

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

FOR

EQUESTRIAN LAKES

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
EQUESTRIAN LAKES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as the "Declaration") is made this ____ day of _____, 2006, by **KENTUCKY PLUM CREEK DEVELOPMENT PROPERTIES, LP**, a Kentucky limited partnership, whose address is P.O. Box 4, Finchville, Kentucky 40022 (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located in Shelby County, Kentucky which is being developed as a residential and equestrian community known and referred to as "Equestrian Lakes", which property is depicted on the drawing attached hereto and incorporated by reference at Exhibit "A" and also referred to herein as the "Properties"; and

WHEREAS, a portion of the Properties, referred to herein as "Phase I" is more particularly described at Exhibit "B" attached hereto and incorporated by reference.

WHEREAS, Declarant intends from time to time to subject additional portions of the Properties depicted on Exhibit A to the terms of the Declaration as provided for hereinafter; and

WHEREAS, Declarant desires to provide for the maintenance of the "Common Area"; as herein defined, and to provide an easement for access across the Properties to the extent necessary for the performance of such maintenance as hereinafter provided; and

WHEREAS, Declarant desires to impose covenants, conditions and restrictions for the use, maintenance, preservation and enjoyment of Phase I and the improvements thereon and to protect the value and desirability of Phase I and the improvements thereon; and

WHEREAS, Declarant has formed the Equestrian Lakes Owners Association, Inc., a Kentucky non-profit corporation for the purpose of maintaining and administering the Common Area, administering and enforcing the terms, conditions, covenants and restrictions, hereinafter contained and collecting and disbursing the assessments and charges hereinafter created.

NOW, THEREFORE, Declarant hereby declares that the real property described on Exhibit "B" shall be held, sold, conveyed, occupied, mortgaged, and otherwise encumbered subject to the covenants, conditions, restrictions, easements, charges, and liens contained herein, all of which shall run with the title to such real property and shall bind all parties having any right, title or interest in said real property, their heirs, successors, successors-in- title, and assigns, and shall inure to the benefit of each Owner thereof, as herein defined, and the Equestrian Lakes Owners Association, Inc.

ARTICLE I

DEFINITIONS

The terms in this Declaration and the "By-Laws", as herein defined, shall be construed to have their ordinary, generally accepted meanings unless otherwise specifically defined herein or in the By-Laws.

Section 1 **"Articles of Incorporation"** shall mean and refer to the Articles of Incorporation of the Equestrian Lakes Owners Association, Inc. as filed with the Secretary of State for Kentucky.

Section 2 **"Association"** shall mean and refer to Equestrian Lakes Owners Association, Inc., a Kentucky non-profit, non-stock corporation, its successors and assigns, which has been incorporated by the Declarant for the purposes of (i) maintaining and administering the Common Areas, (ii) administering and enforcing the terms and conditions of this Declaration, and (iii) collecting the assessments and charges hereinafter created as all of the foregoing is more specifically hereinafter provided for.

Section 3 **"Board of Directors"** or **"Board"** shall be the elected body of the Association having its normal meaning under Kentucky corporate law.

Section 4 **"Builder"** shall mean and refer to any party who acquires one or more developed "Lots" as herein defined from the Declarant or some other party for the purpose of resale to an Owner or for the purpose of constructing improvements thereon for resale to an owner.

Section 5 **"By-Laws"** shall mean and refer to the By-Laws of Equestrian Lakes Owners Association, Inc., incorporated herein by reference, as they may be amended from time to time.

Section 6 **"Class "B" Control Period"** shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint all members of the Board of Directors, as specified in the By-Laws.

Section 7 **"Common Area(s)"** shall mean and refer to all real and personal property which the Association now or hereafter owns, leases, maintains, or otherwise

holds for the common use and enjoyment of the Owners including, but not limited to, the barn, arena, pavilion, including the swimming pool and parking area, lakes, jogging trails, riding trails, neighborhood entrance walls and signs, landscape easements and landscaping, fencing, irrigation systems, open space, detention areas, and other such areas designated as "Common Areas" or Homeowner Association Areas ("H.O.A.") on the record plat for the property described at Exhibit "B". Common Areas shall not include any areas which have been or are subsequently dedicated to any governmental entity.

Section 8 "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, for general purposes, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws and the Articles of Incorporation of the Association.

Section 9 "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing throughout Phase I. Such standard may be more specifically determined and set forth by the Board of Directors.

Section 10 "Declarant" shall mean and refer to Kentucky Plum Creek Development Properties, LP, a Kentucky limited partnership, or its successors, successors-in-title or assigns who take title to all or any portion of the undeveloped or unsold property described on Exhibit "B" for the purpose of development or sale and who are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Section 11 "Lot" shall mean any subdivided tract of land shown upon the final record plats of Phase I and any additional subdivided tracts which may become subject to this Declaration.

Section 12 "Member" shall mean and refer to a "Person", as hereinafter defined, entitled to membership in the Association, as provided herein.

Section 13 "Mortgage" shall mean and refer to a first mortgage or a deed that includes the reservation of a first priority vendor's lien.

Section 14 "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 15 "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 16 "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot which is part of Phase I, but excluding in all cases any Person who is a Mortgagee or holds an interest merely as security for the performance of an obligation.

Section 17 "Person" shall mean a natural person, a corporation, a partnership, limited liability company, limited liability partnership, a trustee or other legal entity plat.

Section 18 "Plat" shall mean the final subdivision plat of Phase I as approved by the Triple S Planning Commission and of record at Cabinet ____ Slide ____ in the Shelby County Clerk's Office.

Section 19 "New Construction Building Committee" shall mean the Committee appointed by the Board to review and approve all new construction in the Properties, including Phase I.

Section 20 "Phase I" shall mean and refer to the real property depicted on and described in Exhibit "B" attached hereto and shall further refer to such additional property as is hereafter subjected to this Declaration by Subsequent Amendment.

Section 21 "Street" shall mean the rights-of-way shown on the "Plat" of Phase I.

