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**WOODLANDS CREEK SUBDIVISION  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**TABLE OF CONTENTS**

<u>SECTION</u>	<u>PAGE</u>
1. DEFINITIONS.....	2
2. EASEMENTS AND PROPERTY RIGHTS.....	3
3. CREATION OF ASSOCIATION.....	6
4. DURATION.....	7
5. COVENANT FOR MAINTENANCE ASSESSMENTS .....	8
6. RESERVATION OF EXPENDITURES .....	12
7. ARCHITECTURAL CONTROL.....	12
8. USE RESTRICTIONS .....	13
9. LEASES.....	19
10. GENERAL PROVISIONS.....	20

**WOODLANDS CREEK SUBDIVISION DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**MCBRIDE & SON HOMES LAND DEVELOPMENT, INC.**, a Missouri Corporation, located at 331 Townepark Circle, Suite 100, Louisville, Kentucky, 40243 (the "Declarant") effective as of May \_\_\_\_\_, 2006.

**RECITALS:**

- A.** Declarant is the owner of certain real property located in Jefferson County, Kentucky, which is more particularly described on Exhibit A attached hereto and incorporated herein.
- B.** Declarant desires to create on the above-described property a planned residential community to be known as "Woodlands Creek" with open spaces, streets, roads, walkways and other common ground and facilities ("Community").
- C.** Declarant desires to insure compliance with the requirements and the general purposes and objectives upon which the Community has been established.
- D.** Declarant deems it desirable, for the efficient preservation of the values and amenities in the Community, to form a nonprofit corporation to which the Common Properties (as hereinafter defined) shall be conveyed, and which shall have the powers of maintaining, operating and administering the Common Properties and facilities and administering and enforcing the covenants and restrictions hereinafter set forth and collecting and disbursing the assessments and charges hereinafter created.
- E.** Declarant has caused to be incorporated under the laws of Kentucky as a nonprofit corporation, Woodlands Creek Homeowners Association, Inc. for the purpose of exercising the functions aforesaid.
- F.** All reservations, limitations, conditions, easements and covenants herein contained (hereinafter sometimes referred to as "covenants and restrictions") are jointly and severally for the benefit of Declarant and all persons who may purchase, hold or own from time to time any of the property covered by this Declaration.

**NOW, THEREFORE,** Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, 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 described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

1. DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit or clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to Woodlands Creek Homeowners Association, a Kentucky nonprofit corporation, and its successors and assigns.

(b) "Board" shall mean the Board of Directors of the Association. The directors on the Board may be individually or collectively referred to herein as "Director" or "Directors".

(c) "Properties" shall mean and refer to that certain real property herein described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(d) "Common Properties" shall mean and refer to those areas of land owned by the Association for the benefit of the Owners, and/or the easements, licenses and other occupancy or use rights which the Association may have in any portion of the Properties, or in other land or properties adjacent thereto whether as an appurtenance thereto or otherwise, and which are intended to be devoted to the common use and enjoyment of more than one Owner of the Properties, including, without limitation:

(i) open spaces, playgrounds, parking areas within the Common Properties, subdivision entrance areas and monuments, street lights, storm water control easement areas and facilities, paths, walkways, and other trail systems, if any;

(ii) all sanitary and storm sewer facilities, including any detention and/or retention basins, and all utility installations, lines and connections for gas, electricity, light, telephone, water and plumbing, cable television wires, as located in any utility easements on a recorded plat, excepting those utilities located within a Lot (unless or until such time that a facility, as described above, has been accepted for maintenance by a municipal or quasi-municipal entity);

(iii) all apparatus and installations, now or hereafter, erected on the Common Properties and intended for common use;

Common Properties shall not include any item that solely serves a particular Lot or Single Family Dwelling.

(e) "Declarant" shall mean and refer to McBride & Son Homes Land Development, Inc, its successors and assigns if such successors or assigns acquire or succeed to ownership of all Lots which have not been improved with a Single Family Dwelling remaining

in the Community and then owned by Declarant for the purpose of development and/or construction of Single Family Dwellings or if Declarant expressly assigns its "Declarant rights" hereunder to such assigns in writing.

(f) "Lot" shall mean and refer to the subdivided parcels of land shown on any final recorded subdivision plat of the Properties (with the exception of the Common Properties as herein defined) to be improved with Single Family Dwellings.

(g) "Single Family Dwelling" shall mean and refer to the building consisting of one dwelling unit to be constructed on each Lot.

(h) "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of the fee simple title to any Lot, including but not limited to the Declarant where applicable but shall not mean or refer to any Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

## 2. EASEMENTS AND PROPERTY RIGHTS

(a) Every Owner and every resident of the Properties subject to this Declaration shall have a right and easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(i) The right of the Directors to take such steps as are reasonably necessary to protect the Common Properties against foreclosure;

(ii) The right of the Directors to promulgate rules and regulations governing the use of Common Properties;

(iii) The right of the Directors to suspend the voting rights and rights to use of the recreational facilities by any members or residents for any period during which any assessment remains unpaid and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations;

(iv) The right of the Directors to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Properties and require licenses and license fees where it is deemed necessary by the Directors;

(v) The right of the Directors to dedicate or transfer all or part of the Common Properties, or grant such easements and rights of way in and to the Common Properties, to any public or quasi-public agency, authority, or utility, only to the extent such public or quasi-public agency, authority or utility accepts such dedication, and subject to such

conditions as may be reasonably necessary for the development of the Community provided that, subject to the foregoing exception, no other conveyance or transfer of fee title to all or any of the Common Properties (other than the dedication or conveyance of streets to Louisville Metro, or other municipality or political subdivision) shall be effective unless an instrument agreeing to such conveyance or transfer has been recorded and approved by two-thirds (2/3) of each class of members at a meeting of the members or consented to in writing and signed by members holding at least eighty percent (80%) of the Lots in the Community.

