

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE VILLAGES OF KIRKWOOD HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION, is made this the 14 day of January, 2014, by THE VILLAGES OF KIRKWOOD HOMEOWNERS ASSOCIATION, INC., a Kentucky non-profit corporation (Kirkwood HOA).

WITNESSETH:

THAT, WHEREAS, Kirkwood Village Homeowner's Association, Inc., as of record at the Fayette County Clerk's Office, "Book 1784, Page 189", and The Villages of Kirkwood Homeowners Association, Inc., as of record at the Fayette County Clerk's Office, "Book 2179, Page 505", in order to create and maintain consistent management and Declaration of Covenants, Conditions and Restrictions have voted "November 26, 2012" to merge to be known hence forth as The Villages of Kirkwood Homeowners Association, Inc.;

WHEREAS, The Villages of Kirkwood Homeowners Association, Inc., a non-profit corporation, incorporated under the laws of the Commonwealth of Kentucky, is for the purposes of maintaining and administering the common facilities and administering and enforcing the covenants herein contained, including certain rights as to maintenance of the improvements and the collection of assessments and charges herein created;

NOW, THEREFORE, the Kirkwood HOA declares that all of the real property designated as 3101 and 3175 Kirklevington Drive also known as Sections 1 and 2, Lots 1 through 61 (further described in Article II), Fayette County, Kentucky, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants restrictions, easements, conditions, charges and liens hereinafter set forth which are declared to be covenants running with the land.

ARTICLE I

Definitions

As used herein, unless the context otherwise requires:

"Access and Parking Area" shall mean and refer to those areas as designated on the record plat of said development in Plat Cabinet J, Slides 651 & 653 and 787, as access easement.

"Association" shall mean and refer to The Villages of Kirkwood Homeowners Association, Inc., a Kentucky non-profit, non-stock corporation.

"Board" Shall mean the Board of Directors of the Association, duly elected and acting pursuant to the "By-Laws".

"By-Laws" shall mean and refer to the By-laws of the Association which are and shall be adopted by the Board, as they may from time to time be amended.

"Common Area" shall mean and refer to those areas designated as H.O.A. or common areas as shown on the Plat or Plats including all improvements and facilities located thereon, and easements granted therein and herein, to be devoted to the common use and benefit of the Owners of the Lots, and any areas so designated through Annexation or otherwise by Developer

as more specifically set out herein below.

"Common Area Expenses" shall mean those expenses necessary to provide for the maintenance of the Common Areas.

"Community-Wide Standard" shall mean styling of products and materials consistent with the original style and material quality as good or better than the original products, and materials with professional quality workmanship on any installation.

"Party Wall" shall mean and refer to the common walls between adjacent Units on the Lots.

"Patio Area" shall mean and refer to the fenced area and or patio, either of which is located and adjacent to each townhouse, and area with each lot of approximately twelve (12) feet by fourteen (14) to twenty (20) feet.

"Declaration" shall mean this Declaration of the Developer, as amended from time to time by the Kirkwood HOA.

"Lot" shall mean and refer to any tract of land shown upon the subdivision plat of the property described above and in Article II hereof.

"Member" shall mean and refer to all those owners who are members of the Association as hereinafter provide.

"Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of a fee simple title to any lot as herein defined; provided, however, the term owner shall not mean or refer to any mortgagee unless such mortgagee acquires title pursuant to a foreclosure action or any proceeding or conveyance in lieu of foreclosure.

"Property" shall mean the entire subdivision as described in Article II hereof.

"Submitted Property" shall mean all of Lots 1 through 61, Sections 1 and 2, of Kirklevington South (Kirkwood Village Apartments), as of record in Fayette County Clerk's Office, "Book 1784, Page 189 and Book 2179, Page 505".

"Townhouse" shall mean and refer to a dwelling unit built on a lot and shall include the adjacent enclosed courtyard and/or patio.

ARTICLE II

Property

Section 1. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration are Lots 1 through 61, inclusive of Kirklevington South (Kirkwood Village Apartments), Sections 1 and 2, Lexington, Fayette County, Kentucky, final record plats of which appears of record in the Fayette County Clerk's Office at Plat Cabinet J, Slides 651 & 653 and 787.