Section 22 "Subsequent Amendment" shall mean an amendment to this Declaration which subjects additional property to this Declaration, withdraws property from this Declaration, imposes, modifies, adds, or deletes, expressly or by reference, covenants, conditions, restrictions, assessments, and obligations on the land described therein, or which substitutes a successor Declarant.

ARTICLE II

PROPERTY RIGHTS

Section 1 Right and Easement of Enjoyment; Exceptions

Every Owner shall have a right and easement of enjoyment in and to the Common Area for the purposes for which such areas are established, which shall be appurtenant to and shall pass with the title to every Lot subject to the following: (a) this Declaration, as it may be amended from time to time, and, subject to this Declaration, any other applicable covenants, and the terms of any restrictions or limitations contained in any deed conveying such property to the Association; (b) the right of the Association to adopt rules regulating the use and enjoyment of the Common Area, (c) the right of the Association to dedicate or transfer all or any part of the Common Area under Section 3 hereof to governmental entities, (d) to the right of the Association to mortgage or otherwise create a security interest in any or all of its real or personal property as security for money borrowed or obligations incurred, (e) the right of the Association or the Declarant to grant additional easements over the Common Area and Lots as provided in Section 5 hereof.

Section 2 Delegation of Use

Any Owner may delegate his or her right of enjoyment to the Common Area and the improvements located thereon to the members of his or her family, lessees, social invitees, as applicable, subject to the rules of the Association. An Owner who leases his or her Lot shall be deemed to have delegated all such rights to the Lot's lessee. Membership in the Association may not be conveyed separately from the ownership of a Lot.

Section 3 Sale of Common Area

The Common Area shall not be sold or otherwise disposed of without first offering to dedicate such area to the appropriate governmental entity. This limitation neither applies to a transfer of the Common Area to an organization conceived and established to own and maintain the Common Area as a successor to the Association, nor to the easements, rights and privileges created by this Declaration.

Section 4 Title to Common Areas

The Declarant may retain the legal title to the Common Areas until such time as the Declarant determines, in its sole discretion, that the Association is able to maintain and regulate the use of the same; provided, however, the Declarant hereby covenants that it shall convey legal title to or the obligation to maintain, as appropriate, the Common Areas to the Association no later than at such time as Class B membership is converted to Class A membership. When the Declarant conveys legal title to, or the obligation to maintain, the Common Areas to the Association, the Association shall accept such legal title and assume full and complete control, responsibility, and liability for the Common Areas so conveyed.

Section 5 Right to Grant Easements

Declarant hereby reserves the right to grant, on behalf of the Association and/or the Owners and without the consent of the Association, or any Owner, easements across, through, or under the Common Areas. Such easements, which shall be exclusive or non-exclusive, shall be limited to utility easements (including cable television), greenway easements, sign easements, access easements, or roadway easements. Declarant's rights under this Section shall terminate upon expiration of the Class "B" Control Period at which time the Association, without the consent of any Owner, shall have the right at any time to grant easements as set forth in this Section.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1 Membership

Every Owner shall be a Member of the Association, provided that any Person or entity who holds an interest merely as security for the performance of an obligation shall not be a Member. Every Owner, by acceptance of a deed for a Lot, agrees to accept membership in and does thereby become a Member in the Association. No Owner, whether one or more persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. Moreover, regardless of the number of Owners, each Lot shall have one cumulative vote. The rights and privileges of membership, including the right to vote, may be exercised by a Member, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Lot owned by a corporation, partnership, or any other legal entity, shall be exercised by the individual designated in a written instrument provided to the Secretary of the Association, subject to the provisions of this Declaration and the By-Laws.

Section 2 Voting

The Association shall have two (2) classes of membership, Class "A" and Class "B," as follows:

A. **Class "A"** Members shall be all Owners with the exception of the Class "B" Member, if any. Each Class "A" Member shall have one vote for each Lot in which he or she holds the interest required for membership under Section 1 of this Article.

If more than one (1) Person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those persons determine among themselves and advise the secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. In no event shall more than one vote be cast with respect to any individual Lot.

B. **Class "B"** Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in this Declaration and the By-Laws. The Class "B" Member shall be entitled to one vote per Lot owned for the year in which the voting power is exercised, and, in addition, shall be entitled to appoint all members of the Board of Directors during the Class "B" Control Period as specified in the By-Laws. The Class "B" membership shall terminate upon the expiration of the Class "B" Control Period and be converted to a Class "A" membership.

ARTICLE IV
MAINTENANCE

Section 1 Common Area

The Association shall maintain and keep in good repair the Common Areas, such maintenance to be funded as hereinafter provided. All Lots shall be subject to an access easement in favor of the Declarant and the Association for the purpose of maintaining the Common Area, including all improvements thereon, which access shall be reasonable, including use of driveways where feasible. This maintenance shall include, but not be limited to, maintenance, repair, replacement, and reconstruction, subject to any insurance then in effect, of all Common Areas, including all improvements thereon.

Except as otherwise provided here, the Common Area shall not be reduced by amendment of this Declaration or any other means without prior written approval of Declarant so long as Declarant owns any property subject to the Declaration.

The Association shall be relieved of its responsibilities under this Article to the extent they are assumed by the Government or any other local, state or federal governmental agency or any private utility.

Section 2 Standard of Performance

All maintenance of the Common Area shall be performed consistent with all applicable covenants of this Declaration. Neither the Association, Declarant, or any Owner shall be liable for any damage or injury occurring on or arising out of the condition of property maintained by the Association.

ARTICLE V
INSURANCE AND OBLIGATION TO REBUILD

Section 1 Insurance

The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain and continue in effect adequate blanket property insurance, in such form as the Board of Directors deems appropriate, for one hundred percent (100%) of the replacement cost of all structures, including but not limited to walls, fences, buildings, pavilions and swimming pools, located on the Common Area in the event of damage or destruction from any insured hazard, and shall charge the cost thereof as a Common Expense to the Owners of Lots within the Property as part of the General Assessment for each Lot.

