

DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS

CREEK PARTNERS, LLC
LOCUST CREEK SUBDIVISION, PHASE 1
JEFFERSON COUNTY, KENTUCKY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Locust Creek Subdivision, Phase I, is made on this 31st day of August 2001, by Creek Partners, LLC, a Kentucky limited liability company, 1510 Citizens Plaza, 500 West Jefferson Street, Louisville, Kentucky 40202, hereinafter referred to as "Developer."

WHEREAS, Developer is the owner of certain real property in Jefferson County, Kentucky, to be developed as a residential subdivision.

NOW, THEREFORE, Developer hereby declares that all of the property described in this instrument shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of the real property. The easements, restrictions, covenants, and conditions shall run with the real property and shall be binding on all parties having any right, title, or interest in it, their heirs, successors, and assigns, and shall inure to the benefit of each owner.

ARTICLE 1 PROPERTY SUBJECT TO THIS DECLARATION

SECTION 1:

The Property. The real property which is subject to this Declaration is located in Jefferson County, Kentucky, and is more particularly described as follows:

BEING Lots 1 through 74 as shown on the plat of Creek Partners, LLC, Phase I, of record in Plat and Subdivision Book 47 - Page 69-70, in the Office of the Clerk of the County Court of Jefferson County, Kentucky.

BEING Phase I as shown on the Minor Subdivision Plat produced by Sabak, Wilson & Lingo, Inc., and approved by the Louisville and Jefferson County Planning Commission on December 12, 2000 under Docket No.

306-00, the original of which is of record in Deed Book 7559, Page 354, in the Office of the Clerk of the County Court of Jefferson County, Kentucky,

BEING the same property acquired by Creek Partners, LLC, by Deed from Maurice M. Sweeney, a single man, and Deryl L. Sweeney and Catherine A. Sweeney, husband and wife, dated June 5, 1998, of record in Deed Book 7050, Page 0066, and Deed from Sweeney Farm Family Limited Partnership dated December 13, 2000, of record in Deed Book 7559, Page 0354, both Deeds of record in the Office of the Clerk of the County Court of Jefferson County, Kentucky.

SECTION 2:

Additions to Existing-Property Additional lands may become subject to this Declaration in any of the following manners:

- A. Additions in Accordance with a General Plan of Development- Developer intends to make this Phase I containing seventy-four (74) lots a part of a larger community to be developed in accordance with current plans and known as Locust Creek. Additional land may be included by Developer as other sections of Locust Creek within twenty (20) years from August 1, 2001, and may include a multi-family development and certain common properties. Developer reserves the right to create cross easements and to restrict all the properties according to the terms of the Declaration. The common areas initially covered by this Declaration shall inure to the benefit of the owners of any new lots which may become subjected to this Declaration and the common areas allocable to the owners of any new lots shall inure to the benefit of the owners of lots recorded earlier, each to enjoy the common areas of the other and to have and to hold the same as if each new lot had been developed and subjected to this Declaration simultaneously.

Additionally, other adjacent property under the purchase contract to Creek Partners, LLC by Maurice M. Sweeney and Deryl L. Sweeney, now "Sweeney Farm Family Limited Partnership", may be added to the property subject to this Declaration.

All additions shall be made by the filing with the Office of the Clerk of Jefferson County, Kentucky, a Supplemental Declaration of Covenants, Conditions, and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property. The Supplemental Declaration may contain additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration.

- B. Other Additions-Additional residential property and common areas which are not presently a part of the general plan of development may be annexed to Locust Creek by Developer.

ARTICLE 11 USE RESTRICTIONS

SECTION 1:

Primary Use Restrictions. No lot shall be used except for private single-family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except for one single-family dwelling designed for the . occupancy of one family. Said single-family dwellings are designed for the occupancy of one family (including domestic servants living on the premises), not to exceed two and one-half stories in height, having a single kitchen, and containing a garage for the sole use of the owner and occupants of the lot.

For purposes of this Declaration, there shall be specifically excluded from the meaning of the phrase "private single-family residential purposes" and shall not be permitted on any lot within Locust Creek Subdivision, Phase 1, regardless of whether any of the same would otherwise be permitted by any applicable zoning regulations or other governmental laws, rules, or regulations, any uses which constitute or relate to (a) boarding houses, (b) lodging house, (c) fraternities or sororities, (d) clubs, (e) hotels, (f) residences or homes for social rehabilitation, (g) nursing homes, (h) residences or homes for the aged or infirmed, (i). programs with respect to which admission to residency in or occupancy of the premises is limited to or intended in whole or in part for persons in the custody of the criminal justice system and/or persons engaged in the care, custody, nurturance, or supervision of such persons, (j) any Exceptional Residential Use (as presently defined in Article 2 of the Regulations of the Louisville and Jefferson County Planning Commission), and

(k) any "group home" or other similar use as determined by Developer and/or the Board.

