

**BY-LAWS  
OF  
CALLALANTEE MOUNTAIN RESORT P.O.A., INC.,  
A TENNESSEE NONPROFIT CORPORATION**

**ARTICLE I  
Members  
(Lot Owners)**

**SECTION 1. Eligibility.** Every person or entity acquiring legal title to any lot in the Callalantee Mountain Resort , (hereinafter referred to as the "Property") shall become a member of the Callalantee Mountain Resort P.O.A., Inc. (hereinafter referred to as "Association"), and so long as said person or entity is the owner of such lot, said person or entity must remain a member of the Association. Such membership is not intended to apply to those persons or entities who hold an interest in any lot merely as a security for the performance of an obligation to pay money, for example, a mortgage or Deed of Trust. However, if such person or entity should realize upon their security and become the real owner of a lot, they will then become a member of the Association, with all rights and privileges attendant thereto and subject to the obligations thereof. The words "member" or "members" as used in these Bylaws mean and shall refer to "Lot Owner" or "Lot Owners," as the case may be. If a Lot Owner is a land title holding trust under the terms of which all powers of management, operation and control of the Lot remains vested in the trust beneficiary, then the member shall be the beneficiary of such trust, and if a Lot owner or such a beneficiary is a corporation or a partnership, or other business entity, the member may be an officer, partner or employee or such Lot owner or beneficiary. Additional persons or entities shall also become a member of the Association if the lands or a portion of the lands currently owned by Brown Enterprises, Inc. adjoining the Property are subdivided and served by any portion of the existing Callalantee road system. As each lot is conveyed by the original subdivider of the lands adjoining the Property, the grantee shall become a member of the Association and enjoy all of the privileges and be subject to all of the responsibilities of a Lot Owner of the Association. Responsibilities include being subject to assessments for the expenses and reserves of the Association for the new Lot Owner's proportionate share of the Association expenses. Such proportionate share for each Lot Owner shall be in accordance with such Owner's respective ownership interest in the Callalantee Mountain Resort plus the number of lots that have been conveyed by the subdivider in the new subdivision of the adjoining lands. For example, the then existing lots of the Callalantee Mountain Resort shall be added to the number of lots conveyed by the subdivider in the new subdivision and each of the owners of lots in each of the lots in both subdivisions shall enjoy equal privileges and be subject to equal assessments of the Association. However, nothing contained herein shall obligate Callalantee Mountain Resort P.O.A., Inc. to accept dedication or other responsibility for any additional road system or systems unless and until said road system is constructed in accordance with and approved by the Johnson County Planning Commission to at least the same standards as were in effect as of the time of the adoption of these By-laws.

**SECTION 2. Succession.** The membership of each Lot Owner shall terminate when such Owner ceases to be a Lot Owner, and upon the sale, transfer or other disposition of such Owner's ownership interest in the Property, such Owner's membership in the Association shall automatically be transferred to the new Lot Owner succeeding to such ownership interest.

**SECTION 3. Organizational Meeting.** Brown Enterprises, Inc. (hereinafter called The Developer) shall have an Organizational Meeting at which time these By-laws shall be approved. The Developer shall appoint an interim Board of Directors and interim officers. The Developer shall have sole voting rights until the first regular annual meeting of Lot Owners is held.

**SECTION 4. Regular Meetings.** The first regular annual meeting of Lot Owners (the "First Meeting") may be held, subject to the terms hereof, on any date, at the option of the board, provided, however, that the First Meeting shall be held not less than thirty (30) days and not more than one hundred twenty (120) days after the developer has sold and delivered its deed for at least sixty (60) percent of the Lots and appointed the Interim Board. For purposes of this provision, sixty (60) percent of the Lots shall mean Lots which correspond, in the aggregate, to sixty (60) percent of the Lots in the subdivision. All such meetings of Lot Owners shall be held at such place in Johnson County, Tennessee, and at such time as specified in the written notice of such meeting which shall be delivered to all Lot Owners at least ten (10) days prior to the date of such meeting.

**SECTION 5. Special Meetings.** The Association shall hold a special meeting of its Lot Owners upon the call of the Board of Directors or the President, or upon the written demand(s) to the Secretary by Lot Owners holding at least two-thirds (66%) of all votes entitled to be cast on any issue to be considered at the proposed special meeting. Any call or demand for a special meeting shall be made not less than ten (10) days nor more than forty-five (45) days prior to the date of such meeting and shall state the date, time, and place of such meeting and shall describe the purpose(s) for which the special meeting is to be held. Only business within the purpose(s) described in the meeting notice for the special meeting may be conducted at such meeting.

