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*Rec'd Welcome packet  
May 9, 2019*

**MASTER DEED ESTABLISHING  
HIGBEE MILL RESERVE CONDOMINIUMS  
(PALOMAR RESERVE CONDOMINIUMS)  
HORIZONTAL PROPERTY REGIME**

THIS MASTER DEED (the "Master Deed") has been prepared at the direction of and caused to be recorded by Pinecrest Development Company, L.L.C. a Kentucky limited liability company (hereinafter referred to as the "Declarant"), a Kentucky limited liability company, having an office address of 3151 Beaumont Centre Circle, Suite 300, Lexington, Kentucky 40513.

**WITNESSETH:**

WHEREAS, Declarant is the owner in fee simple of the land (the "land") described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Declarant wishes to create a residential condominium horizontal property regime by submitting the land, together with the improvements and structures now existing and hereafter erected by, or at the direction of, Declarant thereon, and all easements, rights, and appurtenances belonging thereto (said land, improvements, structures, easements, rights and appurtenances are together referred to hereinafter as the "Property") to the provisions of the Horizontal Property Law of the Commonwealth of Kentucky, KRS 381.805 to KRS 381.910 (the "Horizontal Property Law");

NOW, THEREFORE, Declarant hereby submits the Property to the provisions of the Horizontal Property Law and declares that said Property shall be a condominium project (hereinafter referred to as the "condominium project") as defined in and pursuant to said Horizontal Property Law, and pursuant to the following provisions:

**ARTICLE I**  
**Definitions**

The words listed in this Article I when used in this Master Deed shall have the meanings as set forth in this Article I:

(A) "Articles of Incorporation" mean the articles of incorporation of the Palomar Reserve Council of Co-Owners, Inc., a nonstock, nonprofit corporation, which shall govern and control, in part, the affairs and administration of the condominium project.

**JOSEPH E. MAINOUS JR.**  
ATTORNEY AT LAW  
201 W. VINE STREET  
LEXINGTON, KENTUCKY 40507

**EXHIBIT**

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(B) "Board of Directors" means the board of directors of the council who shall be elected and serve and shall have the powers and duties provided herein and in the articles of incorporation and the bylaws.

(C) "Buildings" mean, collectively, the fourteen (14) residential buildings constructed on the land, containing all of the units in the condominium project, subject to the provisions of Article XIII herein. The location of the buildings on the land and the area of each of the buildings are as set forth on the plans. Declarant specifically reserves the right, from time to time, within five (5) years of the date of the recording of this Declaration, to amend this Master Deed to the extent of adding additional real property, buildings, units and common area, and once added by addendum described below, shall have the same rights and privileges as herein. In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby granted and reserved unto Declarant, its successors and assigns, to shift and reallocate from time to time the percentage of ownership in the common elements appurtenant to each unit to the percentages set forth in each addendum pursuant to this paragraph. Each execution of a deed of conveyance, mortgage or other instrument with respect to a unit and the acceptance thereof, shall be deemed, a grant, and acknowledgment of a conclusive evidence of the parties thereto, to the consent of such reservation of power to the Declarant as attorney in fact and shall be deemed to reserve to Declarant and its successors and assigns the power to shift and reallocate from time to time the percentages of ownership in the common elements appurtenant to each unit as set forth in each such recorded addendum. Further, Declarant specifically reserves unto itself and its successors and assigns, the right to determine the location of all future units and buildings on areas not yet included as common elements. Individual Unit owners shall not be included within the meaning of successors and assigns as used in this paragraph. Each owner of a unit by acceptance of a deed thereto further acknowledges, consents, and agrees to each such amendment that is recorded as follows:

(a) The portion of the additional common area described in each such amended declaration shall be governed in all respects by the provisions of this declaration.

(b) The percentage of ownership in the common elements appurtenant to each unit shall automatically be shifted and reallocated to the extent set forth in each such recorded amended declaration to the Master Deed and upon the recording of each such amended declaration of master deed

the amount by which such percentage appurtenant to the unit is reduced, as set forth in each such recorded amended declaration, shall thereby be and be deemed to be released and divested from such unit and reconveyed and reallocated among the unit owners as set forth in each such recorded amended declaration of master deed.

(c) Each deed, mortgage or other instrument affecting a unit shall be deemed given subject to the conditional limitation that the percentage of ownership in the common elements appurtenant to each unit shall, upon the recording of each amended declaration, be divested to the reduced percentage set forth in such amended declaration and vested among the other owners, mortgagees and others owning and interest in any other unit in accordance with the terms and percentages of each such recorded amended declaration.

(d) The percentage of ownership in the common elements appurtenant to each unit shall include and be deemed to include any additional common elements annexed hereto by a recorded amended declaration and each deed, mortgage or other instrument affecting a unit shall be deemed to include such additional common elements and the ownership of any such unit and lien of any such mortgage shall automatically include and attach to such additional common elements as such amended declarations of master deeds are recorded.

(e) Each owner shall have a perpetual easement, appurtenant to his unit for the use of any additional common elements annexed thereto by and described in any recorded amended declaration of master deed for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easement granted to the owner of specific units as may be provided in any such amended declaration of master deed.

(f) The recording of each such amended declaration of master deed shall not alter the amount of the lien for expenses assessed to a unit prior to such recording.

(g) Each owner by acceptance of a deed to a unit, agrees that he or she and all those claiming thereunder, including mortgagees, that this Declaration and each amended

declaration of master deed is and shall be deemed to be in accordance with the Condominium Property Act, and any changes in the respective percentages of ownership in the common elements as set forth in each such amendment to the master deed shall be deemed to be made by agreement of all unit owners.

(h) Declarant reserves the right to amend this Declaration in such manner, and each owner agrees to execute and deliver such documents, if necessary, or desirable to cause the provisions of this paragraph to comply with the Act as it may be amended from time to time.

(D) "Bylaws" mean the bylaws of the council, approved and adopted by the board of directors, which shall govern and control, in part, the affairs and administration of the condominium project.