ARTICLE III

Membership and Voting Rights in the Association

Section 1. Membership. Every person or entity who is the Owner of Record of a fee simple or undivided interest in any lot which is subject to this declaration 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.

Section 2. Voting Rights. The Association shall have one class of voting membership:

Class A - All members shall belong to this class and shall be entitled to one vote for each lot in which they hold the interest required for membership. If more than one person is an Owner of any lot, all such persons shall be Members and the vote for such lot shall be exercised as they determine among themselves; but in no event shall more than one vote be cause with respect to any individual lot.

ARTICLE IV

Easements and Property Rights

Section 1. Members' Easements of Use and Enjoyment. Subject to the provisions of Section 3 of this Article, every Member shall have a right and easement for use of and enjoyment in the Common Area and the Access and Parking Area which includes the right of ingress and egress, and such easement shall be appurtenant to and pass with the title to every Lot. Every Member shall have the right to extend the rights and easements of enjoyment vested in him under this Article to each of his tenants and to each member of his family who resides with said Member and to such other persons as may be permitted by the Association, subject to the herms of this Declaration.

Section 2. Extent of Members' Easements of Use and Enjoyment. The rights and easements of use and enjoyment created by Section 2 of the article shall be subject to the following:

- (a) The right of the Association to borrow money for the purpose of acquiring, improving, and maintaining the Common Area and to maintain and/or execute a mortgage or mortgages on said area of security for such loan.
- (b) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure.
- (c) The right of the Association to regulate and assign parking spaces for each unit.
- (d) Any provision of the Declaration notwithstanding, the Association nor any Owner shall enter into any agreement or effect any conveyance to prevent the free and uninhibited use of the points of access for ingress and egress by the members, tenants, invitees, or licensees.

Section 3. Members' Easements of Utilities. Each Member shall have an easement in common with the Owners of other Lots to use, maintain, repair and replace all pipes and public

utility lines serving his Lot and located in or upon other Lots and townhouses. Each Member shall have an easement for the continuance of any encroachment by pipes and public utility lines now existing at the Lots as a result of the construction of the townhouses or as a result of the repair or restoration of any of the Lots, so that such encroachment shall remain undisturbed so long as the improvements stand. Each Lot shall be subject to an easement in favor of the owners of the other Lots to use, maintain, repair and replace the pipes and public utility lines serving such other Lot or Lots and located upon his Lot. Each Lot shall be subject to an easement in favor of the Owners of the other Lots for the continued maintenance of any encroachment by pipes and public utility lines now existing as a result of construction of the building or as a result of the repair or restoration of the Lots, so that any such encroachment may remain undisturbed so long as the improvements stand. Such easements shall be appurtenant to and pass with the title to every Lot.

Section 4. Association's Easement for Maintenance. The Association shall have a right and easement upon each Lot and Townhouse for the maintenance, painting, repairs or replacements which it is herein required or permitted to perform.

Section 5. Party Walls. Each wall which is built as a part of the original construction of the buildings upon the Lots and placed on the dividing line between the Lots shall constitute a Party Wall, and, to the extent not inconsistent with the provision of this Article, the general rules of law regarding party walls and liability for property damage due to the negligence or willful acts of omissions shall apply thereto. Pursuant to Article IX herein below, the Association shall be responsible for maintaining insurance on Party Walls, and the premiums therefore shall be shared by the Owners who make use of the wall in proportion to such use.

(1) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall which is not covered by any insurance policy maintained by the Association shall be shared by the Owners who make use of the wall in proportion to such use.

(2) Destruction by Fire or Other Casualty. Subject to the rights of the Association and any policies of insurance which it holds, if a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(3) Negligence of Owner. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements, thereby resulting in damage, shall bear the whole cost of furnishing the necessary repairs and protection against such elements.

(4) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

(5) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the Association shall have the right to act as arbitrator between and among Owners, and the decision of the Association shall be final.