**SECTION 6. Waiver of Notice.** A Lot Owner's attendance at a meeting:  
(a) Waives objection to lack of notice or defective notice of the meeting unless the Lot Owner at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting; and (b) Waives objection to consideration of a particular matter at the meeting that is not within the purpose(s) described in the meeting notice, unless the Lot Owner objects to considering the matter when it is presented.

**SECTION 7. Voting.** The aggregate number of votes of all Lot Owners shall be equal to the total of all Lots within the Subdivision and shall be divided among the respective Lot Owners with one (1) vote allocated to each Lot. If any Lot Owner consists of more than one (1) person, the voting rights of such Lot Owner shall not be divided but shall be exercised as if the Lot Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Lot Owner. A "majority of

the Lot Owners" means the owners of more than fifty percent (50%) of the voting rights of the Lot Owners. The Developer may exercise the voting rights with respect to Lots owned by Developer. Notwithstanding the foregoing, no Lot Owner who is in default in the payment of assessments hereunder shall be entitled to exercise the right to vote until the Owner has cured such default. A Lot Owner shall be deemed to be in default if such Owner has not paid his or her assessments to the Board, or their agent, within fifteen (15) days after the date such assessments are due. A Lot Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

Any lot owner may vote by written proxy signed by the Lot Owner. The original proxy shall be given to the Secretary.

**SECTION 8. Quorum.** A quorum of Lot Owners for any meeting shall be constituted by Lot Owners represented in person or by proxy and holding a majority of the votes entitled to be cast at such meeting.

**SECTION 9. Voting Requirements.** Except as otherwise provided in these Bylaws, action on any matter voted upon at a meeting of the Lot Owners is approved if a majority of the Lot Owners vote in favor of the action. However, Directors shall be elected by a plurality of the votes cast by the Lot Owners entitled to vote in the election at a meeting of the Lot Owners at which a quorum is present.

**SECTION 10. Action by Written Consent.** Action that is required or permitted to be taken at a meeting of the Lot Owners may be taken without such a meeting if all Lot Owners entitled to vote on the action consent to taking such action without a meeting. If all of such Lot Owners so consent, the affirmative vote of the number of votes that would be necessary to authorize or take such action at a meeting shall be the act of the Lot Owners, except as otherwise provided in these Bylaws. Such consent (or counterpart(s) thereof) shall describe the action taken, be in writing, be signed by each Lot Owner entitled to vote on the action, indicate each signing Lot Owner's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes or Association records.

**SECTION 11. Action by Written Ballot.** Any action that may be taken at any annual or special meeting of Lot Owners may be taken without a meeting if the Association delivers a written ballot to every Lot Owner entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

- (a) Indicate the number of responses needed to meet the quorum requirements;
- (b) State the percentage of approvals necessary to approve each

matter other than election of Directors; and

(c) Specify the time by which the ballot must be received by the Association in order to be counted.

## **ARTICLE II Board of Directors**

**SECTION 1. Number, Election and Term of Office.** The number of Directors shall be fixed from time to time by the members. The Board of Directors of the Association (sometimes referred to herein as the "Board") shall consist of persons (hereinafter referred to as "Directors"). Directors shall be elected at the annual meeting of Association's Lot Owners by the vote of Lot Owners as hereinafter provided, except that the Developer shall appoint the Interim Board of Directors ("Interim Board") until the first meeting. The Interim Board shall consist of seven (7) persons. At the first meeting, the Lot Owners shall, among other business, elect seven (7) members of the first Board of Directors ("First Board"). Those candidates for election as Director receiving the greatest number of votes cast either in person, or by proxy, at the meeting shall be elected. Directors, except for members of the First Board and the Interim Board shall hold office for the term of two (2) years and until his or her successor shall be elected and qualified. Three (3) members of the First Board shall hold office until the second annual meeting of the Association's Lot Owners, two (2) members of the First Board shall hold office until the third annual meeting of the Association's Lot Owners, and two (2) members of the First Board shall hold office until the fourth annual meeting of the Association's Lot Owners.

**SECTION 2. Qualification.** Except for those persons making up the Interim Board, each Director shall be a Lot Owner or the spouse of a Lot Owner (or, if a Lot Owner is a trustee of a trust, a Director may be a beneficiary of such trust, and if a Lot Owner or such a beneficiary is a corporation or partnership, a Director may be an officer, partner or employee of such Lot Owner or beneficiary). If a Director shall cease to meet such qualifications during his or her term, such Director shall cease to be a Director and his or her place on the Board shall be deemed vacant.

**SECTION 3. Regular Meetings.** Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

**SECTION 4. Special Meetings.** Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

**SECTION 5. Notice of Meetings.** Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need

not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in any one (1) adjournment.