SECTION 2:

Nuisances. No noxious or offensive trade or activity shall be conducted on any lot nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

SECTION 3:

Use of Other Structures and Vehicles.

- A. No structure of a temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a builder or developer which shall be removed when construction or development is completed; it being provided, however, that nothing herein contained shall prevent any lot owner from constructing, erecting, or maintaining any recreational structure (such as a gazebo, small playhouse, swing set, jungle gym, or the like) on any lot provided that the plans for such shall have been approved in writing by Developer under Article III prior to the construction of any such recreational structure.
- B. No outbuilding, trailer, basement, tent, shack, garage, barn, or other structure other than the main residence erected on the lot shall at any time be used as a residence, temporarily or permanently.
- C. No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle, or boat shall be parked or kept on any lot at any time unless housed in a garage or basement. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any lot (except in the garage) or on any street in the subdivision. No trailer, boat, truck, or other vehicle, except an automobile, shall be parked on any street in the subdivision for a period in excess of twenty-four (24) hours in any one calendar year.
- D. No automobile shall be continually or habitually parked on any street or public right-of-way in the subdivision.

- E. All garage doors shall remain closed at all times except when required to be open for the entrance or exit of a vehicle housed therein.

SECTION 4:

Animals. No animals, including reptiles, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept; provided, however, that they are not bred or maintained for any commercial breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the lot occupied by the owner of such pet or shall be restrained by a leash.

SECTION 5:

Clothes Lines, Tennis Courts, Swimming, Pools, Antennae and Receivers/Transmitters, Yard Ornaments.

- A. No outside clotheslines shall be erected or placed on any lot.
- B. No wall, hedge, or fence shall be placed or planted on any lot unless its design and placement of planting are approved in writing by Developer or by any person or association to whom Developer may assign the right. Fence material is to be of wood, masonry, brick, or possibly wrought iron and shall be landscaped. Fencing for children, small pets, or for swimming pool enclosures may be considered. Chain link fences will not be approved except as provided in Section 5(C) herein below. Privacy screens for patios shall not be considered fences as defined in this subparagraph; however, no patio privacy screen shall be placed or erected on any lot unless its design and placement are approved in writing by Developer or by any person or association to whom Developer may assign the right.
- C. No tennis court and fence shall be erected on any Lot in the subdivision unless the fencing is coated with black or green vinyl acceptable to Developer and the plans for such tennis court and fence have been approved by Developer in writing pursuant to Article 111 hereof.
- D. No in ground swimming pools shall be erected or placed on any lot unless approved in writing by Developer or by any person or

association to whom Developer may assign the right. No aboveground swimming pool shall be erected or placed on any lot.

- E. No antennae (except for standard small television antennae) or microwave and other receivers and transmitters (including those currently called "satellite dishes") shall be erected or placed on any lot unless (i) the lot owner can show special circumstances requiring the use of extraordinary receivers or transmitters [small digital satellite dishes of eighteen (18) inches or less shall probably satisfy this subsection -(i)]; (ii) the device is adequately screened or buffered by mature shrubbery or trees, by terrain, or by fences or other structures; and (iii) its design and placement are approved by Developer or by any person or association to whom it may assign the right, all as provided under Article 111. By granting permission to a lot owner to erect receivers or transmitters, Developer shall not be deemed to have waived this restriction as it may apply to other lots in Locust Creek.
- F. No ornamental yard objects, statuary, or sculpture, etc.. shall be placed on any lot unless its design and placement are approved in writing by Developer or by any person or association to whom Developer may assign the right, all as provided under Article 111.
- G. Developer reserves the right to place a fence on the perimeter of the subdivision or to replace existing fences in the future. Fences placed will be the responsibility of the Community Association for maintenance and repairs.
- H. No basketball goals or other goals, nets, skateboard ramps, or any other sports equipment of any nature whatsoever shall be placed on any lot unless its design and placement are approved in writing by Developer or by any person or association to whom Developer may assign the right.

