyer to debit the Initial Periodic Amount or any updated periodic amount (the "Periodic Amount") from the Account each Remittance Date by either ACH or electronic check. Seller will provide Buyer with all required Account information and agrees not to change them without prior written consent from Buyer. Seller will provide an appropriate ACH authorization to Buyer. If any draft or electronic debit is returned for insufficient funds, then Seller will be responsible for any fees incurred by Buyer resulting from a rejected electronic or other remotely created check or ACH debit attempt. Buyer is not responsible for any overdrafts or rejected transactions that may result from Buyer's debiting any amount authorized under the terms of this Agreement. Seller understands that the foregoing ACH authorization is a fundamental condition to induce Buyer to accept the Agreement. Consequently, such authorization is intended to be irrevocable during the course of this Agreement, subject to the Reconciliation and Adjusting the Periodic Amount provisions contained herein.

   In the event that Seller changes or permits changes to the Account or the ACH authorization approved by the Buyer or adds an additional bank or depository institution account (each such additional entity, also referred to as a bank), Buyer shall have the right, without waiving any of its rights and remedies and without notice to Seller or any Guarantor, to notify the new or additional bank of this Agreement and to direct such new or additional bank to remit to the Buyer all or any portion of the amounts received by such bank in the aggregate totaling the Periodic Amount. Any such new account shall also be deemed an Account.

4. **Reconciliation and Adjusting the Periodic Amount (IMPORTANT PROTECTION FOR SELLER).** The Initial Periodic Amount is intended to represent the Specified Percentage of the Future Receipts. At any time, Seller or Buyer may request a reconciliation of Seller's actual revenue to adjust the Periodic Amount to more closely reflect the Seller's actual Future Receipts times the Specified Percentage.

a. **How Seller may Request a Reconciliation.** Seller may request a reconciliation in writing via e-mail at reconciliations@samsonfunding.com

b. **How Buyer may Request a Reconciliation.** Buyer may request a reconciliation in writing via e-mail at the Primary Contact E-Mail Address set forth above.

c. **Review of Reconciliation Information.** Any reconciliation request by Seller must include a copy of a bank statement for each account into which Seller deposits receipts from sales itemizing account activity from the date of this Agreement through the date of the reconciliation request (the "Applicable Period). Buyer shall within three business days review Seller's bank statements to determine if the aggregate amount of remittances during the Applicable Period was greater or less than the Specified Percentage of Seller's actual receipts for that period (the "Reconciliation Review"). If necessary to verify the bank statements, Buyer may request reasonable additional documentation including view-only access to each account. Buyer shall not declare Seller in breach of this Agreement while Buyer is reviewing Seller's reconciliation request.

d. **Refund Reconciliation.** In connection with any Reconciliation Review, either party may request a refund reconciliation. If requested, Buyer will determine whether the amount by which the aggregate amount of all of Seller's remittances to Buyer over the course of this Agreement was greater or less than the Specified Percentage of Seller's actual receipts during the course of this Agreement. Within three business days after completing the Reconciliation Review, Buyer shall credit the Authorized Account with any excess or debit the Authorized Account for any shortfall. If the Seller is entitled to a credit, Buyer shall not declare Seller in breach of this Agreement for three business days including the date Buyer credits the Authorized Account with any excess funds. For the avoidance of doubt, the day Seller initiates payment to the Buyer shall count as day one.

e. **Changes to the Periodic Amount.** Within three business days after any Reconciliation Review, Buyer shall modify the Periodic Amount to more closely reflect the Specified Percentage of Seller's actual receipts in the previous (2) calendar weeks. At the end of two (2) calendar week period, the Seller may request another adjustment pursuant to this paragraph or it is agreed that the Periodic Amount shall revert to the Periodic Amount as agreed upon on Page 1 of this Agreement.

5. **Nonrecourse Sale of Future Receipts (THIS IS NOT A LOAN).** Seller is selling a portion of a future revenue stream to Buyer at a discount, not borrowing money from Buyer. There is no interest rate or payment schedule and no time period during which the Purchased Amount must be collected by Buyer. Seller acknowledges that it has no right to repurchase the Purchased Amount from Buyer. Buyer assumes the risk that Future Receipts may be remitted more slowly than Buyer may have anticipated or projected because Seller's business has slowed down, and the risk that the full Purchased Amount may never be remitted because Seller's business goes bankrupt or Seller otherwise ceased operations in the ordinary course of business. Buyer is buying the Purchased Amount knowing the risks that Seller's business may slow down or fail, and Buyer assumes these risks based on Seller's representations, warranties and covenants in this Agreement that are designed to give Buyer a reasonable and fair opportunity to receive the benefit of its bargain. By this Agreement, Seller transfers to Buyer full and complete ownership of the Purchased Amount and Seller retains no legal or equitable interest therein.

6. **Fees and Charges.** The fees and charges owed by Seller are as described in this Agreement. Some or all of the Origination Fee may be paid to a broker engaged by the Seller. Otherwise, Buyer is NOT CHARGING ANY BROKER FEES to Seller. If Seller is charged another such fee, Seller acknowledges that it is not being charged by Buyer.

7. **Credit Report and Financial Information Authorizations.**

a. Seller and each of the Guarantors signing above authorize Buyer, its agents and representatives and any credit reporting agency engaged by Buyer, to (i) investigate any references given or any other statements or data obtained from or about Seller or any of the Guarantors for the purpose of this Agreement, (ii) obtain consumer and business credit reports on the Seller and any of its Owners, and (iii) to contact personal and business references provided by the Seller in the Application, at any time now or for so long as Seller and/or Guarantors continue to have any obligations to Buyer as a consequence of this Agreement or for Buyer's ability to determine Seller's eligibility to enter into any future agreement with Buyer.

b. Seller authorizes Buyer and its agents to investigate its financial responsibility and history, and will provide to Buyer any authorizations, banking or financial statements, tax returns, etc., as Buyer deems necessary and reasonable prior to or at any time after execution of this Agreement. A photocopy of this authorization will be deemed acceptable as an authorization for release of financial and credit information. Buyer is authorized to update such information and financial and credit profiles from time to time as it deems appropriate.

c. Seller waives, to the maximum extent permitted by law, any claim for damages against Buyer or any of its affiliates relating to any investigation undertaken by or on behalf of Buyer as permitted by this Agreement or disclosure of information as permitted by this Agreement.

8. **Authorization to Contact Current and Prior Banks.** Seller authorizes all of its banks and brokers and its Payment Card processor(s) to provide Buyer with Seller's banking, brokerage and/or processing history to determine qualification or continuation in this program, or for collections upon a breach of this Agreement. Seller hereby further authorizes Buyer to contact any current or prior bank of the Seller in order to obtain whatever information it may require regarding Seller's transactions with any such bank. Such information may include but is not limited to, information necessary to verify the amount of Future Receipts previously processed on behalf of Seller and any fees that may have been charged by the bank. In addition, Seller authorizes Buyer to contact any current or prior bank of the Seller for collection purposes and in order to confirm that Seller is exclusively using the Account identified above, or any other Account approved by Buyer, for the deposit of all sales receipts of the Seller.

9. **Right to Cancel.** Seller understands that Buyer offers Seller a right to cancel this Agreement at any time within three (3) calendar days after Buyer has delivered the Net Amount Funded. Seller may exercise this right by notifying Buyer that it is cancelling this Agreement and returning the Net Amount Funded to Buyer. For the Seller's right to cancel to be effective, Buyer must receive both the notice and the return of the Net Amount Funded within three (3) calendar days after the Buyer has delivered the Net Amount Funded.

10. **Application of Amounts Received by Buyer.** Buyer reserves the right to apply amounts received by it under this Agreement to any fees or other charges due to Buyer from Seller prior to applying such amounts to reduce the amount of any outstanding Purchased Amount.

