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AMENDMENT NO. 1 TO
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
ELY PARK SUBDIVISION

**(Extending Covenants, Conditions and Restrictions to Unit 1 - Phase II
and Amending Other Provisions)**

This Amendment No. 1 to Declaration of Protective Covenants, Conditions and Restrictions Ely Park Subdivision ("Amendment No. 1") is executed and entered into by **PRIMOS LAND COMPANY, LLC**, a Tennessee limited liability company, (hereinafter referred to as "Developer"):

W I T N E S S E T H:

WHEREAS, First National Bank of Oneida ("Former Developer") has developed Phase I of the Ely Park Subdivision shown on plat of record as instrument number 201101120042411 in the Register's Office for Knox County, Tennessee. To restrict and assist in the orderly development of the Ely Park Subdivision, Former Developer also executed and caused to be recorded in the Register's Office for Knox County, Tennessee that certain "Declaration of Protective Covenants, Conditions and Restrictions for Ely Park Subdivision" dated December 7, 2010 and recorded January 7, 2011 as instrument number 201101070041416 (hereinafter referred to as the "Declaration");

WHEREAS, on June 9, 2015, Former Developer transferred and assigned to Developer all of Former Developer's rights, powers, duties, titles, easements and estates reserved to the Declarant and Developer under the Declaration. This "Assignment of Declarant and Developer" rights is of record in the Register's Office for Knox County as instrument number 201506100067860;


WHEREAS, pursuant to Section 2.2 (Annexation of Additional Property) and other applicable provisions of the Declaration, Developer now desires to annex and make subject to the terms and conditions of the Declaration lots in a new phase of the development, Unit 1 – Phase II. Owners of Lots in Unit 1 – Phase II shall be members of the Association and enjoy the same rights, privileges, duties and obligations as all the Owners of Lots in the existing Ely Park Subdivision.

WHEREAS, pursuant to Section 12.4, Developer also desires to amend the Declaration to incorporate certain additional standard terms and conditions typically used by Developer.

NOW, THEREFORE, the Developer makes the following amendments and declarations:

1. All capitalized terms used herein which are not specifically defined herein shall have the meaning set forth in the Declaration. As used in this Amendment No. 1, the phrase "Unit 1 – Phase II" shall mean the land shown and described on the plat of record, instrument number 201609260020040, in the Register's Office of Knox County, Tennessee ("Unit 1 Plat") and the legal description attached hereto as Exhibit A ("Unit 1 Legal Description").

2. Developer hereby declares that: (a) Unit 1 – Phase II is and shall be held, transferred, sold, conveyed, and occupied subject to the terms and conditions of the Declaration, incorporated herein by reference to the same extent as if fully set forth; (b) each Lot and each and every Owner of each and every Lot on Unit 1 – Phase II shall be bound by and comply with the terms and conditions of the Declaration, including, but not limited to, those provisions of the Declaration providing for Assessments, the payment thereof, and the effect of nonpayment of any Assessments; (c) each Lot and each and every Owner of each and every Lot on Unit 1 – Phase II shall have all rights and


Knox County Page: 1 of 7
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privileges set forth in the Declaration, including, but not limited to, the rights to Common Areas and the use and enjoyment of improvements and amenities constructed thereon, to be exercised subject to and consistent with the terms and conditions of the Declaration; and (d) each Owner of a Lot on Unit 1 – Phase II shall be a Member of the Association with voting and other rights and privileges, and such duties and obligations, each and all according to the terms and conditions of, and as shall be specified in the Declaration and charter and corporate bylaws of the Association.