SECTION 6:

Business, Home Occupations. No trade or business of any kind (including but not limited to the practice of medicine, dentistry, chiropractic, chiropody, osteopathy and other like endeavors) shall be conducted on any lot other than personal and private business which does not increase traffic to the property nor shall anything be done thereon which may become an annoyance or nuisance to

the neighborhood. Notwithstanding the provisions hereof, or of Section 1 of this Article II, a new house may be used by a builder thereof as a model home for display or for the builder's own office provided said use terminates within eighteen months from completion of the house or upon such additional period of time as may be expressly agreed to in writing by Developer.

SECTION 7:

Signs. No sign or advertising or for any other purpose shall be displayed on any lot or on a building or a structure on any lot, except one sign by the builder and one sign by the real estate agent or lot owner advertising the sale or rent thereof, which shall not be greater in area than nine square feet each; provided, however, Developer shall have the right to (i) erect larger signs when advertising the subdivision, (ii) place signs on lots designating the lot numbers; and (iii) following the sale of a lot, place signs on such lot indicating the name of the purchaser. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

SECTION 8:

Drainage, Erosion, Sediment Control.

- A. Drainage of each lot shall conform to the general drainage plans of Developer for the subdivision. No storm water drains, roof downspouts, or ground water shall be introduced into the sanitary sewage system. Connections on each lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.
- B. It shall be the further responsibility of each lot owner to prevent mud, dirt, silt, gravel, or other debris from washing, draining, or being otherwise deposited upon any street, stream, or swale in Locust Creek. This requirement is in keeping with the Federal Clean Water Act which has been adopted by the Commonwealth of Kentucky and the Erosion Prevention and Sediment Control Ordinance as adopted by the Jefferson County Fiscal Court.
- C. Developer shall provide each lot owner a detailed drainage plan for each lot, and lot owner shall conform any construction on any lot to such drainage plan. It shall be the responsibility of each lot owner to ensure that the grading of his lot shall comply with the drainage plan. If drainage is blocked or altered, then

lot owner shall correct the problem at his expense or Developer, or its individual. or association assignee, may correct the problem and lot owner shall be responsible for any costs or expenses to correct the problem.

SECTION 9:

Disposal of Trash. No lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. No trash or garbage or other waste shall be kept except in sanitary containers. If trash is placed on the lot, the lot owner must remove it within thirty (30) days.. Developer shall select the sanitary disposal company responsible for the collection of trash and garbage for all Lot Owners in Locust Creek and no other company shall be used without the express written approval of Developer or any person or association to whom Developer may assign the right.

SECTION 10:

- A. Underground Utility Service. Each lot owner's electric, gas, sewer, cable television, and telephone utility service lines shall be underground throughout the length of the service line from Louisville Gas & Electric's (hereinafter "LG&E"), Western Kentucky Gas' (hereinafter "WKG"), Metropolitan Sewer District's (hereinafter "MSD"), Storer Cable's (hereinafter "Storer Cable"), and Bell South's (hereinafter "Bell South") respective points of delivery to the customer's building. Title to the service lines shall remain in and the cost of installation and maintenance thereof shall be borne by the lot owner upon whose lot the service line is located.

Appropriate easements as shall be acceptable to Developer are hereby dedicated and reserved to LG&E, WKG, MSD, Storer Cable, and Bell South together with the right of ingress and egress over abutting lots or properties to install, operate, and maintain electric, gas, sewer, cable television, and telephone service lines from each lot to LG&E's, WKG's, MSD's, Storer Cable's, and Bell South's respective termination points. Electric, gas, sewer, cable television, and telephone service lines, as installed, shall determine the exact location of said easements.

The electric, gas, sewer, cable television, and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment

thereon and no change in the grade or elevation thereof shall be made by any person or lot owner without the express written consent of LG&E, WKG, MSD, Storer Cable, and Bell South.

- B. Easements for distribution feeder lines, poles, and equipment appropriate in connection therewith are reserved over, across, and under all spaces (including park, open, and drainage space area) outlined by dash lines and designated for underground and overhead facilities.

Aboveground electric transformers and pedestals may be installed at appropriate points in any electric or other easement.

In consideration of bringing service to the property shown on the plat, LG&E, WKG, and Bell South are granted the right to make further extensions of their lines from ail overhead and underground distribution lines.

- C. The- electric, gas, sewer, cable television, and telephone easements dedicated and reserved in the plat for Locust Creek Subdivision, Phase I, shall include easements for the installation, operation, and maintenance of cable television service to the lots, common areas, clubhouse, and recreational facilities, including the underground installation and service of coaxial cables, cable drop wires, converters, home terminal units, and other necessary or appropriate equipment, as well as easements for the installation, operation, and maintenance of future communications, telecommunications, and energy transmission mediums.