The policy may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

The Board, or its duly Authorized Agent, shall have the authority to and shall also obtain as a Common Expense a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members, agents, family members, guests, invitees or occupants on the Common Area. If reasonably available, the public liability policy shall have at least a Five Million Dollar (\$5,000,000.00) combined single limit per occurrence and in the aggregate. The Association shall also obtain, if reasonably available, an umbrella policy providing at least Five Million Dollars (\$5,000,000.00) in additional coverage, bringing total liability coverage to at least Ten Million Dollars (\$10,000,000.00).

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefited parties, the Lot Owner and their Mortgagees as their interest may appear as further identified in subparagraph 1 below. Such insurance shall be governed by the provisions hereinafter set forth:

1. All policies on the Common Area shall be for the benefit of the Association, the Owners of Lots and their Mortgagees as their interests may appear.

2. Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors.

3. In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants or their Mortgagees.

4. All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one (1) or more qualified Persons, at least one (1) of whom must be in the real estate industry and familiar with construction in the Shelby County, Kentucky, area.

5. The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

A. a waiver of subrogation by the insurer as to any claims against the Association, the Association's Board of Directors, its manager, the Owners and their respective servants, agents and guests;

B. a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

C. that no policy may be cancelled, invalidated or suspended on account of any one or more individual Owners;

D. that no policy may be cancelled, invalidated or suspended on account of the conduct or any Director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or Mortgagee;

E. that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

F. that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification or non-renewal.

G. all such policies shall provide for a certificate of insurance to be furnished to each Member insured and to such Member's Mortgagee.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, workers' compensation insurance, if and to the extent necessary, directors' and officers' liability coverage and, if reasonably available, a fidelity bond or bonds on directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the Board's best business judgment but, if reasonably available, may not be less than three (3) months assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall require at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification or non-renewal.

Section 2 Damage and Destruction to the Common Area

A. Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the Class "A" votes of the Association and the Class "B" Member, during the Class "B" Control Period, shall decide within sixty (60) days after the casualty not to repair or reconstruct. Immediately after the damage or destruction to the Common Area, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said sixty (60) day period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the Common Area damage or destruction shall be repaired or reconstructed.

B. In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained by the Association in a neat and attractive condition, consistent with the Community-Wide Standard.

C. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction. In the event the proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners on the same basis as provided for General Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Any proceeds remaining after defraying such costs of repairs or reconstruction or, in the event no repair or reconstruction is made, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

ARTICLE VI

NO PARTITION

Except as is permitted in this Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in Phase I or any part thereof seek any judicial partition unless Phase I shall have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII

CONDEMNATION

Whenever all or any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain (or conveyed in lieu of and under threat of condemnation, by the Board acting on the written direction of Members representing at least two-thirds (2/3) of the total Association vote and the Declarant, as long as the Declarant owns any property described on Exhibit "B"), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking, the Declarant, so

long as the Declarant owns any property described in Exhibit "B" of this Declaration, and Members, representing at least seventy-five percent (75%) of the total vote of the Association, shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions of Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII

ANNEXATION OF ADDITIONAL PROPERTY; ADDITIONAL COVENANTS AND ASSESSMENTS

Section 1 Annexation Without Approval of Class "A" Membership

With the consent of the owner thereof (whether such ownership is in fee simple or is a leasehold estate), Declarant shall have the unilateral right, privilege and option, from time to time at any time until the Class "B" Control Period ends, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property as shown and depicted on Exhibit "A" by filing in the Shelby County Clerk's office, Shelbyville, Kentucky, a Subsequent Amendment annexing such property. Such Subsequent Amendment to this Declaration shall not require the consent of Members. Any such annexation shall be effective upon the filing for record of such Subsequent Amendment unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the said right, privilege and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibit "B" attached hereto and that such transfer is memorialized in a written, recorded instrument executed by the Declarant. The real property described on Exhibit "A" shall not be affected by this Declaration, either expressly or by implication, unless and until annexed as provided herein.

Section 2 Annexation With Approval of Board of Directors

Subject to the consent of the owner thereof, the Association may annex real property other than that shown on Exhibit "A", and following the expiration of the right in Section 1 of this Article VIII, the Properties shown on Exhibit "A", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of a majority of the members of the Board of Directors and of the

Declarant, so long as Declarant owns property subject to this Declaration or which may become subject in accordance with Section 1 of this Article, at a meeting duly called for such purpose. Annexation shall be accomplished by filing of record in the Shelby County Clerk's office, Shelbyville, Kentucky, a Subsequent Amendment with respect to the Properties being annexed. Any such Subsequent Amendment shall be signed by the president and secretary of the Association and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3 Acquisition of Additional Common Area

Declarant, if authorized by an affirmative vote of a majority of the members of the Board of Directors, may convey or cause to be conveyed to the Association additional real estate, improved or unimproved, located within the properties depicted on and described in Exhibits "A" and "B" which, upon conveyance or dedication to the Association, shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

Section 4 Additional Covenants and Easements

Declarant or its successors may subject any portion of the property submitted to this Declaration initially or by Subsequent Amendment to additional covenants, conditions, restrictions, and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through assessments. Such additional covenants and easements shall be set forth in a Subsequent Amendment duly recorded in the Shelby County Clerk's Office filed either concurrent with or after the submission of the subject property and shall require the written consent of the owners of such property if not Declarant.

ARTICLE IX

ASSOCIATION; RIGHTS AND OBLIGATIONS

Section 1 Implied Rights

The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege.

Section 2 Rules

The Association, through its Board, may make, modify, and enforce reasonable rules governing the use of and activities in the Common Area (the "Rules"), consistent with the rights and duties established by this Declaration and provided that such Rules are substantially related to the rights and duties established by this Declaration. Such rules shall be binding upon all Owners, occupants, invitees, and licensees until and unless repealed or modified in a regular or special meeting of the Board of Directors by the vote of a majority of the Board and, so long as such membership exists, by the Class "B" Member.

Section 3 Enforcement

The Association may impose sanctions for violations of this Declaration, the By-Laws, or Rules, including reasonable monetary fines, suspension of voting rights and the right to use any facilities within the Common Area. In addition, the Association may exercise self-help remedies to cure violations of the By-Laws, this Declaration, or the Rules, and may suspend any services it provides to the Lot of any Owner thirty (30) days or more delinquent in paying any assessment or other charge due to the Association. The Association may seek relief in any court. The Association's actions to impose or seek sanctions shall be governed by the By-Laws.

