

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,  
AND RESERVATION OF EASEMENTS FOR  
HUBBARDS LANDING**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR HUBBARDS LANDING ("Declaration") is made this 18<sup>th</sup> day of May, 2018 by MILES FAMILY PROPERTIES LLC, a Kentucky limited liability company (the "Declarant"), under the following circumstances:

A. Declarant is the owner in fee simple of certain real property located in Bullitt County, Kentucky, more particularly described in Exhibit A attached hereto (the "Property") and desires to create a residential community with permanent Common Elements (as hereinafter defined) for the benefit of said community; and

B. Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said Common Elements and to this end, desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Property and the subsequent Owners thereof; and

C. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the Common Elements and administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

D. Declarant has formed or will form the Hubbards Landing Homeowners' Association, Inc., as an Kentucky not-for-profit corporation (the "Association"), which shall be responsible for the maintenance, management and control of the Common Elements on the Property.

E. NOW, THEREFORE, Declarant hereby declares that all of the Property described in Exhibit A and such Additional Property as may be subjected to the provisions hereof, shall be held, sold and conveyed, subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, and any subdivision plat which includes the Property, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE 1**  
**DEFINITIONS**

The words in this Declaration which begin with capital letters, other than words which would be normally capitalized, unless the context otherwise requires, shall have the meanings set forth in this ARTICLE 1.

1.1 Additional Property. “Additional Property” means other real property in the vicinity of the Property which is owned and/or acquired by Declarant, which may be annexed to the Property in accordance with ARTICLE 8 below.

1.2 Areas of Common Responsibility. “Areas of Common Responsibility” shall mean and refer to the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Property, or any public rights-of-way within or adjacent to the Property or regional detention basins adjacent to the Property, may be part of the Areas of Common Responsibility.

1.3 Articles and Articles of Incorporation. “Articles” and “Articles of Incorporation” mean those articles, filed with the Secretary of the Commonwealth of Kentucky, incorporating the Hubbards Landing Homeowners’ Association, Inc., as a non-profit corporation under the provisions of Chapter 273 of the Kentucky Revised Code, as the same may be amended from time to time.

1.4 Assessments. “Assessments” means General Assessment, Special Assessment, Individual Assessment and Working Capital Assessment.

1.5 Association. “Association” means Hubbards Landing Homeowners’ Association, Inc., as a non-profit Kentucky corporation, which owns, operates and maintains the Common Elements, and any successor organization which owns, operates and maintains the Common Elements.

1.6 Board of Director. “Board of Director” means the Board of Director of the Association established pursuant to its Articles of Incorporation, Bylaws and this Declaration.

1.7 Builder(s). “Builder(s)” means Fischer Homes Louisville, LLC, a Kentucky limited liability company, its successors and assigns, and such other persons and entities as may acquire one or more Lots from Declarant for the purpose of constructing improvements thereon for resale, but only to the extent of such Lots acquired.

1.8 Class A Members or Class A Membership. “Class A Members” or “Class A Membership” means those members of the Association consisting of all Owners except, during the Development Period, Declarant.

1.9 Class B Member or Class B Membership. "Class B Member" or "Class B Membership" means, during the Development Period, Declarant, as a member of the Association.

1.10 Bylaws. "Bylaws" means the Bylaws of the Association, as the same may be amended from time to time, pursuant to the Bylaws and Chapter 273 of the Kentucky Revised Statute, a copy of which is attached hereto as Exhibit B and made a part hereof.

1.11 Common Elements. "Common Elements" shall mean as described in ARTICLE 6 of this Declaration.

1.12 Common Expenses. "Common Expenses" shall mean as defined in Section 4.2 of this Declaration.

1.13 Community-Wide Standard. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board of Directors and Declarant.

1.14 Constituent Documents. "Constituent Documents" mean the Declaration, the Record Plat, the Bylaws, the Articles of Incorporation, the rules and regulations, if any, the management agreement, if any, entered into between the Association and any professional manager of the Property, and any other basic documents used to create and govern the Property.

1.15 Declarant. "Declarant" means Miles Family Properties LLC, a Kentucky limited partnership, its successors and assigns.

1.16 Declaration. "Declaration" means this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Hubbards Landing, as the same may from time to time be amended in the manner prescribed herein.

1.17 Default. "Default" means any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents.

1.18 Development Period. "Development Period" means the period commencing on the date on which this Declaration is recorded in the Bullitt County, Kentucky Clerk's Office and terminating on the earlier to occur of (i) within thirty (30) days following the date when one hundred percent (100%) of the Dwelling Units which may be built on the Property have been deeded by either Declarant and/or any Builder to a third party purchaser; or (ii) thirty (30) years from the date of recording of the Declaration.

1.19 Dwelling Unit. "Dwelling Unit" means any building or portion of a building situated upon the Property designed and intended for use and occupancy as a residence by a single person, a family or family-sized group of persons.

1.20 Individual Assessment. "Individual Assessment" means the charge established in Section 4.3 of this Declaration.

1.21 Landscape and Signage Easements. “Landscape and Signage Easements” shall mean and refer to all landscape easements, including structures, any entrance monuments, ponds or fountains located thereon as shown on any Record Plat. The areas within the easements are sometimes referred to as Landscape Easement Areas or Signage Easement Areas.

1.22 Lot(s). “Lot(s)” means each of the parcels of land shown as such upon the record plats of the Property.

1.23 Members. “Members” means all Class A Members and the Class B Member.

1.24 General Assessment. “General Assessment” shall mean as defined in Section 4.2 of this Declaration.

1.25 Occupant. “Occupant” means any person in possession of a Lot or Dwelling Unit whether or not such possession is lawful and shall include but not be limited to, an Owner’s family members, guests, invitees, Tenants and lessees.

1.26 Open Spaces. “Open Spaces” shall mean and refer to all open spaces located on the Property as shown on any record plat, which are for the benefit of the Owners of the Property.

1.27 Owner. “Owner” means, with respect to any Lot, the owner of record from time to time, whether one or more persons or entities, of an interest in fee simple, reversion, remainder or leasehold estate of 99 years or more, but shall not include the Association. Such term shall include contract sellers except those having an interest merely as security for the performance of an obligation.

1.28 Property. “Property” means that certain land in Bullitt County, Kentucky, more particularly described in Exhibit A to this Declaration. When portions of the Additional Property are subjected to this Declaration pursuant to ARTICLE 8 herein, those portions shall then be deemed part of the Property.

1.29 Restrictions. “Restrictions” means all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including, without limitation, the Maintenance Standards and all notices, rules and regulations issued in accordance with this Declaration.

1.30 Rules and Regulations. “Rules and Regulations” means those certain rules and regulations which are adopted by the Board of Directors from time to time.

1.31 Special Assessment. “Special Assessment” means the charge established by Section 4.4 of this Declaration.

1.32 Supplemental Declaration. “Supplemental Declaration” shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant which

subjects all or any portion of the Additional Property to this Declaration; imposes, expressly or by reference, additional restrictions and obligations on the land subject to this Declaration.