(E) "Common elements" mean all of the property, except the units, including, without limitation, the outside walls and roofs of the buildings, the foundations and structural members of the buildings and all columns, girders, beams, and supports, the land and improvement on the property (including the land under the units), all utility or other pipes and material located outside of the units, except such as are part of the units, all central installations for the furnishing of utilities and other services to the units, all driveways, roadways, grass areas, sidewalks and garages. EXCEPTION: excepted from and not a part of common elements is all of Lot 3N of Plat Cabinet M, Slide 703 and the Clubhouse and Pool to be constructed thereon. ownership will remain with the Declarant, its successors and/or assigns. The Clubhouse and Pool to be leased to the Council of Co-Owners.

(F) "Condominium documents" mean, collectively, the Master Deed, Articles of Incorporation, Bylaws, and Rules and Regulations.

(G) "Council" means The Palomar Reserve Council of Co-Owners, Inc., a Kentucky nonstock, nonprofit corporation, the members of which shall be each an owner of record of a unit in the condominium project.

(H) "Higbee Mill Reserve Condominiums (Palomar Reserve Condominiums)" means the name by which the condominium project will be known.

(I) "General common elements" means all of the common elements except for any limited common elements as more fully described in Article III below.

(J) "Limited common elements" mean and include those common elements (if any) designated by this Master Deed to be reserved for the exclusive use of a particular unit or combination of units as more fully described in Article IV below.

(K) "Person" means any natural person, firm, corporation, partnership, association, trust, or their legal entity or any combination thereof.

(L) "Plans" mean the plans and specifications of the condominium project, including the floor plans for the buildings dated March, 2006, prepared by Eagle Engineering, showing the layout, location, unit numbers and dimensions of the units, and recorded in Plat Cabinet G, Slide 740, in the Office of the County Court Clerk of Fayette County, Kentucky, simultaneously with the recording of this Master Deed, or such amended plans adding additional property or buildings as is more fully set forth above.

(M) "Rules and Regulations" mean the rules and regulations promulgated by the board of directors and governing, in part, the use and occupancy of the units.

(N) "Unit" means an enclosed space (KSR 381.810(1)) within the buildings measured from interior unfinished surfaces of walls, ceilings, and floors, having a direct exit to a thoroughfare or to a common element leading to a thoroughfare, together with the garage unit as shown on the plat of record in Plat Cabinet G, Slide 740, Fayette County Clerk's Office.

Each unit shall include the interior unfinished surface of any doors, windows, vents, and other structural element as ordinarily are regarded as enclosures of space, and any wallpaper, paint, carpet, tile, and all other decorating or finishing materials affixed or installed as part of the physical structure of the unit, and all closets, cabinets, storage areas, and visible fixtures, mechanical systems, and equipment installed in and for the sole and exclusive use of an individual unit; provided, however, that neither pipes, wires, conduits, or other public utility lines or installations constituting part of the overall systems designed for the general service of an entire building, nor property of any kind which is not removable without jeopardizing the soundness and safety of the remainder of an entire building, shall be deemed to be included within any unit. "Entire building", as used in the preceding

sentence, shall include any other unit and any common element, whether general or limited.

(O) "Unit owner" means any person having record title to a unit.

## ARTICLE II Units

(A) Number, location, designation, and plans for units

Subject to the provisions of Article XIII herein, there shall be one hundred sixty eight (168) units within the condominium project. No unit bears the same identification number as any other unit. The plans set forth the layout, location within the applicable building, unit number designation, and dimensions of each unit.

(B) Ownership of the units

Each unit owner shall obtain fee simple ownership of the unit acquired, the appurtenant undivided interest of the general common elements so the condominium project, and, if applicant, any limited common elements appurtenant to the unit. Each unit owner shall be a member of the Council. The form of ownership of a unit may be individual, corporate, in partnership, joint with right of survivorship, a tenancy in common, a tenancy by the entireties, or (subject to the other provisions of the condominium documents) any other estate in real property recognized by law and which may be conveyed and encumbered. All deeds to each unit shall describe such unit by reference to this Master Deed, the plans, the name of this condominium project, and the identifying number of the unit followed by the words "a condominium unit." No unit shall be subdivided, and no action for partition of a unit shall lie, except in the manner provided in the Horizontal Property Law of Kentucky and upon the prior written approval of the holder(s) of any mortgage(s) on such unit and approved by a majority vote of the Council. Any conveyance of a unit shall be deemed also to convey the undivided interest of the unit owner in the general common elements and any limited common elements appurtenant to the unit, whether or not the instrument evidencing such conveyance expressly shall so state.

(C) Taxation of units

The owner of each unit shall be responsible for any and all ad valorem or real estate taxes and special assessments that may be assessed against the unit and its percentage of ownership in the common element by any

governmental authority with jurisdiction over the unit. Nothing contained in this Master Deed shall be construed as giving to any unit owner any right of contribution or adjustment against any other unit owners on account of any deviation by any governmental authority from the percentages of ownership set forth in any valuation or assessment against the unit owned by such unit owner.

(D) Maintenance and repair of units and common elements.

It shall be the responsibility of the Council to maintain, repair, or replace:

(1) The buildings (except to the extent of the units comprising a part of the same), including the roofs, and the grounds and parking lots.

(2) All portions of any unit which contribute to the support of any building, including main bearing walls (but excluding painting, wallpapering, decorating, or other work on the interior surfaces of walls, ceilings, and floors within the unit, which shall be the unit owner's responsibility).

(3) All portions of the unit which constitute a part of the exterior of any building, except for cleaning and replacing windows, entryways, light bulbs, and doors, provided, however, that all exterior color of trim, windows, and doors shall be approved by the Council.

(4) All common elements.

(5) All incidental damage caused by work done at the direction of the Board of Directors.

It shall be the responsibility of each unit owner with respect to the unit owned by such unit owner:

(1) To maintain, repair, and replace at the expense of such unit owner all portions of the unit except the portions to be maintained, repaired, and replaced by the Council, including all decorating and redecorating, painting, tiling, carpeting, waxing, papering, plastering, or varnishing which may be necessary to maintain the good appearance and condition of the unit. Such maintenance, repair, and replacement shall not change the appearance of any portion of the exterior of the building or unit without prior approval of the Board of Directors.

(2) To maintain, repair, and replace at the expense of each unit owner the appliances and fixtures located in the unit, or located in the limited common elements appurtenant to the unit, or located in the general common elements but benefiting the unit to the exclusion of any other unit, including, but not limited to, any plumbing fixtures, water heaters, furnaces, air conditioning equipment, lighting fixtures, other electrical fixtures, refrigerators, dishwashers, disposals, ranges, hoods and fans, sinks, lamps, doors, windows, telephones, garage door openers, or any electric, gas or water pipes or lines or wires or conduits or ducts serving any such appliances and fixtures.

