

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
WOODS OF ST. ANDREWS - SECTION 1  
PLAT AND SUBDIVISION BOOK 48 PAGE 8  
JEFFERSON COUNTY, KENTUCKY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this 25<sup>th</sup> day of February, 2002 by WOODS OF ST. ANDREWS, LLC, a Kentucky limited liability company ("Developer").

WITNESSETH:

Developer is the owner of a certain real property in Jefferson County, Kentucky, which is to be developed into a residential subdivision known as "Woods of St. Andrews."

NOW, THEREFORE, Developer does hereby declare that all property described in this Declaration and any property which the Developer may develop and specifically make subject to the provisions hereof or any portion thereof (with the Developer's reserving the right to modify these restrictions as they may apply to other properties), shall be held, used, sold, conveyed and occupied subject to the following rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in, and other provisions of, this Declaration all of which are for the purpose of protecting the value and desirability of the real property. The rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in, and other provisions of, this Declaration shall run with the real property and shall be binding on and inure to the benefit of all parties having any right, title or interest therein, their heirs, successors and assigns.

I. REAL PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS

Section 1. 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 18, inclusive, all as shown on the Plat of Woods of St. Andrews, of record in Plat and Subdivision Book 48, Page 8, in the Office of the Clerk of Jefferson County, Kentucky.

BEING a part of the same property acquired by Developer by Deed recorded in Deed Book 7700, Page 279, all in the Office of the Clerk aforesaid.

Section 2. Additions to Existing Property. Additional residential property and common areas may become subject to this Declaration, or may be annexed to the real property subject to this Declaration, as follows:

(a) Additions in Accordance with a General Plan of Development.

Developer may make, but shall not be required to, Section 1 part of a larger subdivision to be developed in accordance with current plans and known as Woods of St. Andrews Subdivision ("Woods of St. Andrews"). Additional land may be included by Developer as other sections of Woods of St. Andrews. Such additions to Woods of St. Andrews may be made by filing a Declaration of Annexation in the aforesaid Clerk's Office with respect to such additional real property, which shall declare the annexation and addition of such real property to Woods of St. Andrews and shall extend the scheme of this Declaration to, or impose the scheme of such other declaration of covenants, conditions and restrictions acceptable to Developer on, such annexed real property. Any such Declaration of Annexation extending the scheme of this Declaration to such annexed real property may contain additions and modifications of the provisions of this Declaration as Developer may elect and/or as may be necessary to reflect the different character, if any, of the annexed real property.

Developer reserves the right to create cross easements and to restrict all of the properties according to the terms of this Declaration. The common area initially covered by this Declaration shall inure to the benefit of the owners of any lots in Section 1 and to the owners of any lots in other sections within Woods of St. Andrews which may become subject to this Declaration or a similar set of deed of restrictions (and any additional lots or other real estate which may hereafter be annexed to and made a part of Woods of St. Andrews and subjected to this Declaration or a similar set of deed restrictions), and the common area allocable to the owners of all such lots shall inure to the benefit of the owners of lots recorded earlier, each to enjoy the common area 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.

(b) Other Additions. Additional residential property and common area which are not presently a part of the general plan of development of Woods of St. Andrews may be annexed to Woods of St. Andrews by Developer in its sole and absolute discretion.

Sections. Amendment. This Article shall not be amended without the written consent of Developer.

## II. USE RESTRICTIONS

Section 1. Primary Use Restrictions. Except as otherwise expressly provided in this Declaration, no lot shall be used except for private single family residential purposes. No structure shall be erected, placed, altered or permitted to remain on any lot except one single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one-half stories in height and containing an attached garage, all of which shall be for the sole use of the owner and occupants of the lot. The common areas and the recreational facilities, if any, located within Woods of St. Andrews,

whether owned, operated and maintained by Developer, its successors and assigns, or by the Association referred to in Section 1 of Article IV hereof, shall be exempt from the use restrictions of this Section 1 of Article II but shall remain subject to the rules and regulations of the Association.

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 by Developer, which shall be removed when construction or development is completed.

(b) No outbuilding, trailer, basement, tent, shack, garage, bam or structure other than the main residence erected on a lot shall at any time be used as a residence, temporarily or permanently.

(c) No trailer, 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 or other vehicle, except an automobile, shall be parked on any street in the subdivision for a period in excess of twenty-four hours in any one calendar month.

(d) No automobile shall be continuously or habitually parked on any street or public right-of-way in the subdivision.