1.33 Tenant. "Tenant" means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

1.34 Working Capital Assessment. "Working Capital Assessment" as defined in Section 4.5 of this Declaration.

## **ARTICLE 2**

### **PROPERTY SUBJECT TO THIS DECLARATION**

The Property, each portion thereof, and all Dwelling Units thereon shall be held, transferred, sold, conveyed, leased, mortgaged and occupied subject to the terms, provisions, covenants and conditions of this Declaration.

## **ARTICLE 3**

### **ASSOCIATION MEMBERSHIP, MEETINGS AND BOARD**

3.1 Formation of the Association. The Declarant has caused or will cause to be chartered in accordance with Chapter 273 of the Kentucky Revised Statute, a nonprofit corporation to be known as Hubbards Landing Homeowners' Association, Inc., an Kentucky not-for-profit corporation. The purpose of the Association is to provide for the administrative governance, maintenance, management and upkeep of the Property and to promote the general health and welfare of the Owners and Occupants of the Property.

3.2 Board of Directors. The initial Board shall consist of three (3) persons appointed by the Class B Member who shall serve until their respective successors are elected and qualified. Directors appointed by the Declarant need not be Members of the Association. However, a Director elected by Class A Members shall be a Lot Owner or a spouse of a Lot Owner, except that if a Lot Owner is a corporation, partnership, joint venturer, or other entity, the Lot Owner may elect as a Director an officer, partner, joint venturer, or like individual affiliated with this Lot Owner.

Within ninety (90) days after the expiration of the Development Period, the President of the Association shall call a special membership meeting ("Development Period Special Meeting"). At the Development Period Special Meeting, all Declarant appointed Directors shall be deemed removed from office, and the Class A Members, including the Declarant if it is then an Owner, shall elect a Director to fill each vacancy on the Board. The terms of said elected Directors shall be from one (1) to two (2) years, as determined by the Board, so that in any one (1) year thereafter, the terms of one (1) Director shall expire. The two (2) Directors with the most votes shall be the Directors who shall serve the two-year term. Additionally, after the Development Period Special Meeting, all Directors, and their successors, shall be elected by Class A Members and shall be elected for a two (2) year term.

Notwithstanding anything above to the contrary, the Class B Member may, by written notice to the Board, at or before any Annual Meeting, relinquish to the Class A Members, the Class B Member's right to appoint one or more Directors at such Annual Meeting pursuant to this Section.

3.3 Membership. The membership of the Association shall at all times consist exclusively of Owners. All Owners shall be Members. Membership shall be appurtenant to and may not be separated from such ownership.

3.4 Members Rights and Duties. Each Member shall have the rights, duties and obligations set forth in this Declaration and all amendments duly made hereto in accordance with the terms herein.

#### **ARTICLE 4** **ASSESSMENTS**

4.1 Purpose of the Assessments. The Assessments are established for the benefit and use of the Association and shall be used in covering the costs of its Common Expenses and for such other purposes as hereinafter set forth.

4.2 General Assessment. There are hereby established for the benefit of the Association, its successors and assigns, and all Owners on the Property, as a charge on each Lot or Dwelling Unit, a general General Assessment ("General Assessment"), which shall be used in covering all of the cost of the Association's operation, insurance, maintenance, repair and replacement obligations including, without limitation thereto (collectively, the "Common Expenses"):

(i) landscaping, trees, shrubs and other flora, parks, ponds, lakes, fountains, waterfalls, signage, fences, structures, and improvements, including any pedestrian pathways/trails situated upon the Common Elements;

(ii) mowing, edging and fertilization of all grass located on the Common Elements; the cost of spring time mulching of landscape beds;

(iii) reasonable reserves for contingencies, replacements and working capital;

(iv) all premiums for hazard, liability and other insurance with respect to the Property; and

(v) management fees, organizational costs, legal costs for the enforcement of liens and covenants in this Declaration and all other costs incurred by Declarant or the Board in the exercise of its powers and duties pursuant to this Declaration.

The General Assessment shall be estimated initially in accordance with Section 4.6 of this Declaration. The obligation to pay the General Assessment shall not in any manner be dependent on or discharged, or otherwise affected by the use or non-use of the Common

Elements, or the actual occupancy of any Lot or Dwelling Unit of the Property. Each Owner, by acceptance of a deed, covenants and agrees to pay such General Assessment.

**Notwithstanding any provision of this Declaration, the Articles of Incorporation or Bylaws to the contrary, Declarant and Builder, until the expiration of the Development Period, shall not be required to pay any Assessments for any recorded, "unoccupied" Lot in which they have the interest otherwise required for Class A Membership.**

4.3 Individual Assessment. The Association after approval by a majority of the members of the Board shall have the right to assess an individual Lot or Dwelling Unit for any of the following ("Individual Assessment"):

(a) any costs incurred for maintenance or repair caused through the willful or negligent act of an Owner or Occupant or their family, Tenants, guests or invitees, including attorney fees, court costs and other expenses incurred; and/or

(b) any costs associated with the enforcement of this Declaration or the Rules and Regulations, if any, of the Association, including, but not limited to attorneys fees, witness fees and costs, and court costs.

4.4 Special Assessments. In addition to the other Assessments authorized herein, and to the extent that the reserve fund is insufficient, the Association may levy special assessments for the following reason ("Special Assessments"):

(a) The amount of any operating deficit incurred in any calendar year may be paid by means of a Special Assessment sufficient in an amount so as to allow the Association to satisfy such deficit in part or in whole, provided that any such Special Assessment shall have been approved in accordance with this Section 4.4.

(b) To the extent that the capital budget is insufficient, the Association may levy Special Assessments to construct, structurally alter, or replace capital improvements which are a part of the Common Elements in any fiscal year.

So long as the total amount of Special Assessments allocable to each Lot or Dwelling Unit does not exceed One Hundred Twenty Percent (120%) of the General Assessment for that fiscal year, the Board may impose the Special Assessment. Any Special Assessments which would cause the amount of Special Assessments allocable to any Lot or Dwelling Unit to exceed this limitation shall be effective only if approved by a majority vote of the Members present and voting at a meeting duly called for such purpose. Special Assessments shall be paid as determined by the Board, and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed.

4.5 Working Capital Assessment. At the time of closing on the sale of each Lot from Declarant or Builder to a third party purchaser, the purchaser shall be required to pay an initial capital contribution to the working capital of the Association, the amount of which shall be

determined by Declarant prior to the sale of the first Dwelling Unit to a third party purchaser ("Working Capital Assessment"). The Working Capital Assessment shall be used by the Association for its operating expenses. Such Working Capital Assessment is not an advance payment of the regular General Assessment or any other Assessment established herein, and it will not be held in any sort of trust or reserve account. Declarant and Builder shall not be required to pay any Working Capital Assessment as described in this paragraph.