SECTION 11:

Duty to Maintain Lot.

- A. From and after the date of purchase of a lot until construction of a single-family residence is begun. Developer shall have the exclusive right to perform all maintenance on the lot, including but not limited to mowing. Each owner shall be assessed an annual fee payable in January at the rate of \$20.00 per month for the first year following the date the lot owner acquires title to a lot; thereafter, Developer may assess the lot owner at an amount Developer determines necessary to maintain the lot.

- B. From and after the date construction of a single-family residence on a lot is begun, it shall be the duty of each lot owner to keep the grass on the lot properly cut, to keep the lot free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Should any owner fail to do so, then Developer, or its individual or association assignee, may take such action as it deems appropriate, including maintenance and repair, in order to make the lot neat and attractive, the owner shall, immediately upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer, or its individual or association assignee, shall have a lien on that lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that lot and the improvements thereon, but such lien shall be subordinate to any then existing first mortgage thereon.

SECTION 12:

. Obligation to Constructor Re-convey. If within twenty-four (24) months after the date of conveyance of a lot without a dwelling thereon the lot owner has not begun in good faith the construction of a single-family dwelling approved according to Article 111 hereof upon each lot conveyed, developer may elect to repurchase any and all lots on which construction has not commenced for the original purchase price in the Deed of said lot or lots hereunder, in which event the lot owners shall immediately re-convey and deliver possession of said lot or lots to Developer by Deed of Special Warranty. The obligations, duties, and requirements of this Section 12 shall run to and benefit Developer only, may be waived or extended by Developer, and shall not pass to or extend to the Residents' Association.

SECTION 13:

Duty to Repair and Rebuild.

- A. Lot owners shall, at their sole cost and expense, repair their residence, keeping it in a condition comparable to that at the time of its initial construction, excepting normal wear and tear.
- B. If all or any portion of a residence is damaged or destroyed by fire or other casualty, then the owner shall, with ail due - diligence, promptly rebuild, repair, or reconstruct' such

residence in a manner which will substantially restore it to its apparent condition immediately prior to the casualty.

SECTION 14:

Rules for Common Areas. The Community Association is authorized to adopt rules for the use of the common areas and such rules shall be forwarded in writing to all lot owners.

ARTICLE III
ARCHITECTURAL CONTROL

SECTION 1:

Approval of Construction and Landscape Plans.

- A. No modular units, Styrofoam formed poured concrete walls, or any other type of off-site pre-fabricated structures will be allowed. All structures will consist of conventional frame walls and roofs that are "stick built" on site and will consist of dimensional lumber. The Developer reserves the right to approve trusses that may be required due to spans and loads as shown on approved plans.
- B. No structure may be erected, placed, or altered on any lot until the construction plans, building specifications, plot plan, and builder checklist are submitted showing (i) the location of improvements on the lot, (ii) views of the house (front, rear, and side elevations), (iii) the relationship of the finished grade of the front or side yard to the top of the curb, (iv) the direction of the drainage on the lot, (v) the type of exterior material (including delivery to Developer of a sample thereof, if requested), (vi) the color of paint or stain to be applied to any exterior surfaces (including delivery to Developer of a sample thereof, if requested), and (vii) the location and size of the driveway (which shall be exposed aggregate concrete and/or brick or stone) shall have been approved in writing by Developer.
- C. References to "developer" shall include any entity, person, or association to whom Developer may assign the right of approval. References to "structure" in this paragraph shall include any building (including a garage), fence, wall, privacy screen, antennae (except for standard small television

antennae), and microwave and other receivers and transmitters (including those currently called "satellite dishes").

SECTION 2:

Building Materials. Roof, Builder, Paint Colors, Foundation. Fences-

- A. The exterior building material of all structures shall be either brick, stone, brick veneer, or stone veneer, or a combination of the same, and shall extend to ground level. However, Developer recognizes that the appearance of other exterior building materials (such as wood siding, stucco, drivet, or the like) may be attractive and innovative and reserves the right to approve in Writing the use of other exterior building materials.
- B. The roof pitch of any residential structure shall not be less than a plane of nine (9) inches vertical for every plane of twelve (12) inches horizontal
- C. Prior to the commencement of construction on any lot, the general contractor constructing such structure shall have the plan approved in writing by Developer. Developer makes this requirement to maintain high quality of construction within Locust Creek.
- D. The color of any paint or stain to be applied to exterior-surfaces, whether original application or later reapplication, must be approved by Developer or its successor (including the Residents' Association, if assignee).
- E. No wall, hedge, or fence shall be placed or planted on any lot unless its design and placement of planting are approved in writing by Developer or by any person or association to whom Developer may assign the right. Fence material is to be of wood, masonry, brick, or possibly wrought iron and shall be landscaped. Chain link fences will not be approved except as provided in Article 11, Section 5(C), hereinabove. Privacy screens for patios shall not be considered fences, as defined in this paragraph; however, no patio privacy screen shall be placed or erected on any lot unless its design and placement are approved in .writing by Developer or by any person or association to whom Developer may assign the right.