11. **Representations, Warranties and Covenants of Seller.** As of the date of this Agreement and, unless expressly stated otherwise, continuing until Buyer has received 1) the Purchased Amount and 2) all fees and charges due under this Agreement, Seller represents, warrants and covenants to Buyer as follows:

a. **No Diversion of Future Receipts.** Seller must deposit all Future Receipts into the Account on a daily basis and must instruct Seller's credit card processor, which must be approved by Buyer (the "<u>Processor</u>") to deposit all Payment Card receipts of Seller into the Account on a daily basis. Seller agrees not to (i) change the Account without the express written consent of Buyer, (ii) add an additional Account, (iii) revoke Buyer's authorization to debit the Account, (iv) close the Account without the express written consent of Buyer or, (v) take any other action with the intent to interfere with Buyer's right to collect the purchased Future Receipts.

b. **Stacking Prohibited.** Seller shall not, without Buyer's prior written consent, enter into any loan agreement or any agreement for the sale of Future Receipts. Buyer may share information regarding this Agreement with any third party in order to determine whether Seller is in compliance with this provision.

c. **Financial Condition and Financial Information.** Any bank statements and financial statements of Seller that have been furnished to Buyer, and future statements that will be furnished to Buyer, fairly and accurately represent the financial condition of Seller at such dates. Furthermore, Seller represents that all documents, forms and recorded interviews provided to or with Buyer are true, accurate and complete in all respects, and accurately reflect Seller's financial condition and results of operations at the time they are provided. Seller further agrees to authorize the release of any past or future tax returns to Buyer.

d. **Compliance with Law and Governmental Approvals.** Seller is in compliance and shall comply with all applicable federal, state and local laws, rules and regulations and has valid permits, authorizations and licenses to own, operate and lease its properties and to conduct the businesses in which it is presently engaged and/or will engage in hereafter.

e. **Authority to Enter Into This Agreement.** Seller and the person(s) signing this Agreement on behalf of Seller, have full power and authority to incur and perform the obligations under this Agreement, all of which have been duly authorized.

f. **Change of Name or Location or Sale or Closing of Business.** For so long as the full Purchased Amount has not been remitted to Buyer, Seller will not conduct Seller's businesses under any name other than as disclosed to Buyer or change any of its places of business without prior written consent of Buyer. Except pursuant to the filing for Bankruptcy, Seller will not voluntarily sell, dispose, transfer or otherwise convey all or substantially all of its business or assets without (i) the express prior written consent of Buyer, and (ii) the written agreement of any purchaser or transferee assuming all of Seller's obligations under this Agreement pursuant to documentation satisfactory to Buyer. Except as disclosed to Buyer in writing, Seller has no current plans to close its business either temporarily, whether for renovations, repairs or any other purpose, or permanently. Seller will not voluntarily close its business on a temporary basis for renovations, repairs, or any other voluntary purposes. This provision, however, does not prohibit Seller from closing its business temporarily if such closing is required to conduct renovations or repairs that are required by local ordinance or other legal order, such as from a health or fire inspector, or if otherwise forced to do so by circumstances outside of the control of Seller. Prior to any such closure, Seller will provide Buyer 10 calendar days' notice to the extent practicable.

g. **No Pending or Contemplated Bankruptcy as of the Date of this Agreement.** As of the date of this Agreement, Seller does not contemplate and has not filed any petition for bankruptcy protection under Title 11 of the United States Code and there has been no involuntary petition brought or pending against Seller. Seller represents that it has not consulted with a bankruptcy attorney or a debt relief organization within six months prior to the date of this Agreement. Seller further warrants that as of the date of this Agreement (i) it does not anticipate filing a bankruptcy petition nor engaging the services of a debt relief organization, (ii) it does not anticipate that an involuntary petition will be filed against it and (iii) it does not have an intent to shut down or dissolve the business in the imminent future.

h. **Seller to Pay Taxes Promptly.** Seller will promptly pay all necessary taxes and other assessments, including but not limited to employment, sales and use taxes.

i. **No Violation of Prior Agreements.** Seller's execution and performance of this Agreement will not conflict with any other agreement, obligation, promise, court order, administrative order or decree, law or regulation to which Seller is subject, including any agreement that prohibits the sale or pledge of Seller's Future Receipts.

j. **Seller's Knowledge and Representation.** Seller represents, warrants, and agrees that it is a sophisticated business entity familiar with the kind of transaction covered by the Agreement; it was represented by counsel or had full opportunity to consult with counsel.

k. **Accurate and Complete Information.** Seller represents, warrants, and agrees that all information provided to Buyer and all statements made to Buyer relating to this transaction in any way have been truthful, accurate, and complete. Seller further agrees that Seller will be truthful in all future statements to Buyer, and will provide Buyer with accurate and complete information regarding Seller's business as required by this Agreement.

12. Rights of Buyer.

a. **Acknowledgment of Security Interest and Security Agreement.** The Future Receipts sold by Seller to Buyer pursuant to this Agreement shall constitute and shall be construed and treated for all purposes as a true and complete sale, conveying good title to the Future Receipts free and clear of any liens and encumbrances, from Seller to Buyer. To the extent the Future Receipts are "accounts" or "payment intangibles" as those terms are defined in the Uniform Commercial Code as in effect in the state in which the Seller is located ("UCC") then: (i) the sale of the Future Receipts creates a security interest as defined in the UCC, (ii) this Agreement constitutes a "security agreement" under the UCC, and (iii) Buyer has all the rights of a secured party under the UCC with respect to such Future Receipts. Seller further agrees that, with or without a breach of this Agreement, Buyer may notify account debtors, or other persons obligated on the Future Receipts, or holding the Future Receipts, of Seller's sale of the Future Receipts and may instruct them to make payment or otherwise render performance to or for the benefit of Buyer.

b. **Financing Statements.** Seller authorizes Buyer to file one or more UCC-1 forms consistent with the UCC to give notice that the Purchased Amount is the sole property of Buyer. The UCC filing may state that such sale is intended to be a sale and not an assignment for security and may state that the Seller is prohibited from obtaining any financing that impairs the value of the Future Receipts or Buyer's right to collect same. Seller authorizes Buyer to debit the Account for all costs incurred by Buyer associated with the filing, amendment or termination of any UCC filings.

c. **Right of Access.** In order to ensure that Seller is complying with the terms of this Agreement, Buyer shall have the right to (i) enter during regular business hours, without notice, the premises of Seller's business for the purpose of inspecting and checking Seller's transaction processing terminals to ensure the terminals are properly programmed to submit and or batch Seller's daily receipts to the Processor and to ensure that Seller has not violated any other provision of this Agreement, (ii) Seller shall provide access to its employees and records and all other items as requested by Buyer; and (iii) have Seller provide information about its business operations, banking relationships, vendors, landlord and other information to allow Buyer to interview any relevant parties.

d. **Phone Recordings and Contact.** Seller agrees that any call between Buyer and Seller, and their agents and employees may be recorded or monitored. Further, Seller agrees that (i) it has an established business relationship with Buyer, its employees and agents and that Seller may be contacted from time-to-time regarding this or other business transactions, (ii) that such communications and contacts are not unsolicited or inconvenient, and (iii) that any such contact may be made at any phone number, email address, or facsimile number given to Buyer by the Seller, its agents or employees, including cellular telephones.

e. **ACH Authorization.** Seller represents and warrants that (i) the Account is solely owned by Seller; (ii) the person executing this Authorization on behalf of Seller is an authorized signer on the Account and has the power and authority to authorize Buyer to initiate ACH transactions to and from the Account, and (iii) the Account is a legitimate, open, and active bank account used solely for business purposes and not for personal, family or household purposes. If an ACH transaction is rejected by Seller's bank for any reason other than a stop payment order placed by Seller with its bank, including without limitation insufficient funds, Seller agrees that Buyer may resubmit up to two times any ACH transaction that is dishonored. Seller's bank may charge Seller fees for unsuccessful ACH entries. Seller agrees that Buyer will have no liability to Seller for such fees. In the event Buyer makes an error in processing any payment or credit, Seller authorizes Buyer to initiate ACH entries to or from the Account to correct the error. Seller acknowledges that the origination of ACH entries to and from the Account must comply with applicable law and applicable network rules. Seller agrees to be bound by the Rules and Operating Guidelines of NACHA (formerly known as the National Automated Clearing House Association). Seller will not dispute any ACH transaction initiated pursuant to this Authorization, provided the transaction corresponds to the terms of this Authorization. Seller requests the bank that holds the Account to honor all ACH entries initiated in accordance with this Authorization.

13. **Remedies for Seller's Breach of this Agreement.** If Seller violates any term or covenant in this Agreement, Buyer may proceed to protect and enforce its rights including, but not limited to, the following:

a. The Specified Percentage shall equal 100%. The full undelivered Purchased Amount plus all fees and charges (including collection and legal fees as more fully described in this Agreement) assessed under this Agreement will become due and payable in full immediately.

b. Buyer may enforce the provisions of the Personal Guaranty of Performance against each Guarantor.

c. Seller shall pay to Buyer all reasonable costs associated with Seller's breach including but not limited to court fees and attorney's fees calculated at 30% of the unremitted Purchased Amount at the time of Seller's breach. Buyer may proceed to protect and enforce its rights and remedies by arbitration or lawsuit. In any such arbitration or lawsuit, under which Buyer shall recover Judgment against Seller, Seller shall be liable for all of Buyer's costs, including but not limited to all reasonable attorneys' fees and court costs. However, the rights of Buyer under this provision shall be limited as provided in the arbitration provision set forth below.

d. Buyer may debit depository accounts wherever situated by means of ACH debit or facsimile signature on a computer-generated check drawn on any of Seller's banking accounts for all sums due to Buyer.

e. Subject to arbitration as provided in Section 28 of this Agreement, all rights, powers and remedies of Buyer in connection with this Agreement may be exercised at any time by Buyer after the occurrence of breach, are cumulative and not exclusive, and shall be in addition to any other rights, powers or remedies provided by law or equity.

14. **Modifications, Amendments.** No modification, amendment, waiver or consent of any provision of this Agreement shall be effective unless the same is in writing and signed by all Parties.

15. **Assignment.** Buyer may assign, transfer or sell its rights to receive the Purchased Amount or delegate its duties hereunder, either in whole or in part, with or without prior written notice to Seller.