4.6 Computation and Payment of General Assessment. The General Assessment shall be computed and levied in accordance with the budget adopted by the Board pursuant to the Bylaws. The General Assessment shall be effective as to each Lot or Dwelling Unit on the first day of conveyance of a Lot or Dwelling Unit from Declarant or Builder to a third party purchaser. Therefore, at the time of closing, each purchaser of a Lot or Dwelling Unit shall be required to pay a prorata share of the General Assessment for the balance of the then current month in which he/she closes. So long as there has been no Default in payment of the General Assessment, it shall be payable in annual installments due in advance on the first (1<sup>st</sup>) day of each month. The Board shall have the power from time to time to adopt such billing, collection and payment procedures, late charges and other payment time schedules as it deems appropriate.

4.7 Common Surplus. If the General Assessment collected in any given year is in excess of the actual Common Expenses for that year, the Board may, at its sole discretion (a) return each Owner's share of the Common Surplus; (b) credit each Owner's share of the Common Surplus to each Owner's payment as for the General Assessment for the following year; (c) apply the Common Surplus to the reserve; or (d) repay any loan obtained by the Board, on behalf of the Association, used to fund any prior years operating deficit as provided for in Section 4.9 below.

4.8 Payment. Unless otherwise established by the Board, the General Assessment shall be paid in advance in quarterly installments not more than ten (10) days after the due dates established by the Board. The Board shall have the power at any time to adopt such billing, collection and payment procedures and payment time schedules as it shall deem appropriate. Additionally, any Special Assessment or Individual Assessment imposed by the Board shall become due upon the date designated in the notice, but not less than thirty (30) days after the mailing of the notice to the Owner by United States mail. **At the time of closing on a Dwelling Unit from either Declarant or Builder to a third party purchaser, each third party purchaser of a Lot shall be required to pay the Working Capital Assessment as provided in Section 4.5 above and a prorata share of the General Assessment for the balance of the annual period in which the closing takes place.**

4.9 Operating Deficit. If during the Development Period the Association incurs an operating deficit, Declarant, Builder or any other affiliated entity of Declarant ("Affiliated Entity"), may, at its option, loan funds to the Association to fund the deficit. In the event that Declarant, Builder and/or Affiliated Entity elects to fund the deficit, the Association shall execute a loan agreement and promissory note for the benefit of Declarant, Builder and/or Affiliated Entity, as the case may be, the form of which shall comply with the terms and conditions set forth in Exhibit C attached hereto and made a part hereof. The Association shall



be obligated to repay to the Declarant, Builder and/or Affiliated Entity, as the case may be, any and all monies lent by such entity to the Association in accordance with this Section in order to fund any deficit. Such repayment of monies shall be in accordance with the terms and conditions of said loan agreement and promissory note.

4.10 Books and Records of the Association. The Association shall keep full and correct books of account. The Association shall make available to all Lot Owners and the holders of all first mortgages on Lots, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Association and all of the Lot Owners.

4.11 Penalty for Late Payment. For each Lot as to which any installment of any Assessments are not paid within a period of ten (10) days from its due date, unless otherwise modified by the Board, there shall be added to the installment a penalty of ten percent (10%) thereof, and interest at the rate of twelve percent (12%) per annum, or such other amount established by the Board (or, if less, the maximum rate allowable by law) from the due date on the amount of such installment plus penalty until paid.

4.12 Creation of Lien and Personal Obligation of Assessment. All Assessments shall be a charge and lien on each Lot to the extent and for the period provided in Section 4.13 below, and shall also be the personal obligation of the Owner of each Lot against which they are made.

4.13 Liens. If any Assessment on a Lot is not paid within the period established by the Board pursuant to Section 4.8 herein, the amount thereof together with any interest, costs, penalties and reasonable attorneys' fees thereon shall constitute a lien on such Lot in favor of the Association prior to all other liens and encumbrances whatsoever, excepting real estate taxes and assessments and liens of record in favor of the United States of America, the Commonwealth of Kentucky, and all other political subdivisions or governmental instrumentalities of the Commonwealth of Kentucky to the extent made superior by applicable law, and all bona fide recorded first mortgages and the rights of any first mortgagee who comes into possession of a Lot pursuant to mortgage foreclosure or by deed in lieu thereof. Assessments shall become a lien on a Lot on the date the Board mails written notice of any such Assessment to the Owners of any Lot subject thereto. The Association may perfect the lien by recording a notice of lien with the Bullitt County, Kentucky Clerk's Office, in any legally recordable form. Nonpayment of any Assessment on a Lot shall be deemed and is hereby declared to be the happening of a condition or event that creates an interest in real estate.

4.14 Evidence of Payment. Upon the request of the Owner or any mortgagee or Tenant of any Lot or any prospective purchaser, mortgagee, or Tenant thereof, the Board or its designated representative shall furnish written evidence of the amount of the Assessments with respect to such Lot for the current year and the amount of any unpaid Assessments, penalty and interest, if any. Such evidence may be conclusively relied upon by any such party and by anyone

furnishing any title evidence or opinion with respect to such Lot. The Board may impose a reasonable charge for furnishing such written evidence.

4.15 Enforcement of Lien. Any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent (including appointment of a receiver, foreclosure sale and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage under the laws of the Commonwealth of Kentucky. In any such enforcement proceeding, the amount which may be recovered by the Association shall include all costs of such proceeding, including reasonable attorneys' fees. In any such foreclosure sale, the Association may become the purchaser.

4.16 Subordination of Lien to First Mortgage. The mortgagee of a first mortgage of record on a Lot shall have no obligation hereunder to collect any Assessments chargeable to such Lot. Failure of a Lot Owner to pay any Assessments imposed in this Declaration shall not automatically be deemed a default under the first mortgage of record on that respective Lot. In addition, when the mortgagee of a first mortgage of record, or other purchaser of a Lot as a result of judicial execution, acquires title to the Lot as a result of foreclosure of the first mortgage or by deed in lieu of foreclosure, such acquirer of title, his, her or its heirs, successors and assigns, shall not be solely liable for the share of the Assessments chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Any lien against such Lot shall be canceled and voided, and shall become unenforceable. Such unpaid share of Assessments shall be deemed to be Common Expenses collectible from all of the Lots, including that of such acquirer, his, her or its heirs, successors or assigns

## ARTICLE 5

### COVENANTS AND RESTRICTIONS OF USE AND OCCUPANCY

5.1 Purposes. In order to promote the health, safety and welfare of all Owners, Members and Occupants, and to preserve, beautify and maintain the Property and all structures thereon as a subdivision of high quality and to preserve and promote a good environmental quality, the following covenants, restrictions and limitations as to use and occupancy are hereby adopted, declared and established. These covenants and restrictions shall hereinafter burden and benefit all Lots on the Property, shall run with the land, be binding on current and successor Lot Owners, for the benefit of all Lot Owners and all Lots on the Property.

5.2 Covenants and Restrictions Lots. The following are the covenants and restrictions and limitations as to use and occupancy to which the Lots are subject to:

(a) Land Use. Except as otherwise provided in this Declaration, no part of the Property other than Common Elements shall be used for other than residential housing and any Dwelling Unit constructed on a Lot shall be used only as a residence for a single family. To the extent permitted by law, an Owner of a Lot may use a portion of a Dwelling Unit located thereon for his/her office or studio provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner or Occupant; and provided further that such activities do not increase the normal flow of traffic or individuals in and out of the Property or in and out

of said Owner's respective Lot. The foregoing notwithstanding, Declarant, its successors, assigns and affiliates, and any Builder may use Lots and Dwelling Units for construction offices, sales purposes (i.e., including, but not limited to, model homes), and as offices to meet with prospective purchasers of Dwelling Units.