Section 6. Signs. The Owners reserve and shall hereby have the right to erect and

maintain a conspicuous sign in front of any Lot or Lots it is advertising for sale.

Section 7. Dedication of Common Area. The Association shall have the right to dedicate or transfer all or any part of the Common Area, except those portions of the Common Area located upon a Lot or Lots to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3rds) of Members entitled to vote has been recorded.

ARTICLE V

Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Area. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and grass areas, paving and other improvements situated on the Common Area. The Association shall maintain and keep in good repair landscaping and grass areas within the boundaries of Townhouse Units. The Association shall maintain and keep in good repair all paved or concrete walkways, driveways, and parking areas, even though located partially or wholly within the boundaries of a Townhouse unit.

The Association shall provide exterior maintenance upon Townhouse Unit improvements as follows: repair, replace and care for roof surfaces and roof systems, gutters, downspouts, and all exterior building surfaces, except that the Association shall not be responsible for maintaining, repairing, or replacing entry doors and door frames, windows and window frames, glass, and the appurtenant hardware of the foregoing.

The Association shall have the right, but not the obligation, to maintain property owned by the Association where the Board has determined that such maintenance would benefit all Owners. The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

In the event that the Board of Directors determines that the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not covered or paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at the Owner's sole cost and expense and the cost thereof shall be included in the assessments against the Owner's Unit as provided herein.

The Association shall maintain, repair and replace any property for which such responsibility is specifically assigned to the Association by any Subsequent Amendment or additional declaration of covenants recorded in the Fayette County, Kentucky land records affecting any portion of the properties, provided such Subsequent Amendment or additional declaration is executed by or consented to by Declarant. If any such instrument is not executed by Declarant, the Declarant's written consent shall be attached thereto and recorded in the land records. In addition, the Association may, in the discretion of its Board, assume the maintenance responsibilities of any Subsequent Amendment or additional declaration subsequently recorded either by contract or agreement or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Properties.

Section 2. Owner's Responsibilities. Except as provided in Section 1, above, all maintenance of the Unit shall be the responsibility of the Owner thereof, including, without limitation, maintenance, repair and replacement of entry doors and door frames, windows and window frames, glass and the appurtenant hardware of the foregoing. In addition, the Owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all gas, electricity, water, sewer and air conditioning pipes, lines, ducts, conduits, and all other apparatus serving only the Unit).

In the event that the Board of Directors of the Association determines that any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder, the Association may perform the repair, replacement, or maintenance at the Owner's sole cost and expense. Except in the event of an emergency situation, the Association shall provide reasonable notice to the Owner of the Association's intent to provide such necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement. If the maintenance repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, or in an emergency situation the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Unit. When entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

ARTICLE VI

Specific Regulations of Use

Section 1. The Units shall be used for residential purposes only.

Section 2. The Association may, from time to time, impose certain restrictions as to the use of the Lots by and through its Board of Directors. An initial set of such specific regulations and prohibitions, which may be modified by the Association, is as follows:

(a) No private trucks or trailers, unlicensed motor vehicles of any type, recreational vehicles, boats, campers, trailers, or immobile vehicles or commercial vehicles of any type shall be permitted to remain overnight on the premises, other than as may be required by the Association in connection with maintenance, repair, or replacement of any element of the Property.

(b) Due to the unsightliness created and possible annoyance, no extensive work such as dismantling and repairing of motor vehicles, boats or machinery of any type shall be permitted on the Lots or Common Areas.

(c) No animals, livestock or poultry of any kind shall be kept or maintained on the Lots or Common Area except that dogs, cats or other household pets may be kept or maintained with Townhouses, provided that they are not kept or maintained for a commercial purpose and provided that they are not at any time kept, tied, chained, leashed or restrained in any way in such a manner as to permit them to be outside the

fenced courtyard, and except that they may be exercised, while under lease, in certain portions of the Common Area designated for such exercise.

(d) No awning, radio or television antennae or other projections shall be erected on the Lots or attached to or hung from the exterior of the Townhouses without the prior written approval of the Association.

(e) No drying or airing of any clothing or bedding shall be permitted outdoors except by each Owner within the respective fenced courtyard.