16. **Personal Guaranty of Performance.** Guarantor agrees to irrevocably, absolutely and unconditionally guarantee to Buyer prompt and complete performance of the following obligations of Seller (the "Guaranteed Obligations"):

a. Seller's obligation to remit the Specified Percentage of its future receipts until the Purchased Amount is fully remitted to Buyer;

b. Seller's obligation to not (i) change the Account, (ii) add an additional Account, (iii) revoke Buyer's authorization to debit the Account, (iv) close the Account without the express written consent of Buyer or (v) take any other action with the intent to interfere with Buyer's right to collect the purchased Future Receipts;

c. Seller's obligation to not conduct Seller's businesses under any name other than as disclosed to Buyer;

d. Seller's obligation to not change any of its places of business without prior written consent by Buyer;

e. Seller's obligation to not voluntarily sell, dispose, transfer or otherwise convey its business or substantially all business assets without (i) the express prior written consent of Buyer, and (ii) the written agreement of any purchaser or transferee assuming all of Seller's obligations under this Agreement pursuant to documentation satisfactory to Buyer;

f. Seller's obligation to not enter into any merchant cash advance or any loan agreement that relates to or encumbers its Future Receipts with any party other than Buyer without Buyer's prior written consent for the duration of this Agreement; and

g. Seller's obligation to provide truthful, accurate, and complete information as required by this Agreement.

17. **Guarantor Waivers.** Buyer does not have to notify Guarantor of any of the following events and Guarantor will not be released from its obligations under the Agreement and this Personal Guaranty of Performance if it is not notified of: (i) Seller's failure to timely perform any obligation under the Agreement, (ii) any adverse change in Seller's financial condition or business, (iii) Buyer's acceptance of the Agreement, and (iv) any renewal, extension or other modification of the Agreement or Seller's other obligations to Buyer. In addition, Buyer may take any of the following actions without releasing Guarantor from any of its obligations under the Agreement and this Performance Guaranty: (i) renew, extend or otherwise modify the Agreement or Seller's other obligations to Buyer, and (ii) release Seller from its obligations to Buyer. Guarantor shall not seek reimbursement from Seller or any other guarantor for any amounts paid by it under the Agreement or this Performance Guaranty. Guarantor permanently waives and shall not seek to exercise any of the following rights that it may have against Seller, or any other guarantor, for any amounts paid by it, or acts performed by it, under the Agreement or this Performance Guaranty: (i) subrogation, (ii) reimbursement, (iii) performance, (iv) indemnification, or (v) contribution.

18. **Guarantor Acknowledgement.** Guarantor acknowledges that Guarantor understands the seriousness of the provisions of the Agreement, including the Jury Waiver, Class Action Waiver and Arbitration sections.

19. **Notices.**

a. **Notices from Buyer.** Buyer may send any notices, disclosures, terms and conditions, other documents, and any future changes to Seller and Guarantor (as applicable) by regular mail or by e-mail, at Buyer's option and Seller and Guarantor each consent to such electronic delivery. Notices sent by e-mail are effective when sent. Notices sent by regular mail become effective three days after mailing to Seller's address set forth in this Agreement.

b. **Notices from Seller and Guarantor.** Subject to Section 4 of this Agreement, Seller and Guarantor may send any notices to Buyer by e-mail only upon the prior written consent of Buyer, which consent may be withheld or revoked at any time in Buyer's sole discretion. Otherwise, any notices or other communications from Seller and Guarantor to Buyer must be delivered by certified mail, return receipt requested, to Buyer's address set forth in this Agreement. Notices sent to Buyer shall become effective only upon receipt by Buyer.

20. **Binding Effect, Governing Law, Venue and Jurisdiction.** This Agreement shall be binding upon and inure to the benefit of Seller, Buyer, Guarantor and their respective successors and assigns, except that neither Seller nor Guarantor shall not have the right to assign its respective rights hereunder or any interest herein without the prior written consent of Buyer which consent may be withheld in Buyer's sole discretion. Except as set forth in the Arbitration section, this Agreement shall be governed by and

construed in accordance with the laws of the state of New York without regard to any applicable principles of conflicts of law. Seller and Guarantor understand and agrees that (i) Buyer is located in New York, (ii) Buyer makes all decisions from Buyer's office in New York, (iii) the Agreement is made in New York (that is, no binding contract will be formed until Buyer receives and accepts Seller's signed Agreement in New York, and (iv) Seller's payments are not accepted until received by Buyer in New York. Any suit, action or proceeding arising hereunder, or the interpretation, performance or breach of this Agreement, shall, if Buyer so elects, be instituted in any state court sitting in New York (the "Acceptable Forums"). Seller and Guarantor hereby waive their right to remove any action commenced by Buyer in connection to this Agreement to any federal court. Seller and Guarantor agree that the Acceptable Forums are convenient to it, and submit to the jurisdiction of the Acceptable Forums and waives any and all objections to jurisdiction or venue. Should such proceeding be initiated in any other forum, Seller and Guarantor waive any right to oppose any motion or application made by Buyer to transfer such proceeding to an Acceptable Forum. Buyer, Seller and Guarantor further agree that the mailing by certified or registered mail, of any process required by any such court will constitute valid and lawful service of process against them, without the necessity for service by any other means provided by statute or rule of court, but without invalidating service performed in accordance with such other provisions.

21. **Survival of Representations, Warranties and Covenants.** All representations, warranties and covenants herein shall survive the execution and delivery of this Agreement and shall continue in full force until all obligations under this Agreement shall have been satisfied in full.

22. **Interpretation.** All parties hereto have had the opportunity to review this Agreement with an attorney of their own choosing and have relied only on their own attorney's guidance and advice or have been provided sufficient opportunity to have an attorney of their choosing review the Agreement. No construction determinations shall be made against Buyer as drafter.

23. **Entire Agreement and Severability.** This Agreement embodies the entire agreement among Seller, Guarantor, and Buyer and supersedes all prior agreements and understandings relating to the subject matter hereof. In case any of the provisions in this Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of any other provision contained herein shall not in any way be affected or impaired.

24. **Execution.** Facsimile signatures, or any other electronic means reflecting the party's signature hereto, shall be deemed acceptable for all purposes. The parties agree that if a duly authorized representative of each of the parties signs this Agreement and transmits such Agreement to the other party via facsimile or electronically transmitted portable document format, such transmission shall be treated in all manner and respects as an original signature (or counterpart thereof) and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. At the request of a party hereto, each other party hereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto shall raise the use of a facsimile machine or electronic transmission in portable document format to deliver a signature or the fact that any signature was transmitted or communicated through the use of facsimile machine or electronic transmission in portable document format as a defense to this Agreement and each such party forever waives any such defense. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same agreement.

25. **Authorization to Contact.**

    a. **Authorization to Contact by Phone.** Seller and Guarantor authorize Buyer, its affiliates, agents and independent contractors to contact Seller or Guarantor at any telephone number Seller or Guarantor provide to Buyer or from which Seller or Guarantor places a call to Buyer, or any telephone number where Buyer believes it may reach Seller or Guarantor, using any means of communication, including but not limited to calls or text messages to mobile, cellular, wireless or similar devices or calls or text messages using an automated telephone dialing system and/or artificial voices or prerecorded messages, even if Seller or Guarantor incurs charges for receiving such communications.

    b. **Authorization to Contact by Other Means.** Seller and Guarantor also agree that Buyer, its affiliates, agents and independent contractors, may use any other medium not prohibited by law including, but not limited to, mail, e-mail and facsimile, to contact Seller and Guarantor. Seller and Guarantor expressly consent to conduct business by electronic means.

26. **<u>JURY WAIVER</u>. THE PARTIES WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY COURT IN ANY SUIT, ACTION OR PROCEEDING ON ANY MATTER ARISING IN CONNECTION WITH OR IN ANY WAY RELATED TO THE TRANSACTIONS OF WHICH THIS AGREEMENT IS A PART OR ITS ENFORCEMENT, EXCEPT WHERE SUCH WAIVER IS PROHIBITED BY LAW OR DEEMED BY A COURT OF LAW TO BE AGAINST PUBLIC POLICY. THE PARTIES ACKNOWLEDGE THAT EACH PARTY MAKES THIS WAIVER KNOWINGLY, WILLINGLY**

AND VOLUNTARILY AND WITHOUT DURESS, AND ACKNOWLEDGE THEIR RIGHT TO REVIEW THE RAMIFICATIONS OF THIS WAIVER WITH THEIR ATTORNEYS.