(b) Architectural Approval Required. Except for original construction by the Declarant or as otherwise in these covenants provided, no building, landscaping, fence, wall or other structure, improvement or device, or replacement or alteration or repair thereof, shall be commenced, repaired, replaced, erected or maintained upon any Lot, nor shall any exterior addition to or change or painting or other alteration in a single family detached structure be made until such plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Declarant or its designee. Upon the expiration of the Development Period or upon the Declarant's written relinquishment of such approval authority, such approval authority shall pass to an "Architectural and Maintenance Committee" appointed by the Board of Directors composed of not less than three (3) Members of Owners of Lots. Requests for approval shall be made in writing by the Lot Owner to the Declarant, its designee or Architectural and Maintenance Committee as the case may be.

The Declarant, its designee or the Architectural and Maintenance Committee may designate the person or entity to whom an application must be submitted. An application will not be considered filed for approval until it is complete.

(c) Building Type. No Structures of a temporary character, trailer, shack, garage, barn or other temporary outbuilding shall be used or erected on any Lot after the permanent residence on each Lot has been completed. Without limiting the generality thereof, the word "structure" as used herein means anything or object, the placement of which upon any Lot may affect the appearance of such Lot, including any building, garage, shed, barn, greenhouse, coop, cage, shack, trailer, swimming pool, outbuilding, swing sets, or any other temporary or permanent improvement on such Lot. It is further provided, however, that the word "structure" does not include uncovered patios or decks. No window-mounted heating or air conditioning units shall be permitted. Notwithstanding the foregoing to the contrary, no Improvements or Structures may be placed on any Lot without the ARC's prior written approval, as provided in Section 5 above. This Section shall not apply to Declarant or a Builder during the initial construction of a Dwelling Unit located on a Lot.

(d) Landscaping. Every Dwelling Unit constructed on any Lot shall be landscaped at the time of construction of the Dwelling Unit. The landscaping shall be completed in accordance with the landscaping requirements of the Declarant.

(e) Fences. No fences shall be erected or built on any part of any Lot between the rear of the Dwelling Unit constructed thereon and the street in front of the Dwelling Unit. On a corner Lot, the section or sections of fence running with the side street shall not extend closer to said side street at any point than the Dwelling Unit on said Lot. Fences erected on said Lot

from the rear of the Dwelling Unit and the back property line shall be installed as one of the following (i) black vinyl coated chain link and not be in excess of four (4) feet in height or (ii) privacy fence and shall not be in excess of six (6) feet in height. All fences constructed shall be submitted and approved by the ARC as provided in Section 5.2 (b) above. The ARC may at its discretion require additional landscaping accompanying such fence improvement. Barbed wire or similar fences shall be prohibited. All fences must meet local governmental fence codes and regulations. Entrance designations, Recreational Facilities, fences and any other Structure erected by Declarant, Builder and/or the Association are exempt from this Restriction.

(f) Swimming Pools. Above-ground and in-ground swimming pools are permitted provided they are approved pursuant to Section 5.2 (b) above. All above-ground swimming pools require the installation of privacy fences and shall comply with Section 5.2 (e) above. This Section shall not prohibit the construction, erection or placement of a diving board, slide or other equipment appurtenant to an otherwise conforming in-ground swimming pool. Portable or inflatable swimming pools designed for use by small children shall be permitted so long as they are stored out of view when not in use.

(g) Hot Tubs/Spas. Hot tubs or spas may be erected, constructed or permitted on any Lot, for which are properly screened and not visible from the street; provided same is approved by either Declarant or the Architectural and Maintenance Committee in accordance with Section 5.2(b) above. Declarant or the Architectural Maintenance Committee may require additional landscaping or other screening of any such hot tub/spa.

(h) Mailboxes/Post Lamps. Shared mailboxes and/or post lamps may be required and installed by the Declarant or Builder for each Dwelling Unit. Such mailboxes and post lamps shall be individually or jointly maintained and replaced as necessary by the respective Owner(s) for whom they serve. Mailboxes or post lamps may not be altered or replaced without written consent as required under Section 5.2 (b) above. The cost of the electricity for the post lamp shall be the sole responsibility of the Owner whose electric meter registers the post lamp's electrical usage. Declarant and/or Builder may however, waive this right or establish the use of cluster mailboxes.

(i) Parking. No parking spaces, streets or driveways nor any other part of the Common Elements, Lots shall be used for parking of any trailer, truck, boat, or anything other than operative automobiles, motorcycles or scooters. Any of such vehicles may, however, be stored or parked in an enclosed garage provided such garage door is completely closed at all times when such a vehicle is parked therein. The word "trailer" shall include trailer coach, "RV", recreational vehicle, house trailer, mobile home, automobile trailer, boat trailer, campcar, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit the use and occupancy thereof for human habitation, for storage, or the conveyance of machinery, tools or equipment, whether resting on wheels, jacks, tires or other foundation. The word "truck" shall include and mean every type of motor vehicle other than passenger cars and other than any pick-up truck, sports utility vehicle or van which is used as a principal vehicle by an Owner of a Dwelling Unit or his/her family. Notwithstanding the restrictions in this Section, vehicles being used for the purpose of construction, delivery or repair

work to or upon any Lot or Dwelling Unit may be permitted to be parked on any Lot and street in the Subdivision.

(j) Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No Lot Owner shall permit anything to be done or kept in a Dwelling Unit or other approved Structure on any Lot that would be in violation of any federal, state and local law. No waste shall be committed in or to any of the Common Elements.

(k) Oil and Mining Operations. No oil drilling, quarrying, or mining operations shall be permitted on any Lot.

(l) Garbage and Refuse Disposal. Except for the immediate purpose of trash and garbage collection and removal, trash, garbage, or other waste shall not be kept upon a Lot except in sanitary containers screened from visibility from the streets and drives of the Property. Yard waste may be composted in approved containers. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste.

(m) Antennas. All television and radio antennae, including CB radio antennae, must be enclosed within the Dwelling Unit located on the Lot. All telephone, electric and other wires of all kinds must be underground.

(n) Signs. No permanent sign shall be permitted on any Lot or building in the Subdivision. In addition, no permanent or temporary sign shall be permitted to be placed on any surface that is visible within the Subdivision. An Owner of a Dwelling Unit is permitted to place and maintain a standard "For Sale" sign on his/her Lot; provided, however it is of a typical size within the industry. An Owner must obtain the prior written consent of the Board in the event said Owner desires to maintain a "For Sale" sign which is not of a typical size within the industry. This sign restriction shall not apply to signs used by Declarant and/or Builder or their assigns, while Declarant and/or Builder is selling Dwelling Units in the Subdivision, or to traffic, street names, Common Elements or subdivision identification signs.