**SECTION 6. Waiver of Notice.** If a Director attends or participates in a meeting, he or she waives any required notice to him or her of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

**SECTION 7. Quorum and Voting.** A quorum of the Board of Directors consists of a majority (but no fewer than two (2)) of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken the affirmative vote of a majority of the Directors present is the act of the Board of Directors, except as otherwise provided in these Bylaws.

**SECTION 8.** If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors or a vacancy resulting from a removal of a Director with or without cause, the Board of Directors may fill the vacancy. If the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all Directors remaining in office. Any Director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director succeeded.

**SECTION 9. Removal of Directors.** Any Director may be removed from office for cause by the vote of two-thirds (2/3rds) of the total Lot Owners.

**SECTION 10. Action Without Meeting.** Action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent(s) shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes filed with the Association's records.

**SECTION 11. Immunity.** To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

**SECTION 12. Compensation.** Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by the Lot Owners.

**SECTION 13. Powers and Duties.** The Board shall have the following powers and duties:

- (a) to elect and remove the officers of the Association as hereinafter

provided;

(b) to administer the affairs of the Association;

(c) to formulate policies for the administration, management and operation of the Property and the Common Elements (if any) thereof;

(d) to adopt rules and regulations, with written notice thereof to all Lot Owners, governing the administration, management, operation and use of the Property and the Common Elements (if any) and to amend such rules and regulations from time to time;

(e) to provide for the maintenance, repair, and upkeep of the Property and Common Elements (if any) and payments therefor.

(f) to provide for the designation, hiring and removal of personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements (if any).

(g) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(h) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable, but only as allowed by law;

(i) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Lot Owners their respective shares of such estimated expenses, as hereinafter provided;

(j) unless otherwise provided herein, to comply with the instructions of a majority of the Lot Owners, as expressed in a resolution duly adopted at any annual or special meeting of the Lot Owners; and

(k) to exercise such other powers and duties as referred to by these Bylaws or as provided by a Resolution duly adopted at any annual or special meeting of the Lot Owners.

SECTION 14. Non-Delegation. Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Lot Owners.

### ARTICLE III Officers

SECTION 1. Designation. The Interim Board shall appoint the initial officers. Thereafter, at each regular annual meeting, the Directors present at such meeting shall elect the following officers of the Association by a majority vote:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Lot Owners, and who shall be the chief executive officer of the Association;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Lot Owners, and who shall, in general, perform all the duties incident to the office of Secretary.

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept

and reported; and

(d) such additional officers as the Board shall see fit to elect.

The Secretary and Treasurer may be the same person, holding both offices.

SECTION 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

SECTION 3. Term of Office. Each officer shall hold office for the term of one (1) year and until a successor shall have been appointed or elected and qualified.

SECTION 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the remaining Directors at a special meeting of such Board. Any Officer may be removed for cause at any time by vote of two-thirds (2/3rds) of the total membership of the Board at a Special Meeting thereof. Any Officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded.

SECTION 5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Lot Owners.

#### ARTICLE IV Assessments

SECTION 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated expenses and cash requirements for the year. To the extent that the assessments or other cash collected during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall provide for a reserve for contingencies for the year in reasonable amounts as determined by the Board.

SECTION 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Lot Owner, not later than thirty (30) days prior to the beginning of such year. Within thirty (30) days after the beginning of such year each Lot Owner shall pay, as such Owner's respective annual assessment, such Owner's proportionate share of the expenses for such year as shown by the annual budget. Such proportionate share for each Lot Owner shall be in accordance with such Owner's respective ownership interest in the Subdivision. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new annual assessments for any year, or shall be delayed in doing so, each Lot Owner shall continue to pay each year the amount of such Owner's respective annual assessment as last

determined. Each Lot Owner shall pay such Owner's annual assessment on or before the first day of each year to the Treasurer or as may be otherwise directed by the Board. No Lot Owner shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Lot, or the Common Elements (if any). Nothing contained herein shall preclude the Board, after proper vote, to have said assessments payable upon some other schedule, such as quarterly or semi-annually. Notwithstanding the foregoing, any lots owned by Brown Enterprises, Inc. which are not improved by dwelling shall be exempt from assessment.

SECTION 3. Partial Year or Month. For the first fiscal year the annual budget shall be approved by the First Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the annual assessments for each Lot Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of closing of his or her Lot, each Lot Owner shall pay such Owner's assessment for the following year or fraction of a year, which assessment shall be in proportion to the Owner's respective ownership interest in the Subdivision and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board. The first estimated, annual assessment shall be Two Hundred Dollars (\$200.00) for each lot. Each Lot Owner shall pay its prorated share of such assessment based on the number of days remaining in the year in which such closing occurs. Such fee shall be due and payable by each Lot Owner annually within thirty (30) days after the beginning of the next fiscal year or until such Lot Owner receives notice from the Board that the annual assessment is a different amount.