27. CLASS ACTION WAIVER. BUYER, SELLER, AND EACH GUARANTOR ACKNOWLEDGE AND AGREE THAT THE AMOUNT AT ISSUE IN THIS TRANSACTION AND ANY DISPUTES THAT ARISE BETWEEN THEM ARE LARGE ENOUGH TO JUSTIFY DISPUTE RESOLUTION ON AN INDIVIDUAL BASIS. EACH PARTY HERETO WAIVES ANY RIGHT TO ASSERT ANY CLAIMS AGAINST THE OTHER PARTIES AS A REPRESENTATIVE OR MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION, EXCEPT WHERE SUCH WAIVER IS PROHIBITED BY LAW OR DEEMED BY A COURT OF LAW TO BE AGAINST PUBLIC POLICY. TO THE EXTENT ANY PARTY IS PERMITTED BY LAW OR A COURT OF LAW TO PROCEED WITH A CLASS OR REPRESENTATIVE ACTION AGAINST THE OTHER, THE PARTIES AGREE THAT: (I) THE PREVAILING PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEYS' FEES OR COSTS ASSOCIATED WITH PURSUING THE CLASS OR REPRESENTATIVE ACTION (NOT WITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT), AND (II) THE PARTY WHO INITIATES OR PARTICIPATES AS A MEMBER OF THE CLASS WILL NOT SUBMIT A CLAIM OR OTHERWISE PARTICIPATE IN ANY RECOVERY SECURED THROUGH THE CLASS OR REPRESENTATIVE ACTION.

28. ARBITRATION. IF BUYER, SELLER OR ANY GUARANTOR REQUESTS, THE OTHER PARTIES AGREE TO ARBITRATE ALL DISPUTES AND CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. IF BUYER, SELLER OR ANY GUARANTOR SEEKS TO HAVE A DISPUTE SETTLED BY ARBITRATION, THAT PARTY MUST FIRST SEND TO ALL OTHER PARTIES, BY CERTIFIED MAIL, A WRITTEN NOTICE OF INTENT TO ARBITRATE. IF BUYER, SELLER OR ANY GUARANTOR DO NOT REACH AN AGREEMENT TO RESOLVE THE CLAIM WITHIN 30 DAYS AFTER THE NOTICE IS RECEIVED, BUYER, SELLER OR ANY GUARANTOR MAY COMMENCE AN ARBITRATION PROCEEDING WITH THE AMERICAN ARBITRATION ASSOCIATION ("AAA") OR THE FORUM. A COPY OF THE APPLICABLE RULES MAY BE FOUND AT HTTPS://WWW.ADR.ORG/RULES UNDER COMMERCIAL ARBITRATION RULES. EACH PARTY SHALL BEAR ITS OWN EXPENSES REGARDING ARBITRATION FILING FEES AND, EXCEPT AS PROVIDED IN THE NEXT SENTENCE, THE PARTIES AGREE TO EQUALLY SHARE ADMINISTRATIVE COSTS AND ARBITRATOR FEES. IF THE ARBITRATOR FINDS THAT EITHER THE SUBSTANCE OF THE CLAIM RAISED BY SELLER OR GUARANTOR OR THE RELIEF SOUGHT BY SELLER OR GUARANTOR IS IMPROPER OR NOT WARRANTED, AS MEASURED BY THE STANDARDS SET FORTH IN FEDERAL RULE OF PROCEDURE 11(B), THEN BUYER WILL PAY THESE FEES ONLY IF REQUIRED BY THE AAA OR FORUM RULES. SELLER AND GUARANTOR AGREE THAT, BY ENTERING INTO THIS AGREEMENT, THEY ARE WAIVING THE RIGHT TO TRIAL BY JURY. BUYER, SELLER OR ANY GUARANTOR MAY BRING CLAIMS AGAINST ANY OTHER PARTY ONLY IN THEIR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. FURTHER, BUYER, SELLER AND ANY GUARANTOR AGREE THAT THE ARBITRATOR MAY NOT CONSOLIDATE PROCEEDINGS FOR MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND THAT IF THIS SPECIFIC PROVISION DEALING WITH THE PROHIBITION ON CONSOLIDATED, CLASS OR AGGREGATED CLAIMS IS FOUND UNENFORCEABLE, THEN THE ENTIRETY OF THIS ARBITRATION CLAUSE SHALL BE NULL AND VOID. THIS AGREEMENT TO ARBITRATE IS GOVERNED BY THE FEDERAL ARBITRATION ACT AND NOT BY ANY STATE LAW REGULATING THE ARBITRATION OF DISPUTES. THIS AGREEMENT IS FINAL AND BINDING EXCEPT TO THE EXTENT THAT AN APPEAL MAY BE MADE UNDER THE FAA. ANY ARBITRATION DECISION RENDERED PURSUANT TO THIS ARBITRATION AGREEMENT MAY BE ENFORCED IN ANY COURT WITH JURISDICTION. THE TERMS "DISPUTES" AND "CLAIMS" SHALL HAVE THE BROADEST POSSIBLE MEANING.

29. RIGHT TO OPT OUT OF ARBITRATION. SELLER AND GUARANTOR(S) MAY OPT OUT OF THE ARBITRATION PROVISION ABOVE. TO OPT OUT OF THE ARBITRATION CLAUSE, SELLER AND EACH GUARANTOR MUST SEND BUYER A NOTICE THAT THE SELLER AND EACH GUARANTOR DOES NOT WANT THE CLAUSE TO APPLY TO THIS AGREEMENT. FOR ANY OPT OUT TO BE EFFECTIVE, SELLER AND EACH GUARANTOR MUST SEND AN OPT OUT NOTICE TO THE FOLLOWING ADDRESS BY REGISTERED MAIL, WITHIN 14 DAYS AFTER THE DATE OF THIS AGREEMENT: 17 STATE STREET, SUITE 630, NEW YORK, NEW YORK 10004 ATTENTION: SAMSON MCA LLC

Document ID: 03a69d9736e8417691003f35e01cdbf7c3b87505

AUTHORIZATION AGREEMENT
FOR AUTOMATED CLEARING HOUSE TRANSACTIONS

[RETREAT VACATIONS LLC dba RETREAT VACATIONS] ("Seller") hereby authorizes Samson MCA LLC ("Buyer") to present automated clearing house (ACH) debits to the following account in the amount of fees and other payments due to Buyer from Seller under the terms of that Purchase and Sale of Future Receipts Agreement (the "Agreement") entered into between Seller and Buyer, as it may be amended, supplemented or replaced from time to time. Seller also authorizes Buyer to initiate additional entries (debits and credits) to correct any erroneous transfers. In addition, if Seller breaches the Agreement, Seller authorizes Buyer to debit any and all accounts controlled by Seller or controlled by any entity with the same Federal Tax Identification Number as Seller up to the total amount, including but not limited to, all fees and charges, due to Buyer from Seller under the terms of the Agreement.

Seller agrees to be bound by the Rules and Operating Guidelines of NACHA and represents and warrants that the designated account is established and used primarily for commercial/business purposes, and not for consumer, family or household purposes. Seller authorizes Buyer to contact Seller's financial institution to obtain available funds information and/or to verify any information Seller has provided about the designated checking account and to correct any missing, erroneous or out-of-date information. Seller understands and agrees that any revocation or attempted revocation of this Authorization will constitute a breach of the Agreement for the Sale of Future Receipts. In the event that Seller closes the designated checking account, or the designated checking account has insufficient funds for any ACH transaction under this Authorization, Seller authorizes Buyer to contact Seller's financial institution and obtain information (including account number, routing number and available balance) concerning any other deposit account(s) maintained by Seller with Seller's financial institution, and to initiate ACH transactions under this Authorization to such additional account(s). To the extent necessary, Seller grants Buyer a limited Power of Attorney to take action in Seller's name to facilitate this authorization.

Transfer Funds To/From: Name of Bank: ______________________

ABA Transit/Routing #: ______________________

Account #: ______________________

This authorization is to remain in full force and effect until Buyer has received all amounts due or that may become due to Buyer under the Agreement.

Seller Information: Seller's Name: RETREAT VACATIONS LLC dba RETREAT VACATIONS

Signature of Authorized Representative: Claude William Hayes

Print Name: CLAUDE W HAYES, 3RD

Title: CEO

Seller's Tax ID: [redacted]

Date: 10/28/2025

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT SUBMITTER (optional)
Name: Wolters Kluwer Lien Solutions Phone: 800-331-3282 Fax: 818-662-4141

B. E-MAIL CONTACT AT SUBMITTER (optional)
uccfilingreturn@wolterskluwer.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

Lien Solutions
P.O. Box 29071
Glendale, CA 91209-9071

109371928
TNTN

File with: Secretary of State, TN
SEE BELOW FOR SECURED PARTY CONTACT INFORMATION

UCC Doc #: U2026091202
Filed: 06/15/2026 02:43 PM
Tre Hargett
Secretary of State

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME	RETREAT CONSTRUCTION LLC / RETREAT VACATIONS, LLC				
OR 1b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
1c. MAILING ADDRESS: 14377 US HWY 41	CITY: TRACY CITY	STATE: TN	POSTAL CODE: 37387		COUNTRY: USA

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME					
OR 2b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE		COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME	C T Corporation System, as representative				
OR 3b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
3c. MAILING ADDRESS: 330 N Brand Blvd, Suite 700; Attn: SPRS	CITY: Glendale	STATE: CA	POSTAL CODE: 91203		COUNTRY: USA

4. COLLATERAL: This financing statement covers the following collateral:

COLLATERAL: This financing statement covers the following collateral: ALL DEBTOR'S PRESENT AND FUTURE ACCOUNTS AND THE DIRECT AND INDIRECT PROCEEDS THEREOF. NOTICE PURSUANT TO AN AGREEMENT BETWEEN DEBTOR AND SECURED PARTY, DEBTOR HAS AGREED NOT TO FURTHER ENCUMBER THE COLLATERAL DESCRIBED HEREIN. THE FURTHER ENCUMBERING OF WHICH MAY CONSTITUTE THE TORTOUS INTERFERENCE WITH THE SECURED PARTY'S RIGHT BY SUCH ENCUMBRANCES IN THE EVENT THAT ANY ENTITY IS GRANTED A SECURITY INTEREST IN DEBTOR'S ACCOUNTS, CHATTEL PAPER OR GENERAL INTANGIBLES CONTRARY TO THE ABOVE, THE SECURED PARTY ASSERTS A CLAIM TO ANY PROCEEDS THEREOF RECEIVED BY SUCH ENTITY.