3. The first “WHEREAS” clause shall be amended by deleting the struck through language and inserting the bold and underlined language below:

WHEREAS, Declarant owns approximately 78.49 acres located within Knox County, Tennessee, known as Ely Park Subdivision, ~~and the first phase of which is recorded as~~ 201101120042411 ~~on the Plat, recorded as Instrument No. _____~~ in the office of the Register of Deeds of Knox County, Tennessee, ~~as such plat may be modified, amended, supplemented or expanded from time to time (“Plat”, and as further defined herein).~~ Declarant proposes to develop this property as a planned development to be known as Ely Park Subdivision (“Subdivision”, and as further defined herein); and

4. Based on the assignment of the Former Developer’s rights, powers and duties under the Declaration to Developer, all references to “Developer” or “Declarant” in the Declaration have become references to Primos Land Company, LLC instead effective June 9, 2015. To further clarify these references in the Declaration, Article I (Definitions) shall be amended by inserting the bolded and underlined language below to Subsections (i) and (k):

- (i) “Declarant” shall mean First National Bank of Oneida, a National Bank Corporation, its successors and assigns (other than the Association, Builder or owner) to whom the Declarant has transferred, for purposes of resale, all of Declarant’s ownership interest in the planned community. **Effective June 9, 2015, First National Bank of Oneida transferred and assigned all rights, powers, duties, titles, easements and estates reserved to it under the Declaration to Primos Land Company, LLC thereby making Primos Land Company, LLC the new “Declarant”.**
- (k) “Developer” shall mean First National Bank of Oneida, its successors and assigns (other than the Association, Builder or Owner). **Effective June 9, 2015, First National Bank of Oneida transferred and assigned all rights, powers, duties, titles, easements and estates reserved to it under the Declaration to Primos Land Company, LLC thereby making Primos Land Company, LLC the new “Developer”.**

5. Article I (Definitions) shall be further amended by inserting a definition for “Community Pool” alphabetically, deleting the definition of “Initiation Fee”, renumbering surrounding definitions accordingly, and modifying the definitions of “Assessment” and “Plat” by deleting the struck through language and inserting the bold underlined language as indicated below:

- (c) "Assessment" or "Assessments" shall mean cumulatively the following: (i) Annual Assessments, (ii) Special Assessments, **and** (iii) Special Capital Assessments, ~~and (iv) the Initiation Fee.~~
- (h) “Community Pool” shall mean the pool area located on Lot 17, including the pavilion, playground, parking area and all other improvements or facilities appurtenant thereto, to the extent actually developed and constructed by Developer.**
- ~~(e) “Initiation Fee” shall have the meaning provided for in Article X.~~
- (u) "Owner" shall mean and record owner, whether one or more Persons, including Developer and Declarant, owning any Lot, including any vendee under a recorded land sales contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot,

including any vendor under a recorded land sales contract who has given up possession. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination. Nothing in this paragraph shall be construed to impose any liability upon Declarant or Developer for any ~~initiation fees~~, dues, or assessments imposed upon Owners by this Declaration or the Association.

- (w) "Plat" means the plat of the Subdivision, recorded **as Instrument No. 201101120042411** ~~in Cabinet _____, Slide _____~~ in the office of the Register of Deeds in Knox County, Tennessee, as such plat may be modified, amended, supplemented or expanded from time to time, **and the plats of any additionally annexed property subject to this Declaration.**

6. Section 4.1 (Owners' Easements of Enjoyment) shall be amended by deleting the struck through language and inserting the bolded and underlined language as indicated below:

4.1 Owners' Easements of Enjoyment. Except as otherwise set forth in this Declaration, all Common Areas shall be used as ~~open space~~ for the common benefit of Owners, their agents, servants, tenants, family members, invitees, and licensees for **their intended** ~~access, ingress and egress from their respective Lots and for other purposes as may be authorized by the Association and this Declaration.~~ Subject to the provisions of the Association's by-laws and Section 4.3, every Members shall have a right and easement of enjoyment in and to the Common Areas, **including the Community Pool**, and such easement shall be appurtenant to and shall pass with the title to every Lot. ~~Unless approved by the Developer or the Board, which approval may be granted or withheld in the Developer's or the Board's sole discretion, the Common Areas shall not be used for recreational or other activities.~~

7. Subsection 4.3(c) (Club Member Easements) shall be deleted in its entirety and the following inserted in lieu thereof:

- (c) [Subsection intentionally omitted.]