(vi) The right of the Declarant or other builder-developers to utilize the Common Properties for promotional purposes during periods of development;

(vii) The right of Owners to perpetual easements over any part of the Common Properties for such portion of their dwelling unit that may overhang any Common Properties, and if ingress or egress is typically provided to a dwelling unit over a particular portion of the Common Properties, then the right of said Owner of ingress and egress over such particular portion of the Common Properties;

(viii) The right of the Directors to enter into licensing agreements with commercial enterprises for the operation of recreation facilities and related concessions for the benefit of Owners and residents of the Properties; and

(ix) The right of the Directors and/or Declarant (during such time as Declarant owns a Lot) to annex additional residential and Common Properties to the Community.

(b) The Common Properties shall be for the benefit, use, and enjoyment of the Owners, present and future, of the Community and, at the discretion of the Board of Directors, may also be used by residents outside the Community. If residents outside the Community are permitted to use the Common Properties:

(i) No Owner in the Community shall be denied the use of the Common Properties for any reason related to the extension of such privilege to non-residents of the Community;

(ii) All rules and regulations promulgated pursuant to this Declaration with respect to Owners in the Community shall be applied equally to the Owners;

(iii) All rules and regulations promulgated pursuant to this Declaration with respect to non-residents of the Community shall be applied equally to the non-residents;

(iv) At any time after recording of this Declaration, a majority of the residents of the Community, by election duly called, may elect to allow or disallow usage of the Common Properties by non-residents of the Community.

(c) Every utility easement on each Lot shall constitute an easement for utility purposes to serve any other Lot or the Common Properties.

(d) In the event that any utilities and utility connections serving a Lot are located in part on a Lot other than the Lot being served by such utilities and connections, the utility company, the Owner of a Lot being served, and the contractors and employees of such company or Owner shall have the right and easement to enter upon the Lot in which the utility line or connection is located for the repair, maintenance and replacement of such line or connection.

(e) There shall be and is hereby imposed on each Lot an easement for reasonable ingress and egress by or on behalf of the Owner of any adjoining Lot for the purpose of repair, maintenance or replacement of improvements on such adjoining Owner's Lot.

(f) Should any portion of any Single Family Dwelling or other improvement as originally constructed, or any planting or tree, overhang or encroach on an adjacent Lot, the Owner of any such Single Family Dwelling or other improvement, planting or tree shall have a license to enter upon such adjacent Lot for the purpose of necessary repair and maintenance of such overhanging or encroaching portion of such Single Family Dwelling or other improvement or to trim such overhanging or encroaching planting or tree. Should any portion of any Single Family Dwelling or other improvement as originally constructed overhang or encroach on an adjacent Lot ("Encroachment"), the Directors are hereby appointed as agent and attorney-in-fact (coupled with an interest) for and on behalf of each of the Owners affected by the Encroachment and may petition the proper authorities for a boundary line adjustment or request such variance as may be necessary ("Adjustment/Variance") to allow for said Encroachment and the Directors, as agent and attorney-in-fact, may also execute and file of record such easement or other necessary documents of record on behalf of each Owner to effectuate such Adjustment/Variance granted upon the determination and payment of reasonable compensation, if any, to the Owner affected by such change to be paid from funds assessed against the Owner benefiting therefrom. All Owners shall be bound by any resulting Adjustment/Variance granted.

(g) The Property including the Lots and Single Family Dwellings thereupon located shall be subject to a perpetual easement in gross to the Directors and the Association, their successors and assigns, for ingress and egress to perform its obligations and duties as required by this Declaration as well as all maintenance, repair and other tasks which the Directors and/or Association has the right or discretion to perform hereunder. Should it be necessary on a non-emergency basis, to enter upon a Lot in order to maintain, service, improve, repair or replace any Common Properties, the Single Family Dwelling, or any other item required or permitted to be maintained by the Association hereunder, employees, agents and workmen shall be entitled to entrance by exhibiting to the Owner an order from the Association signed by one of the members of the Board of Directors or an agent of the Board of Directors. The Association shall specifically have the authority to enter any Lot, on an emergency basis, for the purposes of repairing, maintaining, servicing or replacing the sewers, other utilities, pipes, and wires within or upon any Lot which serves another Single Family Dwelling or Lot, without

the necessity of exhibiting an order from the Association. The determination of whether such an emergency exists shall be within the sole discretion of the Association, but it is anticipated that entering any Lot without an order from the Association shall only occur if the Owner is not present or reasonably available at the time such emergency occurs.

(h) The Property, including the Lots and Single Family Dwellings thereupon located, shall be subject to a perpetual easement in gross to the Declarant, its successors and assigns, for access, ingress and egress to perform any duties and obligations which may be imposed upon Declarant, its successors and assigns, as developer of the Community, by this Declaration or by any state, county, municipal or other governmental agency, including, without limitation, any obligations or duties which may be helpful or necessary for the release of development escrows deposited with any such state, county, municipal or other governmental agency.

