

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS AND
RESERVATION OF EASEMENTS
FOR
WYSTERIA VILLAGE SUBDIVISION**

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- “A” - Legal Description - Initial Development
- “B” - Articles of Incorporation
- “C” - By-Laws
- “D” - Legal Description - Possible Future Development

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
WYSTERIA VILLAGE SUBDIVISION**

THIS DECLARATION is made this ____ day of _____, 20__, by Highway 25, LLC, a Kentucky limited liability company, and Keystone Home Builders, Inc., a Kentucky corporation, hereinafter collectively referred to as the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property described in Exhibit "A" attached hereto and desires to create thereon a residential community consisting of various types of two family residences with permanent common areas for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas; and to this end, desires to subject the real property described in Exhibit "A" attached hereto to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Property and the subsequent Owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an Association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas and administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed "Wysteria Village Subdivision Homeowners' Association, Inc.", as a non-profit Kentucky corporation for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that all of the Properties described in Exhibit "A" attached hereto and such other property as may be subjected to the provisions hereof pursuant to Article II, shall be held, sold and conveyed subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, and any subdivision plat which includes the Property, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

The words in this Declaration which begin with capitalized letters, other than words which would be normally capitalized, unless the context otherwise requires, shall have the same meanings as the definitions of those words in this Article I.

1.1 “Articles” shall mean those Articles, filed with the Secretary of Kentucky, incorporating Wysteria Village Subdivision Homeowners’ Association, Inc. as a corporation not for profit under the provisions of the Kentucky Revised Statutes, as the same may be amended from time to time. A true copy of the Articles as shown in Exhibit “B” is attached hereto and made a part hereof.

1.2 “Association” shall mean and refer to Wysteria Village Subdivision Homeowners’ Association, Inc., its successors and assigns.

1.3 “Attached Single Family Living Unit” shall mean a Living Unit as defined physically connected with one (1) other Living Unit under one roof. Such unit shall also be known as a ADuplex Unit”.

1.4 “Board” shall mean the Board of Trustees of Wysteria Village Subdivision Homeowners’ Association, Inc., which shall also be known as the “Board of Trustees” or “Board of Directors.”

1.5 “By-Laws” shall mean the By-Laws of the Association, as the same may be amended from time to time. A true copy of the By-Laws as shown on Exhibit “C” is attached hereto and made a part hereof.

1.6 “Common Areas” shall mean and refer to subdivision entrance walls, signs, landscape mounds, fences, Storm Water Facilities and landscaping constructed for the common use and enjoyment of the Owners, and such areas designated as “common areas” on the record plat or plats for the Property.

1.7 “Declarant” shall mean and refer to Highway 25, LLC, a Kentucky limited liability company, and Keystone Home Builders, Inc., a Kentucky corporation, its successors and assigns if such successors or assigns should acquire all unsold Lots and/or unplatted real property which adjoins any property already developed and which is intended to be developed into Lots.

1.8 “Development Period” shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of: (a) December 31, 2015, or (b) the day next following the day on which the Declarant owns no part of the Property.

1.9 “Living Unit” shall mean and refer to a a residence in a duplex building designated and intended for use and occupancy as a residence by a single family.

1.10 "Lot" shall mean and refer to any parcel of land upon any recorded subdivision plat of the Properties containing a Living Unit.

1.11 "Member" shall mean any one of those Owners who are Members of the Association as provided in Article IV hereof.

1.12 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.13 "Properties" or "Property" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.14 "Storm Water Facilities" shall mean and refer to storm sewers, storm sewers swales, streams, ditches, catch basins, drainage lines, man holes and detention basins situated on Common Area property or storm sewer easements or drainage easements encumbering certain of the Lots as designated on the record plat or plats for the Property and owned by the Association for the common use and enjoyment of the Owners.

1.15 "Trustee" and "Trustees" shall mean that person or those persons serving, at the time pertinent, as a Trustee or Trustees of the Association, and shall mean that same person or those persons serving in the capacity of a member of the Board of Trustees of the Association. Such individuals shall also be known as "Directors".

ARTICLE II

PROPERTY DEVELOPMENT - ANNEXATION

2.1 Property Subject to Declaration. The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in the County of Boone, State of Kentucky, and is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

2.2 Planned Development. Declarant reserves the right to subject all or any part of the real estate described in Exhibit "D" to the provisions of this Declaration, so as to create a residential planned development consisting of various residential properties with permanent Common Areas for the benefit of said development. Such additional property shall be annexed to the real estate described in Exhibit "A" as provided in Section 2.3 hereof. Notwithstanding the above, nothing contained in this Declaration, in the By-Laws or in any map, picture, drawing, brochure or other representation of a scheme of development shall obligate the Declarant to annex any additional property to the property described in Exhibit "A" and the real estate described in Exhibit "D" shall remain wholly free from any covenant or restriction herein contained until so annexed as hereinafter provided.