SECTION 3:

Minimum Floor Areas. Elevations. The following shall be the minimum floor areas for homes to be constructed after this instrument is recorded:

- A. The ground floor of a ranch (one-story) house shall have the minimum floor area for the lots as hereinafter described:
 - i) Lots 2-5 - a total minimum area of 3,000 square feet, exclusive of garage, with a minimum home width of 70 feet; •
 - ii) Lots 6-41 and Lots 45-65 - a total minimum area of 2,400 square feet, exclusive of garage, with a minimum home width of 60 feet;
 - iii) Lots 42-44 and Lots 66-74 - a total minimum area of 2,200 square feet, exclusive of garage, with a minimum home width of 55 feet.

- . B. The ground floor for a one and one-half story house shall be a minimum floor area for the lots as hereinafter described:
 - i) Lots 2-5 - 2,200 square feet for the first floor with a total minimum area of 3,600 square feet, exclusive of garage, with a minimum home width of 70 feet;
 - ii) Lots 6-41 and Lots 45-65 - 2,000 square feet for the first floor with a total minimum area of 2,800 square feet, exclusive of garage, with a minimum home width of 60 feet;
 - iii) Lots 42-44 and Lots 66-74 - 1,750 square feet for the first floor with a total minimum area of 2,600 square feet, exclusive of garage, with a minimum home width of 55 feet.

- C... The ground floor for a two-story house shall be a minimum floor area for the lots as hereinafter described:
 - ij) Lots 2-5 - 1,800 square feet for the first floor with a total minimum area of 3,600 square feet, exclusive of garage, with a minimum home width of 70 feet;
 - ii) Lots 6-41 and Lots 45-65 - 1,400 square feet for the first floor with a total minimum area of 2,800 square feet, exclusive of garage, with a minimum home width of 60 feet;

- iii) Lots 42-44 and Lots 66-74 - 1,300 square feet for the first floor with a total minimum area of 2,600 square feet, exclusive of garage, with a minimum home width of 55 feet.
- D. Up to five feet (5') of the required minimum home width defined hereinabove may be achieved with a wing wall.
- E. The total floor area of all other types of houses for Lots 6-74 shall be a minimum floor area of 2,800 square feet, exclusive of garage.
- F. Finished basement areas, garages, and open porches are not included in computing floor areas.

SECTION 4:

Setbacks. Sills, belt courses, bay windows, cornices, eaves, porte-cocheres or canopies may project a distance not to exceed 18 inches into the required yard. An open, unenclosed porch or paved terrace may project into a required front yard for a distance not to exceed 10 feet.

SECTION 5:

Garages, Carports. All lots shall have at least a two car attached garage. Front entries to garages shall not be permitted. No detached garages or carports are allowed. Garages, as structures, are subject to prior plan approval under Section 1 hereof.

SECTION 6:

Landscaping, Sidewalks, Driveways, Trees.

- A. Within sixty (60) days of the final completion of construction of a residence, the lot owner shall grade, sod, and landscape that portion of the lot between the front and street side walls of the residence and the pavement of any abutting streets. Developer, in its sole discretion, may extend or postpone this sixty (60) day period to allow for weather conditions.
- B. Each lot owner shall provide an exposed aggregate concrete and/or brick or stone driveway within three (3)' months after

completion of a single-family dwelling. No asphalt driveway will be permitted on any lot.

- C. Each lot owner shall cause a sidewalk to be constructed on each lot the earlier of (i) within ninety (90) days from the date of construction of a residence or (ii) when 80 percent of the lots in this Phase have begun whether or not the lot owner has begun construction on that particular lot.
- D. Upon final completion of construction of a residence, the lot owner shall cause to be planted two (2) trees (at least three inches in diameter) in the front yard of the lot and, where the lot is a corner lot, two (2) of such trees in the street side yard. These trees shall be in addition to any trees planted in the right-of-way by Developer or other performing party.
- E. Upon a lot owner's failure to comply with the provisions of this Section 6, Developer may take such action as necessary to comply therewith and the lot owner shall immediately upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer shall have a lien for such expenses and statutory interest on that lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that lot and the improvements thereon, but such lien shall be subordinate to any first mortgage thereon.