(o) Animals. No animals of any kind shall be raised, bred, or kept on any Lot including the Common Elements, except that dogs or other household pets not totaling more than three (3) in number, may be kept on a Lot, subject to the Restrictions, provided that it is not kept, bred or maintained for any commercial purpose, and provided that it is kept subject to the rules and regulations, if any, of the Association, including, but not limited to, rules regarding weight limitations for certain types of pets. No such pets may be allowed to run unattended. Dogs, cats, or other household pets must be kept within the confines of the Owner's Lot except when being held on hand leash by the person attending the animal. All Lot Owners shall be responsible for cleaning up after his/her household pet. Notwithstanding the foregoing, the Association shall have the right to promulgate rules and regulations pertaining to size, number and type of such household pets and the right to levy fines and enforcement charges against persons who do not clean up after their pet.

(p) Laundry or Rubbish. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Property. No clotheslines shall be located on any Lot. The Property shall be kept free and clear of rubbish, debris and other unsightly materials.

(q) Rental of Dwelling Units. The Owners of the respective Dwelling Units or any first mortgagees in possession thereof shall have the right to lease the same subject to the covenants and restrictions in the Declaration and the Bylaws and rules and regulations, if any. However, neither Dwelling Unit Owner nor any first mortgagee in possession shall lease less than an entire Dwelling Unit nor shall any Dwelling Unit be leased for a term of less than six (6) months. The respective Dwelling Unit shall not be rented for transient or hotel purposes, which shall be defined as (i) rental for any period less than six (6) months, or (ii) any rental if the occupants of the Dwelling Unit are provided customary hotel service such as room service or food and beverage, maid service and furnishing of laundry and linen. All leases of any Dwelling Unit shall be in writing. All such leases shall provide that they are subject to all the provisions of the Declaration, the Bylaws and the rules and regulations, if any, and that any failure of the lessee to comply with any such provision shall constitute a default under the lease. A copy of each such lease shall be given to the Association immediately after it is executed.

(r) Building Setbacks. No building shall be located nearer to any street than the building setback line shown in the Record Plat of the Subdivision, except as constructed by Declarant or Builder.

(s) Lawns. No weeds, underbrush or unsightly growths or objects of any kind shall be permitted to remain on any Lot within the Subdivision. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed on a regular basis. Lot areas left in a naturalized state by the Declarant and/or Builder may be left in such naturalized state by the Lot Owner.

(t) Obligation to Keep Lot in Good Condition. Each Single Family Lot Owner, Lot Owner or Occupant shall keep each Lot and all Structures thereon in such maintenance, repair, appearance and condition as shall comply with the provisions of this Declaration and applicable laws and ordinances.

(u) Lot Grading. Neither Lot Owner nor anyone claiming under the Lot Owner shall alter elevations and grades established by Builder for any building Lot without the prior written approval of Declarant and/or Declarant's designee during the Development Period; and, the prior written approval of the Board after the Development Period. The purpose of this Restriction is to insure that the surface drainage plan originally established by Builder for sheet surface drainage and drainage swales over the yard areas of building Lots is not altered or impeded. Landscaping or plantings shall not be installed or maintained in such a manner as to impede sheet surface drainage or swale drainage.

## **ARTICLE 6**

### **COMMON ELEMENTS AND EASEMENTS**

6.1 Description of Common Elements. The Common Elements shall include, but not be limited to: the Open Spaces; and any other easements for open space, landscaping areas and mounding, water retention/detention basins, common area utility easements, storm sewer and surface water drainage easements, water main easements, sanitary sewer easements, preservation areas, and private drainage easements, all as are or may be located, described and shown on the record plats (collectively, the "Common Elements"). Declarant and/or Builder may also create other Common Elements not now in existence but that might in the future be added, located and shown on any subsequent record plat to be recorded and creating additional Lots to be subjected to this Declaration.

6.2 Rights of Enjoyment in Common Elements. Except as herein otherwise provided, each Owner shall have a right and nonexclusive easement for use and enjoyment of the Common Elements, and such right and easement shall be appurtenant to, and shall pass with the title to his/her Lot. Each Tenant shall have a nontransferable right to use and enjoy the Common Elements, if any, which right shall terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

(a) Except for the Promissory Note of Declarant as provided in Section 4.9 above, the right of the Board, with the approval of sixty-seven percent (67%) of the Class A Members, and the Class B Member, to borrow money for the purpose of constructing, equipping, improving, operating, and maintaining the Common Elements and in aid thereof to mortgage the Common Elements.

(b) The right of the Board to adopt and enforce and from time to time amend reasonable limitations upon use and Rules and Regulations pertaining to the use of the Common Elements, including regulations limiting guests of Owners and Tenants who may use the Common Elements at any one time.

(c) The right of the Board to suspend the right of any Owner or the privilege of any Occupant to use such of the Common Elements that are recreational in nature as determined by the Board for any infraction of the Rules and Regulations relating to the Common Elements for a period not to exceed sixty (60) days for each such infraction, or for nonpayment or delinquency of the Assessments against such Owner's Lot for a period not to exceed the period of such nonpayment or delinquency.

(d) Such rights as the Board may have to grant easements or rights of way to any public utility corporation or public agency.

(e) All applicable provisions of valid agreements of the Association relating to the Common Elements.

(f) Such rights as the Board may have under the Declaration to convey or lease all or any part of the Common Elements.

(g) All other easements, restrictions and rights to which the Property is subject.

(h) The right of the Association to grant permits, licenses, and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

6.3 Subordination to Mortgage or Other Lien. The rights and privileges provided in this Section shall be subordinate to any mortgage or other lien given by the Association for the purposes of acquiring, improving or maintaining the Common Elements.

6.4 Additional Common Elements. Declarant, its successors and assigns and/or any Builder may from time to time, during the Development Period, convey to the Association for nominal or other appropriate consideration and the Association may accept conveyance of any land owned by Declarant and/or Builder along with any structure, improvement or other facility including related fixtures, equipment and furnishings located thereon.

6.5 Conveyance or Lease of Common Elements. Upon authorization by the Board and upon the approval of sixty-seven percent (67%) of Class A Members and the Class B Member, the Association may at any time convey or lease all or a part of the Common Elements to any public agency, authority, or utility or to any private entity, upon such terms and conditions as shall be agreed upon by the other party and Board, including, without limitation, terms and conditions providing for the use of such Common Elements by the public in general and terms and conditions pertaining to the maintenance and repair of such Common Elements and the assessments of Owners and/or Tenants for the costs of such maintenance and repair.

6.6 Use of Common Elements by Declarant and Builder. Declarant and Builder and its affiliates and associates shall have the same rights of use and enjoyment of the Common Elements as the Class A Members during the Development Period, and shall have the right to use the Common Elements for promotional, sales and similar purposes until all of the Dwelling Units have been sold.