### 3. CREATION OF ASSOCIATION

(a) Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

(b) The Association shall have two classes of voting memberships:

(i) Class A: Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

(ii) Class B: The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

(A) when Declarant in its sole discretion, so determines

(B) within ninety (90) days following the date when one hundred percent (100%) of the Lots which may be developed on the Property or any additional property have been sold by Declarant excepting a single bulk sale to an affiliate of Declarant as contemplated herein; or

(C) January 1, 2017

(c) Upon conversion of Class B membership to Class A membership, Developer shall provide sufficient funds in the Association account so that no less than a three thousand (\$3,000.00) balance in the account is available at the time the conversion occurs.

(d) Rights and Obligations of the Association. Anything to the contrary herein notwithstanding, the Association and the Lot owners shall be responsible for the maintenance of all common open space, private roads, islands in the right-of-way, and signature entrances, so long as the subdivision is used as a residential subdivision or until properly dedicated to a unit of local government. This provision shall not be amended. Declarant shall have the right to employ a manager to oversee and implement the Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Association. The Association shall also perform the other duties prescribed by this Declaration or the Association's rules and regulations, which duties may include maintenance and grass cutting assignments on the Lots, collection of garbage, maintenance and repair of sewers and streets. All rights reserved by Declarant in this Declaration shall automatically pass to the Association when Class B membership ceases pursuant to this Section 3 and thereafter any reference to Declarant shall be construed to mean the Association.

#### 4. DURATION

The covenants and restrictions established by this Declaration shall run with the land and continue and be binding upon Declarant and the Directors and upon their successors and assigns in perpetuity; provided, however, that the fee simple record Owners of the Lots now subject and hereafter made subject to this Declaration, by the approving vote of two-thirds (2/3) of each class of members entitled to vote at a meeting of the members, or the consent given in writing by members holding at least eighty-percent (80%) of the voting power, may terminate the Declaration or release all of the Properties restricted thereby, by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing same for record in the office of the Clerk of Jefferson County, Kentucky. The provisions of this section related to amendment shall not apply to Section 2(b), Section 3(c) and Section 8(a)(xxv) which provisions shall only be amended with the permission of the Louisville Metro Planning Commission or its successor or assign.

In the event the subdivision is vacated, this Declaration shall terminate and the Board shall convey fee simple title to the Common Properties to the then Lot Owners as tenants in common and shall dissolve the Association pursuant to the vote of the members as provided above. The rights of the tenants in common shall be exercisable appurtenant to and in conjunction with their Lot ownership. Any conveyance or change in ownership of any Lot shall convey with it ownership in the Common Properties, and no interest in the Common Properties shall be conveyed by an Owner except in conjunction with the sale of a Lot. The sale of any Lot shall carry with it all the incidents of ownership of the Common Properties although such is not



expressly mentioned in the deed of conveyance; provided, however, that no right or power conferred upon the Directors shall be abrogated.

5. COVENANT FOR MAINTENANCE ASSESSMENTS

(a) Except as set forth in Subsection 5(h), the Declarant, for each Lot within the Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or their conveyance, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges, (ii) special assessments or charges, with such assessments or charges to be fixed, established and collected from time to time as hereinafter provided, including, but not limited to, any charges or assessments created pursuant to Section 5(e) below; and (iii) a one time working capital assessment which shall be due immediately upon the first conveyance of any Lot (and not on any subsequent conveyance) after a Single Family Dwelling has been constructed upon such Lot in the amount of \$450 for purposes of providing working capital for the Association; such assessment to be treated as a special assessment hereunder and shall be a charge against the title of each such Lot and shall be a continuing lien and otherwise shall be collectible and enforceable in accordance with this Section 5.

(b) Any and all annual and special assessments, and charges as provided in this Section 5 together with such interest thereon and costs of collection thereof, shall be a charge against the title of each Lot and shall be a continuing lien upon the Lot against which such assessment or charge is made, which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns without the need or requirement of filing any additional documentation with respect to such lien. Recording of this Declaration constitutes record notice and perfection of the lien as to assessments which become delinquent thereafter, together with interest thereon and cost of collection thereof as hereinafter provided. Further recording of a claim for assessment and/or charge under this Section 5 is not required. The Association shall be entitled to enforce collection of any and all of such assessment(s) and/or charge(s), interest and costs through enforcement of such lien, whether by foreclosure or otherwise. Each such assessment and/or charge, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due. Notwithstanding anything herein to the contrary, the lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and non-payment of any such annual or special assessment shall not constitute a default under any federally insured mortgage. Furthermore, mortgagees of any such financing on a Lot and/or improvements thereon shall not be required to collect, retain or escrow any assessments as referenced hereinabove.

(c) The assessment(s) and/or charge(s) levied under this Section shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Properties or for maintaining the market value of the Properties and in particular

for the rendering of services in the furtherance of such purposes, including the carrying out of all functions herein authorized and/or required, and for the improvement, maintenance and operation of the Common Properties and all facilities thereon, including, but not limited to, the payment of taxes and insurance thereon, debt service and repair, maintenance, replacements and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof and for such other needs as may arise and for maintenance of reserves for the benefit of the Association.

(d) (i) In addition to the annual assessment herein authorized, there may be levied in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement within or upon the Common Properties or any easement, street, drive, walkway or other right-of-way provided for the benefit of the Lots subject hereto, and including the provision of necessary fixtures or personal property related thereto, provided that any such assessment shall have the consent given in writing and signed by members holding at least eighty percent (80%) of the voting power, or the approving vote of two-thirds (2/3) of the vote of each class of members who are voting, in person or by proxy, at a meeting duly called for such purpose, written notice of which shall have been sent to all members not less than thirty (30) days nor more than sixty (60) days in advance and shall set forth the purpose of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(ii) In addition to other special assessments authorized by this Subsection (d), the Directors may make a separate special assessment, without a vote of the members, for the construction, operation, maintenance, repair and replacement of sewer systems and creeks and other storm water control easements and facilities including, but not limited to, retention and detention ponds. The assessment provided for by this paragraph of Subsection (d) shall be allowed and applicable until the operation and maintenance of such sewer systems and such creeks and other storm water control easements and facilities have been accepted for maintenance by an appropriate public body, agency or utility company.