8. Subsection 5.8(a) (No Nuisance) shall be amended by inserting the following sentence at the end of this section: "For purposes of this Declaration, basketball goals shall be considered a nuisance when placed on the street, sidewalk, or curb."

9. Subsection 5.8(d) (No Nuisance) shall be amended by deleting the subsection in its entirety and inserting the following in lieu thereof:

- (d) For safety and aesthetic reasons, no motor vehicles shall be stored or continuously or habitually parked on any street or right-of-way in the Subdivision. Further, inoperable vehicles may not be stored, kept, or repaired on the lawn of any Lot. Recreational vehicles, which include but are not limited to boats, trailers, campers, and motor homes, may be stored or parked only in the garage or driveway and at all times must be kept in a clean and sightly condition.

10. Subsection 6.1(a) (Design Restrictions - Design) shall be amended by deleting the struck through language and inserting the bolded and underlined language as indicated below:

- (a) The design of each Living Unit and Improvement must be approved by the Advisory Committee prior to the commencement of construction of such Living Unit or Improvement. The minimum living area square footage shall be determined by the Advisory Committee on a case by case basis and shall be within the sole discretion of the Advisory Committee; however, except for special circumstances justifying an exception, a one-story Living Unit **shall haveing not** less than 800 square feet of heated living area, ~~or~~ **and** a two story Living Unit **shall haveing not** less than 1200 square feet of heated living area.

11. Subsection 6.3(a) (General Covenants and Restrictions – Common Areas) shall be



amended by deleting the struck through language below and inserting the bolded and underlined language:

- (a) Common Areas. The Common Areas shall be used only by the Owners and their agents, servants, tenants, family members, invitees, and licensees for **their intended access, ingress and egress from their respective Lots and for other purposes as may be authorized by the Association and this Declarations.**

12. Subsection 6.3(e) (General Covenants and Restrictions – Signs) shall be amended by deleting the subsection in its entirety and inserting the following in lieu thereof:

- (e) Signs. No sign of any kind shall be displayed to public view, or to the view of any other Lot, except one (1) sign of not more than five (5) square feet for advertisement during construction, renovation or sale, and one (1) political campaign sign of not more than five (5) square feet. For rent or for lease signs are prohibited by this Subsection.

13. Subsection 6.3(g) (General Covenants and Restrictions – Fences and Walls) shall be amended by deleting the subsection in its entirety and inserting the following in lieu thereof:

- (g) Fencing. No fencing may be erected on a Lot without the prior written approval of the Developer or the Advisory Committee. Developer or Advisory Committee may approve or reject an Owner’s request for fencing based on the proposed dimensions of the fence, color, type of fence, location of fence or any other reasonable basis. Fences expected to have a negative impact on drainage or water flow across the subdivision shall not be approved. Such fences as may be erected on a Lot either without prior written approval or contrary to the approval granted under this Subsection shall be removed or corrected to comply with the approval by the Owner promptly upon the request of the Developer or the Advisory Committee. Costs associated with the removal or correction of any fencing as may be requested by the Developer or Advisory Committee shall be born solely by the Owner. Following removal, new or substitute fencing may only be erected on a Lot with the prior written approval of the Developer or Advisory Committee in accordance with this Section.