Maximum Principal indebtedness for Tennessee recording tax purposes is $134,000.00.

5. Check only if applicable and check only one box: Collateral is ☐ held in a Trust (see UCC1Ad, item 17 and Instructions) ☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box: ☐ Public-Finance Transaction ☐ Manufactured-Home Transaction ☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box: ☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer ☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:
109371928

Prepared by Li Box 29071.

Tre Hargett
Secretary of State

Division of Business and Charitable Organizations
Department of State
State of Tennessee
312 Rosa L. Parks Avenue, 6th Floor
Nashville, Tennessee 37243
Phone: (615) 741-3276
tncab.tnsos.gov/portal/

LIEN SOLUTIONS
P.O. BOX 29071
GLENDALE, CA 91209-9071

June 15, 2026

Financing Statement Doc #: U2026091202
Tracking Number: U2026091202

UCC Financing Statement Acknowledgment

This acknowledges the filing of the attached UCC1 document. Please review the data to ensure database information corresponds with information on the submitted UCC form. In the event a discrepancy is found, please note the error and return the entire package to our office. If we may be of any further service to you, please contact us at the number noted below.

Tre Hargett
Secretary of State

Enclosures: Original Documents

DEBTOR INFORMATION

RETREAT CONSTRUCTION LLC / RETREAT VACATIONS, LLC	14377 US HWY 41 TRACY CITY, TN 37387

SECURED PARTY INFORMATION

C T CORPORATION SYSTEM, AS REPRESENTATIVE	330 N BRAND BLVD, SUITE 700; ATTN: SPRS GLENDALE, CA 91203

RECORDING TAX

Maximum principal indebtedness for Tennessee recording tax purposes is: $134,000.00

FILING INFORMATION

Financing Statement Doc #:	U2026091202
Filing Date:	06/15/2026 02:43 PM
Lapse Date:	06/15/2031 11:59 PM
Optional Filer Ref Data:	109371926

Document Receipt

Receipt # : 2026-624751	Fees Paid:	$15.00
	Taxes Paid:	$151.80
Payment - Check - Ref #: 20913672		$166.80

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT SUBMITTER (optional)
Name: Wolters Kluwer Lien Solutions Phone: 800-331-3282 Fax: 818-662-4141

B. E-MAIL CONTACT AT SUBMITTER (optional)
uccfilingreturn@wolterskluwer.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

Lien Solutions 109371765
P.O. Box 29071
Glendale, CA 91209-9071 TNTN

File with: Secretary of State, TN

SEE BELOW FOR SECURED PARTY CONTACT INFORMATION

UCC Doc #: U2026091191
Filed: 06/15/2026 02:38 PM
Tre Hargett
Secretary of State

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME: RETREAT VACATIONS LLC

OR 1b. INDIVIDUAL'S SURNAME | FIRST PERSONAL NAME | ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

1c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
14377 US HWY 41	FRANKLIN	TN	37067	USA

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S SURNAME | FIRST PERSONAL NAME | ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME: C T Corporation System, as representative

OR 3b. INDIVIDUAL'S SURNAME | FIRST PERSONAL NAME | ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

3c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
330 N Brand Blvd, Suite 700; Attn: SPRS	Glendale	CA	91203	USA

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6a. Check only if applicable and check only one box: ☐ Public-Finance Transaction ☐ Manufactured-Home Transaction ☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box: ☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer ☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA
109371765

Tre Hargett
Secretary of State

Division of Business and Charitable Organizations
Department of State
State of Tennessee
312 Rosa L. Parks Avenue, 6th Floor
Nashville, Tennessee 37243
Phone: (615) 741-3276
tncab.tnsos.gov/portal/

LIEN SOLUTIONS
P.O. BOX 29071
GLENDALE, CA 91209-9071

June 15, 2026

Financing Statement Doc #: U2026091191
Tracking Number: U2026091191

UCC Financing Statement Acknowledgment

This acknowledges the filing of the attached UCC1 document. Please review the data to ensure database information corresponds with information on the submitted UCC form. In the event a discrepancy is found, please note the error and return the entire package to our office. If we may be of any further service to you, please contact us at the number noted below.

Tre Hargett
Secretary of State

Enclosures: Original Documents

DEBTOR INFORMATION

RETREAT VACATIONS LLC — 14377 US HWY 41, FRANKLIN, TN 37067

SECURED PARTY INFORMATION

C T CORPORATION, AS REPRESENTATIVE — 330 N BRAND BLVD, SUITE 700; ATTN: SPRS, GLENDALE, CA 91203

RECORDING TAX

Maximum principal indebtedness for Tennessee recording tax purposes is: $140,800.00

FILING INFORMATION

Financing Statement Doc #:	U2026091191
Filing Date:	06/15/2026 02:38 PM
Lapse Date:	06/15/2031 11:59 PM
Optional Filer Ref Data:	109371765

Document Receipt

Receipt # : 2026-624639	Fees Paid:	$15.00
	Taxes Paid:	$159.62
Payment - Check - Ref #:		$174.62

EXHIBIT B

The Retreat at

SUNSET BLUFF

MONTEAGLE, TN

Views You Can't Find Elsewhere

The third community developed by The Retreat by Oakstone, The Retreat at Sunset Bluff is secluded back in a mountainside forest with views of rolling Tennessee hills like you've never seen before. Just below the bluff, you'll find lush wooded hiking trails that follow a serene, flowing creek. After a sunrise in this community, you'll never look at your morning coffee the same way again.

Amenities:

- Incredible Bluff-Side Views
- Hiking Trails
- Natural Rock Shelter
- Community Pavilions
- Firepits
- Playground
- Saltwater Pool (Coming Soon)
- And More!

SUNSET BLUFF HOMEOWNERS ASSOCIATION AMENTITIES TIMELINE

Trails	Sept 29th
Trail Markers	Sept 29th
Trail Signage Posts	Sept 29th
Trail Post Signs	Oct 31st
Roundabout Fire Pit	Oct 31st
Playground Phase I	
Rope Toss	Oct 31st
Corn Hole	Oct 31st
Bocce Ball	Oct 31st
Tepee	Oct 31st
Picnic Tables	Oct 31st
Gate	Dec 31st
Entrance Signage	Dec 31st
Playground Phase II	
Pavilion	3/1/2024 *Estimated
Swing set	3/1/2024 *Estimated
Pool	4/1/2024 *Estimated