(iii) In addition to other special assessments authorized under this Subsection (d), the Directors may also make a separate special assessment pursuant to this paragraph of Subsection (d) as necessary for compliance with all subdivision and other ordinances, rules and regulations of Louisville Metro. Specifically, but not by way of limitation, the Board of Directors may make provisions for the maintenance and operation of all street lights, roadways, easements and utilities.

(iv) The provisions of this Section 5 with respect to the establishment of due dates, effect of non-payment and remedies for enforcement shall be applicable to any special assessment levied as hereinabove authorized.

(e) In addition, the Directors may levy a special assessment or charge against any Owner and/or Lot(s) for all costs and expenses incurred, including costs of collection, interest, attorney's fees and other associated costs for purposes of making repairs or maintenance to a Lot or improvements thereon, which repairs or maintenance the Owner has failed to make or which the Association or Board has the duty or right to make or for repairing any damage caused by an Owner or such Owner's employees, agents, invitees or tenants. Nothing herein shall be deemed to impose absolute liability without respect to fault or negligence upon the Owners for damage to the Common Properties or the Lots.

(f) Assessments shall be made in a manner and subject to the following procedure:

(i) As to annual assessments, on or before thirty (30) days in advance of each assessment year, as established by the Directors, the Directors shall prepare proposed budget(s) for the upcoming assessment year taking into consideration all anticipated items of expense, including reasonable replacement and other reserves. Based upon the proposed budgets, the Directors shall establish the annual assessment for the upcoming assessment year for all Lots. The initial annual assessment for each Lot shall be three hundred fifty (\$350.00) dollars. The Directors shall set the due date for payment of the assessments, and may provide for a periodic payment schedule if deemed desirable by the Directors. If at any time during an assessment year, the Directors determine in their reasonable opinion that the annual assessment will not provide sufficient funds during the assessment year to cover the expense of items in the proposed budgets and/or the expense of any items not indicated on the proposed budget which may occur and are non-extraordinary and reasonably necessary to the general operation of the Association and/or the Common Properties, then the Directors may levy an additional supplemental assessment for the remainder of the assessment year in the amount necessary to cover the anticipated revenue deficit for that assessment year. The right and power to levy a supplemental annual assessment shall extend to the Directors for the first assessment year and each assessment year thereafter. Written notice of any levy of a supplemental assessment shall be given to each Owner and payment shall be made as directed by the Directors in such notice.

(ii) Subject to requisite member approval as set forth herein, special assessments shall be made by the Directors upon thirty (30) days notice, and, at the discretion of the Directors, may be payable in a lump sum, in periodic installments or due and payable within thirty (30) days from the date of such notice.

(iii) Any charge or assessment imposed by the Association, with the exception of an assessment under Section 5(e) hereof, shall be divided among Owners on the basis of an equal amount per Lot.

(iv) Notice of any assessment shall be given by the Directors, either by mail, postage prepaid, addressed to the address shown on the real estate assessment records of Jefferson County or any appropriate municipality (and notice so given shall be considered given when mailed), or by posting a brief notice of the assessment upon the Lot itself.

(v) The failure or delay of the Directors to prepare or serve any budget or any annual or special assessment shall not constitute a waiver or release in any manner of any Owner's obligation to pay such assessment whenever the same shall be made, and in the absence of any annual assessment the Owner shall continue to pay at the then existing rate established for the previous year.

(g) If any assessment or charge is not paid within thirty (30) days after the delinquency date, such assessment shall bear interest from the date of delinquency at the lesser of eighteen percent (18%) per annum or the highest rate allowed by law, and the Directors may bring legal action against the Owner personally obligated to pay same, and, in addition, shall be entitled to the rights as set forth in Section 5(b) hereinabove with respect to enforcement of payment of same. The Board of Directors is hereby authorized to notify any Mortgagee that the Board is taking steps to collect unpaid assessments or to enforce a lien against said Lot.

(h) The following properties subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(i) All Common Properties.

(ii) All Lots owned by the Declarant or successor builder-developers before title to the Lot has been transferred to the first purchaser thereof at retail (as distinguished from sale in bulk or at wholesale to others for development or resale).

(i) Each Lot Owner shall be responsible for the maintenance, repair and replacement of the lateral sewage line or lines servicing such Owner's Lot.

(j) The liability for an assessment may not be avoided by a waiver of the use or enjoyment of any Common Properties, services or recreation facilities, or by abandonment of the Lot against which the assessment was made, or by reliance upon assertion of any claim against the Board of Directors, the Association or another Owner.

(k) Nothing contained herein shall abridge or limit the rights or responsibilities of Mortgagees and nothing herein shall be construed to require a Mortgagee to collect the assessments provided for herein.

(l) This Section 5 does not prohibit the Association from taking a deed in lieu of foreclosure.

(m) A judgment or decree in any action brought under this Section is enforceable by execution of the judgment and shall include costs and reasonable attorney's fees and paralegal expenses for the prevailing party.

(n) Any payments received by the Association in discharge of a Lot Owner's obligation may be applied to the oldest balance due.