14. Subsection 6.3(l) (General Covenants and Restrictions – Recreational Equipment) shall be amended by inserting the bolded and underlined language below:

- (l) Recreational Equipment. No swimming pools, tennis courts, basketball courts, basketball goals or other recreational and/or playground equipment of any kind or type shall be erected installed, maintained, or altered on any Lot without the prior written approval of the Advisory Committee. Above ground pools are strictly prohibited. The application for approval by the Advisory Committee shall include landscape plans for the area affected. If playground or recreational equipment is approved by the Advisory Committee, said playground or recreational equipment shall be located in the rear of the property. If a pool or tennis court is approved by the Advisory Committee, said pool or tennis court shall be located in the rear of the property and shall have a perimeter enclosure. **The requirements of this Subsection shall not apply to or restrict the installation of the Community Pool by the Developer.**

15. Section 7.3 (Failure to Act) shall be amended by deleting “automatically granted” from the first sentence and inserting “automatically denied” in lieu thereof. As revised, the first sentence would then state: “In the event the Advisory Committee or its designated representative fails to approve or disapprove such plans or specifications within thirty (30) days after the plans have been submitted to it, such approval shall be automatically denied without further action.”

16. Section 7.5 (Final Decision) shall be amended by deleting the final two sentences of that Section. The deleted sentences stated: “Powers and duties of the Advisory Committee shall cease on or after January 1, 2030. Thereafter, the approval required by this covenant will not be



necessary unless prior to said date and effective thereon, a written instrument shall be executed by the then Owners of a majority of the lots and duly recorded, appointing a representative or representatives thereafter to exercise the powers previously executed by the Advisory Committee.”

17. Subsection 8.3(b) (Voting Rights – Class B) shall be amended by replacing “buy” in the second sentence with “by”.

18. Subsection 10.3(c) (Creation of the Lien and Personal Obligation of Assessments) shall be amended inserting the connector “and” to the end of the preceding Subsection (b), deleting Subsection (c) in its entirety, and renumbering the remaining Subsection (d) accordingly. With the removal of the former Subsection 10.3(c) the affected portion of Section 10.3 would then state:

... (b) Special Assessments and Special Capital Assessments as provided for in Section 10.7;
and
~~(c) The Initiation Fee as provided for in Section 10.8; and~~
(d) **(c)** The enforcement costs provided for in Article

19. Section 10.8 (Initiation Fee) shall be deleted in its entirety and the following inserted in lieu thereof:

Section 10.8 [Section intentionally omitted.]

20. Subsections 12.8(a) and (c) (Notice to Declarant, Developer, Advisory Committee or Association) shall be amended by the deleting the addresses provided and inserting the following address to both Subsections in lieu thereof:

244 N. Peters Road
Knoxville, Tennessee 37923-4933

21. Except as specifically amended and/or supplemented hereby, the Declaration shall remain in full force and effect, subject to the rights of the Developer to further amend or modify the same to the extent permitted and provided in the Declaration. This instrument may be amended, modified, repealed or terminated to the same extent and as provided in the Declaration.

22. From and after the date of this Amendment No. 1, all references to the “Declaration” shall refer to the Declaration, Amendment No. 1 and any future supplements, amendments, modifications or revisions made and recorded in the Knox County Register’s Office.

IN WITNESS WHEREOF, Primos Land Company, LLC, has caused this instrument to be executed on this _____ day of November, 2016.

PRIMOS LAND COMPANY, LLC
a Tennessee limited liability company

By:  _____
Josh Sanderson, its President

STATE OF TENNESSEE)
) ss.
COUNTY OF KNOX)

Personally appeared before me, the undersigned authority, a Notary Public in and for said State and County, **Josh Sanderson**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of Primos Land Company, LLC, the within named bargainor, a Tennessee limited liability company, and as such President, being authorized to do so, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company as such President.

Witness, my hand and seal, at office in Knoxville, this 3 day of November, 2016.