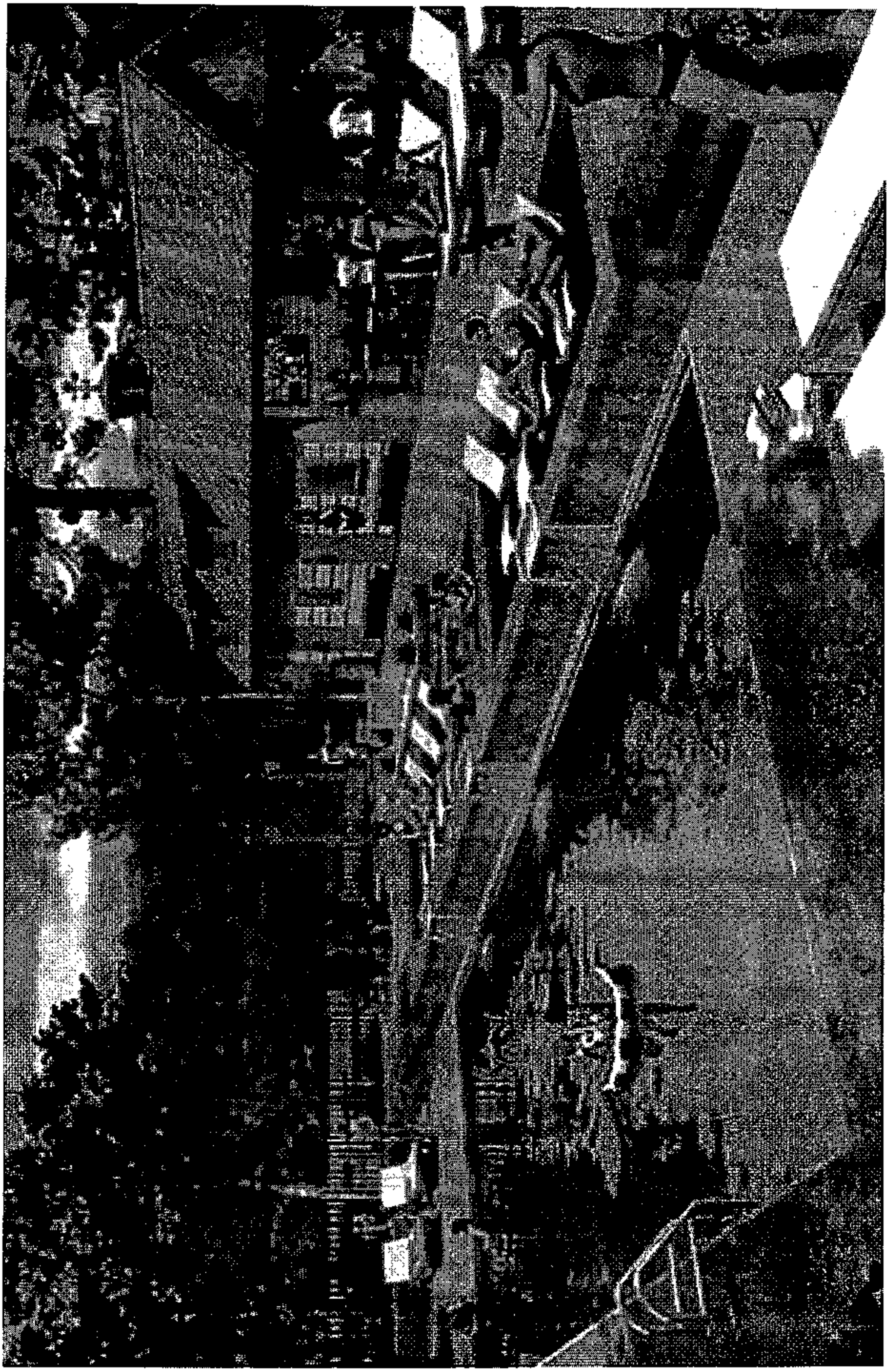

Exhibit C

Austin, Davis & Mitchell
Attorneys at Law
P.O. Box 666
Dunlap, Tennessee 37327-0666

L. THOMAS AUSTIN
M. KEITH DAVIS
JENNIFER AUSTIN MITCHELL
THOMAS K. AUSTIN

Telephone (423) 949-4159
Facsimile (423) 949-4589
email:taustin@austindavismitchell.com

February 10, 2026

Ghertner & Company
Attn: Shontel Southard
50 Vantage Way, Suite 100
Nashville, TN 37228

Re: The Retreat at Sunset Bluff Subdivision

Dear Shontel,

I represent a group of homeowners in The Retreat at Sunset Bluff Subdivision (the "Subdivision"). As you are aware, the Developer Control Period expired on or before November 12, 2025.

On behalf of the members set forth below, who represent more than ten percent (10%) of the owners in the Subdivision, as required by the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Retreat at Sunset Bluff (Bylaws, Section 1.04), a Special Meeting shall be called for the purpose of voting on the Fourth Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Retreat at Sunset Bluff. A copy of the proposed amendment is enclosed.

The primary objectives of these amendments are to:

1. Ratify the majority of the September 18, 2025 restrictions and resolve any questions about the enforceability of the Declaration recorded on that date, as it was filed by the Developer while administratively dissolved.
2. Clarify certain provisions regarding voting methods and quorum requirements.
3. Remove any remaining authority from the Developer following the expiration of the Developer Control Period.

4. Remove certain restrictions limiting owners' ability to contract with companies other than those owned by Chip Hayes, who has an ownership interest in The Retreat at Sunset Bluff, LLC.

Based on the foregoing, we request that you notify all Owners of the date, time, and place of the Special Meeting. Pursuant to Bylaws Section 1.05, such notice must be provided no fewer than ten (10) nor more than forty-five (45) days before the meeting date. My clients are willing to do whatever leg work or assistance needed to help you on this.

Thank you for your attention to this matter. Please let me know what additional steps are needed to proceed.

Best regards,

Thomas K. Austin

Thomas K. Austin
Attorney at Law

THE RETREAT AT SUNSET BLUFF SUBDIVISION

Call for Special Meeting to Vote Fourth Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Retreat at Sunset Bluff

By placing my name, lot number and signature below, we hereby call for a Special Meeting for the purpose of voting on the Fourth Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Retreat at Sunset Bluff. A copy of the proposed amendment is enclosed herein.

Name and Lot #	Signature
Paul & Sherry Babin Lot 3	Paul & Sherry Babin
Sam Murphy Lot 4	Sam Murphy
Chris & Brandi Thigpen Lot 5	Chris & Brandi Thigpen
Richard & Gwen Pacquin Lot 6	[illegible]
Will Salter Lot 7	Will Salter
Jason & Kelly Shinton Lot 8	[illegible]
Sam Dalton Lot 11	Sam Dalton
Becca Ranz Lot 15	Becca Ranz
Josh & Kindle Hughes Lot 16	[illegible]
Beth Riner Lot 18	Beth Riner
Mike Reitz Lot 19	[illegible]
Linda Ranz Lot 20	Linda Ranz
Linda Ranz Lot 21	Linda Ranz
Jen Rasmussen Lot 22	[illegible]
Jennifer & Bill Campbell Lot 23	Jennifer & Bill Campbell
William Wallace Lot 24	WILLIAM WALLACE
John & Elizabeth Roddy Lot 26	John M Roddy
Charlie & Danielle Miranda Lot 27	[illegible]
Stephen Ferrari Lot 28	
James & Holly Whitby Lot 29	James & Holly Whitby

Docusign Envelope ID: 3A606C51-F87D-40D6-8142-A66B9BB20823

Tim & Rachael Mann Lot 34	DocuSigned by:
Tim & Rachael Mann Lot 35	DocuSigned by:
Brett & Chrissy Gipson Lot 37	Signed by:
Nancy Hover Lot 38	Signed by:
Bill & Jennifer Wallace Lot 39	Signed by:
Mackenzie Fanelli Lot 49	
Mac & Nancy Musgrove Lot 50	Signed by:
Frank Hordos Lot 54	DocuSigned by:
Robert & Anna Brookbank Lot 55	Signed by: Robert & Anna Brookbank
Linda Ranz Lot 56	DocuSigned by: Linda Ranz
Judy Knapp Lot 60	DocuSigned by: Judy Knapp
Patrick Gast Lot 62	Signed by:
Chris & Rachel Cunningham Lot 63	Signed by: Christopher Cunningham
Gary & Kirsten Peck Lot 67	Signed by: Gary & Kirsten Peck
Tyler Flores Lot 68	Signed by:
Justin Weidenhamer Lot 1	Signed by:
Justin Weidenhamer Lot 2	Signed by:

Exhibit D

Outlook

FW: [EXTERNAL] [#XN23680412] Special Meeting Notice- Message from The Retreat at Sunset Bluff Homeowners Association

[redacted]

4 attachments (446 KB)

4th Amendment to Declaration - FINAL (tka).pdf; Sunset Bluff Candidate Form Revised.pdf; 20260305 Proxy The Retreat at Sunset Bluff.pdf; 20260305 Meeting Agenda The Retreat at Sunset Bluff.pdf;

From: Ghertner & Company <noreply@ghertner.com>
Sent: Friday, March 6, 2026 3:40 PM
[redacted]
Subject: [EXTERNAL] [#XN23680412] Special Meeting Notice- Message from The Retreat at Sunset Bluff Homeowners Association

Please do not reply to this message.

Dear The Retreat at Sunset Bluff Residents,

We would like to announce a **Special Meeting of the Association** scheduled for **March 18, 2026, at 6:00 PM.**

Please review the documents attached to this email, which include important information for the meeting:

Attached Documents:

- Meeting Agenda
- Proxy Form (for owners unable to attend)
- **4th Amended and Restated Declaration of Covenants, Conditions, and Restrictions** for owner review and vote at the meeting.
- Board Candidate Bio Form for homeowners interested in serving on the Board of Directors

As noted on the agenda, the community will also be **selecting the new Board of Directors** during this meeting.

If you are interested in serving on the Board, please complete the attached **Board Candidate Form** and return it to the property manager **no later than March 13, 2026,** to allow candidate information to be included on the ballot.

If you are **unable to attend the meeting**, please complete and return the **proxy form** so your membership can be counted toward quorum.

Your participation is important as the Association will vote on the 4th Amended and Restated Declaration of CC&Rs and elect the leadership that will guide the community moving forward.

If you have any questions, please feel free to reach out.