#### 6. RESERVATION OF EXPENDITURES

The Declarant reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended, deposited, placed in escrow, or subsequently provided by it for utility facilities or services, streets, subdivision fees or for any other purpose of any nature or description with respect to any subdivision or land which is now or may in the future be made subject hereto. Declarant further reserves the right to receive and retain any monies, damage payments or condemnation award for any easement or other interest granted or condemned as to any street or Common Properties within the Properties.

#### 7. ARCHITECTURAL CONTROL

(a) From and after such time as a Lot becomes subject to assessments as provided herein, no building, fence, wall, driveway or other structure or improvement of any sort shall be commenced, erected or maintained upon any Lot, other than a Lot owned by Declarant, nor shall any exterior addition or removal of all or any part thereof, or exterior change or alteration in any improvement thereon be made, nor shall any removal of any tree with a three inch or greater caliper or any change in grade or slope of any Lot, other than a Lot owned by Declarant, be made, until all plans and specifications showing the degree, nature, kind, shape, size, square footage, height, elevation, materials, colors, location of the same entrances and driveways, and configuration of all improvements upon said Lot shall have been submitted to and approved by the Directors. All decisions rendered by the Directors shall be deemed final. It is the intent of this Declaration that the restrictions of this Section shall not apply to Declarant. With respect to architectural approvals, the Directors, at their option, may appoint an architectural approval committee comprised of not less than three nor more than five Owners to review all proposed construction and submit recommendations of approval or disapproval of same to the Directors. All requests for approval submitted to the Board of Directors shall be deemed automatically approved if no response is given within sixty (60) days of making submissions. The Owners shall bear the responsibility for the maintenance of any Owner constructed improvement authorized under this Section 7.

(b) A Lot Owner may not change the appearance of the improvements within or upon the Common Properties.

(c) All additions, alterations and improvements to the Lots and Common Properties shall not, except pursuant to prior approval of the Board of Directors, cause any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Lots other than those affected by such change.

8. USE RESTRICTIONS

(a) The following restrictions shall apply to all portions of the Properties, and Declarant, for and on its behalf and on behalf of each and every subsequent Owner of any Lot therein, their grantees, lessees, successors and assigns, covenants that:

(i) No building or structure shall be used for a purpose other than that for which the building or structure was originally designed, without the approval of the Directors. No residence, other than one Single Family Dwelling, may be constructed on each Lot.

(ii) No commercial activity of any kind shall be conducted on any Lot, but nothing herein shall prohibit the maintenance of such facilities as are incident to the sale of residences nor the carrying on of promotional activities by the Declarant, or any successor builder-developer, nor the conduct of a home occupation in strict accordance with the provisions of the applicable zoning ordinances.

(iii) No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood.

(iv) Each Owner shall maintain and keep his Lot in good order and repair.

(v) No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind, shall be brought onto or kept on any portion of the Properties, except that no more than two dogs, cats, or other household pets (except house pets with vicious propensities) and aquariums may be kept or maintained on any Lot. The keeping of any pet which by reason of its noisiness or other factor is a nuisance or annoyance to the neighborhood is prohibited.

(vi) No signs, advertisements, billboards, or advertising structures of any kind may be erected, maintained or displayed on any Lot; provided, however, that nothing herein shall prohibit (A) Owners from placing one "For Sale" or "For Rent" sign (not to exceed 2 feet x 4 feet in dimension) on a Lot or (B) signs erected or displayed by Declarant or by a successor builder-developers in connection with the development of the Properties and the sale, rental, and/or construction of improvements on the Lots.

(vii) No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence temporarily or permanently. No outbuildings, detached garages, sheds, shacks or structures whether of temporary character or not, other than the residences constructed on Lots, shall be constructed or maintained on any Lot in any portion of the Properties.

(viii) No clothesline, and no above-ground swimming pools shall be allowed, constructed or placed upon any Lot in any portion of the Properties, and no inground swimming pools shall be allowed, constructed or placed upon any Lot in any portion of the Properties without the prior written approval of the Directors.

(ix) (A) No fences or screening of any kind shall be erected or maintained on any Lot without the prior written consent of the Directors as to location, material and height, and the decision of the Directors to approve or reject a fence shall be conclusive. Nothing herein contained shall (i) prevent placement of fences by the Association on the Common Ground or (ii) affect or limit the rights of Declarant to erect privacy fences. The Board may require an application be submitted setting forth the proposed location, material and height of all such fences.

(B) The Directors' review of all fences for approval shall assure that such fences adhere to the following standards and requirements unless the applicant can demonstrate to the satisfaction of the Directors that strict adherence to such standards and requirements would (a) create an undue hardship on applicant; and (b) approval would be in the best interest of the subdivision, in which case the Directors are authorized to approve fencing which does not strictly conform to the requirements herein.

(1) Maximum height of 48" for full perimeter fencing.

(2) Fencing shall only enclose the rear yards of any residence. Rear yard fencing shall be full perimeter and no fencing shall be erected or maintained on any Lot between the rear of the residence constructed upon such Lot and the street upon which such Lot fronts. Fencing must start at the rear corners of the residence constructed. Fencing must be within four inches (4") of the Lot lines and Lot corners. With respect to corner lots, fencing along the side of the rear yard facing the street shall not be placed any nearer to said street than four inches (4") of the building line limit established by the subdivision plat. Lots may have exceptions at the sole discretion of the Directors.

(3) All fencing shall be:

- (a) Wrought iron or aluminum simulated  
wrought iron; or
- (b) Picket style made of wood or vinyl.

(4) All fences shall be installed with the good side facing out.