Teresa Wyo

NOTARY PUBLIC

My Commission Expires: 7/6/2020



Page: 6 OF 7
201611040029296

Exhibit A

**Boundary Description for
Phase II, Ely Park Subdivision, Unit-1
On Millertown Pike
Tax Map 041 Part of Parcel 180.04
Deed Reference: Inst. # 201506100067858
Plat: Inst. # 201609260020040**

SITUATED, LYING, and BEING in the Eighth (8th) Civil District of Knox County, Tennessee, and without the corporate limits of any municipalities, and being more particularly bounded and described as follows:

Beginning on an iron pin on the western right-of-way line of Cambridge Reserve Drive, 25.0' more or less from the centerline and 89.38 feet in a northerly direction from the point of intersection of Palace Green Road and Cambridge Reserve Drive, thence from said POINT OF BEGINNING, and leaving the western right-of-way line of Cambridge Reserve Drive and with Phase I, Ely Park Subdivision (Plat: 201101120042411), North 60 degrees 00 minutes West, 100.01 feet to an iron pin found; thence North 45 degree 54 minutes West, 29.83 feet to a fence post corner; thence with the property line of James and Marie Collins (Deed Book 1473, Page 185), North 43 degrees 49 minutes East, 24.35 feet to an iron pin; thence North 43 degrees 53 minutes East, 168.59 feet to an iron pin; thence North 43 degrees 38 minutes East, 361.88 feet to an iron pin; thence North 41 degrees 45 minutes West, 202.07 feet to an iron pin; thence North 41 degrees 37 minutes West, 337.00 feet to an iron pin on the eastern right-of-way of Millertown Pike; thence with the eastern right-of-way of Millertown Pike and with a curve to the right having an arc of 143.69 feet, a radius of 1425.05 feet and a chord of North 49 degrees 45 minutes East, 143.63 feet to an iron pin on the southern right-of-way of Honey Hill Road; thence North 52 degrees 38 minutes East, 24.52 feet to a point; thence North 55 degree 11 minutes East, 80.16 feet to a point; thence North 57 degree 58 minutes East, 27.98 feet to an iron pin on the northern right-of-way of Honey Hill Road; thence with a curve to the right having an arc of 6.08 feet, a radius of 1425.05 feet and a chord of North 58 degree 05 minutes East, 6.08 feet to an iron pin; thence with the property line of Michael Edward Brown (Inst.# 201005040068904), South 34 degree 06 minutes East, 171.90 feet to an iron pin found; thence North 45 degree 24 minutes East, 197.19 feet to an iron pin found; thence with the property line of Keith and Brenda Gayle Elkins (Inst.# 200308070016139), South 37 degree 55 minutes East, 1264.09 feet to an iron pin found; thence South 58 degree 25 minutes West, 197.94 to an iron pin found; thence with the property line of Primos Land Company, LLC Deed Inst.# 201506100067858), South 85 degree 40 minutes West, 108.97 feet to an iron pin on the eastern right-of-way line of Honey Hell Road; thence North 85 degree 45 minutes West, 50.56 feet to an iron pin on the western right-of-way line of Honey Hell Road; thence leaving the right-of-way, South 86 degree 22 minutes West, 169.93 feet to an iron; thence South 68 degree 45 minutes West, 108.51 feet to an iron; thence South 50 degree 49 minutes West, 137.56 feet to an iron; thence South 47 degree 35 minutes West, 165.82 feet to an iron found on Phase I, Ely Park Subdivision (Plat: 201101120042411); thence North 26 degree 40 minutes West, 80.96 feet to an iron found; thence North 41 degree 11 minutes West, 76.72 feet to an iron found; thence North 41 degree 11 minutes West, 76.27 feet to an iron found; thence North 48 degree 12 minutes West, 78.46 feet to an iron found; thence North 60 degree 00 minutes West, 100.01 feet to an iron on the eastern right-of-way line of Cambridge Reserve Drive; thence North 63 degree 36 minutes West, 50.10 feet to an iron on the western right-of-way line of Cambridge Reserve Drive, the POINT OF BEGINNING, and containing 19.45 acres more or less according to a plats by Southland Engineering Consultants, LLC, dated August 18, 2016 bearing drawing No. EPS-07-18-16-II-U1-FP.


Page: 7 OF 7
201611040029296