Thank you,

Shontel

The Retreat at Sunset Bluff Homeowners Association is Professionally Managed By:
Ghertner & Company
(615) 277-0358 | ghertner.com

Exhibit E

The Retreat at Sunset Bluff Homeowners Association
Special Meeting of the Members
Meeting Agenda

Date: March 18, 2026

Time: 6:00PM CST

Location:

Physical Location:

Monteagle Community Center
24 Dixie Lee Ave,
Monteagle, TN 37256

Zoom Virtual Instructions:
Join Zoom Meeting
https://us06web.zoom.us/j/86987901190?pwd=T9OPtInAVRVtoj3ZofcsHCyKtaVsrb.1
Meeting ID: 869 8790 1190
Passcode: 898893

Agenda

1. **Welcome and Call to Order**
   The Special Meeting will be called to order.

2. **Confirmation of Quorum**
   Verification that a quorum of the membership is present or appearing by Zoom or voting by proxy. A quorum is achieved when **[50% or, 37 owners]** of the total eligible Owners of the Association participate in person, by zoom or by proxy. To vote, an Owner's account must be in good standing.

3. **Confirmation of Meeting Notice**
   Confirmation that notice of the Special Meeting was properly provided to all homeowners in accordance with the governing documents.

4. **Purpose of the Special Meeting**
   Explanation of the reason for the Special Meeting:

   - To review and vote on the proposed **4th Amended and Restated Declaration of Covenants, Conditions and Restrictions** for The Retreat at Sunset Bluff.
   - To elect the Board of Directors.

5. **Overview of the Proposed Amendment**
   Summary of the proposed amendment and reference to the full draft document is available for review in the Association's online portal.

6. **Homeowner Questions and Discussion**
   Opportunity for homeowners to ask questions related solely to the proposed amendment.

7. **Voting Instructions**

   There are (3) ways to vote:

   i. **In person**
   ii. **attending via Zoom, or**
   iii. **by way of Proxy.**

   - Homeowners may vote **in person** at the meeting, by attending through **zoom** or by submitting a **proxy** if unable to attend.

   - Each lot is entitled to **one (1) vote**, as provided in the governing documents.

   - Any lot Owner appearing in person or by zoom shall be cast their vote during the meeting.

   - For any lot **Owners that will not be attending** in person or by zoom, **Proxies** must be completed prior to the meeting and **received no later than March 17, 2026.**

   - Proxies may be returned by **email to: shontel.southard@ghertner.com or in person** as outlined.

   - For any Owner wishing to cast their vote by Proxy: check the box titled PROXY DIRECTED AS FOLLOWS on the Appointment Form of Proxy and fill in the blank spaces to identify the Owner's lot number and the designated person who will be casting a vote on the lot Owner's behalf.

8. **Membership Vote- 4th Amended and Restated Declaration of Covenants, Conditions and Restrictions.**
   There shall be a vote by the membership to approve or reject the 4th Amended and Restated Declaration of Covenants, Conditions and Restrictions.

Approval of the amendment requires an affirmative vote of sixty-seven percent [67%] of the Members, as required by the governing documents.

9. **Announcement of Results**
   Announcement of the voting results or notice that results will be finalized and communicated following the meeting once all votes and proxies have been verified.

10. **Vote on Board of Directors to The Retreat at Sunset Bluff Home Owner's Association.**
    In the event the vote on the 4^{th} Amended and Restated Declaration of Covenants, Conditions and Restrictions is approval by the required number of Owners, The Owners shall appoint and vote on the Board of Directors pursuant to Section 2.02 of the 4^{th} Amended and Restated Declaration of Covenants, Conditions and Restrictions.

11. **Adjournment**
    Closing of the Special Meeting.

Important Reminder

A draft of the 4^{th} **Amended and Restated Declaration of Covenants, Conditions and Restrictions** is available in the Association's online portal for all owners to review.

Exhibit F

<u>FOURTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE RETREAT AT SUNSET BLUFF</u>

THIS AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE RETREAT AT SUNSET BLUFF (this "Amendment") is made as of the ____ day of ____________, 2026, by The Retreat At Sunset Bluff Homeowners' Association, a Tennessee nonprofit corporation (the "Association"), on behalf of the Owners (as defined in the Declaration).

RECITALS:

A. On November 5, 2020, Declarant, as the developer of the planned community located in Grundy County, Tennessee known as The Retreat at Sunset Bluff, caused to be recorded that certain Declaration of Covenants, Conditions and Restrictions for The Retreat at Sunset Bluff, in Record Book 1123, Page 118, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee ("Original Declaration").

B. The Original Declaration subjected the land described in plat of survey entitled "The Retreat at Sunset Bluff Final Plat" dated September 14, 2020, and recorded in Plat Cabinet 3, Page 968, in the Office of the Register of Deeds of Grundy County, Tennessee ("Original Plat"), to the terms and conditions of the Original Declaration.

C. On July 15, 2022, the Original Declaration was amended when Declarant caused to be recorded that certain Amendment to Declaration of Covenants, Conditions and Restrictions of The Retreat at Sunset Bluff in Record Book 1149, Page 2171, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee (First Amendment to Declaration").

D. On July 6, 2023, the Original Declaration was amended again when Declarant caused to be recorded that certain Amendment to Declaration of Covenants, Conditions and Restrictions of The Retreat at Sunset Bluff in Record Book 1153, Page 1968, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee ("Second Amendment to Declaration").

E. On July 25, 2023, the Original Declaration was amended again when Declarant caused to be recorded that certain Amendment to Declaration of Covenants, Conditions and Restrictions of The Retreat at Sunset Bluff in Record Book 1153, Page 2749, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee ("Third Amendment to Declaration").

F. On September 18, 2025, the Original Declaration was amended again when Declarant caused to be recorded that certain Amendment to Declaration of Covenants, Conditions and Restrictions of The Retreat at Sunset Bluff in Record Book 2684, Page 2727, et seq., in the Office of the Register of Deeds of Grundy County, Tennessee ("Fourth Amendment to Declaration"). The Fourth Amendment to the Declaration was done by the Declarant, The Retreat at Sunset Bluff, LLC, when the Declarant was administratively dissolved by the Tennessee Secretary of State so there are questions as to the validity of the Fourth Amended Declarations.

G. Pursuant to Article X, Section 2 of the Original Declaration, the Original Declaration may be amended unilaterally by the Declarant, until the termination of the Period of Declarant Control, and thereafter, any amendment of the Original Declaration will require the affirmative vote of a Super-Majority of the Votes entitled to be cast by the then Members of the Association at a duly called meeting of the Association at which a quorum is present.

H. The Period of Declarant Control terminated on November 12, 2025 pursuant to Article I, Section 18 of the Original Declaration, as amended.

I. The Owners desire to amend and restate in its entirety the Original Declaration, as amended.

J. In furtherance of the foregoing, the Owners adopts this Declaration, which amends and restates in its entirety, the Original Declaration, as previously amended as set forth herein below.

K. Notwithstanding the foregoing, the Owners, by the affirmative vote of a Super-Majority of the Votes entitled to be cast by the then Members of the Association at a duly called meeting of the Association at which a quorum is present, desire to adopt and ratify the September 2025 declarations subject to the removal/modifications set forth below.

NOW, THEREFORE, the Amended and Restated Declaration is hereby amended as follows:

1. Section 2.01 Q. is hereby deleted in its entirety and replaced with the following:

(Section 2.01) Q. Period of Declarant Control means the period commencing November 5, 2020 and ending no later than November 12, 2025. As of the date of filing these Amended Declarations, the Period of Declarant Control is hereby terminated.

2. Section 3.02 O is hereby deleted in its entirety and replaced with the following:

(Section 3.02) O. Renting of Homes. Each Lot may be rented as a Short Term Rental, provided however, the management of Short Term Rental of the Lot is exclusively administered by: (i) a management company of the Owner's choice; or (ii) Self-Managed. Short Term Rentals shall mean a lease for less than 30 days ("Short Term Rentals"). "Self-Managed" shall mean the administration and operation of the Short Term Rental is actually handled by the Lot Owner without the assistance of a third-party, including but not limited to a utilizing co-host to assist in or perform hosting services associated with the Short Term Rental of the Lot. "Hosting Services" means any marketing and/or rental management of a Lot.

3. Section 4.06 is hereby deleted in its entirety and replaced with the following:

<u>Section 4.06</u> Submission of Plans. The Owner shall then submit the Plans for the proposed Improvement to the Committee. The submission must be made utilizing the Committee Acknowledgement Form attached to this Declaration as Exhibit "C". The Building Professional appointed by or on the Committee shall determine if they comply with the Design Guidelines. The Building Professional shall use his best efforts to complete his determination within 14 days from when the Plans are submitted. If he determines that the Plans do not comply with the Design Guidelines, the Plans shall be returned to the Owner for revision, without consideration by the Committee. Upon the determination by the Building Professional that the proposed Improvement complies with the Design Guidelines, the Plans shall be referred to the Committee which shall review the same for their architectural and aesthetic approval and for their compatibility with the overall Community and with the Community at large. The Plans must be approved by both the Committee in order for the Plans to be approved. The Committee shall certify its approval or disapproval of the Plans to the Owner within thirty (30) days after the referral of the Plans to them. The Committee may grant or withhold its respective approval of the Plans in its respective sole discretion. The approval of the Plans for any Improvement shall be effective for a period of three (3) years only, and if construction of the proposed Improvements shall not have commenced within that time period the approval shall no longer be valid. The Committee may impose a reasonable charge to defray its expenses in the consideration of any submission or resubmission of the Plans for any proposed Improvement. The Committee may give notice to the Owner for submission of any required plan that is past due. If such plan is not submitted within 30 days of notice by the Committee, the Committee may assess a penalty of $25.00 per day until a compliant plan is submitted.