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 they are not kept, bred or maintained for any commercial or breeding purposes. Any pets must be kept on the owner's lot or leashed when not on the owner's lot.

Section 5. Clothes Lines: Fences and Walls: Swimming Pools and Tennis Courts: Antennae and Receivers/Transmitters.

(a) No outside clothes lines shall be erected or placed on any lot.

(b) No fence or wall of any nature may be extended toward the front or street side property line beyond the front or side wall of the residence. A side or rear wooden fence shall be permitted provided it shall not be greater than five (5') feet in height with posts on the inside. Any other fence may be permitted if approved in writing by Developer.

(c) No swimming pools or tennis courts shall be erected or placed on any lot unless its design and placement are approved in writing by Developer. Above ground swimming pools shall not be allowed.

(d) No antennae (except for a standard small television or small (18 inch diameter) dish antennae) shall be erected or placed on any lot unless its design and placement are approved in writing by Developer.

Section 6. Duty to Maintain Lot. From and after the date construction of a single family residence on a lot is started, it shall be the duty of each builder and 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 builder or owner fail to do so, Developer may take such action as it deems appropriate, including mowing, in order to make the lot neat and attractive, and the builder or owner shall, immediately upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with the maximum allowable statutory interest, and Developer 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 first mortgage thereon.

Section 7. Duty to Repair and Rebuild.

(a) Each owner of a lot shall, at the owner's sole cost and expense, maintain and repair the residence and all other improvements located thereon, keeping the same in condition comparable to that at the time of its initial construction, excepting only normal wear and tear.

(b) If all or any portion of a residence or other improvements located on the lot are damaged or destroyed by fire, or other casualty, then owner shall, with all due diligence, promptly rebuild, repair, and reconstruct such improvements in a manner which will substantially restore them to their condition immediately prior to the casualty, or completely remove such improvements, filling in any basement areas and planting the lot in grass.

Section 8. Business: Home Occupations. No trade or business of any kind (and no practice of medicine, dentistry, chiropractic, osteopathy and other like endeavors) shall be conducted on any lot. Notwithstanding the provisions hereof or of Section 1 of this Article II, it is further understood that Developer and any home builder, with the written approval of Developer, may use any residence as an office or model home for the period of development of the subdivision and for such period thereafter as may be deemed reasonably necessary by Developer. Developer and any home builder, with the written approval of Developer, may place an office trailer on one or more lots for use as a business and sales office during the period of development and for such period thereafter as may be deemed reasonably necessary by Developer. The Developer and home builder, as the case may be, shall keep the property surrounding any such model home or trailer neat, clean, free of debris, and all grass cut and trimmed.

Section 9. Signs. No sign for 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 for advertising the sale or rent thereof, which shall not be greater in area than nine square feet; provided, however, Developer shall have the right to (i) erect larger signs, (ii) place signs on lots designating the lot number of the lots, and (iii) following the sale of a lot, place signs on such lot indicating the name of the purchaser of that lot. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

Notwithstanding the above, homes that have been designated "model homes" by a home builder or by Developer may have additional signage and marketing information provided it is approved in writing by Developer. The marketing signs shall not be greater in area than twenty square feet.

Section 10. Drainage. Drainage of each lot shall conform to the general drainage plans of Developer for the development of the subdivision as approved by the Louisville and Jefferson County Metropolitan Sewer District. The owner shall be responsible for erosion control both prior to and during construction of any improvements thereon and at all times thereafter.

Section 11. Disposal of Trash.

(a) No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash or garbage or other waste shall not be kept except in sanitary containers.

(b) The Developer shall seek bids for solid waste removal (garbage service) and contract with only one solid waste management company (garbage company) to provide service to Woods of St. Andrews and all residents thereof. After Developer surrenders control to the Community Association, said association shall contract solid waste management company (garbage company). It shall be the responsibility of each lot owner to contract directly with the approved solid waste management company (garbage company) with neither Developer nor Community Association acquiring any liability for the payment of said service.

Section 12. Utility Service.

(a) Each lot owner's electric utility service shall be underground throughout the length of the service line from Louisville Gas and Electric Company ("LG&E") point of delivery to the customer's residence; and title to the service lines shall remain in and the cost of installation and maintenance thereof shall be borne by the respective lot owner upon which said service line is located.

Appropriate easements are hereby dedicated and reserved on each lot, together with the right of ingress and egress over abutting lots or properties to install, operate and maintain electric service lines to LG&E's termination points. Electric service lines, as installed, shall determine the exact location of said easements.