Section 4 Common Area

The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon, and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, under the terms and conditions of this Declaration.

Section 5 Personal Property and Real Property For Common Use

The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate located within the properties depicted on and described in Exhibits "A" and "B", personal property, easements, and other property interests. Such property shall be accepted and thereafter maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the conveyance. Any acquisition, disposal, or acceptance of property by the Association as described herein shall require the affirmative vote of a majority of the members of the Board of Directors at a regular or special meeting.

Section 6 Utility Lines

Each owner, occupant, guest, and invitee acknowledges that neither the Association, the Board nor Declarant shall in any way be considered insurers or

guarantors of health within the Properties and neither the Association, the Board, nor Declarant shall be held liable for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of utility lines or utility substations adjacent to, near, over, or on the Properties.

ARTICLE X

ASSESSMENTS

Section 1 Creation of Assessments

There are hereby created assessments for the Common Expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth herein. There shall be two types of assessments: (1) General Assessments to fund expenses for the benefit of all Members of the Association; and (2) Special Assessments as described in Section 5 below.

General Assessments shall be levied equally on all Lots. Special Assessments shall be levied as provided in Section 5 below. Each Owner, by acceptance of his or her deed or recorded contract of sale, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate not to exceed eighteen percent (18%) per annum or the highest rate allowed by Kentucky law as computed from the date the delinquency first occurs, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and its grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except to the extent the lien securing same may have been extinguished by judicial proceedings.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty Dollars (\$50.00) for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual General or Special Assessments for delinquents. Unless the Board otherwise provides, the General Assessment shall be paid on an annual basis and shall be due and payable in advance on or before the due date established by the Board. Special

Assessments may be due as a lump sum or paid in installments as determined by the Board of Directors. Any assessment not paid within fifteen (15) days of the due date shall be deemed delinquent without notice or demand.

No Owner may waive or otherwise exempt itself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Lot. No diminution or abatement of assessment or setoff shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration, or the By-Laws or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

Where a Mortgagee or the purchaser or purchasers of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage; or by voluntary conveyance in lieu of such foreclosure, said Mortgagee or purchaser shall not be liable for the share of assessments by the Board pertaining to such Lot which became due prior to acquisition of title by said Mortgagee or purchaser as a result of the foreclosure or voluntary conveyance in lieu of said foreclosure; provided, the Mortgagee or purchaser shall be liable for its share of assessments accruing after the acquisition of title by said Mortgagee or purchaser. Such unpaid share of assessments shall be deemed to be common expenses collectible from all of the other Lot Owners, including a successor or assign of the Mortgagee. The waiver of liability granted herein for the payment of past due assessments shall not apply to an Owner who takes back a purchase money mortgage, or to any other Mortgagee which is not an "institutional mortgagee." The term "institutional mortgagee" herein used shall mean a first mortgage holder which is a bank, savings and loan Association, life insurance company, pension fund, trust company, credit union, or other similar institutional lender.

Section 2 Declarant

(a) During the Class "B" Control Period, Declarant shall not be required to pay assessments for Lots owned by Declarant. However, until the expiration of the Class "B" Control Period as specified in the By-Laws, Declarant shall be obligated for the difference between the amount of assessments levied on all Lots subject to assessment and the amount of actual expenditures required to operate the Association during the calendar year. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses. Upon expiration of the Class "B" Control Period, Declarant shall be obligated to pay assessments for Lots which it owns on the same basis as other owners.

(b) Until expiration of the Class "B" Control Period as specified in the By-Laws, Declarant or its nominee shall administer the assessments and receipts therefrom which may only be used for purposes generally benefiting Phase I as permitted in this Declaration.

Section 3 Initial Assessment

The Initial Annual General Assessment shall be Two Thousand Five Hundred Dollars (\$2,500.00) per Lot, paid in quarterly installments until January 1, 2012 and thereafter shall be in such amount as established by the Board in conjunction with preparation of the budget as provided in Section 4 hereinafter.

Section 4 Preparation of Budget

Upon expiration of the Class "B" Control Period, as provided for in Section 2 hereof, it shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Members, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list Common Expenses. The amount of the General Assessment to be levied for the coming year against each Lot subject to assessment under Section 8 below shall be computed by dividing the balance of the total operating budget by the total number of Lots shown on the final record plats for Phase I as of sixty (60) days before the end of the current fiscal year. The Board shall cause a copy of the budget and the amount of the General Assessments to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessment shall become effective unless disapproved at the meeting by a vote of Members or their alternates representing at least a majority of the total Class "A" vote in the Association.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 5 Special Assessments

In addition to the General Assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments in any year applicable to that year only for defraying, in whole or in part, the cost of construction, unexpected repair or replacement, or any other expenditure for the maintenance of the Common Area, which cost was not otherwise provided for in the General Assessment.

Provided, however, such assessment shall have the affirmative vote of a majority of the Board.

The Association may levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his Lot into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws and/or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 6 Lien for Assessments

The General and Special Assessments and all other sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs and reasonable attorney's fees actually incurred as provided herein, shall be secured by a continuing lien on such Lot in favor of the Association, which lien shall not be diminished in any way by a transfer, subdivision and/or consolidation that occurs after the 1st day of January of each calendar year. Such lien shall be prior and superior to all other liens and encumbrances on such Lot except:

A. all taxes, assessments and other levies which by law would be superior thereto, and

B. the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value, to which first Mortgages the lien created herein shall be subordinate and inferior in all respects.

Such lien, when delinquent, may be enforced by suit, judgment and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period of time which a Lot is owned by the Association following foreclosure:

A. no right to vote shall be exercised on its behalf;

B. no assessment shall be assessed or levied on it; and

C. each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure.

Suit to recover a money judgment for unpaid assessments and attorney's fees may be maintainable without foreclosing or waiving the lien securing the same. The

voting rights of a Member who is in default in payment of any assessment shall be automatically suspended and shall be reinstated upon cure of the default.