(f) No sign, notice, advertisement, or illumination shall be inscribed on, exposed at or projected from any window or other part of the Lots or Townhouses or Common Area without the prior, written approval of the Association, except for the Owners right to erect and maintain a sign in front of any Lot or Lots advertised for sale as defined in ARTICLE III, Section 6.

(g) No pools, games, or nets for such shall be outside of the fenced courtyard.

(h) No gardens may be maintained except for within the respective fenced courtyard for that Lot.

(i) Garbage and refuse from the Lots shall be deposited within the "Dumpster" containers provided by the association in several locations within the Common Area.

(j) Vehicles belonging to Member, members of their families, their tenants, invitees and licensees shall be parked in designated paved parking areas in the parking area and in such manner as to neither impede not prevent ready access to any other parking space by another vehicle.

(k) No further improvements of any nature (including, but not limited to, fencing enclosures, temporary buildings or tents or trailers, decorative or recreational structures, landscaping, flowers, plantings, brick and concrete work and awnings may be constructed, erected or placed outside the respective fenced courtyard for each Lot without the prior written approval of the Association. Fences shall be located according to a site plan prepared by the Developer showing the allowable location of fences for each Lot. Fencing done previously to the date of this document shall be considered "Grandfathered" and shall be the Owners responsibility for maintenance, repairs and replacement as needed to maintain the fence in good condition. New fences shall be erected in accordance with the site plan as prepared by the developer, approved, in writing, by the Board of Directors and shall be no more than six feet (6) high and shall be of a shadowbox style.

(l) No structural additions, alterations or improvements may be made on any of the Lots without the prior written approval of the Board of Directors.

(m) No noxious or offensive activity shall be conducted on the Lots or Common Area nor shall anything be permitted to be done thereon which may be or may become an annoyance or nuisance.

(n) Draperies on exterior windows in the Townhouses must have white or off white backings.

(o) No trees shall be cut from an Lot without permission in writing from the majority vote of the Board of Directors of the Association.

(p) Roofing and other exterior repairs, maintenance and replacement shall be of a quality that is equal to, or better than, the original.

(q) The Association shall, from time to time, as it deems appropriate, be responsible for repairing exterior trim.

(r) Any exterior color changes shall be approved, in advance, by the Board of Directors.

ARTICLE VII

Duties of the Association

Section 1. In addition to the powers and duties otherwise set forth in this Declaration, the Association is authorized to make provision for the improvement and maintenance of the Common Area and certain repairs and reconstruction of improvements on the Lots as hereinafter provided and to adopt rules and regulations for the use of the Common Area and generally to take such action as is necessary to accomplish the purposes of this Declaration.

Section 2. The Association shall promote the health, safety and welfare to the Owners, which duties shall include, but not limited to:

(a) Payment of all taxes or government assessments and insurance if any, upon the Common Area (provided, however, that taxes and assessments on those portions of the Common Area located upon Lots shall be paid for by the respective Lot Owner.

(b) Repair and maintenance of the Common Area;

(c) Maintenance, repair or replacement of sanitary sewer and storm sewer lines not maintained by the Lexington-Fayette Urban County Government;

(d) Garbage removal service for the entire property;

(e) Snow removal from the Common Area and all sidewalks;

(f) Cutting of grass and general maintenance of landscaping and plantings on the Lots and Common Area, excluding the courtyards;

(g) Maintenance, repair and replacement of the roofs of Townhouses;

(h) Painting all paintable exterior surfaces of the Townhouses; and,

(i) Carrying and maintaining policies of insurance as more particularly set forth in ARTICLE IX hereof.

Section 3. The Board of Directors of the Association shall propose rules and regulations

for adoption by the Members. Written notice of any meeting to consider said rules and regulations or any amendments thereto shall be given in writing to all Members at least thirty (30) days in advance and shall set forth the time, place and purpose of the meeting and shall contain a proxy which may be delivered or mailed to the Board of Directors prior to the date of the meeting. The presence at the meeting of Members in person or by written proxy entitled to cast fifty (50%) percent of all of the votes shall constitute a quorum for this purpose.