SECTION 7:

Mail and Paper Boxes. A black mailbox and paper holder selected and approved by the Developer will be placed by and at the lot owner's expense.

ARTICLE IV COMMUNITY ASSOCIATION

SECTION 1:

Community Association. The Locust Creek Community Association, inc. (hereinafter "Community Association") has been created to maintain common areas (which includes open spaces, lakes, and certain other recreational and community facilities) and to provide other functions set forth herein. Every owner of

a lot in this phase of Locust Creek Subdivision (and such other sections which Developer has by previous Deed restrictions so provided or shall by future Deed restrictions so provide) shall be a member of the Community Association and subject to the membership obligations established in this instrument, including the Community Association rules adopted under Article 11, Section 14.'

SECTION 2:

Lot Owners' Easements of Enjoyment. Every lot owner shall have a right and easement of enjoyment in and to the common areas which shall be appurtenant to and shall pass with the title to every lot. "Common area(s)" means and refers to all non-residential lots and areas which are shown on any recorded final subdivision plat within any portion of Locust Creek made subject to the Community Association together with all other improvements owned or to be owned by the Community Association. Developer releases and quitclaims to the Community Association its right and title to the common areas. The right of enjoyment is subject to the following provisions:

- A. The right of the Community Association to borrow money for the purpose of improving the common areas or for constructing, repairing, or improving any facilities located or to be located thereon and to give security for the payment of any such loan a mortgage conveying all or a part of the common areas;
- B. The right of the Community Association to suspend the voting rights and the right to use common areas for any period during which any assessment against a lot remains unpaid and for a period of time for any infraction of its published rules and regulations;
- O. The right of the Community Association to dedicate or transfer all or any part of the common areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Community Association and such agency, authority, or utility. Developer may dedicate utility or service easements at its sole discretion so long as there is in existence the Class B membership in accordance with Section 14 and so long as additions are permitted under Article I, Section 2.

SECTION 3:

Delegation of Use. Lot owners may delegate, in accordance with the Bylaws, their right of enjoyment to the common areas to the members of their families or to their tenants or contract purchasers who reside on the property. Membership in the Community Association may not be conveyed separately from ownership in the lot.

SECTION 4:

Community Association's Right of Entry. The authorized representative of the Community Association or the Board of Directors shall be entitled to reasonable access to the individual lots as may be required in connection with the preservation of property on an individual lot or in the event of an emergency or in connection with the maintenance of, repairs or replacement within the common areas, or any equipment, facilities, or fixtures affecting or serving other lots or the common areas or to make any alteration required by any governmental authority.

SECTION 5:

Annual Maintenance Assessments. Each owner of a building site shall pay to the Community Association annual maintenance assessments and, when levied, special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as provided herein and in the Community Association's Bylaws. The monthly and special assessments, together with such interest thereon as provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with such interest thereupon as provided, shall also be the personal obligation of the person who is the owner of such property at the time when the assessment fell due.

SECTION 6:

Purpose of Assessments.

- A. The assessments-levied by the Community Association shall be used exclusively to promote the health, safety, and welfare of the residents and in particular for the acquisition, improvement, and maintenance of properties and services devoted to this purpose or for the use and enjoyment of the common areas, including but not limited to the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the common areas, .the procurement and

maintenance of insurance in accordance with the Bylaws, the employment of attorneys to represent the Community Association when necessary, and such other needs as may arise. The Community Association shall maintain, operate, and repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the common areas, open spaces, springhouse, entranceways, streets, lakes, crosswalks, medians, berms, storm drains, basins, lakes, and other improvements.

- B. In addition to the above obligations, the Community Association shall be responsible for the maintenance of landscaping the common areas which shall include shrubs, trees, flowers, and ground cover which shall be regularly maintained by the cutting of grass, trimming and, where necessary, replacement of shrubs and trees.
- C. Until Class B membership ceases and is converted to Class A membership pursuant to Section 4, Developer or its nominee shall administer the assessments and receipts therefrom which may only be used for purposes generally benefiting the Locust Creek community as permitted in this Declaration.

SECTION 7:

Maximum Annual Assessment. Until the date the clubhouse facility is completed and open for use, the maximum annual assessment shall be set at a rate not to exceed \$20.00 per month per lot. From and after clubhouse completion, and for a period of one year, the maximum annual assessment shall be set at a rate not to exceed \$55.00 per month per lot. Thereafter, the maximum annual assessment may be increased each year not more than 20 percent above the maximum assessment for the previous year without a vote of two-thirds of each class of members pursuant to the By-laws.