All payments shall be applied first to costs and attorney's fees, then to late charges, then interest, then to any unpaid installments of the General Assessments or Special Assessments in the order of their coming due.

Section 7 Capital Budget and Contribution

Upon expiration of the Class "B" Control Period, as provided for in Section 2 hereinabove, the Board of Directors shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution shall be fixed by the Board and included within and distributed with the budget and assessment as provided in Section 4 of this Article.

Section 8 Date of Commencement of Assessments

The assessments provided for herein shall commence as to all Lots on January 1 of the year following acquisition of record title to a Lot by the first purchaser thereof other than the Declarant or an owner who purchases solely for the purpose of constructing a dwelling thereon for resale.

Section 9 Capitalization of Association

Upon acquisition of record title to a Lot by the first purchaser thereof other than the Declarant, such purchaser shall make a contribution to the working capital of the Association in an amount equal to Five Thousand Dollars (\$5,000.00). This amount shall be used by the Association for use in meeting unforeseen expenditures, purchasing equipment deemed necessary or desirable, or otherwise covering operating expenses properly incurred by the Association, provided, that, all such funds shall only be expended for the maintenance and repair of the Common Areas. Such contributions shall not be considered an advance payment of regular assessments.

Section 10 Exempt Property

Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of General Assessments and Special Assessments:

- (a) all Common Areas; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without imitation, public schools, public streets and public parks.

Section 11 Failure to Assess

The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

Section 12 Recordkeeping

The Association shall maintain or cause to be maintained full and accurate books of account with respect to the performance of its responsibilities hereunder. The books and records and related financial statements shall be made available for inspection and copying upon request by the Members during normal business hours. Copying charges shall be paid by the Members when requesting copies.

ARTICLE XI

USE AND BUILDING RESTRICTIONS

Section 1 Primary Use Restrictions

The Lots shall be used for single-family residential use provided that accessory living quarters for relatives of the Owner, guests, or employees may be located within the principal dwelling or above an attached garage provided that such accessory living quarters shall not be leased. Furthermore, horses may be kept on Lots as restricted hereinafter. Permitted residential structures shall be limited to single-family detached dwellings.

Section 2 Garages

Each residence shall have an attached garage which shall be side or rear entry and which shall contain sufficient space to accommodate two automobiles. No detached garages shall be permitted without the specific written approval of the Declarant.

Section 3 Nuisances

No noxious or offensive trade or activity shall be conducted on any Lot, no loud or obnoxious noises shall be allowed nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

Section 4 Plan Approval

In order to assure and maintain a harmonious and beneficial environment for all Lot Owners, no buildings, improvements, landscaping, and/or hardscape shall be constructed or installed on the Properties without the prior written approval of the New Construction Building Committee (hereinafter the "NCBC"). Prior to the beginning of construction of any improvements upon a Lot (defined to be the beginning of any excavations, grading, or placement of improvements), there shall be submitted to, and approved, in writing, by the NCBC in its sole discretion, duplicate copies of the following:

(a) Plans, specifications, and elevations of all buildings (including, but not limited to dwellings, barns, shops & garages) and landscaping to be installed to be constructed (the "Building Plans"), including architectural drawings and elevations at 1/4" scale and detailed specifications including, but not limited to, a description of all exterior building and roof materials, colors, roof pitch, and finishes. All plans must include engineered-stamped foundation plans. All buildings must be custom-built by a contractor approved by NCBC. The Contractor must be licensed, insured and registered as required by applicable local, state or federal regulators. One complete set of the Building Plans shall be retained by the Declarant.

(b) All proposed alterations, additions, or changes to the Building Plans (as previously approved) shall be submitted to the NCBC in writing and shall conform to all of the conditions above. The NCBC shall have the right to approve, at its sole discretion, the proposed alterations, additions, or changes. This provision applies to all proposed future alterations, additions, and changes to a Lot.

(c) The Owner is required to submit and obtain approved Building Plans for new home construction from the NCBC no later than 24 months after the date of purchase of the Lot. The Owner is required to complete construction within 24 months after the date of approval of the Building Plans unless this requirement is waived or extended, based on special circumstances, by the NCBC acting in its sole discretion. If construction is not completed within 24 months as provided herein, the Building Plans must be resubmitted to the NCBC for review and approval.

(d) Any remodeling or renovation to existing structures shall be completed within 12 months of the date of approval of the Building Plans. If such work is not completed within 12 months, the Building Plans must be resubmitted to the NCBC for review and approval.

(e) All landscaping shall be installed within 60 days of occupancy subject to legitimate weather delays.

Section 5 Building Specifications

All dwellings shall be constructed consistent with the following specifications:

- (a) No modular or manufactured dwellings shall be permitted.
- (b) All dwellings shall contain a minimum of 4,500 square feet of finished living area exclusive of the garage. There shall be a minimum of 3,000 square feet of finished living area, exclusive of garage, on the first floor above the highest finished grade elevation.
- (c) There shall be no exposed block or concrete; all exposed footings, foundations and retaining walls shall be brick or rock finish.
- (d) All roofs shall be 7 and 12 pitch minimum with the exception of clay tile roofs.
- (e) All structures shall be set back at least 100 feet from the Street. There shall be a minimum side and rear yard setback of 50' for each structure with the exception that structures on Lots adjacent to Kentucky Highway 148 shall be at least 100' from the property line at said roadway. Provided, further, that no permitted accessory structure shall be constructed between the Street and the front of the single-family dwelling. All permitted accessory structures shall be setback at least 50' from the single-family dwelling on the Lot.
- (f) Dwellings constructed on Lots fronting on Lakes located in the Common Area as shown on the Plat shall be no closer than 100' from the Common Area.
- (g) All exterior finishes for all structures shall be brick, rock or siding as approved by the NCBC.
- (h) All construction materials shall be new and shall meet or exceed building codes.
- (i) No modular units, prefabricated, or pre-constructed framing, with the exception of roof trusses and floor joists, shall be permitted.
- (j) Chimneys constructed on exterior walls shall be rock or brick.