2.3 Annexation of Additional Property. During the Development Period, additional property, not limited to the Property described in Exhibit "D", may be annexed to the above-described Property by the Declarant without the assent of the Members of the Association, if any. Thereafter, such additional property may be annexed only with the consent of fifty-one (51%) percent of each class of Members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of the above-described Property. The scheme of the within Covenants and Restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on Exhibit "A" as hereinafter provided.

Any annexations made pursuant to this Article, or otherwise shall be made by recording a supplement to this Declaration with the Clerk of Boone County, Kentucky, which supplementary Declaration shall extend the scheme of some or all of the within covenants and restrictions to such annexed property. Such supplementary Declaration may contain such additional covenants, conditions, restrictions, easements, assessments, charges and liens as the Declarant shall deem appropriate for the purpose of completing the development of the Property.

2.4 Additional Common Areas. Declarant shall have the right, from time to time during the Development Period, to convey to the Association for nominal or other appropriate consideration, and the Association shall accept conveyance of any property or interest in property owned by Declarant along with any structure, improvement, or other facility including related fixtures, equipment and furnishings located thereon. Upon conveyance of such property, the property shall constitute Common Areas.

Notwithstanding any other provision of this Declaration, Declarant does not warrant or represent that any recreational facilities will be constructed by or on behalf of Declarant.

ARTICLE III

PROPERTY RIGHTS

3.1 Owner's Right of Enjoyment. Every Owner and, in the case of rented Lots, such Owner's tenants, shall have a right to an easement for the enjoyment of, in, and to the Common Areas, and such right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following:

- (a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas.
- (b) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration.
- (c) The rights of the Association and Owners of Lots to a perpetual easement over any Common Areas, and upon other Lots for such portions of their

Living Units that may overhang or encroach on said Common Areas, or upon any other Lot, and for necessary pedestrian and automotive ingress and egress to and from such Living Unit over said streets, driveways and walkways of said Common Areas and for gas, electric, telephone, water, sewer, drain, cable television connections, and other utility conduits with rights to repair, maintain, and replace same, as they may be established over, upon, and through the said Common Areas or other Lots, which rights are hereby expressly established, granted, and reserved for the benefit of the individual Lots.

- (d) The right of the Association to enter into any Attached Single Family Living Unit at any time for the purpose of repairs or saving of property where there is an emergency which effects or threatens that Living Unit or any other Living Unit.
- (e) The right of the Association or the Declarant to grant additional easements over the Common Areas and Lots as provided in Section 3.5.
- (f) The right of the Association, through its Board of Trustees, to adopt rules and regulations pertaining to the use of the Common Areas.

3.2 Delegation of Use. Any Owner may delegate, in accordance with the applicable By-Laws of the Association, his right of enjoyment in and use of the Common Areas to the members of his family, guests, and his tenants or contract purchasers who reside on the Property.

3.3 Easements to Other Residents. The Declarant may designate that certain owners of real property outside of the Property and such other persons as the Declarant may designate, shall have an easement of enjoyment in, on and over the Common Areas, to the same extent as any Owner of a Lot located on the Property, subject to the provisions of Section 3.1. Such individuals shall be subject to the rules and regulations of the Association concerning the use of said areas, but shall not be subject to assessments by the Association.

It is the intent of the Declarant that there may be reserved similar easements in favor of the Owners on and over other tracts of land. Such easements, however, shall be created solely by instruments other than this Declaration, and such easements shall be governed by the terms therein contained. The establishment of any such easements are wholly contingent upon (a) the commencement of further development of land located outside of the Property (b) consent of the owners of such land, and (c) approval by appropriate governmental authorities. Accordingly, the Declarant neither represents nor guarantees that any such easements of enjoyment will be established for the Owners.

3.4 Title to Common Areas. The title to any portion of the Common Areas that is to be owned by the Association in fee simple shall be conveyed to the Association, prior to the expiration of the Development Period, free and clear of all liens and encumbrances; provided, however, that the Declarant shall have the right from time to time to reserve for the purpose of development of the Property all or any portion of the Property for various easements and rights

of way, together with the right to dedicate same where applicable and customary and the right of ingress and egress across the Common Areas in connection with the development of the Property. The Declarant's rights hereunder shall not unreasonably interfere with the Owner's easement of enjoyment.