(3) To report promptly to the Council any defect or need for repairs for which the Council is responsible.

(4) To maintain, repair, or replace at the expense of such unit owner all portions of the unit which may cause injury or damage to the other units or to the common elements.

(5) To perform the responsibilities of such unit owner in such a manner and at such reasonable hours so as not to unreasonably disturb other unit owners in the building.

(E) Liability of unit owner for certain repairs

A unit owner shall be liable for the entire expense of any maintenance, repair, or replacement of any part of the condominium project, whether part of a unit or part of the general common elements or limited common elements, if such maintenance, repair, or replacement is rendered necessary by any negligent act or omission of the unit owner, or any member of the family, or guests, employees, agents, or lessees of such unit owner. If any unit owner fails to undertake any such maintenance, repair, or replacement within 10 days after the Board of Directors notifies such unit owner in writing that the Board of Directors has determined that such maintenance, repair, or replacement is the responsibility of such unit owner under this section, the Board of Directors may undertake such maintenance, repair, or replacement, and the cost thereof shall be a lien on the unit owned by such unit owner until paid by the unit owner, and such lien shall be subject to the same remedies as are provided in this Master Deed for nonpayment by a unit owner of common charges and assessments.



(F) Alteration or improvements of units

No alteration or improvement to the unit which would alter or affect the common elements or any other unit may be made by any unit owner other than the Declarant without the prior written consent of the Board of Directors. No application shall be filed by any unit owner other than the Declarant with any governmental authority for a permit covering an addition, alteration, or improvement to be made in a unit which alters or affects the common elements or other units, unless approved and executed by the Board of Directors. Such approval and execution shall not evidence any consent to any liability on the part of the Board of Directors, or any individual member of the Board of directors, to any contractor, subcontractor, materialman, architect, or engineer by reason of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom. Consent shall be requested in writing through the manager or managing agent, if any, or through the president or secretary of the Council if no manager or management agent is employed. The Board of Directors may require that the unit owner making such improvement, alteration, or addition obtain such insurance coverage and in such amounts as the Board of Directors deems proper.

ARTICLE III  
Common Elements

(A) General common elements

The general common elements of the condominium project include the land and all other areas, and all structures and improvements, within the boundaries of the condominium project not included within the units and limited common elements. The general common elements include, but are not necessarily limited to, the land, the foundations, structural columns, walls and floors and ceilings and roofs (other than the interior decorated surfaces thereof located within the boundaries of individual units) of the buildings; the gardens, outside walks, and outside driveways, breezeways, automobile parking spaces (other than those designated as limited common elements pursuant to the article of this Master Deed entitled "Limited Common Elements"), outside retaining walls and landscaping, any recreational facilities located on the land, and compartments or installations of central services such as pipes, ducts, electrical wiring and conduits, public utility lines, streets and guard house, and any other areas specifically designated as common elements on the Plans.

(B) Interest in common elements

Each unit shall have appurtenant to it that percentage interest in the common elements which the floor area of the unit and garage bears to the sum of the floor area for all units and garages (which percentage interest is set forth on Exhibit B attached and made a part of this Master Deed), and each unit owner shall bear the same percentage of the common expense of the condominium project.

The undivided interest in the common elements shall not be separated from the unit to which it appertains and shall be deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the instrument of such conveyance.

(C) Common elements to remain undivided

The common elements shall remain undivided and no unit owner shall bring any action for partition or division unless otherwise provided herein or by law.

(D) Adjustments in percentage of ownership

Except as provided in Article XIII of this Master Deed and as otherwise may be expressly provided herein, the percentages of ownership in the common elements set forth in Exhibit B attached to this Master Deed shall remain constant regardless of the purchase price paid for any unit at any time. Except as provided in Article XIII of this Master Deed and as otherwise may be expressly provided herein, no adjustment in percentages of ownership shall be made without the prior written approval of all unit owners, and all holders of record of first mortgages on all units in the condominium project for which the percentages of ownership are being adjusted.

(E) Use of common elements

The common elements shall be used for the benefit of the unit owners, the furnishing of services and facilities for which the same are reasonably intended, and for the enjoyment to be derived from such proper and reasonable use. Each unit owner may use the general common elements in accordance with the purposes for which they are intended so long as such use does not hinder the exercise of or encroach upon the rights of other unit owners. The Board of Directors shall, if any question arises, determine the purpose for which a common element is intended to be used. The Board of

Directors shall have the right to promulgate the rules and regulations which may limit the use of the common elements to unit owners, their guests, permitted tenants, and invitees.

(F) Maintenance of common elements

The maintenance and operation, including landscaping, gardening, snow removal, cleaning, painting and all other repair, of the common elements shall be the responsibility and expense of the Council, unless and except as otherwise expressly provided in the condominium documents.

(G) Alteration and improvement of common elements

The Board of Directors shall have the right to make or cause to be made such alterations and improvements to the common elements as, in the opinion of the Board of Directors, may be beneficial and necessary. The cost of any such alterations and improvements to the common elements shall constitute a part of the common expenses. When, in the sole opinion of the Board of Directors, the costs therefor shall be exclusively or substantially exclusively for the benefit of unit owner(s) that requested the alteration or improvement, the cost shall be assessed against such unit owner(s) in such proportion as the Board of Directors, in its discretion, reasonably shall determine is fair and equitable.

ARTICLE IV  
Limited Common Elements

(A) Limited common elements

The limited common elements of the condominium project are areas which are reserved for the use of unit owners of a certain unit or units to the exclusion of the unit owners and/or occupants of other units. The limited common elements of the condominium project include any patios adjacent to or associated with a particular unit and intended for use exclusively by occupants of that particular unit, and shall also include storage areas designated as being intended for the exclusive use of a unit or units pursuant to the plans.

(B) Limited common elements to remain undivided

The limited common elements shall remain undivided and no unit owner shall bring any action for partition or division unless otherwise provided by law. Any covenant to the contrary shall be void.