Section 6 Temporary Structures

No temporary structures or buildings shall be permitted on any Lot except that, during construction of new homes, such structures, including temporary portable office/storage buildings, shall be allowed provided that such structures have been approved by the NCBC prior to installation. Such structures shall be removed when construction or development is completed and no such structure shall at any time be used as a residence temporarily or permanently.

Section 7 Vehicles

Except for vehicles reasonably necessary to be on or about the Lots during construction or alteration of any buildings or other improvements upon a Lot, no trailer, commercial vehicle, and/or trucks, motor home, boat, camper or tractor shall be parked or kept on any Lot at any time unless housed in a garage. No inoperable car, truck or other vehicle shall be parked or kept on any Lot in such a manner that it is visible from a street or another Lot. No unlicensed motor vehicles, except golf carts, shall be allowed on any street.

Section 8 Animals

No livestock, or poultry of any kind, including pigs, hogs, cattle, goats or chickens shall be raised, bred, or kept on any Lot. Dogs, cats, or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept provided they are not kept, bred, or maintained for any commercial or breeding purposes. Each Lot is permitted to have one horse per 2.5 acres. All animals permitted herein must be fenced or on a leash at all times. Invisible fencing or similar technology to maintain dogs within the boundaries of a Lot is also permitted .

Section 9 Basketball Equipment, Garbage Cans, Tanks, Etc.

All basketball hoops and backboards, garbage cans, trash and garbage roll containers, and other similar items shall be located or screened so as to be concealed from view of neighboring and adjacent property, Lots, and streets, as is reasonably practicable. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon.

Section 10 Unsightly or Unkempt Conditions

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his Lot. The pursuit of hobbies or other activities which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the properties.

Section 11 Subdivision of Lot

No Lot shall be subdivided. However, with the prior written approval of the Board of Directors and the approval of the appropriate governmental entity, 2 or more Lots may be consolidated. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots which it owns prior to conveyance by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and/or zoning regulations.

Section 12 Pools

Swimming pools may be erected, constructed, or installed on any Lot subject to the prior written approval of the NCBC and shall be enclosed by a black ornamental fence as approved by the NCBC. Above-ground pools are prohibited.

Section 13 Artificial Vegetation, Exterior Sculpture and Similar Items

No artificial vegetation shall be permitted on the exterior of any portion of the property. Exterior sculpture, fountains, and similar items must be approved by the NCBC.

Section 14 Mailboxes

All mailboxes shall be enclosed in rock or brick only as approved by the NCBC and shall meet the U.S. Post Master's requirements.

Section 15 Lakes

Activities such as swimming, boating, wading, or use of personal flotation devices shall not be permitted in the Lakes located in the Common Areas. However, the Owners, their guests and invitees are allowed to fish along the banks of the Lakes in the Common Areas provided that such fishing is "catch and release" only. However, neither the Declarant nor the Association shall be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of the Lakes.

Section 16 Fences

All fences must be four-railed wood stained black to match fencing along the riding trails. Provided, however, that fencing around the pool within the Common Area or surrounding a pool installed on any Lot shall be black ornamental metal.

Section 17 Exterior Changes

No exterior changes, including, but not limited to, structural additions, alterations, improvements, painting or re-painting walls, trim, or gutters, windows, shutters and/or doorways, may be made within any of the Lots without prior written approval of the NCBC, as hereinafter provided.

Section 18 Driveways

All driveways and parking areas shall be concrete, asphalt, tile or other product approved by the NCBC. No gravel driveways or parking areas shall be permitted.

Section 19 Outbuildings

One barn, shop or other out-building shall be permitted per Lot provided that such out-building shall not exceed 50% of the square footage of the single family dwelling constructed on the Lot.

Section 20 Carports

No carports, attached or unattached, shall be permitted on any Lot.

Section 21 Utilities

No overhead utilities shall be allowed on the properties; all electric, telephone and other cables & lines shall be underground.

Section 22 Septic System

Each Lot shall be required to install and properly maintain an approved onsite wastewater removal or septic system which complies with regulations of Shelby County and the Commonwealth of Kentucky and which shall also be required to obtain all required state and local permits.

Section 23 Parking

Vehicles (except as provided in Section 7 hereof) belonging to Members, their families, guests, and invitees shall be parked on the Lot in approved garages or driveways. However, on-street parking shall be permitted temporarily only as necessary to accommodate guests at social functions.

Section 24 Fireworks

Fireworks, including but not limited to items such as bottle rockets, roman candles, cherry bombs, and similar explosive devices, shall be prohibited on any portion of Phase I.

Section 25 Wild Animals

The hunting and/or trapping of wild animals is prohibited on any portion of Phase I.

Section 26 Maintenance

Each Lot shall be maintained and mowed on a regular basis to the Community-Wide Standard whether having improvements thereon or vacant. The Owner is also responsible for maintaining the area between the edge of pavement of the adjacent Street and the front property line of the Owner's Lot. In the event that an Owner of a Lot

fails to maintain his or her Lot in a neat and orderly condition, the Declarant may, at its discretion, enter upon such Lot without liability and proceed to put it into an orderly condition, billing the cost of such work at the rate of two and one-half (2.5) times the cost of labor and materials used. Said costs shall be a valid debt of the Owner (and all successor Owners of the Lot), and shall constitute a lien on the Lot as provided in Article X hereof, and upon failure of the Owner to pay said cost in full within thirty (30) days from receipt of a bill therefore, shall be collectible by appropriate legal action, together with late charges at the rate of Five Dollars (\$5.00) per month or a fraction thereof, and reasonable attorneys' fees and expense related thereto.

Section 27 Sales Activities

No vehicles, boats, trailers, trucks, or similar items shall be parked or displayed on a Lot or any portion of Phase I displaying "For Sale" signs or similar signage. No yard sales, garage sales, rummage sales, or similar sales shall be permitted other than neighborhood sales which may be organized from time to time by the Association and provided such sales are approved by the Declarant during the Class B Control Period. Provided, however, that an Owner may have a moving sale if such sale is approved by the Declarant during the Class B Control Period or thereafter by the Board.

Section 28 Clotheslines

No exterior laundry or clotheslines shall be permitted on any Lot.