3.5 Right to Grant Easements. Declarant hereby reserves the right, to grant, on behalf of the Association and/or the Owners and without the consent of the Association, or any Owner, easements, across, through or under the Common Areas. Such easements, which shall be exclusive or non-exclusive, shall be limited to utility easements (including cable television), green belt easements, sign easements, access easements or roadway easements. Declarant's rights under this Section shall terminate upon expiration of the Development Period.

The Association, without the consent of any Owner, shall have the right at any time to grant easements as set forth in this Section.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

4.1 Members. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

4.2 Classes of Members; Voting. The Association shall have two classes of voting membership:

4.2.1 Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

4.2.2 Class B Member shall be the Declarant and the Declarant shall be entitled to five (5) votes for each Lot owned, provided, however, that the Class B membership shall terminate after the Class A Members are entitled to elect all of the Board. At such time as Class B membership shall terminate, the Declarant, for any Lot owned, shall be deemed a Class A Member with reference to such Lot or Lots and entitled to the voting and all other rights of such Class A Member.

ARTICLE V

ASSESSMENTS

5.1 Covenant for Assessments. The Declarant for each Lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons, or entity who becomes an Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance shall be deemed to covenant and agree to

pay to the Association: (1) Annual Assessments; (2) Individual Assessments; (3) Special Assessments; such assessments to be fixed, established and collected from time to time as hereinafter provided. All assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and Lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the person, group of persons, or entity who was the Owner of such property and Lot at the time when the assessment fell due.

5.2 Annual Assessments, Purposes. The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the aesthetic and scenic qualities of the development.

To carry out these purposes, an Annual Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the Common Areas, including, but not limited to, the payment of taxes, insurance and fidelity bonds, and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and including the maintenance, repair and landscaping of streets and right of ways, and, in the discretion of the Association, including any entrance roads or adjoining roads or areas, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association. The Annual Assessment shall also be used for the purpose of:

- (a) providing for grass cutting, maintenance of landscaping installed by the Declarant or the Association in the Common Areas and Lots, and adjoining areas such as lawns, driveways, and private walkways, except in enclosed or semi-enclosed patio areas;
- (b) providing exterior maintenance of the Living Units as follows:
 - (i) paint, caulk, repair and replace roofs, roof vents, chimneys, gutters, downspouts, wood balconies, and railings, stoops, patios and exterior wall surfaces;
 - (ii) paint and make surface repairs on exterior surfaces of doors;
 - (iii) repair and replace streets, driveways and walkways;
 - (iv) perform other exterior maintenance as from time to time is determined by the Board of the Association to be reasonably necessary to maintain the Living Units consistent with funds available to the Association, such additional maintenance to be exercised uniformly for the benefit of all Living Units.

Unless otherwise determined by the Board under subparagraph (iv) above, exterior maintenance shall not include:

- (i) structural and/or waterproofing, repair, replacement or care of foundations, basement walls and floors;
 - (ii) repair, replacement or care of mechanical equipment and/or its pads and foundations, light bulbs, exterior light fixtures attached to Living Units, electric outlets, water sillcock, window and/or door glass or screen;
 - (iii) repair, replacement or care of doorjamb, thresholds, window frames or operating parts of doors and windows;
 - (iv) cleaning, weatherstripping or replacement of doors and windows;
 - (v) general cleaning, or debris removal;
 - (vi) any care whatsoever to improvements or additions made other than by the original Declarant in constructing the Living Unit.
- (c) providing fire, lightning and extended coverage or similar insurance on a blanket basis in an amount of not less than one hundred percent (100%) of the replacement cost thereof on all Living Units including physical improvements and betterment, but not on the contents thereof or personal liability or living expenses insurance. Said insurance shall be payable to the Association, the Owners and their mortgagees, as their interest may appear and the proceeds from which shall be used to restore or replace any Living Unit damaged or destroyed by any peril covered by said insurance. The Association may require each Owner, other than a Declarant, to prepay to the Association the cost of insurance for such Lot for a twelve (12) month period. Owners shall notify the Association of all improvements made to premises so that adequate insurance may be maintained. The "deductible" portion of any insured claim payable by any other than the insurance company shall be paid by the Owner(s) of the Living Unit damaged or destroyed;
- (d) providing such additional matters, consistent with the general purposes of this Annual Assessment as may be approved by the Board, or in writing by not less than two-thirds (2/3) vote of Members.

5.3 Annual Assessments, Initial Amount.

- (a) Until January 1, 2009, the Maximum Annual Assessment for each Class A membership for general purposes provided in Section 2 of this Article V

shall not exceed One Thousand Three Hundred Twenty and 00/100 Dollars (\$1,320.00) per Living Unit.

