DEVELOPMENT AND OPTION AGREEMENT

THIS DEVELOPMENT AND OPTION AGREEMENT ("**Agreement**"), made and entered into as of the ___ day of November, 2024, by and between **Fairfield Glade Community Club, ("Club"),** and **FGH Land Tennessee, LLC, a Tennessee limited liability company, ("Declarant"),** provides as follows:

THAT, FOR AND IN CONSIDERATION of the mutual covenants, promises, conditions, and undertakings set forth herein, the payment of the Option Fee (as hereafter defined), and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Club and Declarant covenant and agree as follows:

1. **<u>Grant of Option</u>**. Regarding the Class "C" lots owned by the Club, the Club hereby grants to Declarant an exclusive right and option, **("Option"),** to purchase from the Club, upon the terms and conditions hereafter set forth, those certain Fairfield Glade Class "C" lots located in the Development Phases, as defined below, **("Development Phase Lots" and, generally, the "Property").** Class "C" Lots are those lots which are not located on a developed road and do not have sewer and are within the exhibits to the Declaration, as amended and supplemented, **("Declaration"),** (which Declaration is incorporated herein by reference thereto). The Option rights of the Declarant hereunder shall apply not only to Development Phase Lots as exist on the Effective Date hereof, but also to all Class "C" lots obtained by the Club in the Development Phases after the Effective Date hereof during the Option Term.

A. **<u>Duration of Option</u>**. The term of the Option, **("Option Term"),** shall be fifteen (15) consecutive years, commencing on the Effective Date. Unless earlier terminated by either party under the terms below, this Agreement shall automatically renew for a new Option Term of five (5) years at the end of each previous Option Term. However, and notwithstanding the forgoing, the Option Term and all subsequent renewal terms thereafter shall not result in a renewal or extension of this Agreement or the Option Term longer than 30 years from the Effective Date hereof.

B. **<u>Option Fee</u>**. Declarant shall pay $5,000.00 to the Club on the Effective Date and $5,000 to the Club on each consecutive anniversary date of this

This instrument prepared by:
Looney, Looney, Chadwell & Hamby, PLLC
156 Rector Ave., Crossville, TN 38555

Agreement thereafter during the Option Term, **("Option Fee")**, in consideration for the Option, each payment to be made without notice therefor. The Club may terminate this Agreement for failure to pay the annual Option Fee, but only upon written notice of default to Declarant and a period of twenty (20) days following the date of said notice to cure the nonpayment. The Option Fee is non-refundable and is not credited against the Purchase Price if the Declarant exercises any Option purchase contemplated hereunder.

C. **<u>Exercise of Option, Non-Exercise of Option</u>**. Declarant may elect to exercise the Option at any time during the Option Term by giving written notice of exercise to the Club. If the Option is exercised as provided herein, this Agreement shall become and constitute a binding contract for the purchase and sale of the Property on the terms and conditions set forth in this Agreement. Upon exercise of the Option by the Declarant, closing on the purchase and sale of the Property hereunder, **("Closing")**, will occur no later than thirty (30) days, **("Closing Date")**, after the date of such written notice of exercise in the local offices of Looney, Looney, Chadwell & Hamby, PLLC, **("Closing Agent" and "Escrow Agent")**, or at such other place as the parties may agree in writing. Declarant may exercise its Option rights as to one or more Development Phase Lots at any time during the Option Term and may do so as to one or more lots, and any combination thereof. Its exercise of its Option rights as to one or more lots will not and does not preclude its right to exercise the same rights as to the remaining Development Phase Lots at any time, or multiple times, during the Option Term, such that the exercise of the Option as to one or more lots but not all lots does note terminate its Option rights as to any remaining Development Phase Lots during the Option Term. During the Option Term, and so long as Declarant is not in default hereunder, the Club will not actively market any of the Development Phase Lots for sale to third parties.

D. **<u>Option Purchase Price</u>**. At any time that Declarant exercises its Option during the Option Term for any Development Phase Lot or Lots, the Purchase Price per lot shall be $1,000.00 per lot.