Section 4. The Treasurer of the Association shall maintain, or may designate the duty to a manager, a detailed account of the receipts and expenditures of the Association as well as the maintenance and repair expenses of the Common Area and any and all other expenses incurred by or in behalf of the Association. These books and vouchers accrediting the entries shall be made accessible to the Members at any and all reasonable times. Further, the books of the Association shall be audited at least once each year by an independent auditor, or the Board of Directors may, in its own discretion, perform a self audit, as determined appropriate at any time.

ARTICLE VIII

Covenant For Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. Owners for each Lot owned by them within the Property, hereby covenant, and each subsequent Owner of any Lot, by acceptance of a deed therefore, whether or not it may be so expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay the Association: (1) initial assessments; (2) annual assessments for repairs, maintenance and insurance; (3) special assessments for capital improvements to the Common Area or extraordinary repairs or replacements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (4) charges for the breach of any Owner of the provisions of the Declaration. The annual and special assessments and charges, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be continuing lien upon the Lots against which each such assessment or charge is made. Each such assessment or charge, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was Owner of such Lot at the time when the assessment fee due or charge effected.

Section 2. Annual Assessments.

(1) Purpose. The assessments levied by the Association shall be used primarily for accomplishing those duties contemplated by ARTICLE VII hereof, and such other purposes as the Association shall deem necessary and appropriate to fulfill the purposes of the Declaration.

(2) Basis and Maximum of Annual Assessments. Beginning at a time determined by the Board of Directors, the annual assessment will be set by a vote of the Members, as hereinafter provided. Any such annual assessment shall be automatically extended unless changed or reduced as herein provided. The Association may increase the basis of the assessments for any such period provided that any such change shall have the assent of more than fifty (50%) percent of the authorized vote or by proxy, at any annual meeting or at a meeting of Members duly called for this purpose. Written notice of which shall be sent to all Members at least twenty (20) days in advance and shall set forth the time, place and purpose of the meeting.

(3) Payment of Annual Assessments. Each Owner shall pay to the Association in advance on the first day of every January, the annual assessment which shall be established by the Association for the operation of the Association and the care, maintenance and improvements of the Property and the Common Area hereinabove authorized. Each Lot shall be subject to a lien to secure the assessment established against it.

Section 3. Special Assessments. The Board may issue special assessments for capital improvements to the Common Area, or for the repair or replacement of extraordinary items in the Common Area, such as sanitary or storm sewer lines or major roof repair or replacement not covered by insurance. Special assessments shall be based on the cost of the improvements, repair or replacement project being undertaken. The total of the special assessment shall be divided among the Owners in proportion to their ownership of the Common Area, and each Lot shall be subject to a lien to secure the special assessment established against it. If the special assessment is for capital improvements, such improvements shall have the assent of more than fifty (50%) percent of the authorized votes of the Members voting in person or by proxy, at any annual meeting or any meeting called for this purpose, written notice of which shall be sent to all Members at least twenty (20) days in advance and shall set forth the time, place, and purpose of the meeting. Owners shall be notified, in writing, of all special assessments, which notice shall specify the amount and reason therefore. Special assessments shall become due and payable fifteen (15) days after the date of mailing of the aforesaid notice.

Section 4. Charge for Default. In the event there is any breach by any Owner of any provisions of the Declaration, including, without limitation, failure to reconstruct or maintain the Owner's Lots or improvements incidental thereto as required herein, which breach shall require an expenditure by the Association, the Board may levy a charge against the Lot of the defaulting Owner or Owners, which charge shall constitute a lien against the Lot of said defaulting Owner or Owners, which charge shall constitute a lien against the Lot of said Owner as indicated in Section 1 of this Article.

Section 5. Certain Duties of the Board of Directors. The Board of the Association shall give written notice of the amount of the annual assessment and the amount and the due date of any special assessment against each Lot at least thirty (30) days in advance of the due date and shall, at that time, prepare a roster of the Lots and the assessments applicable thereto, which shall be kept by the Treasurer of the Association or may designate the duty to a manager, and shall be open to the inspection by any Owner.