- (b) The assessment may be billed in advance on a monthly, quarterly or annual basis. The Board may fix the Annual Assessment for any amount not in excess of the maximum hereinabove provided for. The assessment shall be fixed at a uniform rate based upon the number of Living Units.
- (c) From and after January 1, 2009, the Annual General Assessment shall be levied by the Board on the Living Unit Owners in such amount as may be necessary, in the determination of the Board, to carry out the purposes of the Annual Assessment.
- (d) Negligence or Willful Neglect. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, tenants, guests or invitees, the cost of such maintenance or repairs (including costs incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot or unit) shall be added to and become a part of the assessment against the individual Lot upon which the maintenance or repairs are performed.
- (e) Access to Lot. For the purpose solely of performing the exterior maintenance required or authorized herein, the Association, through its duly authorized agent or employees, or subcontractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or the exterior of any Living Unit at reasonable hours on any day. No notice shall be required for grass cutting, landscaping, or general maintenance.

5.4 Individual Assessments. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Trustees and such maintenance is not that to be provided by the Association under Section 5.2 or 5.3 above for which assessments are provided, then the Association, after approval by two-thirds (2/3) vote of all Members of the Board shall have the right through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance and repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot or unit) shall be added to and become part of the total assessment to which such Lot is subject.

5.5 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy in any assessment year Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, replacement or addition of a described capital improvement located upon the Lots or upon the Common Areas, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds

(2/3) of the total number of votes held by Class A Members and two-thirds (2/3) of the total number of votes held by the Class B Members. Any Special Assessments levied by the Association pursuant to the provisions of this section shall be fixed at a uniform rate based upon the number of applicable Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of the Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The assessment may be billed in advance on a monthly, quarterly or annual basis.

5.6 Commencement of Assessments. The Annual Assessments shall commence on the first day of the first month following the date the Declaration is filed for record or at such other date as determined by the Association. The first assessment for any such membership may be made for the balance of the calendar year and shall become due and payable and a lien on the date aforesaid. The Board may from time to time determine the manner and schedule of payments.

It shall be the duty of the Board of the Association to periodically fix the amount of the assessment against each Lot for such assessment period and the Board shall make reasonable efforts to fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at the time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be opened to inspection by any Owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owner of any Lot subject thereto. Annual Assessments subsequent to the first Annual Assessment shall become a lien on January 1 of each year; Individual and Special Assessments shall become a lien at the time designated by the Board. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice thereof.

5.7 Assessment of Declarant. Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Declarant, until the expiration of the Development Period, shall be required to pay an assessment for any recorded, unsettled Lot in which it has the interest otherwise required for Class A membership only in any amount equal to ten (10%) percent of the Annual Assessments and Special Assessments which the Association levies for purposes set forth in Article V, Sections 5.2 and 5.5. The provisions of this Section 5.7 shall not apply to the assessment of any Living Unit held by a Declarant for rental purposes and which is or has been occupied as a Living Unit; in which event the Declarant shall be required to pay the full amount of the assessments levied thereon.

5.8 Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered.

5.9 Non-Payment of Assessment. Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them with the consent of the Association.

If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in either of which events interest, costs and reasonable attorney's fees shall be added to the amount of each assessment. No Owner shall waive or otherwise escape liability for the assessments herein provided for by non-use of the Common Areas or abandonment of his Lot or Living Unit.

In addition to the ten percent (10%) per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of any assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the assessment which is delinquent by fifteen (15) days.

5.10 Subordination of Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or through foreclosure shall not be liable for more than six (6) months of the Lot's unpaid assessments or charges accrued before the acquisition of title to the Lot by the mortgagee.

5.11 Capital Assessment at Closing. At the closing on the purchase of a Lot from the Declarant, the purchaser is required to pay the sum of Five Hundred and 00/100 Dollars (\$500.00) as his initial contribution to the working capital of the Association. This amount will be used by the Association for its operating expenses associated with the Annual Assessment. This payment is not an advanced payment of assessments, and it will not be held in any sort of trust or reserve account. The Declarant shall not be required to pay the working capital contributions required by this Section. Additionally, at such closing, each purchaser of a Unit is required to pay a prorata share of the Annual Assessments due in the month of closing.

ARTICLE VI

INSURANCE

6.1 Liability Insurance. The Association shall obtain and maintain a Comprehensive policy of public liability insurance covering all of the Common Areas, insuring the Association, Trustees, and Owners and members of their respective families, tenants and occupants in an

amount of not less than One Million 00/100 Dollars (\$1,000,000.00), per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. The insurance shall contain a "severability of interest" endorsement, if reasonably available, which shall preclude the insurer from denying the claim of an Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Owners, tenants or occupants.