E. **<u>Development Phases</u>**. The Club and Declarant have established areas of lots within Fairfield Glade for phased development by Declarant during the Option Term, **("Development Phases")**, the Class "C" lots therein known herein as the Development Phase Lots. The development phases are indicated and described on detailed maps attached hereto and incorporated herein by reference thereto as **Collective Exhibit "A", ("Development Phase Maps").** The Development Phase Maps may be amended and augmented by the Club and the Declarant but only in a written amendment to this Agreement duly executed by both parties. Both parties to this Agreement shall make reasonable good faith efforts to review the Development Phase Maps and the plans for the Development Phase Lots on a regular basis during the term hereof, but no less than every three (3) years. While it is the intent of the Declarant to complete road and utility projects in the phases during the term hereof, as more particularly described below, the Declarant is not required by this Agreement to develop any particular area, and, in the event that neither road work nor utility work has been commenced by Declarant for its lots in any Development Phase as appears on Collective Exhibit "A" for a period of five (5) years from the Effective Date hereof, the Club or the Declarant may terminate this Agreement, and the effects thereof, as to any or all dormant phases by giving the non-terminating party written notice of termination, whereupon the Declarant shall no longer have its Option rights or rights of first refusal as to lots within the terminated dormant phase(s).

2. Right of First Refusal. In addition to the Option rights granted unto Declarant hereunder, the Club further grants unto the Declarant during the Option Term a right of first refusal with regard to all Class "C" lots lying outside the boundaries of the Development Phases. In the event that the Club receives a bona fide offer to purchase a Class "C" lot, which lot is not a Development Phase Lot, **("ROFR Lot"),** the Club shall give notice to the Declarant of the offer to purchase the lot, whereupon the Declarant shall have five (5) business days to give notice to the Club regarding whether the Declarant will exercise its right of first refusal or decline to do so. Should the Declarant give notice to exercise its right of first refusal, the Club shall sell the lot or lots to the Declarant at the then applicable sales price per lot for Class "C" lots. Declarant shall have forty-five (45) days from its notice to the Club to exercise its right of first refusal to close the purchase of the lot or lots. The Club may market the ROFR Lots for sale to third parties during the Option Term. The right of first refusal of Declarant shall also apply to all ROFR Lots obtained by the Club after the Effective Date hereof during the Option Term. Declarant will not be responsible for dues on a ROFR Lot until it falls into a Development Phase.

3. Title and Escrow.

A. Escrow. If it exercises its Option or right of first refusal as to any lot or lots, Declarant shall open escrow with Escrow Agent. This Agreement constitutes escrow instructions to Escrow Agent. Any supplemental instructions shall not conflict with, amend or supersede any portion of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control, unless otherwise agreed in writing by the Declarant and the Club.

B. State of Title. The Club shall convey all Development Phase Lots and ROFR Lots by quitclaim deed. The Club neither warrants nor guarantees the insurability or marketability of any Class "C" lot but will quitclaim its interest in the same under the terms and conditions hereunder. The Club neither warrants nor represents that it owns fee simple title to any lot contemplated herein, or that it has, holds or is seized with all ownership interests in any lot, but that it will convey its interest, whatever that may be, under the terms and conditions of this Agreement.

C. **Title Examination**. Declarant, at its expense, may cause Escrow Agent to issue a title insurance commitment, **("Commitment")**, to issue an Owner's Policy to Declarant for any lot that, in the reasonable opinion of the Escrow Agent, is insurable, subject to such title exceptions as may apply. The Club shall have no obligation to cure any title exceptions, title matters or clouds on title with regard to any lot contemplated in this Agreement and makes no representations regarding the state of the title or its ownership with regard to any lot. However, the Club will cooperate in good faith with Declarant to cure any such matters, to the extent that such cooperation does not require a monetary obligation on the part of the Club and does not extend Closing beyond a period of ninety (90) days.

4. Closing Deliveries for Option and ROFR Lot Closings.

A. Club's Deliveries. At or before Closing, the Club shall execute and deliver to Escrow Agent all the following documents and instruments, which shall have been executed by Club:

1. A Special Warranty Deed, **("Deed")**, for the lot or lots, except that, where the Club is an owner as tenant in common and is not vested with full ownership of a particular lot, it may deliver only a quitclaim deed for its interest in the event that Declarant elects to proceed to closing and obtain the interests of Declarant;

2. Such title affidavits and certificates, including without limitation, a real estate transfer tax valuation affidavit, as may be required by the Escrow Agent;

3. A Certification of Non-Foreign Status pursuant to Section 1445 of the Internal Revenue Code, **("Section 1445")**, that the Club is not a foreign person, foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and related regulations), and applicable federal and state tax reporting certificates including, without limitation, any required state withholding or non-foreign status certificate;

4. All other documents and instruments referred to herein that are to be provided to Declarant by the Club;

5. Evidence of authority of persons executing the Deed and other Closing Documents reasonably satisfactory to the Title Insurer;

6. All documents reasonably required by the Escrow Agent, including, but not limited to, an executed Closing statement; and

7. Any other documents reasonably necessary or legally required to evidence the purchase or required to issue the Owner's Policy, except as modified above, if at all.