6.7 Easements.

(a) In the event that, by reason of the construction, settlement or shifting of any of the Dwelling Unit or other Structures located on Lots or by reason of the partial or total destruction and rebuilding of the buildings, any part of the Common Elements presently encroach or shall hereafter encroach upon any part of a Lot; or any part of a Dwelling Unit presently encroaches on or shall hereafter encroach upon any part of the Common Elements or any other Lot; or, if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving more than one Dwelling Unit presently encroach or shall hereafter encroach upon any part of any Dwelling Unit or Lot, valid easements for the maintenance of each encroachment and for the use of such adjoining space are hereby established. These easements shall exist during the term of this Declaration for the benefit of such Lot, Dwelling Unit and the Common Elements, as the case may be. However, in no event shall a valid



easement for any encroachment be created in favor of any Owner if such encroachment occurred due to the willful conduct of said Owner.

(b) The Association may hereafter grant easements for utility purposes for the benefit of the Property, including the right to install, lay, use, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and on any portion of the Common Elements, and each Owner hereby grants the Association an irrevocable power of attorney to execute, acknowledge, deliver and record, for and in the name of such Owner, such instruments as may be necessary to effectuate the foregoing.

(c) Declarant hereby reserves easements and the right to grant easements on, over and across certain Lots for open space, landscaping mounding and monument areas and for the installation, maintenance, use, repair and replacement of underground utilities, public utilities, water detention basins, storm sewer, sanitary sewer and surface water drainage easements, water mains, preservation areas and private drainage easements, and building setbacks, specifically as shown on the Record Plats now or hereinafter recorded for the Subdivision, and to cut and grade slopes in and along Lot boundaries at streets and drives built within the Property. The foregoing easements shall not be used for recreations purposes but are reserved for such aesthetic or utility purposes as indicated by the nature of the easement.

(d) A non-exclusive ingress and egress easement hereby created, for the benefit of all Owners of the Property, on, over and across any and all private roadways now or in the future located on the Property, which roadways shall be part of the Common Elements of the Association.

(e) All Lots shall be subject to and benefited by a maintenance easement in favor of the Association, the Declarant, the Builder and the adjoining Lot Owner(s) for the purposes of maintaining, cleaning, repairing, improving, replacing and otherwise dealing with the Dwelling Unit situated on a Lot ("Maintenance Easement"). Such Maintenance Easement shall encompass the side yard building set back area along all common Lot lines. Said Maintenance Easement shall specifically permit an Owner to temporarily place a ladder or scaffolding within the easement area of the neighboring Lot in order to perform maintenance and repairs on the Owners' Dwelling Unit.

(f) All easements and rights described in the Declaration are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on Declarant, its successors and assigns, and any Owner, purchaser, mortgagee and other party now or hereafter having an interest in the Property, or any part or portion thereof. After the Development Period, the Association shall be deemed to be the successor of Declarant and, as such, shall be deemed to be the grantee of said easements provided in this Section, and shall hold such easements for the use, benefit and enjoyment of all Lot Owners in the Subdivision. All notes on the Record Plat that are pertinent to the specific easements set forth herein are incorporated herein by reference.

6.8 Landscape and Signage Easement. A non-exclusive and irrevocable easement is hereby created, for the benefit of the Association or its designees, on, over and across those Lots identified on any Record Plat as "Landscape and Signage Easement", for the sole purpose of installing, maintaining and replacing any and all landscaping, monuments, and signage located on the Landscape Easement Areas and Signage Easement Areas.

6.9 Easements to Other Residents. Declarant may designate that certain owners of real property outside of the Property and such other persons as Declarant may designate, shall have an easement of enjoyment in and over the Common Elements or specific Common Elements, and the facilities located thereon, to the same extent as any Owner, subject to the provisions of Section 6.2. Such individuals shall be subject to the Rules and Regulations of the Association concerning the use of said Common Elements, but shall not be subject to Assessments by the Association. The Association may, if appropriate, and at the sole discretion of the Board of Directors, charge a fee to such individuals for the use of such Common Elements, including the Recreational Facilities.

## **ARTICLE 7** **MAINTENANCE**

7.1 Association's Responsibility. The Association shall operate, maintain and keep in good repair the Areas of Common Responsibility, such operation and maintenance to be funded as hereinafter provided. The Areas of Common Responsibility shall include, but need not be limited to entry, landscaping and signage easements; water retention/detention basins; common area utility easements, storm sewer and surface water drainage easements; preservation areas; all landscaping and other flora, structures, and improvements, including any private streets, situated upon the Common Elements; landscaped medians within public right-of-way throughout the Property; and such portions of any Additional Property included within the Areas of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or by a contract or agreement for maintenance thereof by the Association. The Association may maintain other property which it does not own or share in the maintenance of Property it does not own, including, without limitation, property dedicated to the public or property owned by another homeowners' association, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(a) There are hereby reserved to the Association blanket easements over the Property as necessary to enable the Association to fulfill responsibilities under this Section.

(b) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Areas of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the General Assessment, subject to the right of the Association to seek reimbursement from the Owner(s) of, or other persons responsible for, certain portions of the Areas of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the Owner(s) thereof.

7.2 Professional Management Contracts. The Association may delegate all or any portion of its authority, subject to the Board of Directors supervision, to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause and without payment of a termination fee on sixty (60) days or less written notice.

**ARTICLE 8**  
**COVENANT FOR STAGED DEVELOPMENT**

8.1 Staged Development. Declarant reserves the right at any time within the Development Period to remove any portion of the Property, annexed to the Property by Declarant, from the scope of the Declaration or to make subject to or annex any portion of the Additional Property to this Declaration without the consent of the Members of the Association. However, Declarant is not bound to annex any of the Additional Property to this Declaration, and until such time as any of the Additional Property is annexed, the same shall not be subject to the provisions of this Declaration.

8.2 Total Dwelling Units. The total number of Dwelling Units or Lots for the Property and the Additional Property shall not exceed the total number of Dwelling Units and Lots authorized by the zoning authority having jurisdiction over the development of the Property.

8.3 Supplemental Declaration for Staged Development. Any annexations made pursuant to this ARTICLE 8, or otherwise, shall be made by recording a supplement to this Declaration with the Bullitt County, Kentucky Clerk's Office, which supplementary Declaration shall extend this Declaration to such annexed property. The supplementary Declaration may either waive some of the existing covenants, conditions and restrictions or contain additional covenants, conditions, restrictions, easements and liens with respect to that Additional Property being annexed therein as either Declarant shall deem appropriate for the purpose of completing the development of the Property. Owners of Lots subject to such supplemental Declaration shall be Owners as defined by this Declaration.

**ARTICLE 9**  
**ENFORCEMENT**

9.1 Curing Defaults; Lien. In the event of any Default with respect to any Lot under this Declaration, the Board shall give written notice to the Owner thereof, with a copy of such notice to each Tenant in Default and a copy to any first mortgagee of the Lot who has requested to receive such notices, setting forth with reasonable particularity the nature of such Default, and the specific action or actions required to remedy the Default. If the Owner or Tenant shall fail to take the specific action or actions within thirty (30) days after the mailing of the notice, the Board may, but shall not be required to exercise any or all of its rights hereunder. The Board may exercise without notice any of its rights hereunder with respect to any Default if it determines that an emergency exists requiring immediate action.