'SECTIONS:

_ Special Assessments. In addition to the annual assessments authorized hereinabove, the Community Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, or replacement of a described capital improvement; provided, however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Community Association's voting members who are voting in person or by proxy at a

meeting duly called for this purpose, written notice of which shall set forth the purpose of the meeting.

SECTION 9:

Assessment Payment. The Association's Board of Directors shall fix the due date and the amount of each assessment against each lot, which assessment period shall be at least thirty (30) days in advance of such due date. At that time the Board of Directors shall prepare a roster of the lot owners and assessments applicable thereto and which it, upon demand, shall furnish to any owner a certificate in writing signed by an officer of the Community Association setting forth whether said lot owner's particular assessment has been paid. Each certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. The roster of lot owners shall also be furnished to the Community Association.

SECTION 10:

Lien for Unpaid Assessment if the assessments are not paid" on the date when due, then such assessment shall become delinquent and shall, together with interest thereon, become a continuing lien on the property which shall bind the property in the hands of the then owner, his heirs, devisees, personal representatives, and assigns. An officer of the Community Association shall have the power to file or record a notice of lien, or *Us pendens*, in the Office of the Clerk of the County Court of Jefferson County Kentucky. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation and shall be enforceable against him.

SECTION 11:

Collection, Litigation, Foreclosure. If an assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the statutory rate of interest applicable to judgments and the Community Association may bring legal action against the owner personally obligated to pay the same or foreclose the lien against the property in the manner provided by law; and, in the event a judgment is obtained, such judgment shall include interest on the assessment as provided to be fixed by the Court together with the cost of the action.

SECTION 12:

Lien Subordinate to Prior Mortgage, Subsequent Purchasers.

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon any lot subject to assessment provided that such subordination shall apply only to the assessments, which have become due and payable prior to a sale or transfer of such property pursuant to a judicial enforcement of the mortgage or any proceeding in lieu of foreclosure and not to any assessments which became due thereafter and provided further that a purchaser for value without notice shall not be bound by delinquent assessments unless due notice is filed as provided hereinabove.

SECTION 13:

Membership. Developer and every owner of a lot which is subject to an assessment shall be a member of the Community Association. Such owner and member shall abide by the Community Association's Bylaws, Articles of Incorporation which are recorded in Corporation Book____/ Page____, in the office of the Clerk of Jefferson County, Kentucky rules and regulations, and shall pay the assessments provided for in this Declaration when due and shall comply with decisions of the Community Association's Board of Directors. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

SECTION 14:

Classes of Membership. The Community Association shall have two classes of voting membership:

- A. Class A-Class A membership shall be all lot owners with the exception of the Developer.
- B. Class B-The Class B member shall be the Developer. The Class B membership shall cease and be converted to Class A membership on the happening of any of the events specified in Subparagraph C herein below, whichever occurs earlier.
- C. Each member shall have one vote with respect to each lot owned by such member, but Class A members shall not be permitted to exercise any vote until the earlier of:

- (i) When, at its discretion. Developer so determines; or
- (ii) January 1,2020.

ARTICLE V
OPEN SPACE, SPRINGHOUSE, LAKES, AND SIGNATURE WALLS;
QUITCLAIM TO COMMUNITY ASSOCIATION

Developer hereby quitclaims the "common areas", including the open space and all related improvements, landscaping, etc., to the Community Association. The Community Association will maintain the open space, ail related improvements, and the springhouse, lakes, and signature walls which are an integral part of the subdivision community and development and it being specifically provided that, notwithstanding any article, paragraph, sentence, clause, or other provision which may be contained in this Declaration, in the event that these Covenants, Conditions and Restrictions shall be amended, altered, modified, or canceled, then in such event the lot owners shall continue to be obligated to maintain the common areas, springhouse, lakes, and signature walls of Locust Creek unless and until the said,common areas, springhouse, lakes, and signature walls shall have been transferred to or accepted by a governmental agency.for upkeep and maintenance. No common areas including medians in the right-of-way, open space, springhouse, or signature walls shall be dedicated to a unit of local government without acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The provisions in this Article V shall not be amended by the Community Association.