(C) Parking spaces

Any parking spaces not a part of a unit and not expressly designated on the plans as being appurtenant to any unit as a limited common element shall remain general common elements and shall be available for use generally by all unit owners, their tenants, or guests without reservation or restriction, other than any reasonable restrictions imposed by the Board of Directors and applicable to all unit owners.

(D) Maintenance of limited common elements

The maintenance and operation, including landscaping, gardening, snow removal, cleaning, painting and all other repair, of the limited common elements shall be the responsibility and expense of the Council, unless and except as otherwise expressly provided in the condominium documents.

ARTICLE V  
Clubhouse and Pool

The Clubhouse and Pool located on Lot 3N on Plat Cabiner M, Slide 703, Fayette County Clerk's Office, is expressly not a common element, limited or general, appurtenant to the property herein conveyed.

(A) Lease by Council of Co-Owners

The Clubhouse and Pool will be leased by the Council of Co-Owners for the benefit of the unit owners as provided for in the By-Laws of the Palomar Reserve Council of Co-Owners, Inc. All unit owners shall be required to contribute to the monthly assessment for the pool and clubhouse as provided for in the By-Laws of the Council of Co-Owners.

(B) Ownership of Clubhouse and Pool

The Clubhouse and Pool shall be owned by the Declarant or its successors and/or assigns. The owner of the Clubhouse and Pool is under no obligation to lease or sell to the Council of Co-Owners.

(C) Maintenance and Operation

The maintenance and operation of the Clubhouse and Pool shall be the responsibility of the Council of Co-Owners and all costs associated therewith shall be included in the general monthly assessment.

## ARTICLE VI

### Assessments

The making and collection of assessments against unit owners for common expenses of the condominium project, including, but not limited to, maintenance and repair of, and insurance charges and utility expenses related to, the common elements, shall be pursuant to the bylaws and subject to the following provisions:

#### (A) Share of common expense

Each unit owner shall be personally liable for the proportionate share of the common expenses and shall share in the common surplus (after due allowance for the retention of any reserve to cover future common expenses). No unit owner shall be exempt from contributing toward such expenses by waiver of the use or enjoyment of the common elements or by abandonment of the unit owned by such unit owner or by claiming that the quantity or quality of services does not warrant such payment or is not as contemplated by such unit owner as of the time of purchase; provided, however, the Board of Directors may, but is not required to, abate or reduce a unit owner's contribution for a reasonable period of time during which the unit owned by such unit owner is uninhabitable as the result of damage or destruction.

#### (B) Interest: application of payments

Assessments and installments on such assessments paid on or before ten (10) days after the day when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due, including any sums due as a result of acceleration of unpaid assessments as may be provided in the Bylaws, shall bear interest from the date when due until paid at the rate of interest per annum provided in the bylaws. All payments upon account shall be first applied to interest and then to the assessment payment first due.

#### (C) Lien for assessments

Except as provided in Article VI(E) of this Master Deed, any unpaid common expenses assessed to a unit owner shall constitute a lien against the unit owned by such unit owner and against such unit owner's interest in the condominium project prior to all other liens except the lien of a first mortgage on the unit and tax or assessment liens on the unit by the taxing subdivision of any governmental authority, including but not limited to state, county, city, and school district taxing agencies.

The lien created by this section shall be deemed to be incorporated by reference in and reserved by each deed or other instrument conveying any interest in a unit whether or not such deed or instrument by its express terms refers to said lien. In addition to any other remedies or liens provided by law, if any unit owner is in default in the payment of any common expenses assessed to such unit owner for thirty (30) days, including any sums due as a result of acceleration of unpaid assessments as may be provided in any of the condominium documents, the Council may bring suit for and on behalf of itself and as representative of all unit owners to enforce collection of the assessment and all costs of collection thereof, including reasonable attorney fees, and to foreclose the aforesaid lien in accordance with the laws of the Commonwealth of Kentucky, in like manner as a mortgage on real property. The lien for unpaid assessments shall also secure legal interest and reasonable attorney fees incurred by the Council incident to the collection of such assessment or enforcement of such lien. In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid common charges, the unpaid balance shall be charged to all unit owners as a common expense.

(D) Transfer of units

A unit owner shall not be liable for any common expenses accruing after the sale of his unit and the recording of a deed to the purchaser. The purchaser of a unit subject to any lien arising under this Master Deed prior to the date of purchase and the recording of the deed shall take title to the unit subject to the lien; provided, however, that, at the request of any unit owner or a prospective purchaser of the unit, the Board of Directors shall provide a statement disclosing whether the unit owner is then in default under any of the obligations hereunder and whether and in what amount a lien exists against the unit owned by the unit owner under the section hereof entitled "Lien for Assessments," which statement shall be conclusive as to the facts stated therein as against the Council and the other unit owners and may be relied upon by a prospective purchaser or mortgagee or assignee of any mortgagee upon the unit of such unit owner.

(E) Limitation on mortgage liabilities

Where the mortgagee of a first mortgage of record or the purchaser or purchasers of a unit obtain title to the unit 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 shares of common expenses or assessments by the Council pertaining to such unit or chargeable to a former unit owner of such unit 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. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the other unit owners of units, including a successor or assign of the mortgage. The waiver of liability granted herein for the payment of past due assessments shall not apply to a unit 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.

(F) Anything to the contrary contained in this Master Deed or in the Bylaws of the Council notwithstanding, until the Declarant transfers control and management to the Council, the Declarant shall not be liable for the payment of any assessment, monthly or otherwise, for common expenses or for reserve or contingency accounts, and the units owned by the Declarant, prior to the Declarant transferring control to the Council, shall not be subject to any lien therefor; and the Declarant shall not have any liabilities of a unit owner. The Declarant shall, however, until the Declarant transfers control to the Council, be responsible for the maintenance costs of the condominium project incurred over and above assessments or amounts paid by unit owners for common expenses and other appropriate charges.

## ARTICLE VII Council of Co-owners

(A) The Palomar Reserve Council of Co-Owners manages condominium project. The Council's address is Dellavale Management Group, Inc., 4080 Clearwater Way, Lexington, Kentucky 40515.

The management and operation of the condominium project shall be the responsibility of the Council, acting through the Board of Directors and the elected officers thereof, and the Council shall fulfill its functions pursuant to the provision of the condominium documents.

(B) Bylaws

The Bylaws adopted by the Council from time to time shall be the Bylaws of the condominium project.