B. Declarant's Deliveries. At or before Closing, Declarant shall execute (as necessary) and deliver to Escrow Agent all the following:

1. The Purchase Price subject to credits, prorations and adjustments as provided in this Agreement in cash or other immediately available funds;

2. All other documents and instruments referred to herein that are to be provided to Club by Declarant; and

3. All documents reasonably required by the Escrow Agent, including, but not limited to, an executed Closing statement.

5. Closing Costs: Prorated items and Adjustments.

A. Closing Costs. The Club shall pay (1) its own legal fees; (2) 50% of the escrow fees; and, (3) the cost to prepare the Deed. Declarant shall pay (1) all state, county and city transfer taxes payable, if any, in connection with the transfer contemplated herein; (2) the title search fees and insurance premium as well as the premium amount for any endorsements to the Owner's Policy; (3) 50% of the escrow fee; (4) any recording fees payable in connection with recording the Deed; (5) all fees, costs or expenses in connection with Declarant's due diligence reviews hereunder, including survey fees, if any; and (6) its own legal fees. Any other closing costs shall be allocated in accordance with local custom. At Closing, Declarant, for each lot purchased, whether a ROFR lot or a lot purchased under its Option rights, shall pay the then applicable reserve amenity fee, and all dues, assessments, special assessments, the then applicable administrative transfer fee, and shall pay all fees and assessments on the purchased lots going forward, until such time as it may no longer own the lot or lots. Once transferred to the Declarant, the lots shall be subject to all applicable fees and assessments without discount, even if the Declarant may or may not be exempt from fees and assessments on lots other than the Development Phase Lots and ROFR Lots.

B. Prorations. At Closing, real property taxes shall be apportioned between the Declarant and the Club as of the Closing Date on a calendar year's basis, based on the last year's tax rate applied to the latest assessed valuation of the Property if tax rates for the year of closing are unavailable. If after Closing any proration is determined to have been inaccurate, the parties will make the proper adjustment payment or payments. This obligation to reconcile the prorations survives Closing.

6. Default.

A. Club's Rights. If the Declarant fails to perform any obligation of Declarant under this Agreement for any reason, the Club may give Declarant written notice of such default or failure, and, after twenty (20) days written notice thereof, if Declarant fails to cure such breach within such time, **("Cure Period")**, the Club shall be entitled to terminate this Agreement but retain the Option Fee payments. With regard to any breach of this Agreement by either party, both parties shall have and hold the right to assert and exercise all rights, claims and defenses that they may have respectively at law or in equity.

B. Declarant's Rights. If any condition for the protection of Declarant set forth in any provision of this Agreement cannot or will not be satisfied prior to Closing, or upon the occurrence of any other event that would entitle Declarant to terminate its obligations under this Agreement, Declarant, at its option, may either (a) terminate this Agreement, but only after written notice to the Club with twenty (20) days available to cure the default; or (b) proceed to purchase the Property as provided herein.

7. Brokers. Both parties acknowledge and assert that it has not engaged the services of a broker or created an obligation to a broker with regard to the Property or the transactions contemplated in this Agreement and that no broker commissions are owed to any broker.

8. Sewer Extensions in Development Phases. As to each Development Phase, the Club shall extend sewer to the Development Phase when all of the following conditions for extension of sewer to the subject phase have been fully satisfied: (a) Declarant has paid to the Club the total cost of the sewer extension attributable to the lots owned by Declarant in the Development Phase, (inasmuch as the Club will assess, bill and collect that portion of the sewer extension cost attributable to other lot owners as it would normally do pursuant to its sewer policy); and (b) Declarant has delivered to the Club its development plan for the subject Development Phase which plan shall include, at a minimum, the road, infrastructure, drainage and utility plans as prepared and stamped by a licensed professional engineer along with the cost estimates for the same and copies of all necessary permits.

A. Service to Third Parties. Owners of lots along all sewer extensions installed under the terms and conditions of this Agreement shall be provided sewer service by virtue of the extensions, and owners other than the Declarant, (which shall have already paid for the extension), shall be assessed and charged the applicable sewer availability fees for the extensions. Prior to the publication by the Club of the Capital Authorization Request, **("CAR")**, for the engineering study for the extension of sewer for a Development Phase, the Club will inform all lot owners in the subject Development Phase of the proposed extension and will continue to keep owners apprised of progress with regard to the extension. To the extent reasonably practical, the Club will attempt to use its employees and equipment in its then existing sewer department for the construction and installation of the sewer extensions, and charge for the work and equipment at the then applicable rates. Except as specifically modified, if at all, hereunder, the Declaration, Sewer Agreement and Sewer Policy, as amended or modified from time to time, shall control in every respect, including, without limitation, with regard to the sewer extensions, the operation of the sewer system and extensions and fees related to the same.