The Association shall, upon demand at any time, furnish to any Owner liable for any annual or special assessment a Certificate in writing signed by an officer of the Association, setting forth whether said assessment or assessments have been paid and whether there are any unpaid charges against the Lot. Such Certificate shall be conclusive evidence of payment of any assessments or charges therein stated to have been paid.

Section 6. Effect of Non-Payment. If the assessments or charges are not paid on the date when due, then such shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon becoming a continuing lien on the Lot or Lots binding upon the then Owner, his heirs, devisees, personal representatives, successors and assigns.

The same shall bear interest from the date at the rate of twelve (12%) percent per annum, and the Association may institute an action to recover the same and to foreclose the lien against

the Lot, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and such costs of the action as are permitted by law, including, but not limited to, reasonable attorney's fees.

Section 7. Quorum for any Action Authorized Under Section 2. The quorum required for any action authorized by Section 2 hereof shall be the presence at the meeting of Members, in person or by proxy, entitled to cast fifty (50%) percent of all the votes of the Members.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments or charges provided herein shall be subordinate to the lien of any bona fide mortgage or mortgages now or hereafter placed upon the Lots subject to assessment; provided, however, that such subordinations shall apply only to the assessments or charges which have become due and payable prior to a sale or transfer of such property pursuant to a judgment and order of sale in a foreclosure action, or any other proceedings or conveyance in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessments or charges thereafter becoming due, nor from the lien of any such subsequent assessment or charge.

ARTICLE IX

Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements of the Common Area. If blanket all-risk coverage is not reasonably available, the at a minimum an insurance policy providing fire and extended coverage shall be in an amount sufficient to recover on hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

Premiums for all insurance on the Common Area shall be common expenses to the Association and shall be included in the General Assessment, as more particularly described in Article VIII. 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 deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

In addition to casualty insurance on the Common Area, the Association shall obtain and continue to effect adequate blanket all-risk casualty insurance in such form as the Board of Directors deems appropriate for one hundred (100%) percent of the replacement cost of all structures, primarily Townhouse Units, located on Lots and/or Common Area, and charge the costs thereof to the Owners within the benefited area as a Special Assessment, as defined in Article VIII hereof. The cost of insurance for the Townhouse Units shall be apportioned among the Owners of same in an amount proportionate to the cost that each Unit bears to the total cost of Units constructed.

Insurance obtained on the Townhouse Units shall at a minimum comply with the applicable provisions of this Section 1, including the provisions of this Article applicable to policy provisions, loss adjustments, and all other subjects to which this Article applies with regard to insurance on the Common Area. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance to be furnished to each Member insured and to the Association, as applicable.

The Board shall also obtain 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 or agents. If reasonably available, the public liability policy shall have at least a One Million (\$1,000,000.00) Dollar combined single limit.

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, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Kentucky which holds a Best's rating of "A" or better and is assigned a financial size category of "XI" or larger as established by A. M. Best Company Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All policies on the Common Area shall be for the benefit of the Association and its members as their interests may appear: and all policies secured for the benefit of any Unit or Units shall be for the benefit of the Association, the Owner of the Unit(s), and the mortgagees, as their interests may appear.

(c) 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; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related hereto.

(d) 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.

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

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

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

(ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash:

(iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of 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;

(v) that any "other insurance" clause in any policy exclude individual Owner's policies from consideration; and,

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

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, Worker's 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 directors' 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. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Unit(s) and structures constructed thereon in such form as the Board of Directors deems appropriate for one hundred (100%) percent of the replacement cost of all structures located on the Unit(s), unless the Association carries such insurance. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures comprising his Unit, the Owner shall proceed with all due diligence and commence to repair or to reconstruct the damaged structure within sixty (60) days after the damage occurs and to complete repairs or reconstruction within one hundred twenty (120) days after damage occurs in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX of this Declaration and the Owner shall pay any costs of any repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner shall proceed with all due diligence and commence to rebuild and reconstruct within (60) days after the damage occurs and to complete repairs or reconstruction within two hundred forty (240) days after damage occurs in a manner consistent with the original construction of such other plans and specifications as are approved in accordance with Article XI of this Declaration and the Owner shall pay any costs of repair or reconstructions which are not covered by insurance proceeds.