(5) The Directors, in their discretion, may, but shall not be obligated to, require that all Lots be professionally surveyed to assure proper fence locations prior to installation thereof.

(6) All wood fences shall remain in their natural state, that is, they cannot be painted a color.

(7) The Directors may allow a variance from these fence requirements for swimming pool and patio privacy fencing as necessary in the Directors' discretion to comply with laws and code and to prevent hardship.

(8) All posts shall be anchored in a base of concrete at least one (1) foot six (6) inches into the soil.

(x) Nothing contained in this Declaration shall restrict, limit, inhibit or prevent the Declarant, its successors or assigns from developing the Properties and building residences and selling the same.

(xi) No Lot may have an exterior solar collector system, wind generator system, or any similar type system or appliance without Director approval pursuant to Section 8 hereof.

(xii) No exterior television, radio aerial, antenna, receiving dish, satellite dish, or any other device for the reception or transmission of radio or television or other electronic signals (hereinafter referred to as "Antenna") shall be erected or maintained on any Lot or upon the exterior of any dwelling or the Common Property except with the prior written approval of the Directors. The Directors or their designated committee shall approve an application for the installation of an Antenna only upon the following conditions:

(A) No more than one Antenna shall be allowed per Lot.

(B) The Antenna shall be for the personal use of the Owner or resident.

(C) The Antenna shall not be visible from the street towards the dwelling (including the street view of dwellings on corner Lots).

(D) The Antenna shall not pose any known or verifiable hazards to the health of the residents of the Lot Owner or the neighboring Lots. The Directors



may require, in their sole discretion, that certain tests be performed on the Antenna at the expense of the Lot Owner at any time before or after the installation of the Antenna.

(E) The Directors or their designated committee shall have the power to require such specific forms of screening (fencing, shrubbery, etc.) as the Directors deem appropriate in order to effectuate the intent of this Section.

(F) All installations must comply with local zoning requirements and building codes if applicable.

(G) The Directors reserve the right to require any repair, maintenance, additional landscaping or testing to the Antenna at any time after the installation thereof. Failure to comply with this Section shall be enforceable by a schedule of fines as published by the Directors from time to time. Said fines shall be collected and enforced in the same manner as an assessment. The Directors shall have the further right to take such action to enforce this Section with all remedies available to it in law or equity.

(H) The granting of the written permission to install the Antenna pursuant to this Section shall be a revocable license issued by the Directors to the Lot Owner and his/her/its successors, which may be revoked if the Lot Owner does not remain in compliance with the terms of this Section as amended from time to time.

(xiii) No Lot shall be resubdivided nor shall a fractional part of any Lot be sold without the consent of the Directors. This provision shall not, however, require the consent of the Directors for the sale of an entire Lot as shown on a final recorded subdivision plat.

(xiv) Personal property, including, without limitation, boats, trailers, trucks with a gross vehicle weight in excess of one (1) ton, campers and recreational vehicles, shall not be placed or stored permanently or temporarily in the open or in an unenclosed carport or garage on any Lot, nor shall they or any motor vehicle of any type or description be parked for any time on the unpaved portion of any Lot or on any street "overnight". For purposes hereof, overnight shall be defined as being any time between the hours of 2:00 A.M. and 6:00 A.M. No personal property, including, without limitation, boats, trailers, automobiles, trucks, campers and recreational vehicles shall be parked at any time on any court or in any street that ends in a cul-de-sac.

(xv) No trash, garbage, rubbish, refuse, debris, trash cans or trash receptacles of any type shall be stored in the open on any Lot, but shall be kept secured within the improvements located on each Lot; provided that after sunrise on any day designated for trash pick-up, trash, garbage, rubbish, refuse and debris secured within appropriate trash cans or receptacles may be placed at the street curbing for pick-up; provided further that trash cans or

receptacles shall be removed and secured within the improvements for each Lot prior to sundown of the same day.

(xvi) All water and other sewer systems servicing the Property (other than lawn sprinkler systems servicing any single Lot or a sprinkler system servicing the Common Properties) shall be constructed by the Declarant or any subsequent builder or developer. No Owner or occupant of any Lot in the Property shall construct any water or other sewer system on the Property, other than a lawn sprinkler system servicing a single Lot.

(xvii) No motor vehicle or equipment shall be repaired or otherwise serviced in front of or adjacent to any residence in the Property. No abandoned cars, motorcycles, jeeps, trucks or other motor vehicles of any kind whatsoever that are unable to move under their own power and no mobile homes, campers, buses, boats or boat trailers may be stored or suffered to remain upon any of the Common Properties or the Lots other than in an enclosed garage.

(xviii) No activity shall be conducted or permitted on the Common Properties which would create a nuisance, disturbance or excessive noise or commotion. The Association shall have the right to prohibit, restrict and prevent such gatherings or assemblies of individuals on the Common Properties under such reasonable rules and regulations as the Association, in its sole discretion, may from time to time determine.

(xvix) No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or portion of the Property. No above ground gas or propane storage tanks shall be permitted upon or in any Lot or portion of the Property.

(xx) No above-ground structure, other than required street lights, may be erected within a cul-de-sac, divided street entry island or median strip without the written approval of the Directors.

(xxi) No fences, walls, trees, hedges or shrubs shall be erected or maintained in such manner so as to obstruct sight lines for vehicular traffic.

(xxii) The Board may require a reasonable deposit in connection with the proposed erection of any building or structure in the Property approved in accordance with this Declaration, in order to provide that upon completion of the project, all debris shall be removed from the site and from adjacent Lots and parcels, and that any and all damages to subdivision improvements shall be repaired.