B. Lot Classification. Each Class "C" lot in the Development Phases, whether owned by Declarant or another individual or entity, shall remain classified as a Class "C" lot until such time as the road and sewer are installed adjacent to the lot, at which time it shall be classified as a Class "A" lot. The Declarant shall pay all assessments for lots owned by it in the Development Phases at the then applicable rates according to the assessment class as set forth in this sub-paragraph, including, without limitation, the increased fees as a result of the upgraded classification.

9. General Provisions.

A. Completeness and Modification. This Agreement constitutes the entire agreement between the parties as to the transactions contemplated herein and supersedes all prior and contemporaneous discussions, understandings, and agreements between the parties.

B. Assignments. Declarant may not assign this Agreement or its rights hereunder to any individual, entity or partnership, except to an entity within the exclusive control of Declarant and formed for the purpose of taking title to the Property, without the prior written consent of the Club, which consent the Club may not unreasonably withhold.

C. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Tennessee. If the parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the state courts located in the county in which the Property is situated. Notwithstanding anything to the contrary in this Agreement, neither party shall be entitled to recover punitive or exemplary damages, however arising, whether in contract, in tort, or otherwise, under or with respect to any action taken in connection with this Agreement.

D. Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to other persons or circumstances, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

E. Notices. Any notice expressly provided for or permitted under this Agreement shall be in writing, shall be given either manually or by mail, overnight delivery service, such as UPS or FedEx, and shall be deemed sufficiently given when received by the party to be notified at its address set forth below, or three (3) business days after being mailed by registered or certified mail, postage prepaid, return receipt requested, or one (1) business day after being sent by such overnight delivery service, addressed to such party at such address, whichever shall first occur. Any party and any representative designated below, by notice to the other party, may change its address for receiving such notices.

If to Declarant:	**FGH Land Tennessee, LLC** **Attn: Mr. Tom Anderson** **7012 Peavine Road** **Fairfield Glade, TN 38558**
If to Club:	**Fairfield Glade Community Club** **Attn: General Manager** **7827 Peavine Road** **Crossville, TN 38558**
With a copy to:	Looney, Looney, Chadwell & Hamby, PLLC 156 Rector Avenue Crossville, Tennessee, 38555

F. Incorporation by Reference. All the Exhibits attached or referred to herein and all documents in such Exhibits are by this reference incorporated herein and made a part of this Agreement.

G. Interpretation. The section and paragraph headings used herein are for reference and convenience only and shall not enter the interpretation hereof. Wherever used herein, the singular number shall include the plural and vice versa, and the use of any gender shall include all other genders, all as the context may require.

H. Business Days. If any action is required under the provisions of this Agreement to occur by a date that is a Saturday, Sunday or legal holiday, such date shall be extended to the first day thereafter that is not a Saturday, Sunday or legal holiday.

I. **Waiver.** No waiver or purported waiver by the Club or Declarant of any contingency contained herein shall be valid against the Club or Declarant unless it is in writing and signed by Declarant.

J. **Construction.** The parties acknowledge that they and their counsel have reviewed this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved in favor of one party or against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

K. **Effective Date.** The term "**Effective Date**" or such other similar term, shall be the last date on which a duplicate original of this Agreement has been executed by both the Declarant and the Club.

L. **Time.** The parties hereby agree that time is of the essence with respect to performance of each of the parties' obligations under this Agreement.

M. **Amendments.** The terms of this Agreement may be waived, modified and amended only by an instrument in writing duly executed by the Club and the Declarant.

N. **Counterparts.** This Agreement may be executed in any number of counterparts and it shall be sufficient that the signature of each party appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement. An electronic signature to this Agreement or any amendment hereto shall be sufficient to prove the execution hereby by any person.

O. **Waivers.** No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

P. **Third-Party Beneficiaries**. Except as specifically set forth or referred to herein, nothing herein is intended or shall be construed to confer upon any person or entity other than the Parties and their successors or assigns, any rights or remedies under or by reason of this Agreement.

Q. **Declaration.** Neither this Agreement nor any term or provision herein shall be deemed or interpreted to abrogate, amend or supersede the Declaration, and where this Agreement and the Declaration conflict, if at all, the Declaration shall control.

Fairfield Glade Community Club

By: ______________________

Its: PRESIDENT

Date: 12/12/24

FGH Land Tennessee, LLC

By: ______________________

Its: President

Date: 12/12/24

EXHIBIT A TO AGREEMENT

Development Phase