Costs incurred by the Association in exercising any of its rights with respect to any Lot shall be a binding personal obligation of the Owner thereof which shall be payable on demand. If the Owner fails to pay such costs within thirty (30) days after demand, the Association shall enter the amount of the obligation, the name of the Owner as it appears on its records and the description of the Lot in a lien record book to be maintained by the Board at its main office, together with the date of such entry. The Association shall have a prior lien on such Lot for such amount until paid and such lien shall have priority from the date of such entry over all other liens and encumbrances thereon whatsoever, excepting real estate taxes and assessments, liens of record as of the date of such entry and liens of the United States of America, the Commonwealth of Kentucky, and all other political subdivisions or governmental instrumentalities of the Commonwealth of Kentucky to the extent made superior by applicable law, all bona fide recorded first mortgages and the lien of any first mortgagee who comes into possession of a Lot pursuant to mortgage foreclosure or by deed in lieu thereof. The lien provided in this Section shall be recordable and shall be enforceable as provided in ARTICLE 4 hereof.

9.2 Remedies. Nothing contained in this ARTICLE 9 shall be deemed to affect or limit the rights of Declarant, Builder, the Association, any Owner, Occupant, or their legal representatives, heirs, devisees, successors or assigns, by appropriate judicial proceedings, to enforce the restrictions, or recover damages for any Default. It is hereby declared that irreparable harm will result to beneficiaries of this Declaration by reason of a Default, and, therefore, each beneficiary shall be entitled to relief by way of injunction or specific performance to enforce the provisions of this Declaration, as well as any other relief available at law or in equity.

9.3 Right and Easement of Entry. The Association, through its authorized officers, employees, and agents, shall have the right and easement to enter upon any Lot at all reasonable times and to do anything thereon necessary to perform the action or actions specified in the notice to the Owner to abate, remedy, extinguish, remove or repair a Default, without the Association or such officer, employee or agent being deemed to have committed a trespass or wrongful act solely by reason of each entry or such action or actions as are carried out in accordance with the provisions of this ARTICLE 9, provided that no summary abatement or similar procedure may be utilized through non-judicial means to alter or demolish items of construction.

9.4 No Waiver. The failure of Declarant, Builder, the Association, any Owner, Tenant, or their legal representatives, heirs, devisees, successors or assigns, in any one or more instances, to insist upon compliance with any of the Restrictions, or to exercise any right or privilege conferred in this Declaration, shall not constitute or be construed as the waiver of such or any similar restriction, right or privilege, including the right to cure Default, but the same shall continue and remain in full force and effect as if no such forbearance had occurred.

9.5 Rules and Regulations. The Board may adopt and enforce, and from time to time amend, reasonable rules and regulations regarding the administration, interpretation and enforcement of the Restrictions (the "Rules and Regulations"). Each such rule and regulation shall be consistent with and designed to further the purposes outlined in this Declaration.

**ARTICLE 10**  
**REAL ESTATE TAXES AND ASSESSMENTS**

10.1 Real Estate Taxes. The Owner of a Lot shall be responsible for and shall pay all taxes and assessments, general and special, levied or imposed upon the Lot and its improvements.

10.2 Common Elements. Taxes and assessments, general and special, charged against the Common Elements which are owned in fee simple by the Association shall be deemed a Common Expense. Assessments, charged against the Subdivision shall be paid by the Owners as set forth in ARTICLE 4 hereof.

**ARTICLE 11**  
**INSURANCE**

11.1 Fire, Extended Coverage and Standard "All Risks" Insurance. The Association shall insure all buildings which are part of the Recreation Facilities and any other Common Elements, and may maintain insurance for all other structures and improvements now or hereinafter constructed on the Common Elements against any loss or damage by such hazards as are ordinarily insured by a comprehensive, extended coverage and "all-risks" policies issued in the amounts at all times sufficient to prevent the Association from becoming co-insurers under the terms of any applicable coinsurance clause or provision and in no event less than the actual replacement cost of such improvements, as determined from time to time by the insurer.

Any such insurance shall be obtained from a fire and casualty insurance company authorized to write such insurance in the Commonwealth of Kentucky which has a general policy holder rating of no less than A, as determined by the then latest edition of the Best's Insurance Reports or its successor guide, and shall be written in the name of the Association for the use and benefit of the Lot Owners and their mortgagees as their interests may appear. The Board of Directors and/or its authorized representatives shall have the exclusive right to negotiate and adjust all loss claims. Unless the Board of Directors determines otherwise, all such insurance shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers or Directors, and all Lot Owners and occupants.

11.2 Use of Fire Insurance Proceeds. Unless at least sixty-seven percent (67%) of the first mortgagees (based upon one vote for each first mortgage owned) or Owners (other than Declarant or Builder) of the individual lots have given their prior written approval, the Association shall not be entitled to use hazard insurance proceeds for losses to the Common Elements for other than the repair, replacement or reconstruction of such Common Elements.

11.3 Liability Insurance. The Association shall obtain and maintain a comprehensive policy of public liability insurance covering all Common Elements, and other areas for which the Association is responsible, and insuring the Association, the Directors, and the Lot Owners and members of their respective families, tenants and occupants, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence for personal injury and/or property. This

insurance shall include protection against liability for risks arising out of the maintenance of the Areas of Common Responsibility and such other risks as are customarily covered with respect to developments similar in construction, location and use, as determined by the Board. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim for a Lot Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Lot Owners, tenants, or occupants.

11.4 Other Insurance. In addition, the Board may purchase and maintain contractual liability insurance, Directors' and officers' liability insurance, and such other insurance as the Board may deem desirable from time to time.

11.5 Insufficient Insurance. In the event the improvements forming a part of the Common Elements or any other area for which the Association is responsible, or any portion thereof, shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots, and such Assessments shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provided for the non-payment of Assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

11.6 Fidelity Bonds. The Board may obtain as a Common Expense to the Association fidelity bond coverage with respect to any person who either handles or is responsible for funds held or administered by the Association, in an amount no less than the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force; provided, however, the fidelity bond coverage must at least equal the sum of three months' Assessments on all Dwelling Units on the Property, plus the Association's reserve funds. A management agent handling funds for the Association shall also be covered by its own fidelity bond, naming the Association as an additional obligee, at the sole cost of said agent.

## ARTICLE 12

### RIGHT TO CURE, MEDIATION AND ARBITRATION OF ALLEGED DEFECTS

In order to provide an efficient procedure for resolving certain types of claims, as defined in this Section, the Association and all Owners shall be subject to the dispute resolution procedure set forth in this Section, notwithstanding that other procedures, including those set forth in "Right to Repair" or similar law, may be otherwise applicable.

The Association and/or any Owner must provide Declarant and/or Builder(s) with notice and reasonable opportunity to cure any claim by the Association or Owner arising out of or in any way relating to alleged defects by Declarant and/or Builder(s) in developing the Property or in the workmanship and/or materials used by Builder(s) in the construction of a Dwelling Unit. If the claim is not resolved to the Association's and/or any Owner's reasonable satisfaction, any such claim, shall be settled by mediation. If within thirty (30) days after service by the

Association and/or Owner upon Declarant and/or Builder(s) of a written demand for mediation, the mediation does not result in complete settlement of the dispute, then any unresolved claim shall be settled by binding arbitration. Judgment on the arbitration award rendered by the arbitrators may be entered in any court having jurisdiction thereof and shall be binding and conclusive as to all parties and no appeal may be taken by any party.