(xxiii) All driveways serving Single Family Dwellings shall be concrete. The Owners must keep such driveways in good repair and in their natural color. The Board may require a driveway to be replaced if the Owner of the Single Family Dwelling has not kept such

driveway in good condition and in its natural color. If the Board deems it necessary, the driveway shall be replaced and the Owner shall reimburse the Association for such expenses. If the Owner fails to promptly reimburse the Association for such expenses, the Association may place a lien against the Owner's Lot in accordance with Section 5.

(xxiv) Minimum Floor Areas. The following shall be minimum floor areas for homes to be constructed after this instrument is recorded.

A. All one-story homes shall have a minimum floor area of one thousand four hundred (1,400) square feet.

B. All one and one-half story homes shall have a total minimum floor area of one thousand eight hundred (1,800) square feet;

C. All two-story homes shall have a total minimum floor area of two thousand (2,000) square feet;

D. Finished basement areas, garages and open porches are not included in computing floor areas; however, Developer may, at its option, include unfinished floor areas and above ground storage areas in computing minimum floor areas.

E. Setbacks. No structure shall be located on any Lot nearer to the front Lot line or the side street line than the minimum building setback lines shown on the recorded plat, except, if permitted under applicable law and regulations, bay windows and steps may project into said areas, and open porches may project into said areas not more than six feet.

(xxv) Tree Canopy Preservation. Trees within the Tree Canopy Preservation Areas shown on the preliminary plan of the Subdivision on file in Louisville Metro Planning Commission Docket # 10-17-05 represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Metro Louisville Land Development Code and are to be permanently protected. In the event that trees within such Tree Canopy Preservation Areas shall die, be destroyed or become diseased, they shall be replaced by the owner of the property on which the trees exist at the time of removal in order to meet the Tree Canopy Requirements set forth on the plan referred to above.

(xxvi) Building Materials. All homes shall have at least 80% brick on all four sides of the home, with architectural accents of vinyl, wood, stone or other building materials as approved by Declarant in writing.

(xxv) Special Berm. On Lots 25-29, Declarant has constructed or will construct a berm in an area shown on the plat as "Landscape Easement." This berm shall be maintained by the Association in the same fashion as the other common areas with all the initial plantings and landscaping being maintained in a first class condition. The association is granted

an easement in gross across any Lot which contains the berm in order to maintain, repair, or replace the berm as needed, including the right to inspect the berm and to access the berm with any equipment needed to maintain, repair or replace it.

(xxvi) Lake Fountains. The lake in the subdivision shall have a fountain, which fountain is vital to the health of the lake and the prevention of insect infestation. The association shall be responsible for the maintenance of the fountain and shall maintain, repair or replace it as needed to insure that the lake remains healthy and stand in such a way as to contribute to the breeding of insects.

## 9. LEASES

Each Owner shall have the right to lease or rent the Single Family Dwelling for single family residential purposes only, subject to the following requirements:

(a) Every lease or rental agreement shall be in writing, and shall be subject to all provisions of this Declaration as amended from time to time. Further, the lease or rental agreement shall be deemed to incorporate the Rules and Regulations of the Association by reference and shall include the provisions that any violations of (A) the Rules and Regulations; (B) the Declaration as amended; or (C) the covenants and conditions of the lease or rental agreement itself other than nonpayment of rent, shall be the basis for termination of the lease or rental agreement.

(b) Every proposed lease or rental agreement shall be subject to the Directors approval so as to assure compliance with this Section.

(c) Every lease or rental agreement shall appoint the Board in its sole and absolute option and discretion, to act as an agent for the Owner for the purpose of enforcing the terms, covenants and conditions of the lease or rental agreement, other than the non-payment of rent. If any such violation is not cured within thirty (30) days or such shorter time that may be provided in the lease or rental agreement, the Directors shall have the right of action to evict or otherwise terminate the lease or rental agreement or the tenant's possession to the Single Family Dwelling under the Rent and Possession Laws or Unlawful Detainer Laws of the State of Kentucky. The Directors shall have no liability to the Owner or the tenant on account of any action taken to evict or otherwise terminate the lease of the tenant's possession of the Single Family Dwelling.

(d) Every lease or rental agreement shall have a minimum initial term of six (6) months.

(e) Every lease shall be subject to the Rules and Regulations as promulgated by the Directors from time to time.

## 10. GENERAL PROVISIONS

(a) Any subsequent builder or developer shall be responsible in the same manner as Declarant with respect to that portion of the Properties developed by said builder-developer for construction of all major improvements, and the establishment and conveyance of Common Properties.

(b) The Directors, or the Owner of any Lot subject to this Declaration, shall have the right to enforce, by any proceeding at law or in equity, all of the covenants, conditions, restrictions and provisions hereof, either to restrain or enjoin a violation or threatened violation or to recover damages. Failure or forbearance by the Directors or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any legal action filed by the Directors against an Owner or if the Directors retain legal counsel without filing a legal action in order to enforce any covenant or restriction herein contained or adopted pursuant to Director rules or regulations of any action to recover damages on account of breach of any such covenant, restriction, rule or regulation, the Owner shall be personally liable for and pay the Directors' reasonable attorneys' fees and costs incurred with or without legal action. If the attorneys' fees and costs are not paid by the Owner within thirty (30) days after the Directors have given written notice thereof to the Owner by certified mail, return receipt requested, then the fees and costs shall thereafter bear interest at the rate provided in Section 5(g) hereof and the Directors may execute and acknowledge an instrument reciting the debt and causing the instrument to be recorded in the Office of the Clerk of Jefferson County, Kentucky, thereupon the debt shall become a continuing lien on the Lot and the improvements thereon which shall bind the Owner, his or her heirs, successors and assigns. The lien shall be enforceable and governed by Section 5 of this Declaration.