The association may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units subject to its jurisdiction

And the standard for returning the Units to their natural state in the event the structures are not rebuilt or reconstructed.

Section 3. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies 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 as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and the Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the

Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 4. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by the insurance written in the name of the Association, 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 of the damage or destroyed Properties. Repair or reconstruction, as used in the paragraph, means repairing or restoring the properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in the applicable building code.

(b) Any damage or destruction to the Common Area or Unit(s) shall be repaired or reconstructed unless the Members representing at least fifty (50%) percent of the total vote of the Association shall decide within forty-five (45) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid are 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, as appropriate, with said period, 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.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area or Unit(s) 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.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such 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 of any repair or reconstruction.

ARTICLE X

Mortgages

Each Owner shall have the right, subject to the provisions herein, to make separate mortgages for his respective Lot or Lots. No Owner shall have the right or authority to make or create, or cause to be made or created from the date hereof, any mortgage or other lien on or affecting the property or any part thereof, except only to the extent of his own Lot or Lots and right to use the Common Area corresponding thereto as set forth herein.

ARTICLE XI

Architectural Control

No building, fence, wall or other structure shall be commence, erected or maintained upon the Lot or Lots, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and locations in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and the Article will be deemed to have been fully complied with.

ARTICLE XII

General Provisions

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns unless changed or amended as herein provided, for a term or twenty-five (25) years from and after the date hereof, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3rds) of the Lots has been recorded, agreeing to such change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recoded at least thirty (30) days in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least sixty (60) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such notice. Or, notices may be electronically sent to the e-mail address of Owner or Member on record at the time of such notice.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding of law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Amendment. Any provision of these covenants may be amended or changed in whole or in part by an instrument signed by not less that the Owners of two-thirds (2/3rds) of the Lots, provided, however, that no such agreement to change shall be effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least thirty (30) days in advance of any action taken.

Section 5. Severability. Invalidation of any provision hereof by judgment or court order


shall in no way affect any other provisions which shall remain in full force and effect.

Section 6. General Restrictions. The Kirkwood HOA explicitly reserves the right (without being obligated) to impose general restrictions pertaining to the use and occupancy of the Lots, including, without limitation, the right to approve the plans and specifications for improvements to be erected upon the Lots and to grant easements to public utilities and to do and perform such other acts relating to the development of the Properties as may be required by the Lexington-Fayette Urban County Planning and Zoning Commission, or any governmental entity having jurisdiction over said premises.


Section 7. Assignment. The Board of Directors reserves the right to assign its rights, privileges, benefits and obligations hereunder to a successor, provided that such successor specifically agrees, in writing, to assume the same.

IN WITNESS WHEREOF, the Board of Directors has executed this Declaration by and through two (2) of its duly authorized officers on the day and year first above written.

THE VILLAGES OF KIRKWOOD
HOMEOWNERS ASSOCIATION, INC., a
Kentucky non-profit corporation



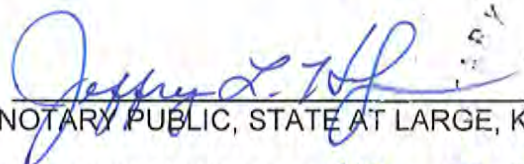
Lori McGenical, President



Clayton Hagan, Treasurer

LORI MCGENICAL, PRES. & CLAYTON HAGAN, TREASURER

This instrument was signed, sworn to and acknowledged before me on this the 14th day of January, 2014.



NOTARY PUBLIC, STATE AT LARGE, KY
My Commission Expires: May 17, 2017

PREPARED BY
WM. E. HELLARD
3418 WOODSTOCK CR.
LEXINGTON, KY 40502



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



By: PATTY DAVIS ,dc

201401150151

January 15, 2014 12:37:57 PM

Fees \$52.00 Tax \$.00

Total Paid \$52.00

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17 Pages

533 - 549