(C) Rules and regulations

Each unit owner's ownership and use of the unit(s) owned by such unit owner shall be subject to the Rules and Regulations promulgated by the Board of Directors from time to time, applicable to all unit owners including Declarant. A copy of the Rules and Regulations, including any amendments thereto, shall be furnished by the Council to all unit owners and residents of the condominium project upon request.

(D) Limitation upon liability of council

Notwithstanding the duty of the Council to manage, operate, maintain, and repair the condominium project, the subject to and in accordance with the provisions of the condominium documents, the Council shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the condominium project required to be maintained and repaired by the Council, or caused by the weather or other element, or by other unit owners or persons, including, but not limited to, defects which are the result of characteristics common to the materials used, damage due to ordinary wear and tear and normal use, and damage due to wind, rain, snow, hail, and condensation on or expansion or contraction of materials due to weather.

(E) Board of Directors

The members of the Board of Directors shall be elected and serve and shall have the duties and powers as provided in the Articles of Incorporation and Bylaws. The Board of Directors all have the right to delegate its duties to a managing agent. The Board of Directors shall be the final arbiter of any dispute concerning the operation of the condominium project and the interpretation and effect of the condominium documents.

(F) Declarant's written consent necessary for certain actions and control of Board of Directors.

Anything to the contrary contained in any of the condominium documents notwithstanding, during the interval (the "Declarant's Marketing Interval") from the date of recordation of this Master Deed until the earlier of such time as (1) Declarant or its designee(s) shall cease to own any units in the condominium project, or (2) prior thereto, at the sole election of the Declarant, the Board of Directors may not, without the Declarant's prior written consent, (1) amend any of the condominium documents; (2) make any addition, alteration, or improvement to the common elements or to any unit;



(3) assess any common charges for the creation of, addition to, or replacement of all or part of a reserve, contingency, or surplus fund if the effect of such assessment would be to increase the amount of such reserve, contingency, or surplus fund in excess of an amount equal to that proportion of the then existing budget which the amount of reserves in the initial budget of estimated expenses for the condominium project bears to the total amount of such initial budget of estimated expenses; (4) hire any employee in addition to the employees, if any, provided for in the initial budget; (5) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the first closing of title to a unit; (6) borrow money on behalf of the condominium project; or (7) reduce the quantity or quality of service to or maintenance of the condominium project. During the Declarant's marketing interval, an irrevocable power of attorney coupled with an interest is hereby granted and reserved unto Declarant, its successors and assigns (however, individual unit owners are not included within the meaning of successors and assigns as used in this paragraph) to amend any condominium document so long as any such amendment does not materially alter the responsibilities and obligations of Declarant as developer of the condominium project to other unit owners under the condominium documents.

In addition, during the Declarant's Marketing Interval, Declarant shall be entitled to name all members of the Board of Directors of the Council.

(C) Approval or disapproval of matters

Whenever the decision of a unit owner is required upon any matter, whether or not the subject of a Council meeting, such decision shall be expressed by the same person who would cast the vote of such unit owner if in a Council meeting, unless joinder of all unit owners of record is specifically required by the applicable provision of the condominium documents.

## ARTICLE VIII

### Easements

(A) Existing easements

Easements are hereby declared and granted by each unit owner in favor of each other unit owner, and reserved by Declarant, for all utility purposes as they exist on the date of the recording of this Master Deed or as are contemplated by the plans, or as may be required to be incorporated in the final construction of the buildings and the common elements. Each unit owner shall have an easement in common with all other unit owners to use all

(C) Access to units by Council

The Council shall have a right of access to each unit upon reasonable prior notice and at reasonable hours: (1) to inspect the same for compliance with the provisions of the condominium documents; (2) for the maintenance, repair, replacement, or improvement of any portion of the common elements (or any portion of the unit which is the responsibility of the Board of Directors), including any pipes, wires, ducts, cables, conduits, and public utility lines located in or adjacent to any unit; (3) to prevent damage to the common elements or any other unit; (4) to abate any violation of law, order, rules, or regulations of any governmental authority having jurisdiction thereof; (5) to abate any violation of any provision of any of the condominium documents. The Council shall have such other right of access to each unit as may be provided under any other provisions of the condominium documents. The Council shall be obligated to repair any damage to a unit incurred by reason of exercise of this right of access.

(D) Declarant's easement for marketing purposes

Declarant reserves the right with respect to its marketing of units to use the common elements for the ingress and egress of itself and for prospective purchasers and lessees of units, including the right of such prospective purchasers and lessees to park in parking spaces which are not limited common elements. Any damage to the common elements resulting from this easement shall be repaired by Declarant promptly after the same occurs.

(E) Easements for encroachments

An easement shall exist for any portion of a unit or the common elements which encroaches upon any other unit or the common elements as a result of (1) the original or future construction of settling or shifting of any part of a building, or (2) any repair or restoration undertaken by the Board of Directors, or (3) any construction after a partial or total destruction as a result of a fire or other casualty or as a result of condemnation or eminent domain proceedings. Such easements as provided in this section shall exist so long as the building in which the encroachment exists (or any replacement thereof permitted under any condominium document) shall stand.

(F) Additional easement

The Board of Directors shall have the right to grant such additional easements burdening the common elements as are reasonably determined by

it to be compatible with the intended uses and future development of the condominium project, including, without limitation, additional easements for ingress and egress to and from and over the land.

ARTICLE IX  
Insurance

The Council shall maintain insurance coverage upon the condominium project in accordance with the provisions of this Article:

(A) Authority to purchase: named insured

All insurance policies upon the condominium project shall be purchased by the Council. The named insured shall be the Council individually and as agent for the unit owners, without naming them, and as agent for the mortgagees of the unit owners. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of unit owners. Such policies shall provide that payments by the insurer for losses shall be made to the insurance trustee designated below, and all policies and their endorsements shall be deposited with the insurance trustee. Unit owners may obtain coverage at their own expense for their own units, their own personal property, and other risks.