SECTION 4. Annual Report. Within sixty (60) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Lot Owner a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable. If any excess or unexpended funds should remain in the budget for any one year, then such excess may be contributed automatically to the reserve for capital expenditures, returned to the lot owners, or applied to the next year's budget as may be determined by the Board of Directors.

SECTION 5. Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the annual assessments, determined in accordance with the estimated expenses for the remainder of such year will be inadequate, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Lot Owner, and thereupon a supplemental assessment shall be made to each Lot Owner for such Owner's proportionate share of such supplemental budget.

SECTION 6. Expenditures. The Board shall not approve any expenditure in excess of Five Thousand Dollars (\$5,000.00) unless required for emergency, nor enter into any contract for more than one (1) year without the prior approval of two thirds (2/3) of the members.



SECTION 7. Lien. It shall be the duty of every Lot Owner to pay such Owner's proportionate share of the expenses, as assessed in the manner herein provided. If any Lot Owner shall fail or refuse to pay any assessment when due, the amount thereof, together with interest thereon at the rate of fifteen percent (15%) per annum after such assessment becomes due and payable, shall constitute a lien, enforceable by the Board, on the interest of such Lot Owner in the Property (i.e. his or her lot), provided, however, that such lien shall be subordinate to the lien of a recorded deed of trust on the interest of such Lot Owner, except for any assessment which is due and payable from and after the date on which such deed of trust beneficiary either takes possession of the Lot, accepts a conveyance of any interest therein (other than as security), or files suit to foreclose on its deed of trust. The provisions of this paragraph shall not be amended, changed, modified or rescinded in any way without the prior written consent of all such lien holders of record. The Association or its successors and assigns, and the Board or its agents, shall have the right to enforce the lien as provided and there shall be added to the amount due the costs of any suit maintained to enforce the lien and other fees and expenses, together with legal interest and reasonable attorneys' fees. Furthermore, if any Lot Owner shall fail or refuse to pay any assessment when due and such Lot Owner withholds possession of such Owner's Lot after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Lot, including all improvements thereon. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in these Bylaws, the Restrictive Covenants, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

SECTION 8. Records and Statement of Account. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing the expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

The Board shall, upon receipt of ten (10) days' written notice to it or the Association and upon payment of a reasonable fee, furnish to any Lot Owner a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Lot Owner.

SECTION 9. Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Lot Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Lot Owners in the percentages which relate to their ownership of the Property.

SECTION 10. Association Records. The Association shall keep as permanent records minutes of all meetings of its Lot Owners and Board of Directors, a record of all actions taken by the Lot Owners and the Board of

Directors without a meeting and all appropriate accounting records.

SECTION 11. Records at Principal Office. The Association shall keep at all times a copy of the following records at its principal office:

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) These Bylaws and all amendments thereto;
- (c) Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of Lot Owners or any class or category of Lot Owners;
- (d) The minutes of all meetings of Lot Owners and the records of all actions taken by Lot Owners without a meeting for the past three (3) years;
- (e) All written communications to Lot Owners generally within the past three (3) years, including the past three (3) years' annual financial statements;
- (f) A list of the names and business or home addresses of its current Directors and officers; and
- (g) The most recent annual report delivered to the Tennessee Secretary of State; and
- (h) The Book of Mortgages or Deeds of Trusts on Units.

SECTION 12. Annual Financial Statements. The Association shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act.

## ARTICLE V Contractual Powers

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one or more of the Directors of the Association are directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

- (a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Director or Directors; or
- (b) the contract or transaction is just and reasonable as to the corporation at the time it is authorized or approved.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

## ARTICLE VI Amendments

These Bylaws may be amended or modified from time to time by action or approval of two-thirds (2/3) of the Lot Owners casting one (1) vote for each Lot owned, as provided in these Bylaws. Such amendment(s) shall not be operative until they are recorded in the office of the Register of Deeds for Johnson County, Tennessee. These Bylaws may not be amended by the Board of Directors.

## ARTICLE VII Indemnification

SECTION 1. General. The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association and the Board and Developer, against all contractual and other liabilities to others arising out of contracts made by or other acts of such directors, Board, officers, committee members, or Developer, on behalf of the Lot Owners, or arising out their status as directors, Board, officers, committee members or Developer unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative or other, of any such director, officer, Board, committee member or Developer; provided, however, that such indemnity shall not be operative with respect to:

(a) Any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Developer, or

(b) Any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged, liable for gross negligence or fraud in the performance of his duties as director, officer, Board, committee member, or Developer.