**ARTICLE 13**  
**FORUM SELECTION; WAIVER OF JURY TRIAL**

The Association and/or any Owner shall be entitled to bring a lawsuit against Declarant and/or Builder(s) for any claim not within the scope of ARTICLE 12. However, any such lawsuit brought by the Association and/or any Owner against Declarant and/or Builder(s) shall be filed in either a state or federal court situated in Kentucky and the Association and/or any Owner by acceptance of delivery of a deed to a Unit expressly consent to the jurisdiction and venue of such court.

In addition to the foregoing, the Association and each Owner by acceptance of delivery of a deed to a Dwelling Unit, hereby waive the right to a trial by jury and acknowledge that all issues raised in any lawsuit filed pursuant to this ARTICLE 13 shall be decided by the judge presiding over the lawsuit.

Notwithstanding anything herein to the contrary, the remedies that may be awarded to the Association and/or any Owner in any lawsuit filed pursuant to this Section are subject to and limited by the terms and conditions of the "Limited Warranty" section of the Homeowner's Guide" prepared by and made available to each Owner by Builder.

**ARTICLE 14**  
**DURATION, AMENDMENT AND TERMINATION**

14.1 Duration. The Restrictions shall be covenants running with the land and shall bind the Property and every part thereof, and shall (regardless of whether any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by, the Board and each Owner and Tenant and their legal representatives, heirs, devisees, successors and assigns, and shall continue in full force and effect for twenty (20) years from the date on which this Declaration is recorded in the Bullitt County, Kentucky Clerk's Office. Thereafter the Restrictions shall be automatically renewed for successive ten-year periods unless amended or terminated as provided in this ARTICLE 14.

14.2 Amendment or Termination. Prior to the end of the Development Period, any provision of this Declaration may be amended in whole or in part or terminated by a recorded instrument executed by Declarant and approved by the Owners of at least sixty-seven percent (67%) of all Lots located in the Property. After the end of the Development Period, any provision of this Declaration may be amended in whole or in part or terminated by a recorded instrument approved by the Owners of at least sixty-seven percent (67%) of all Lots located in the Property.

The President of the Board shall determine whether the persons who have approved of any amendments or termination of this Declaration constitute Owners of at least sixty-seven percent (67%) of all Lots. Promptly after the approval of any amendment or termination of any part of this Declaration, the President of the Board shall cause to be recorded the written instrument of amendment or termination executed in properly recordable form by the President of the Association and Declarant, if during the Development Period, and the certificate of the President of the Association that the Owners of at least sixty-seven percent (67%) of all Lots have approved such instrument.

The Board shall maintain such copies filed with it by the President as a permanent record and shall make copies thereof available to any Owner at a reasonable cost.

Notwithstanding anything above to the contrary, this Declaration may be amended at any time during the Development Period without the vote of Owners by a written instrument executed by Declarant for the purpose of eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; making any changes necessary or desirable to meet the requirements of any institutional lender, Federal National Mortgage Association, or other agency which may insure loans on a Lot; provided, however, that no such amendment shall materially affect any Owner's interest in the Association or right, if any, to use the Common Elements. Each Owner and his or her mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Declarant as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate the provisions of this paragraph.

#### **ARTICLE 15** **MISCELLANEOUS**

15.1 No Reverter. No covenant, condition, restriction or reservation or easement contained in this Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility of reverter.

15.2 Notices. Any notice required or permitted to be given to an Owner or Tenant by the Board pursuant to the provisions of this Declaration shall be deemed given when mailed by United States mail, postage prepaid, addressed to his or her last address as it appears on the records of the Association.

15.3 Construction. The Board shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction shall be final and binding as to all persons and entities benefited or bound by the provisions of this Declaration.



15.4 Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision hereof.

15.5 Headings. The headings of the Sections are for convenience only and shall not affect the meaning or construction of the contents of this Declaration.

15.6 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular the plural, and vice versa.

15.7 Conflict. If there are conflicts or inconsistencies between the provisions of the laws of the Commonwealth of Kentucky, the Articles of Incorporation, this Declaration, the Bylaws, Architectural Guidelines and the Rules and Regulations, it shall be agreed that the provisions of the laws of the Commonwealth of Kentucky, this Declaration, the Articles of Incorporation, the Bylaws, the Architectural Guidelines and the Rules and Regulations (in that order) shall prevail.

15.8 Covenants Running with Land. This Declaration and all amendments hereto shall be, and shall be construed as, covenants running with the land, shall be binding upon Declarant, Builder, any mortgagee, the Association, its Members, each Owner, each Occupant and all claiming under each Owner or Occupant, and shall (regardless of whether or not any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by: (i) Declarant, (ii) Builder, (iii) the Association, and (iv) each Owner and all claiming under each Owner.

15.9 Availability of Documents. The Association shall make available to Members, Owners, and lenders, and to holders, insurers, or guarantors of any first mortgage, current copies of the Declaration, rules and regulations, if any, and other rules concerning the Property. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

15.10 Right of Entry. The Association shall have a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance or operation of the Property.

15.11 Condemnation. In the event any Lot or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Owner and the holder of the first mortgage, to the extent of their respective interests. Each Owner shall give the holder of a first mortgage on the Owner's Lot timely written notice of such proceeding or proposed acquisition.

In the event the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or other sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the

Association for the common benefit of the Owners and their mortgagees, as their interests appear.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Hubbards Landing to be executed by its duly authorized officer as of the day and year first above written.

MILES FAMILY PROPERTIES LLC,  
a Kentucky limited liability company

By: [Signature]  
Name: Richard Miles  
Title: Sole member

COMMONWEALTH OF KENTUCKY )  
 ) : SS  
COUNTY OF Bullitt )

The foregoing was acknowledged before me this 18<sup>th</sup> day of May, 2018 by Richard Miles as Sole Member of Miles Family Properties LLC, a Kentucky limited liability company, on behalf of the limited liability company.

[Signature] #586627  
Notary Public 10-22-21

This instrument prepared by: Jody Klekamp

Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
1400 Provident Tower  
One East Fourth Street  
Cincinnati, Ohio 45202  
(513) 579-6400

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**EXHIBIT A**

[REAL ESTATE DESCRIPTION]

**PLAT CABINET: 4 SLIDE: 123**

Situated in the County of Bullitt, Commonwealth of Kentucky, and being more particularly described as all of **Lots 101 through 135** of **Hubbards Landing, Section 1 Amended Record Plat**, as recorded at Plat Cabinet 4, Slide 123, of the Bullitt County Clerk's Office is Shepherdsville, Kentucky.

**SOURCE OF TITLE:** Being part of the same property conveyed to the Grantor herein by deed recorded in **Deed Book 939, Page 111** of the Bullitt County Clerk's records at Shepherdsville, Kentucky.