(B) Coverage

(1) All buildings, common elements, clubhouse and pool and other improvements upon the land constructed by the Declarant, or constructed by a unit owner with the approval of Developer or the Board of Directors, shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors on behalf of the Council; provided, however, the Council shall not be required to insure any part of the condominium project within the boundaries of individual units, except as set forth above and all structural columns, load-bearing walls and pipes, conduits, wires, or other installations for the provision of services to the entire buildings. All personal property included in the common elements shall be insured for its value, as determined annually by the Board of Directors on behalf of the Council. Such coverage shall afford protection against:

(a) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

(b) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location, and use as the buildings on the land, including, but not limited to, vandalism and malicious mischief, earthquake, and plate glass insurance.

(2) Public liability insurance coverage shall be provided in such amounts and with such coverage as shall be required by the Board of Directors and with cross liability endorsement to cover liabilities of the unit owners jointly and severally and of the Council.

(3) Workers' compensation insurance to meet the requirements of Kentucky law.

(4) Such other insurance as the Board of Directors from time to time shall determine is desirable.

(C) Premiums

Premiums upon insurance policies purchased by the Council shall be paid by the Council as a common expense; provided, however, that, should the amount of any insurance premium be affected by a particular use of a unit or units, the owner or owners of such unit or units shall be required to pay any increase in premium resulting from such use.

(D) Insurance trustee

All insurance policies purchased by the Council shall be for the benefit of the Council and the unit owners and mortgagees of the units as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to Dellavalle Management Group, Inc., as trustee, or to such other bank in Kentucky with trust powers as may be designated as insurance trustee by the Board of Directors, which trustee is referred to in this instrument as the "insurance trustee." Payment of premiums, renewal and sufficiency of policies, settlement of claims with insurers, and collection of insurance proceeds shall be the responsibility of the Board of Directors, and the sole duty of the insurance trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this Article.

(E) Shares of the proceeds; mortgagees

The insurance trustee shall hold all insurance proceeds covering property losses in shares, which shares need not be set forth on the records of the insurance trustee, as follows: each unit owner shall have an undivided share in such proceeds, such share being the same as the undivided share in the common elements appurtenant to the unit(s) owned by such unit owner as set forth in Exhibit B to this Master Deed. In the event a mortgagee endorsement has been issued with respect to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear, provided, however, that no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds which, pursuant to the provisions of this Article, are to be held by the insurance trustee, except distributions of such proceeds made pursuant to this Article.

(F) Distribution of proceeds

Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(1) Expense of the trust

All expenses of the insurance trustee shall be paid first or provision made for such payment.

(2) Reconstruction or repair

If the damage for which the proceeds are paid is to be repaired or reconstructed substantially in accordance with the original plans for the buildings, the remaining proceeds shall be paid to defray the cost of such as provided in Article X of this Master Deed. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. All mortgages and other liens existing against any unit(s) at the time of damage shall attach to such repaired or reconstructed unit(s) in the same priority as existed prior to such damage. All such repaired or reconstructed units shall bear the same unit numbers as those of the original units and shall retain the same percentage of ownership in the common elements as those of the original units (subject to "as built" adjustment as may be required by statute. If the damage for which the proceeds are paid is not to be repaired or reconstruct in accordance with the original plans for the buildings as

permitted by Article X of the Master Deed, the mortgagees of units in that building may demand that the remaining proceeds be applied to reduction of the mortgage debt on such units up to the total amount of the mortgage debt then due. Any proceeds remaining after such application to reduction of the mortgage debt shall be paid to defray the costs of repair and reconstruction as provided in the Article of this Master Deed entitled "Reconstruction or Repair after Casualty." This section is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

(3) Failure to reconstruct or repair

If it is determined in the manner provided in Article X of this Master Deed that the damage for which the proceeds are paid shall not be reconstructed or repaired, the net proceeds remaining after all mortgages on the damaged or destroyed buildings have been paid shall be distributed in the manner determined by all of the unit owners at the special meeting of the Council provided by Article X(A), provided that such distribution complies with the provisions of the Horizontal Property Law as amended.

(4) Certificate

In making distribution to unit owners and/or the mortgagees of the units, the insurance trustee may rely upon a certificate of the Council made by its president and secretary as to the names of the unit owners and their respective shares of the distribution, and the insurance trustee shall have no liability to the Council or to any unit owner for any distribution made in reliance upon such a certificate.

(G) Council as agent

The Council is irrevocably appointed for each unit owner and for each holder of a mortgage or other lien upon a unit and for each owner of any other interest in the condominium project to adjust all claims arising under insurance policies purchased by the Council and to execute and deliver releases upon the payment of claims.

ARTICLE X  
Reconstruction or Repair after Casualty

(A) Determination to reconstruct or repair

If any part of the condominium project shall be damaged or destroyed by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(1) Common element

If the damaged or destroyed improvement is a common element (other than portions of any of the buildings), the damaged or destroyed property shall be reconstructed or repaired.

(2) Buildings

If the damaged or destroyed improvements is one or more of the buildings, such building or buildings also shall be reconstructed or repaired except that, as to each building (if any) as to which more than two thirds of such building has been destroyed, such building shall not be reconstructed or repaired if (and only if) (a) all of the unit owners of units in such building shall agree in writing within thirty (30) days after the date of the occurrence of such destruction that they desire that such building not be repaired or reconstructed and request the secretary of the Council in writing to call a special meeting of the unit owners for the purpose of deciding whether such building shall be repaired or reconstructed, and (b) unit owners of units in the entire condominium project to which greater than eighty (80%) percent of the common elements are appurtenant shall vote not to repair or reconstruct such building at the meeting of all of the unit owners, which shall be duly called by the secretary of the Council within ten (10) days after the receipt by the secretary of the written request from the unit owners of the affected building. In the event the building is not reconstructed or repaired, the unit owners of such building (and their mortgagees) shall be entitled to receive their proportionate share of the insurance proceeds payable as a result of such destruction, and the Board of Directors shall cause the Master Deed to be amended to revise the allocation of the common elements amount the units located in the remaining buildings according to the proportion which the floor area of each such unit bears, respectively, to the sum of the floor area for all of remaining units.

### (3) Certificate

The insurance trustee may rely upon a certificate of the Council made by its president and secretary to determine whether or not the damage or destroyed property is to be reconstructed or repaired.