SECTION 2. Success on Merits. To the extent that the Developer or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to Section 1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith.

SECTION 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in

advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entities seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article VII.

SECTION 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of any Lot Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees, or Developer, or out of the aforesaid indemnity in favor of the directors, Board, officers, members of such committees, or Developer, shall be limited to such proportion of the total liability hereunder as such Lot Owner's percentage of interest in the Property bears to the total percentage interest of all the Lot Owners in the Property. Every agreement made by the directors, Board, officers, members of such committees or Developer on behalf of the Lot Owners shall provide that the directors, Board, officers, members of such committees or Developer, as the case may be, are acting only as agents for the Lot Owners and shall have no personal liability hereunder (except as Lot Owners), and that each Lot Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Property bears to the total percentage interest of all Lot Owners in the Property. The indemnification provided by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his initial capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Developer or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.

## ARTICLE VIII Deeds of Trust

SECTION 1. Notice to Board. A Lot Owner who mortgages his Lot shall notify the Board of the name and address of the deed of trust beneficiary and shall file a copy of the note and deed of trust with the Board. The Board shall maintain such information in a book entitled "Deeds of Trust on Lots" or "Book of Mortgages".

SECTION 2. Notice of Assessments. The Board, whenever so requested in writing by a deed of trust beneficiary of a Lot, shall promptly report any then unpaid assessments, due from, or any default by, the Owner of the mortgaged Lot.

SECTION 3. Notice of Default. The Board, when giving notice to a Lot

Owner of a default in paying assessments or other default, shall send a copy of such notice to each deed of trust beneficiary covering such Lot whose name and address has theretofore been furnished to the Board.

SECTION 4. Examination of Books. Each Lot Owner, shall be permitted to examine the books and records of the Association, current copies of the Bylaws, and rules and regulations of the Association during normal business hours and upon request, but not more often than once a month.

SECTION 5. Interest of Valid First Lien Deed of Trust. The interest of a valid first lien deed of trust shall be superior to the Interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first lien mortgagee has incorporated the terms of these Bylaws, in its deed of trust, then such first mortgagee may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust, notwithstanding any enforcement instituted by the Board.

### Restrictive Covenants

Nothing contained in these By-laws shall be interpreted as changing or superceding the Declaration of Restrictions, Callalantee Mountain Resort previously recorded in the Register's Office for Johnson County, Tennessee in Miscellaneous Book 18, page 604.

### ARTICLE IX Miscellaneous Provisions

SECTION 1. No Seal. The Association shall have no seal.

SECTION 2. Notices. Whenever notice is required to be given to Lot Owners, Directors or officers, unless otherwise provided by law, or these Bylaws, such notice may be given in person or by telephone, facsimile, telegraph, mail or private carrier. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address which appears for each such person on the books of the Corporation. Written notice sent by mail to Lot Owners shall be deemed to have been given when it is mailed. Any other written notice shall be deemed to have been given at the earliest of the following:

- (a) When received;
- (b) Five (5) days after its deposit in the United States mail if sent first class, postage prepaid; or
- (c) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

SECTION 3. Waiver of Notice. Whenever any notice is required to be given under the provisions of any statute, or of the Master Deed, the Charter or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon, and delivered to the Secretary of the Association and included in the minutes or corporate records, shall be deemed equivalent thereto.

SECTION 4. Negotiable Instruments. All checks, drafts, notes or other obligations of the Association shall be signed by such of the officers of the Association or by such other person(s), as may be authorized by the Board of Directors.

SECTION 5. The monies of the Association may be deposited in the name of the Association in such bank(s) or financial Institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

DATED this \_\_\_\_\_ day of October, 2005.

\_\_\_\_\_  
PAUL G. BROWN, Developer and Interim Board Member

\_\_\_\_\_  
JIM PACE

\_\_\_\_\_  
STEVE BROWN

\_\_\_\_\_  
JEAN GRAY

\_\_\_\_\_  
JORGE VALDES

\_\_\_\_\_  
LARRY COMBS

STATE OF TENNESSEE:  
COUNTY OF JOHNSON:

Before me, the undersigned authority, personally appeared the within named bargainers, PAUL G. BROWN, as President of Brown Enterprises, Inc., Developer of Callalantee Mountain Resort, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and Official Seal at office in said State and County  
\_\_\_\_\_ day of October, 2005.

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

My Commission Expires:  
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