The electric and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment therein 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 and South Central Bell Telephone Company.

(b) Easements for overhead transmission and 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 on the recorded plat by dash lines and designated for underground and overhead facilities.

Above-ground electric transformers and pedestals may be installed at appropriate points in any electric easement. In consideration of bringing service to the property shown on this plat, LG&E is granted the right to make further extensions of its lines from all overhead and underground distribution lines.

(c) The electric and telephone easements hereby dedicated and reserved to each lot owner, as shown on the plat, shall include easements for the installation, operation and maintenance of cable television service to the lot owners, including the overhead and/or 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 communication, telecommunication and energy transmission mediums.

Section 13. Rules for Common Areas and Recreational Facilities. The Association is authorized to adopt and modify from time to time rules and regulations for the use of the common areas, including, without limitation, all recreational facilities and other common amenities now or hereafter located within Woods of St. Andrews and such rules, if not otherwise posted at any such facility or amenity, shall be furnished in writing to a lot owner upon reasonable request; provided, however, nothing contained herein shall be deemed to be a representation, warranty or covenant of Developer to construct or provide any recreational or other amenities within Woods of St. Andrews and, by acceptance of a deed to a lot in Woods of St. Andrews, each lot owner waives and relinquishes any right or claim to require the construction or providing of any recreational or other amenity facilities. No lot owner shall do or permit anything to be done or kept on or in the common areas which might result in the cancellation of insurance on any part of the common areas, which would interfere with rights of other lot owners, or which would be noxious, harmful or unreasonably offensive to other lot owners as determined by Developer or the Association in their respective sole discretion. No waste shall be committed by any lot owner or resident of Woods of St. Andrews in the common areas.

### III. ARCHITECTURAL CONTROL

#### Section 1. Approval of Construction and Landscape Plans.

(a) No structure may be erected, placed or altered on any lot until the construction plans and building specifications and a plan showing (i) the location of improvements on the lot, (ii) the type of exterior material, and (iii) the location and size of the driveway (which shall be concrete), shall have been approved in writing by Developer.

(b) In addition to the plans referred to in the previous paragraph, a landscape plan shall be submitted to Developer for its approval in writing, which shall show the trees, shrubs and other plantings then existing or to be planted on the lot. Each landscape plan for a lot submitted to Developer shall obligate the owner to install (to the extent the same are not already located on the lot) trees, shrubs and other plantings having a current fair market value of not less than \$500.00. The landscaping plans shall include, at least one tree in the front yard which is at least two (2) inches in diameter at the time that it is planted. Developer reserves the right to waive these requirements.

(c) The term "Developer" shall include any entity, person or association to whom Developer may assign the right of approval. The term "structure" shall include any residence, dwelling, or other building (including a garage), fence, wall, antennae (except for standard small television antennae) and microwave and other receivers and transmitters (including those currently called "satellite dishes").

#### Section 2. Building Materials.

The exterior building material of all structures shall be either brick, stone, brick veneer, stone veneer, or vinyl, or a combination. Developer recognizes that the appearance of other exterior building materials (hardwood, drivet and vinyl siding) may be attractive and innovative and reserves the right to approve in writing the use of other exterior building materials. A frame house may be built with the Developer's written approval.

Section 3. Minimum Floor Areas. The following shall be the minimum floor areas for homes to be constructed after this instrument is recorded:

(a) The ground floor area of a one story home shall be a minimum of 1,250 finished and habitable square feet, exclusive of the garage.

(b) The ground floor area of a two story home shall be a minimum of 700 finished and habitable square feet, exclusive of the garage, and the home shall contain a minimum of 1,300 finished and habitable square feet.

(c) Others. All other house designs shall contain a minimum of 700 finished and habitable square feet on the first floor and the home shall contain a minimum of 1,300 finished and habitable square feet, exclusive of the garage.

(d) Exclusions. Finished basement areas, garages and open porches are not included in computing minimum floor areas pursuant to this Section 3.

Section 4. Setbacks. No structure shall be located on any lot nearer to the front lot line than the minimum building setback lines shown on the recorded plat provided, however, bay windows and steps may project into setback areas not more than six feet if permitted under applicable laws and regulations. Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations.

Section 5. Garages. Any garage shall be attached to the residence and the location, construction, design and type of materials must be approved by the Developer in the same manner as the approval is required for any residential structures.