#### (B) Manner of reconstruction

The original plans for the condominium project shall be the property of the Council and shall be kept by the Board of Directors in a fire-proof safe or safe deposit box. Any reconstruction or repair must be substantially in accordance with the original plans, or, if not, then according to plans and specifications approved by the Board of Directors and, if the damaged property is all or part of any building, by all mortgagees of units in the damaged or destroyed building(s), and by all of the unit owners of units in that building.

#### (C) Responsibility

If the damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty. In all other instances, including building additions and improvements of the unit owner with the approval of the Declarant or the Board of Directors, the responsibility of reconstruction and repair after casualty shall be that of the Council.

In the event of a casualty loss to the unit, the deductible of the master policy is the responsibility of the unit owner. If the loss applies to multi-units, each unit owner shall pay their proportionate share of the deductible.

#### (D) Estimate of costs

Immediately after a determination is made to rebuild or repair damage to property for which the Council has the responsibility of reconstruction and repair, the Council shall obtain reliable and detailed estimates of the cost to rebuild or repair.

#### (E) Assessments

If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Council, or if, at any time during reconstruction and repair, or upon completion of reconstruction and repair,



the proceeds are determined to be insufficient, assessments shall be made against the unit owners in amounts sufficient to provide funds for the payment of such costs. Such assessments against unit owners for damage to units shall be in proportion to the cost of reconstruction and repair of their respective units. Such assessments on account of damage to common elements shall be in proportion to the share in the common elements appurtenant to the unit owned by such unit owner as set forth in Exhibit B of this Master Deed.

(F) Construction funds

The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Council from assessments against unit owners, shall be disbursed in payment of such costs in the following manner:

(1) Council

If the total of assessments made by the Council in order to provide funds for payments of costs of reconstruction and repair that is the responsibility of the Council is more than Ten Thousand and NO/100 (\$10,000.00) Dollars, the sums paid upon such assessments shall be deposited by the Council with the insurance trustee. In all other cases the Council shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(2) Insurance trustee: construction fund

The proceeds of insurance collected on account of a casualty, and the sums deposited with insurance trustee by the Council from the collections of assessments against unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(a) Council-lesser damage

If the amount of the estimated cost of the reconstruction and repair that is the responsibility of the Council is less than Ten Thousand and NO/100 (\$10,000.00) Dollars, then the construction fund shall be disbursed in payment of such costs upon the order of the Council; provided, however, that, upon request to the insurance trustee by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund

shall be disbursed in the manner provided for the reconstruction and repair of major damage.

(b) Council-major damage:

If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Council is more than Ten Thousand and NO/100 (\$10,000.00) Dollars, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors and upon approval of an architect licensed to practice in Kentucky and employed by the Council to supervise the work.

(c) Unit owner

The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a unit owner shall be paid by the insurance trustee to the unit owner, or if there is a mortgagee endorsement as to the unit, then to the unit owner and the mortgagee, jointly, who may use such proceeds as they determine.

(d) Surplus

It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; provided, however, that the part of the distribution to a beneficial owner that represents assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

(3) Certificate

Any provisions of this Master Deed to the contrary notwithstanding, the insurance trustee shall not be required to determine whether or not sums paid by the unit owners upon assessments shall be deposited by the Council with the insurance trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Council or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount

paid. Instead, the insurance trustee may rely upon a certificate of the Council made by its president and secretary as to any and all of such matters and stating that the sums to be paid are due properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in this instrument to be named as payee, the insurance trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a unit owner; and further provided that when the Council, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires, the approval of an architect named by the Council shall be first obtained by the Council upon disbursements in payment of costs of reconstruction and repair.

(G) Eminent domain

Appropriation, taking, injury to, or destruction of, or condemnation by eminent domain by federal, state, or local government or any instrumentality thereof of any portion of the condominium project, respectively, shall be considered to be included in the terms "damage and destruction" for purposes of this Article, and the decision whether or not to restore, insofar as is possible, any building of which two thirds or more is taken, and the proceeds of the eminent domain taking, respectively, shall be treated in the same manner as is provided in this Master Deed upon the occurrence of damage and destruction to the condominium project. The Board of Directors shall give to all holders of first mortgages on units prompt notice of any eminent domain proceedings, and the distribution of the proceeds of any eminent domain proceeding shall be subject to the provisions of Article IX(F) with respect to the rights of the holders of mortgages on units.

ARTICLE XI

Sale, Lease, and Mortgaging of Units

(A) Right to sell or lease units

The unit owner of each unit shall have the right to sell or lease such unit and the common elements appurtenant thereto, providing, with respect to any lease (or assignment thereof or sublease), that written notice of the fact of the lease, the identity of the lessee, and the term of the lease is disclosed to the Council or managing agent or manager of the condominium project in writing prior to commencement of the term of the lease and shall be liable for any damages resulting from failure to comply with this provision. Any tenancy or subtenancy of a unit shall be subject and subordinate to all of the provisions of the condominium documents.

paid. Instead, the insurance trustee may rely upon a certificate of the Council made by its president and secretary as to any and all of such matters and stating that the sums to be paid are due properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in this instrument to be named as payee, the insurance trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a unit owner; and further provided that when the Council, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires, the approval of an architect named by the Council shall be first obtained by the Council upon disbursements in payment of costs of reconstruction and repair.

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(B) Grantee to be liable with grantor for unpaid common charges

In any conveyance of a unit either by voluntary instrument, operation of law, or judicial proceedings in accordance with this Master Deed or Bylaws, the grantee of the unit shall be jointly and severally liable with the former unit owner for any unpaid common charges against the latter assessed and due up to the time of the grant or conveyance without prejudice to the grantee's right to recover from the former unit owner the amounts paid by the grantee therefor. "Grantee" as used in this section shall not include either the holder of an institutional mortgage of record who acquires title to the unit or a purchaser of a unit at a foreclosure sale of an institutional mortgage.

ARTICLE XII  
Obligations of Unit  
Owners and Remedies upon Default

(A) All unit owner and tenants subject to condominium documents which run with the land

All present or future unit owners, tenants, occupants, or any other person that might use the condominium project in any manner are subject to the terms and provisions of the condominium documents, as they may be amended from time to time, and the decisions of the Council acting through the Board of Directors acting, in turn, through its resolutions, the officers of the Council, and the managing agent. The acceptance of a deed or conveyance or entering into of a lease, or the entering into occupancy of any unit shall signify that the provisions of the condominium documents, and the decisions of the Board of Directors are accepted and ratified by such unit owner, tenant, or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such units, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease of the unit.