ARTICLE VI
GENERAL PROVISIONS

SECTION 1 :

Enforcement. Enforcement of these restrictions shall be by proceedings at law or in equity brought by the lot owner or by Developer against any party violating or attempting to violate any covenant or restriction either to restrain violation or to direct restoration and/or to recover damages. If any lot owner, Community Association, or Developer is required to employ legal counsel to enforce any of the provisions or restrictions of this Declaration or to exercise any of the remedies provided for herein, the party violating a provision or restriction of this Declaration shall pay all legal expenses, including Court costs and attorney fees, incurred by the party enforcing these restrictions. The party enforcing these

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restrictions to secure payment of all such legal expenses, which lien may be enforced in the same manner as the liens provided for or referenced in Articles 11, III and IV of this Declaration. Failure of any lot owner or developer to demand or insist upon observance of any of these restrictions or to proceed for restraint of violations shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions and the exercise of any remedy provided for herein or, at law or in equity, shall not preclude the exercise of any other remedy available at law or in equity.

SECTION 2:

Severability. Invalidation of any one of these covenants by judgment or Court Order shall in no way affect any of the other provisions which shall remain in full force and effect.

SECTION 3:

^Restrictions Run with Land. Unless canceled, altered, or amended under the provisions of this paragraph, the provisions of this Declaration shall run with the land and shall be binding on the lots, the owners of each lot, and all parties claiming under them for a period of thirty (30) years from the date this Declaration is recorded. After such thirty (30) years, this Declaration shall be deemed extended automatically for successive periods often (10) years, unless and until an instrument signed by at least seventy-five percent (75) of the lot owners of the lots subject to this Declaration has been recorded in the aforesaid Clerk's Office agreeing to change this Declaration in whole or in part and term hereof; provided, however, that if Developer, its designated successors or assigns, as applicable, then owns any lot, this Declaration may not be so changed in whole or in part without the prior written consent of Developer in its sole discretion. From the date of this Declaration and for so long hereafter as Developer, its designated successors or assigns, as applicable, owns any lot (i) this Declaration may hereafter be unilaterally amended by Developer to bring the terms and provisions hereof in compliance with any applicable governmental law, rule, regulation, order, decree, judgment, or ordinance, and (iii) Developer may otherwise unilaterally amend this Declaration as Developer may elect, in its sole discretion, provided that such amendment under this subpart (ii) shall not materially adversely affect the then existing private single-family residential nature of the developed residential phases of Locust Creek. At such time as neither Developer, its designated successors or assigns, as applicable, owns any lot at Phase I or upon such earlier date as Developer may elect in its sole discretion by written notice given to the Board of Directors of the Community Association, this Declaration may thereafter be canceled, altered, or amended by the recordation of a document in the aforesaid Clerk's Office in which the Board of Directors of the Community Association certifies that such cancellation, alteration,

or amendment was executed by the owners of seventy-five percent (75) of the lot owners to this Declaration.

SECTION 4:

Amendments to Articles and Bylaws. Nothing in this Declaration shall limit the right of the Community Association to amend, from time to time, its Articles of Incorporation and Bylaws.

SECTION 5:

Non-liability of the Directors and Officers. Neither Developer nor the directors or officers of the Community Association shall be personally liable to the lot owners for any mistake or judgment or for any acts or omissions of any nature whatsoever while acting in their official capacity, except for any acts or omissions found by a Court to constitute gross negligence or actual fraud. The lot owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors, administrators, successors, and assigns in accordance with the Bylaws.

SECTION 6:

Board's Determination Binding, in the event of any dispute or disagreement between any lot owners relating to the property or any questions of interpretation or application of the provisions of this Declaration of. the Bylaws, the termination thereof by the Board shall be final and binding on each and all such lot owners.

WITNESS the signature of Developer by its duly authorized officer on this 33rd day of August, 2001.

CREEK PARTNERS, LLC
A Kentucky Limited Liability Company
By: CMB DEVELOPMENT COMPANY, LLC
A Kentucky Limited Liability Company
The Sole Member of Creek Partners, LLC

By: _____
Name: William H. Cull
Title: Member. CMB Development Company. LLC

STATE OF KENTUCKY
COUNTY OF JEFFERSON

The foregoing instrument was acknowledged before me by William H Cull Member of CMB Development Company LLC, a Kentucky limited liability company the sole Member of Creek Partners, LLC, a Kentucky limited liability company on behalf of said limited liability company on this 22nd day of August 2001.

Notary Public
Kentucky, State at Large

My Commission Expires: 03-31-03

THIS INSTRUMENT PREPARED BY:

William H. Cull
Attorney at Law
210 Washington Street
Frankfort, Kentucky 40601
Telephone: (502) 226-4157
Facsimile: (502) 226-4158

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Deputy Clerk; YOLLOG2

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