Section 29 Firearms/Weapons

The discharge of firearms or other weapons, including bows, crossbows, and/or similar projectile weapons, within Phase I is prohibited. However, the term "firearms" does not include "B-B" guns, paint guns, pellet guns, and similar devices.

Section 30 Trees

Existing trees shall not be removed except for diseased or dead trees or trees which must be removed to promote the growth of other trees and shall only be removed with the prior written approval of NCBC.

Section 31 Irrigation, Sprinkler Systems

No irrigation or sprinkler systems shall be permitted to draw from any creeks, streams, ponds, lakes, or rivers within Phase I for the maintenance of any Lot, provided that this prohibition does not apply to any ponds solely located within a Lot.

Section 32 Air Conditioners

Window unit air conditioners shall be not installed on any structure in Phase I with the exception of Temporary Structures permitted during construction pursuant to Section 6 hereof.

Section 33 Signage

No business or commercial signs shall be permitted in Phase I except for signs installed by Declarant during development of Phase I and signs installed by builders on a Lot during construction. Once construction of a house is complete, the only signage permitted on a Lot are "Real Estate For Sale" signs. Street addresses and/or name plates may be installed on a dwelling unit with the prior written approval of the NCBC.

Section 34 Riding Trails

The horse riding trails located throughout Phase I and the Properties shall be limited to horse and pedestrian traffic only.

Section 35 Ponds

Ponds may be installed on a Lot only if approved by the Board prior to installation. The Owner of the Lot shall be responsible for the proper maintenance of any pond installed on the Lot, including application of chemicals deemed acceptable by the Board, in order to avoid algae buildup.

ARTICLE XII

AMENDMENT

Section 1 General

Prior to the conveyance of the first Lot, Declarant or its successor may unilaterally amend any portion of this Declaration. After such conveyance, the Declarant or its successor may unilaterally amend any provision of this Declaration, so long as it still owns property depicted on and described in Exhibit "B" for development and so long as the amendment has no material adverse effect upon the substantive right of any Owner; thereafter and otherwise, and except as otherwise provided in this Declaration, this Declaration may be amended only by the affirmative vote of a majority of the Board of Directors present at a meeting duly called for such purpose and of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration pursuant to Article VIII. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Notwithstanding the foregoing, the Declarant or its successors may amend this Declaration to provide for annexation of additional property, imposition of additional

covenants, restrictions, and easements, and the formation of separate owners Associations, as provided for in and pursuant to Article VIII hereof. Any amendment must be recorded in the Shelby County Clerk's Office.

If an Owner consents to any amendment to this Declarant or the By-Laws, it will be conclusively presumed that such Owner has the authority to so consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 2 Subsequent Amendment to Annex Property

Article VIII of this Declaration shall not be amended without the prior consent of Declarant so long as it still owns any property depicted on and described in Exhibits "A" and "B". The Declarant, its successor, and the Association, pursuant to and as set forth in Article VIII of this Declaration, have the privilege to amend this Declaration for the purposes of annexing certain real property to this Declaration pursuant to recorded Subsequent Amendments.

Section 3 Removal of Property

Notwithstanding any of the foregoing, the Declarant reserves the right to amend this Declaration unilaterally at any time during the Class "B" Control Period for the purpose of removing certain portions of the Property then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration, without prior notice and without the consent of any Person other than the Owner thereof, either (a) to the extent such property was included originally in error; or (b) as a result of any changes whatsoever in the plans for Equestrian Lakes desired to be effected by the Declarant, provided such withdrawal is not inconsistent with the overall uniform scheme of development for Equestrian Lakes.

ARTICLE XIII

GENERAL PROVISIONS

Section 1 Term

The covenants and restrictions of this Declaration shall run with and bind the real property described in Exhibit "B" and shall inure to the benefit of and shall be enforceable by the Declarant, the Association or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument in writing, signed by the Owners of a majority of the Lots in Exhibit B has

been recorded within the year preceding the beginning of each successive period of ten (10) years agreeing to terminate said covenants and restrictions, in which case this Declaration shall be terminated as specified therein.

Failure of any Owner to demand or insist upon observance of any of these covenants and restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions.

Section 2 Indemnification, Liability of Directors

A. It is the policy of this Association that, subject to any restriction or limitation of applicable law, each person who is or was a director, trustee, officer, committee member, or employee of the Association, whether elected or appointed, including the heirs, executors, administrators, or estate of any such person, and who has acted in good faith and reasonably believed that their conduct was in the best interest of the Association, shall be indemnified by the Association to the full amount against any liability, and the reasonable cost or expense (including reasonable attorney fees, monetary or other judgments, fines, excise taxes, or penalties and amounts paid or to be paid in settlement) incurred by such person in such person's capacity as a director, trustee, officer, committee member, or employee, or arising out of such person's status as a director, trustee, officer, committee member, or employee; provided, however, no such person shall be indemnified against any such liability, cost, or expense incurred in connection with any action, suit, or proceeding in which such person shall have been adjudged liable on the basis that personal benefit was improperly received by such person, or if such indemnification would be prohibited by law. This right of indemnification shall also provide that the director, trustee, officer, committee member, or employee shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The Association shall, to the extent permitted by applicable law, maintain insurance, as a Common Expense, to protect itself and any such person against any such liability, cost, or expense, whether or not the Association would have the power to indemnify such person against such liability, cost, or expense under the Kentucky Nonprofit Corporation Acts or under this Article XIII, if such insurance is reasonably available. The indemnification provided by this Article XIII shall not be deemed exclusive of any other rights which those seeking indemnification may have or hereafter acquire under any bylaw, agreement, statute, vote of members or Board of directors, or otherwise. If this Article XIII or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the Association shall nevertheless indemnify each such person to the full extent permitted by any applicable portion of this Article XIII that shall not have been invalidated or by any other applicable law.

B. The liability of each and all of the directors of this Association shall be and is hereby limited to the greatest extent permitted by law and no director of the Association shall be liable to the Association for monetary damages for breach of such

director's duties as a director, except for the following (which exceptions shall be construed as narrowly as legally permissible):

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the Association;
2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law; or
3. For any transaction from which the director derives an improper personal benefit.