(B) Remedies upon default

Failure of a unit owner (or other person subject to the condominium documents) to comply with the provisions of the condominium documents shall entitle the Council (and the Declarant, in the proper case) to the following remedies provided by the Horizontal Property Law and by any other provisions of the condominium documents:

(1) The right to enter any unit or any portion of the condominium project upon which, or as to which, such violation or breach exists which requires emergency attention or emergency repairs, and on an emergency basis to abate and remove, at the expense of the defaulting unit owner, any structure or thing or condition that may exist in violation of the condominium documents; and the Council, or its employees or agents, shall not thereby be deemed guilty of trespass.

(2) The right to enjoin, abate, or remedy by appropriate legal proceedings, at law or equity, the continuance of any breach.

(C) Cost and attorney fees

In any proceeding arising because of an alleged failure of a unit owner or the Council to comply with the terms of the condominium documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the court.

(D) No waiver of rights

The failure of the Council or any unit owner to enforce any covenant, restriction, or other provision of the Horizontal Property Law or the condominium documents shall not constitute a waiver of the right to do so thereafter.

(E) Rights are cumulative

All rights, remedies, and privileges granted to the Council, Declarant, the Board of Directors, its designated agent(s), or a unit owner, pursuant to any terms, provisions, covenants, or conditions of the condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such party hereunder, under the other condominium documents, or at law or in equity.

ARTICLE XIII  
Amendment to Declaration

This Master Deed may be modified, altered, amended, or added to by Declarant pursuant to an instrument recorded by Declarant in the Office of the County Clerk of Fayette County, Kentucky, subject to and in accordance with Section VII(F), or by instrument signed by each unit owner of record (and by Declarant, if the consent of Declarant to such amendment is required under the terms of the condominium documents), or by a vote of greater than fifty (50%) percent in interest in the common elements at any duly called meeting of unit owners provided that:

(1) A notice of the meeting containing a full statement of the proposed modification, alteration, amendment, or addition has been sent to all unit owners as listed on the books and records of the Council and to all mortgagees of units who have requested same; and

(2) The Board of Directors (and Declarant, if the consent of Declarant is required by the provisions of the condominium documents) approves the change; and

(3) An instrument evidencing the change and signed by the president or any vice president of the Council is duly recorded in the Office of the Fayette County Clerk. Such instruments need not contain the written consent of any unit owners but shall contain the verified statement and certification of the secretary or other officer of the council not otherwise signing the instrument that the requirements of this subsection (C) above have been satisfied.

ARTICLE XIV  
General

(A) Severability

The invalidity of any provision of this Master Deed shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of this Master Deed, and, in such event, all of the other provisions of this Master Deed shall continue in full force and effect as if such invalid provision had never been included herein.

(B) Waiver

No provision contained in this Master Deed shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

(C) Captions

The captions herein are inserted only as a matter of convenience, and in no way define, limit, or describe the scope of this Master Deed nor the intent of any provision hereof.

(D) Gender

The use of the masculine gender in this Master Deed shall be deemed to refer to the feminine gender whenever the context so requires.

IN WITNESS WHEREOF, the Declarant has caused this Master Deed to be executed actually on the date indicated in the notarial certificate affixed hereto but effective this 28<sup>th</sup> day of March, 2006.

PINECREST DEVELOPMENT  
COMPANY, LLC, a Kentucky  
limited liability company

BY: 


BY: MEMBER



STATE OF KENTUCKY  
COUNTY OF FAYETTE

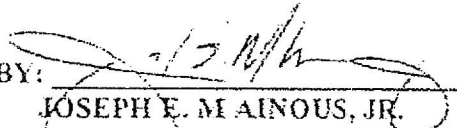
The foregoing instrument was acknowledged before me this the 10<sup>th</sup> day of March, 2006, by DAVID BIRK, as MEMBER of Pinecrest Development Company, I.L.C. a Kentucky limited liability company, on behalf of said Company.

My Commission Expires: 10-2-07

  
\_\_\_\_\_  
NOTARY PUBLIC

PREPARED BY:

MAINOUS & GRANT, PLLC  
201 West Vine Street  
Lexington, KY 40507

BY:   
\_\_\_\_\_  
JOSEPH E. MAINOUS, JR.

Palomares.masterdeed

EXHIBIT "A"

LEGAL DESCRIPTION

BEING all of Lot Nos. 3J, 3K, 3L and 3M, of the Higbee Mill Reserve, Section 1, as shown by Final Plat of Higbee Mill Reserve, Section 1 of record in Plat Cabinet M, Slide 706 in the Fayette County Clerk's Office.

Being a part of the same property conveyed to Pincrest Development Company, LLC, a Kentucky limited liability company by Deed dated December 21, 2004 and of record in Deed Book 2520, Page 299 in the Fayette County Clerk's Office.

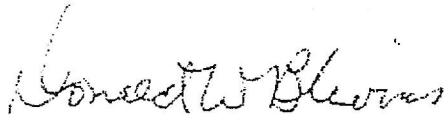
EXHIBIT "B"

PERCENTAGE OF OWNERSHIP INTERESTS FOR BUILDING 3K

<u>BUILDING AND UNIT</u>	<u>INTEREST</u>
Building 3K, Unit 1	.07464
Building 3K, Unit 2	.07836
Building 3K, Unit 3	.08535
Building 3K, Unit 4	.07441
Building 3K, Unit 5	.07767
Building 3K, Unit 6	.08477
Building 3K, Unit 7	.09514
Building 3K, Unit 8	.08586
Building 3K, Unit 9	.07767
Building 3K, Unit 10	.08495
Building 3K, Unit 11	.09514
Building 3K, Unit 12	.08604
<hr/>	
	100.00

DEED BOOK 2632 PAGE 537

I, Donald W Blevins, County Court Clerk  
of Fayette County, Kentucky, hereby  
certify that the foregoing instrument  
has been duly recorded in my office.

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By: DOUG BRADLEY , dc

200603290212

March 29, 2006 14:15:15 PM

Fees	\$76.00	Tax	\$0.00
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Total Paid	\$76.00
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THIS IS THE LAST PAGE OF THE DOCUMENT

36 Pages

502 - 537