Section 6. Landscaping: Sidewalks: Driveways.

(a) Immediately upon completion of construction of a residence, the lot owner shall grade and sod that portion of the lot between the front and street side walls of the residence and the pavement of any abutting streets and property lines.

(b) Each lot owner, as Developer's construction plans so indicate, shall cause a sidewalk to be constructed on each lot simultaneous with construction of a residence or at such time as construction has begun on 75 of the lots in this section, whether or not the lot owner has begun construction on that particular lot, whichever first occurs.

(c) Each lot owner shall construct a concrete driveway within three months after completion of construction of a residence on that owner's lot.

Section 7. Mail and Paper Boxes. In order to ensure uniform use and appearance in Woods of St. Andrews, each lot owner is advised that Developer shall require a mailbox and paper holder be purchased from a specified third party vendor. No other mailbox or paper holders shall be permitted on any lot.

Section 8. Developer's Responsibilities and Approvals. Any provision herein imposing upon Developer any responsibility in connection with the maintenance of the development or requiring Developer's approval shall only be for such period of time as the development is in progress and until all single family residences shall have been started on all lots within the subdivision, but in any event, not more than ten years from the date hereof, unless specifically extended in writing by Developer.

Section 9. Developer's Assigns. Any responsibility hereunder assumed by Developer shall become the sole obligation of any successor or assign to Developer, provided Developer files written notice of the assignment and identification of the new Developer, person or entity responsible for the obligations imposed upon the initial Developer.

Section 10. Dedication of Common Areas. No common areas shall be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The Homeowners Association cannot amend this Section 10 without approval of the Louisville and Jefferson County Planning Commission.

#### IV. HOMEOWNERS ASSOCIATION: ASSESSMENTS

Section 1. Association. The Developer has filed and recorded the Articles of Incorporation of the WOODS OF ST. ANDREWS HOMEOWNERS ASSOCIATION, INC. ("Association") with the Office of the Jefferson County Court Clerk, which may be amended from time to time. Every owner of a lot in Section 1 of Woods of St. Andrews (and such other sections which Developer shall in the future by deed restrictions make applicable) shall be a member of the Association, and by acceptance of a deed for any lot, agrees to accept membership in, and does thereby become a member of, the Association. Such owner and member shall abide by the Association's bylaws and rules and regulations, as the same may be amended from time to time, and shall pay the assessments provided for, when due, and shall comply with decisions of the Association's Board of Directors (the "Board").

Section 2. Purpose. The objects and purposes of the Association shall be set forth in its Articles of Incorporation and shall be to serve the common good and general welfare of its members, and shall include, unless such obligations are otherwise assumed by any municipal or governmental agency having jurisdiction thereof, the ownership, maintenance, operation and repair of the streets, medians, open spaces, common areas, recreational areas, facilities and amenities (including but not limited to tennis courts, jogging or hiking trails, swimming pools, bathhouse and clubhouse facilities), if any, crosswalks, gatehouses, irrigation systems, storm drains, retention and other basins, fences, street lights and entrances, and acceptance of common areas for purposes of ownership, operation, maintenance and repair. The objects and purposes shall include the absolute and mandatory responsibility to maintain the lots designated as "Open Space" on the record plat in such fashion as not to create a potential or actual health or safety hazard. Failure of the Association to maintain any Open Space shall authorize any governmental authority concerned with maintenance of such areas to perform the required maintenance and have a claim upon the Open Space for the reasonable expenses thereof, together with the right of such authority to enforce the restrictions herein relating to Open Space obligations.

Section 3. Assessments. Any assessments levied by the Association shall be used as provided in this Declaration and shall constitute a lien upon the lot and improvements against which each such assessment is made. This lien shall be subordinate only to the lien of any first mortgage or vendor's lien on the lot and shall be enforceable against such lot and improvements by foreclosure or otherwise. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents and lot owners in Woods of St. Andrews and in particular for the acquisition, ownership, improvement and maintenance of properties, services and facilities devoted to such purposes, and for the ownership, improvement, maintenance, use and enjoyment of the common areas, including but not limited to, the cost of repairs, replacements and additions, the cost of utilities, labor, equipment, materials, management and supervision and other services, payment of taxes assessed against the common areas, the procurement and maintenance of insurance in accordance with the Articles and/or Bylaws of the Association, the employment of attorneys to represent the Association when necessary and such other needs as may arise. The Association shall own, maintain, operate and repair, unless such obligations are assumed to the satisfaction of Developer by any municipal or governmental authority or agency having jurisdiction thereof and are relinquished by the Association, the common areas, including all open spaces, gatehouse, entranceways, streets, roadways, crosswalks, medians, storm drains, basins, recreational areas and facilities and amenities therein, including but not limited to tennis courts, jogging trails, swimming pools, clubhouse and bathhouse facilities, if any.