In addition to the limitation on a director's liability stated hereinabove, no action taken as a director and no failure to take action as a director shall be the basis for monetary damages or injunctive relief unless:

- a. The director has breached or failed to perform the duties of the director's office in compliance with the general standards for directors as set forth in KRS 273.215; and
- b. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

If the Kentucky Nonprofit Corporation Acts are amended after approval of this Article XIII to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Association shall be deemed to be eliminated or limited by this provision to the fullest extent then permitted by the Kentucky Nonprofit Corporation Acts, as so amended. Any repeal or modification of this Article XIII shall not adversely affect any right or protection of a director of the Association existing at the time of such repeal or modification.

Section 3 Board of Directors Meetings

Except as otherwise provided herein, meetings of the Board of Directors shall comply with the requirements of the By-Laws including, but not limited to, notice, quorum, and voting requirements.

Section 4 Severability

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5 Perpetuities

If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 6 Litigation

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of a majority of the Board of Directors. Any meeting called for such purpose shall be subject to the same notice and quorum requirements and other procedures as provided in the By-Laws for meetings of the membership. This Section shall not apply, however, to:

- A. actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens),
- B. the imposition and collection of assessments as provided in Article X hereof,
- C. proceedings involving challenges to ad valorem taxation, or
- D. counterclaims brought by the Association in proceedings instituted against it.

This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes and pursuant to the same procedures necessary to institute proceedings as provided above.

Section 7 Easement for Maintenance of Common Area and Landscape Area

Subject to the provisions of this Declaration, Declarant hereby and by recording this Declaration and the recording of any document adding property this Declaration, grants and conveys to the Association, and its successors, successors-in-title, and assigns, a perpetual easement and right of access across the Properties for the purpose of maintaining, repairing, and replacing the Common Areas, including any improvements or landscaping within the Common Areas in accordance with this Declaration. Where feasible, such access shall be limited to rights-of-way and to paved accessways, driveways, and/or streets whether public or private.

Section 8 Use of the Words "Equestrian Lakes"

No Person, other than Declarant, shall use the words "Equestrian Lakes" or any derivative thereof in any printed or promotional material for rental properties. However, Owners may use the term "Equestrian Lakes" in printed or promotional matter where such term is used solely to specify that particular property is located within Equestrian Lakes or to advertise the sale of a particular property.

Section 9 Security

The Declarant and/or the Association is not formed for the purpose of and shall not be obligated to, undertake any measures designed to increase safety or security in the Property. NEITHER THE ASSOCIATION NOR THE DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY AND NEITHER THE ASSOCIATION NOR THE DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE SECURITY. ALL OWNERS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE DECLARANT, THE ASSOCIATION AND ITS BOARD OF DIRECTORS AND COMMITTEES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR BURGLAR ALARM SYSTEM WILL BE INSTALLED ON THE PROPERTY BY THE DECLARANT AND/OR THE ASSOCIATION. EACH OWNER, TENANT, GUEST OR INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND COMMITTEES ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND COMMITTEES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THAT ANY SECURITY MEASURES WILL BE UNDERTAKEN BY DECLARANT AND/OR THE ASSOCIATION.

Section 10 Headings and Gender

Headings of Articles and Sections are inserted only for convenience and are in no way to be construed as a limitation on the scope of the particular Articles and Sections to which they refer. Where required for proper interpretation, words in the singular shall include the plural, and vice versa, and the masculine gender shall include the neuter and feminine, and vice versa.

ARTICLE XIV

DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Shelby County Clerk's office, Shelbyville, Shelby County, Kentucky. If Declarant ceases to exist as a legal entity or to own any of the Lots in Phase I without formally assigning its rights and obligations, those rights and obligations shall be deemed assigned to the Association.

Notwithstanding any provisions contained in this Declaration, the By-Laws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, and amendments thereto, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant, its successors and assigns, and any builder or developer approved by Declarant, to maintain and carry on sales and promotional activities on Lots owned by Declarant, its successors and assigns, or such builder or developer; and to construct and operate business offices, signs, construction trailers, and sales offices on such Lots.

No rights, privileges and easements granted or reserved herein shall be merged into the title of the Property but shall be held independent of such title and no such right, privilege or easement shall be surrendered, conveyed or released except by delivery of a quitclaim deed and/or assignment from Declarant surrendering, conveying, or releasing such right, privilege or easement by express reference thereto, or as otherwise provided herein.

So long as Declarant continues to have rights under this Article, no Person shall record any declaration of covenants, conditions and restrictions or declaration of condominium or similar instrument affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) ten (10) years or (b) when Class "B" Control Period ends.

ARTICLE XV

CONSENTS AND APPROVALS

Whenever the consent or approval of any party is required pursuant to this Declaration, such consent or approval shall not be unreasonably withheld.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration of Covenants, Conditions and Restrictions for Phase I this ____ day of _____, 2006.

KENTUCKY PLUM CREEK DEVELOPMENT
PROPERTIES, a Kentucky limited partnership

BY: _____

STATE OF KENTUCKY

COUNTY OF SHELBY

The foregoing Declaration of Covenants, Conditions and Restrictions for Phase I were subscribed, sworn to, and acknowledged before me this ____ day of _____, 2006, by _____, as _____ of Kentucky Plum Creek Development Properties, a Kentucky limited partnership, for and on behalf of the company.

My Commission Expires: _____

Notary Public

This instrument was prepared by:

STOLL KEENON OGDEN PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507
(859) 231-3000

BY: _____
Rena G. Wiseman

LEX 107431/122053/3213777.5

EXHIBIT "A"

ENTIRE PROPERTY

Drawing to be supplied by Owner.

EXHIBIT "B"

Being the same property shown on the Final Record Subdivision Plat for Equestrian Lakes of record at Cabinet Slide _____ in the Shelby County Clerk's Office in Shelbyville, Kentucky.

Being a portion of the same property conveyed to Kentucky Plum Creek Development Properties, LLC by deed dated _____ and of record at Deed Book _____, page _____ in the Shelby County Clerk's office.