4. Section 4.07 is hereby deleted in its entirety and replaced with the following:

<u>Section 4.07</u> Construction of Improvements. If the Committee approves the Plans, the Owner shall cause the Improvements to be constructed by a contractor licensed by the Tennessee Board for Licensing Contractors holding a BC or BC-A license classification. The Declarant shall have no approval power over the contractor used by the Owner. The Committee shall have the authority to restrict certain contractors from building in the subdivision if it is proven that there are multiple infractions to the governing documents done by the same contractor. Actual construction shall be the responsibility of the Owner and shall be completed within one year of the time of commencement. Fees of $100 per day will be levied on the Owner of the lot if the house is not deemed completed within one (1) year of construction commencement. Upon the completion of construction and prior to occupancy, the Owner shall notify the Committee which shall have the Improvement inspected by the Building Professional to ensure that construction was completed in accordance with the Plans. If construction is not in accordance with the Plans, or if changes in the Plans were changed without the approval of the Committee, occupancy of the Improvement shall be delayed until the necessary corrections are made or the Plans, as modified, are approved. If the Owner fails to make the necessary corrections, or to have the Plans, as modified, approved within 90 days after notification that the Improvement has not been constructed in accordance with the approved Plans, the Association, may, at its option, make the necessary corrections, or remove the Improvement in question, at the expense of the Owner.

5. Amendment to Voting Requirements. The following new Section is added to Article 6 (Membership and Voting Rights in the Association):

<u>Section 6.04</u> **Voting and Quorum Requirements.** Notwithstanding anything to the contrary in the Governing Documents, including the By-Laws attached as Exhibit "B", a quorum for any annual or special meeting of the Owners shall consist of fifty percent (50%) of the Owners in good standing (meaning current in payment of all Assessments and not subject to any suspension of voting rights). If a quorum is not achieved at any such meeting, the meeting shall be rescheduled for a date between ten (10) and thirty (30) days from the original meeting date, and the quorum requirement for the rescheduled meeting shall be reduced to thirty-five percent (35%) of the Owners in good standing. Owners may vote in person, by proxy, by written ballot, or by live video conference, as set forth in the notice of the meeting."

6. Section 11.01 is hereby deleted in its entirety and replaced with the following:

<u>Section 11.01</u> **By Members.** Except as otherwise specifically provided in this Declaration, this Declaration may be amended only by the affirmative vote, written consent, or any combination thereof, of Members entitled to cast at least a Super-Majority of the votes at a duly called meeting of the Association at which a quorum is present.

7. The following Sections shall be added to Article XII of the Declarations

<u>Section 12.07</u> **Removal of Other Declarant Powers.** Any other provision in the Declaration, By-laws or the Governing Documents granting the Declarant any power, authority, approval rights, or control over the Association, the Committee, construction, or any other matter is hereby deleted and of no further force or effect.

<u>Section 12.08</u> **Ratification.** Except as expressly modified herein, all other terms and provisions of the Amended and Restated Declaration dated September 15, 2025, are hereby ratified and confirmed and shall remain in full force and effect.

EXHIBIT "B" TO THE DECLARATION, THE BY-LAWS OF THE RETREAT AT SUNSET BLUFF HOMEOWNERS' ASSOCIATION, IS HEREBY AMENDED AS FOLLOWS:

8. Section 1.06 Voting is hereby deleted in its entirety and replaced with the following:

The aggregate number of votes of all Owners shall be equal to the total of all Lots which are subject to the Declaration, and shall be divided among the respective Owners with one (1) vote allocated to each Lot. If any Owner consists of more than one (1) person, the voting rights of such Owner shall not be divided but shall be exercised as if the Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Owner. A "majority of the Owners" means the owners of more than fifty percent (50%) of the voting rights of the Owners. Owners may vote in person, by proxy, written ballot or by live video conference which shall be set forth in the notice of the meeting.

9. Section 1.07 Quorum is hereby deleted in its entirety and replaced with the following:

Section 1.07 Quorum. Fifty percent (50%) of the owners of the subdivision in good standing make up a quorum. If a special or annual meeting fail to meet the quorum requirement, the meeting shall be rescheduled between 10-30 days from the original meeting and the quorum requirement reduced to 35 percent (35%)of the owners. If, however, such quorum is not represented at any such meeting, the Owners present at the meeting in person or represented by proxy shall have the power to adjourn from time to time without notice other than announcement at the meeting, until the requisite quorum is present or represented, when any business may be transacted which might have been transacted at the meeting as provided in the original notice.

10. Section 2.02 Election/Appointment and Term of Office is hereby deleted in its entirety and replaced with the following:

Section 2.02 Election and Term of Office. Following the Director Control Period, all five (5) Director seats shall be filled by the vote of the Owners, by those qualified candidates receiving the greatest number of votes and in accordance with the voting procedures set forth herein.

11. Article VI. Amendments is hereby deleted in its entirety and replaced with the following:

Article VI. Amendments. Except as otherwise specifically provided in these By-laws, the By-laws may be amended only by the affirmative vote, written consent, or any combination thereof, of Members entitled to cast at least a Super-Majority of the votes at a duly called meeting of the Association at which a quorum is present.

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed by its duly authorized officer, certifying that this Amendment was duly approved by the affirmative vote of a Super-Majority of the Votes entitled to be cast by the then Members of the Association at a duly called meeting of the Association at which a quorum was present.

THE RETREAT AT SUNSET BLUFF HOMEOWNERS' ASSOCIATION

By: ______________________________

Name: ______________________________

Title: President

STATE OF TENNESSEE

COUNTY OF GRUNDY

Before me, a Notary Public of the state and county aforesaid, personally appeared ________________________, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he/she executed the foregoing instrument for the purposes therein contained, in the capacity therein stated, and as the act and deed of The Retreat At Sunset Bluff Homeowners' Association.

Witness my hand and seal, at office, this _____ day of _______________, 2026.

____

Notary Public

My Commission Expires: __________

Exhibit G

Please submit to:

Ghertner & Company
Shontel Southard – Property Manager
email to:
shontel.southard@ghertner.com

The Retreat at Sunset Bluff

APPOINTMENT FORM OF PROXY

☐ PROXY DIRECTED AS FOLLOWS

The undersigned Owner(s) of Lot _____, in The Retreat at Sunset Bluff Subdivision, located in Grundy County, TN 37356, hereby constitutes and appoints ________________, as Proxy and Attorney-in-fact, to attend the Special Meeting to be held at **Monteagle Community Center located next to Monteagle City Hall at 6:00 P.M. CST on March 18, 2026,** and any adjournments thereof, and to act, vote, and execute consents in the place and stead of the undersigned member as fully and to the same extent and effect as the undersigned would be entitled to act, vote, and consent if personally present.

Executed this ___________ day of _____________, 20____.

____
Signature

____
Print Name

____
Name(s) as listed on Deed

____
Mailing Address

Exhibit H

The Retreat at Sunset Bluff Board of Directors Candidate Bio Form

Email Completed Form To: Shontel Southard, Community Association Manager Email: shontel.southard@ghertner.com

---

Candidate Information Name: ______________________________

Property Address: ______________________________ Lot Number: ____________

Email: ______________________________

Phone: ______________________________

Background Information (Please provide a brief overview of your background, experience, and how long you've lived in the community.)

____

____

____

Community Involvement & Experience (Describe any volunteer work, board or committee experience, or community activities.)

____

____

____

Goals and Vision for the Community (Why are you interested in serving on the Board of Directors? What goals or improvements would you like to see accomplished?)

____

____

____

How long have you lived /owned your home: ______________________________

Do you reside on site or live off site: ______________________________

Signature I hereby acknowledge that I am an Owner in good standing within The Retreat at Sunset Bluff community and wish to be considered as a candidate for the Board of Directors.

Signature: ______________________________ Date: ____________

Exhibit I

Owner Name The Retreat At Sunset Bluf
Property Address Woodmonte
Property ID 101 / A 075 00 000

Tax Year	Receipt	Tax Amount	Amount Paid	Paid Date
2025	0010772	$141.00	$0.00	
2024	0010739	$141.00	$0.00	
2023	0010668	$141.00	$0.00	

Owner Name	The Retreat At Sunset Bluf
Property Address	39 Twilight Pt
Property ID	101 J A 045 00 000

Tax Year	Receipt	Tax Amount	Amount Paid	Paid Date
2025	0010770	$90.00	$0.00	
2024	0010737	$90.00	$0.00	
2023	0010666	$90.00	$0.00	
2022	0010529	$91.00	$91.00	02/28/2023
2021	0010448	$91.00	$91.00	02/28/2023