Section 4. Payment. The annual assessment hereunder shall be \$150.00 per annum per lot payable in advance the first day of January of each year. Payment of the assessment provided for above shall begin as to any lot subject to the assessment on the first day of the month next following the date on which title to the lot is conveyed to the owner. The first annual assessment for a lot shall be adjusted according to the number of months remaining in the assessment year when the lot is first conveyed. The Board may from time to time increase or decrease the assessment.

Section 5. Administration. Until Class B membership ceases and is converted to Class A membership pursuant to Section 6 of this Article IV, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting Woods of St. Andrews, as permitted in this Declaration.

Section 6. Classes of Membership. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all lot owners, with the exception of Developer, and shall be entitled to one vote for each lot owned.

(b) Class B. The Class B member shall be Developer. Developer shall be entitled to ten votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever first occurs:

(i) When all of the lots in Woods of St. Andrews have been conveyed by Developer, including any additional property which may be added to Woods of St. Andrews as provided in Article I; or

(ii) Such earlier date as the Developer may determine.

Section 7. Association's Right of Entry. The authorized representative of the Association or the Board 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 any emergency, or in connection with the maintenance of, repairs or replacements within the common area, or any equipment, facilities or fixtures affecting or serving other lots or the common area, or to make any alteration required by any governmental authority, including the right to enter upon or through any lot for access to any common area for the maintenance and improvements thereof. No lot owner shall damage or change in any way any common area or the landscaping thereon.

Section 8. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot. The common area means and refers to all non-residential lots and areas which are shown on any recorded final subdivision plat within any portion of Woods of St. Andrews made subject to this Declaration.

Section 9. Reservations. The rights and easements of enjoyment granted to each lot owner with respect to the common areas in Woods of St. Andrews, including but not limited to the recreational facilities and amenities, if any, are further subject to the following:

(a) The right of the Association to permit the use of and to charge reasonable admission and other fees for the use of any recreational facilities and other amenities, if any, situated upon the common areas and to adopt rules and regulations with regard to the use of the common areas, including but not limited to the recreational facilities and other amenities, if any. The Board may, as part of the operation of such facilities and amenities, but subject to all applicable laws, rules, regulations and ordinances, including zoning regulations, permit nonresidents of Woods of St. Andrews to use such facilities and amenities for a fee, determined by the Board and payable to the Association. Such users shall not be members of the Association.

(b) The right of the Association to borrow money for the purpose of improving the common areas or for constructing, repairing or improving any facilities and/or amenities located or to be located thereon, and to give as security for the payment thereof, a mortgage encumbering all or any part of the common areas.

(c) The right of the Association to suspend the voting rights and the right to use the recreational facilities and other common area amenities, if any, by a lot owner for any period during which a violation of this Declaration by such lot owner or a resident of such lot exists, or any assessments or liens against the lot owner's lot or other sums due to the

Association by such lot owner, remain unpaid, and for a period of time for any infraction of this Declaration and/or the rules and regulations of the Association.

(d) The right of the 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 Board, and to grant permits and licenses as well as easements for access, utilities, drainage, water facilities and other matters, in, on, over, across and under the common areas, as may be deemed necessary or useful by the Board. Declarant may dedicate access, utility, drainage, water facility, service and other easements, right and licenses on or other the common areas, and any recreational facilities and other amenities thereon, if any, owned by the Association at Developer's sole discretion for so long as Developer, its successors or assigns, owns any lot within Woods of St. Andrews.

(e) An easement in gross on and over the common areas in favor of Developer, its successors and assigns, for so long as Developer, its successors or assigns, owns any lot within Woods of St. Andrews. Developer, its successors and assigns, shall have the specific right to hold and/or sponsor home shows, such as Homerama, within Woods of St. Andrews and to temporarily restrict portions of the common areas and any facilities thereon from general use for duration of such shows, including the temporary closing of any streets and roads not accepted for public maintenance, and other streets and roads as may be permitted under applicable law. All rights and easements reserved to Developer under or pursuant to this Declaration shall be superior to all other rights and easements otherwise granted to others under this Declaration.