(c) This Declaration and the provisions herein may be amended, modified or changed from time to time by Declarant, so long as Declarant owns a Lot, by recording such amendment in the Office of the Clerk of Jefferson County, Kentucky. Thereafter, subject to the requirements of Section 4, this Declaration and any part thereof may be altered or amended, by a written agreement approved by the vote of two-thirds (2/3rds) of the Owners at a meeting of the Owners, or the consent given in writing and signed by members owning at least eighty percent (80%) of the Lots; and such written alteration or amendment, recorded with the Office of the Clerk of Jefferson County, Kentucky, shall become a part of the provisions and restrictions of this Declaration. No such amendment, modification or change shall reduce or modify the obligation or right granted to or imposed upon the Directors with respect to maintenance obligations and the power to levy assessments therefor or to eliminate the requirement that there be Directors unless some person is substituted for the Directors with the responsibility and duties of such Directors.

(d) In connection with the sale of all or part of the Properties subject to this Declaration, Declarant shall have the right to assign to such purchaser the rights herein reserved or granted to Declarant.

(e) Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the address shown on the real estate tax assessment records of Jefferson County or any appropriate municipality for each Owner.

(f) Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

(g) In the event it shall become necessary for any public agency to acquire all or any part of the property herein conveyed to the Directors or Association, for any public purpose, the Directors, during the period of this Declaration as well as the times fixed for the appointment or election of Directors, are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Directors need be made parties, and in any event, the proceeds received shall be held by the Directors for the benefit of those entitled to the use of the common property, roads or easements.

(h) The following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration to the extent such agency(ies) insure, guaranty or hold any debt secured by a mortgage, deed of trust or other security interest encumbering a Lot and such consent is required by such agency(ies): Annexation of additional properties, dedication of additional Common Properties, and amendment of this Declaration.

(i) Any exercise or enforcement by Declarant of its rights or powers as authorized or set forth in this Declaration, including but not limited to its rights with respect to amending the terms and provisions hereof, shall not in any way be deemed to cause a forfeiture, elimination, release, reduction, modification or transfer of Declarant's rights, powers and remedies as set forth herein except as specifically provided otherwise.

(j) Declarant, so long as Declarant owns a Lot, and/or the Directors, at any time, shall have the right, without consent of the Directors (in the case of Declarant), or Owners, to amend the Declaration to delete any portion of the Properties subject hereto which is owned by Declarant (provided Declarant approves such deletion in writing) or add any property to the Properties subject hereto which is contiguous to the Properties and the owners of such added property shall be Owners hereunder and such added property when platted shall be included within the definition of Lot(s) or Common Properties hereunder, as designated by Declarant or the Directors as the case may be.



LENDER CONSENT

The undersigned, Bank of America NA, holder of a Mortgage on the Properties described in the foregoing Declaration, which Mortgage is recorded in Book 8420 Page 610 of the Office of the Clerk for Jefferson County, Kentucky, does hereby consent to and subordinate its Mortgage to the foregoing Declaration and does hereby consent to and subordinate its Mortgage to that certain Record Plat of Woodlands Creek Subdivision recorded in Book 51 Page 7879 of the Office of the Clerk for Jefferson County, Kentucky which Plat pertains to and is contemplated within the foregoing Declaration.



Bank of America NA  
By: [Signature]  
Name: DONN P. HACKMANN  
Title: Senior Vice President

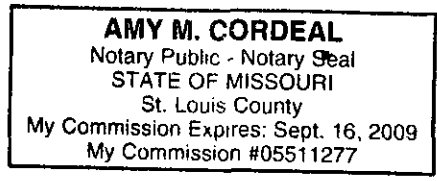
STATE OF MISSOURI )  
 ) ss.  
COUNTY OF ST. LOUIS )

On this 31st day of May, 2006, before me personally appeared Donn P. Hackmann, to me known, who being by me duly sworn did say that he/she is the Senior Vice President of Bank of America N.A., a Missouri Corporation and that the foregoing instrument was executed by Donn P. Hackmann by authority of its Board of Directors; and said Donn P. Hackmann acknowledged said instrument to be the free act and deed of said Donn P. Hackmann

IN TESTIMONY WHEREOF, I have hereunder set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

[Signature]  
Notary Public

My term expires: September 16, 2009





THIS INSTRUMENT PREPARED BY:



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BARDENWERPER, TALBOTT & ROBERTS, PLLC  
8311 Shelbyville Road  
Louisville, KY 40222  
(502) 426-6688

**EXHIBIT "A"**

**Legal Description**

Being Lots 1-83 inclusive, and open space Lots 84, 85, 86 on record plats of Woodlands Creek prepared by Mindel Scott and Associates, Inc. of record in Plat Book 51, Page 78+79 in the office of the Clerk of Jefferson County, Kentucky.

**Recorded in Plat Book**  
**No. 51 Page 78+79**  
**Part No. \_\_\_\_\_**

Document No.: DN2006093229  
Lodged By: MCBRIDE & SON HOMES  
Recorded On: 06/12/2006 10:15:59  
Total Fees: 58.00  
Transfer Tax: .00  
County Clerk: BOBBIE HOLSCAW-JEFF CO KY  
Deputy Clerk: TERRIG

**END OF DOCUMENT**