(f) Developer shall be entitled to modify, restrict, and/or confirm any of the foregoing rights and easements provided for in this Section 9, and/or to grant additional rights and easements on or over the common areas in favor of Developer, its successors and assigns, by separate written instrument executed by Developer and hereinafter recorded in the aforesaid Clerk's Office.

Section 10. Construction Mortgages. Developer may, from time to time, construct certain recreational facilities and/or amenities on portions of the common areas owned or to be owned by the Association, and, in order to finance this construction and the development of Woods of St. Andrews in general. Developer shall have the right to subject all or any portion of the common areas and any improvements thereon to the lien of a mortgage on terms acceptable to Developer in its sole discretion; provided, however, nothing contained herein shall be deemed or construed to obligate Developer to construct any recreational facilities or other amenities within Woods of St. Andrews.

## V. GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these restrictions shall be by proceeding at law or in equity, brought by any owner or by Developer against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. Failure of any 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 a waiver of the right to seek enforcement of these restrictions at a later date.

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; Amendment. Unless cancelled, altered or amended under the provisions of this Article V, Section 3, these covenants and restrictions shall run with the land and shall be binding on all parties to which they apply for a period of twenty years from the date this Declaration is recorded, after which time they shall be extended automatically for successive periods of ten years, unless any instrument signed by a majority of the then owners of all lots subject to this Declaration shall terminate or modify these restrictions and covenants. This Declaration may be cancelled, altered or amended at any time by the affirmative action of the owners of seventy-five percent (75) of the lots subject to this Declaration.

Anything to the contrary herein notwithstanding, the Association and the lot owners shall be responsible for the maintenance of all open spaces, private roads, lakes, activity areas, and common areas, so long as the subdivision is used as a residential subdivision or until properly dedicated to a unit of local government. This provision shall not be amended without approval of the Louisville and Jefferson County Planning Commission.

Section 4. Amendments to Articles, Bylaws and Rules and Regulations. Nothing in this Declaration shall limit the right of the Association to amend, from time to time, its Articles of Incorporation, bylaws, or rules and regulations.

Section 5. Non-Liability of the Directors and Officers. Neither Developer nor the directors and officers of the Association shall be personally liable to the owners of any lots for any mistake of judgment or for any other 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 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 of the Association.

Section 6. Playground and Common Areas. Any playground or other play area or equipment furnished by Developer, the Association or others with the consent of Developer, shall be used at the risk of the user, and neither Developer nor the Association shall be held liable to any person or entity for any claim, damage, liability or injury occurring thereon or related to the use thereof. The Association shall have the right to dedicate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. Developer may dedicate utility or service easements at its sole discretion.

Section 7. Board's Determination Binding. In the event of any dispute or disagreement between any owners other than Developer relating to the property subject to this Declaration, or any questions of interpretation or application of the provisions of this Declaration or the Articles of Incorporation, bylaws, or rules and regulations of the Association, the determination thereof by the Association's Board of Directors shall be final and binding on each and all such owners.

Section 8. Woodland Protection Area. A portion of Woods of St. Andrews has been designated a Woodland Protection Area by Developer and the Louisville and Jefferson County Planning Commission, specifically portions of Lots 11, 12, 13, 15, 16, 17 and 18. The Woodland Protection Area shall be permanently preserved in a natural state and all clearing, grading and fill activity must be in keeping with the restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall occur in the Woodland Protection Area except supplemental landscaping, pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health or safety threat, and clearing of under story brush to remove a public health and safety threat.

Any tree or shrub removed in violation of this Section 8 shall be replaced by the person who removed the tree or shrub within thirty (30) days. Trees planted to replace a tree that is improperly removed shall equal the diameter of the removed tree, and shrubs and under story vegetation shall be replaced using native species. This Section 8 may be amended or released only with the prior approval of the Louisville and Jefferson County Planning Commission. This Section 8 shall be enforceable by the Louisville and Jefferson County Planning Commission and adjoining property owners.

Section 9. Notice to Lot Purchasers. Lot purchasers are hereby notified that portions of Woods of St. Andrews are located on a geologic structure (New Providence Shale) that may be unstable and subject to slippage. Structures built on this material should be designed with the assistance of a qualified geotechnical professional. Information on recommended site preparation techniques and design of residential foundations are available in the files of the Louisville and Jefferson County Planning Commission.