6.2 Other Insurance. In addition, the Association may obtain and maintain contractual liability insurance, Trustees' and Officers' liability insurance and such other insurance as the Board may deem desirable from time to time.

6.3 Insufficient Insurance. In the event the improvements forming a part of the Common Areas shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for which whose benefit the amount was so advanced, and such assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

ARTICLE VII

ARCHITECTURAL CONTROL

7.1 Approval Required. Except for the construction of improvements and Living Units by the Declarant: (i) no building, fence, wall, deck, structure or other exterior improvement shall be commenced, erected or maintained upon the Properties; (ii) 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 by the Board of the Association. Such plans and specifications shall be reviewed as to harmony of external design and location in relation to surrounding structures and topography in accordance with the requirements hereinafter set forth and the design review criteria established from time to time by the Board. Except as otherwise provided in the Declaration, in the event that the Board fails to approve or disapprove said plans and specifications within sixty (60) days after submission, approval will not be required and this Article shall be deemed fully complied with, provided such improvement complies with the General Requirements of Section 7.3.

The plans and specifications to be submitted shall be in such form and shall contain such information as the Board may reasonably require.

7.2 Approval - Not a Guarantee. No approval of plans and specifications shall be construed as representing or implying that such plans, specifications or standards will, if

followed, result in properly designed improvements. Such approvals shall in no event be construed as representing or guaranteeing that any improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, nor the Association, shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damage to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the non-compliance of such plans and specifications, any loss or damage arising from the non-compliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications.

7.3 General Requirements. The following requirements shall be applicable to the Properties:

7.3.1 General Conditions. Except for Lots designated as Common Area Lots, no building shall be erected, altered, placed or be permitted to remain on any Lot other than one attached single-family dwelling with a private garage suitable for parking not less than one (1) car which is to be attached to the principal dwelling.

Except for improvements constructed by the Declarant in connection with the development of the Property, or improvements authorized pursuant to Section 7.1, no improvement of any kind shall be erected, altered, placed or permitted to remain on the Common Areas. Additionally, no improvement constructed by the Declarant in connection with the development of the Property shall be removed from the Common Areas without the prior written consent of the Declarant or the Association.

7.3.2 House Placement and Yard Grading. Residences and Lots shall conform to existing grade and drainage patterns as set forth on the grading plan for the Property filed with the appropriate Boone County governmental authorities.

7.3.3 Driveways. All driveways shall be surfaced with concrete, asphalt or similar type substance.

7.3.4 Water Discharge. Storm water must be disposed of in accordance with drainage plans established by the Declarant, the Association, or Boone County.

7.3.5 Radio and Television Antennas. All television and radio antennas, including CB radio antennas, must be enclosed within the residence located on the Lot. Satellite dishes shall be permitted on any Lot provided they are installed in compliance with the following criteria: (a) the diameter of the dish does not exceed one (1) meter; (b) it is screened from view of all adjacent Lots; and (c) it is either (i) attached to the residence, or (ii) located on the Lot.

7.3.6 Basketball Equipment. No, permanent or temporary, (free-standing or attached) basketball hoops, goals, poles or backboards of any type are permitted.

7.3.7 Air Conditioning and Heat Pump Equipment. Such equipment shall be located only in side or rear yards. Window air conditioning units shall not be permitted.

7.3.8 Awnings. No metal or plastic awnings for windows or doors may be erected or used. Retractable canvas awnings may be used on any Lot over the deck area subject to prior written approval of the Association.

7.3.9 Fences. No fence or wall of any kind, specifically including the use of a hedge or other growing plants as a fence, and for any purpose, excepting a retaining wall, shall be erected, placed or suffered to remain upon any Lot. This Section shall not apply to decorative fences or retaining walls installed by the Declarant in connection with the development of the Property.

7.3.10 Exterior Carpeting. No exterior carpeting shall be allowed if it is visible from the street.

7.3.11 Lighting Exterior. Mercury vapor yard lights in excess of 50 watts are prohibited, except for street lights installed in a right-of-way by the Declarant or a utility company. This Section shall not apply to residences used by the Declarant as model homes or sales offices.

7.3.12 Zoning. All improvements shall be constructed in accordance with and subject to all applicable zoning regulations and building codes.

7.4 Variations. In order to avoid unnecessary hardship and/or to overcome practical difficulties in the application of certain provisions of the Declaration, the Board shall have the authority to grant reasonable variances from the provisions of Section 7.3. Additionally, so long as Declarant owns one or more Lots on the Property, the Declarant, may grant reasonable variances from the provisions of Section 7.3. No variance shall materially injure or materially adversely affect any other part of the Property or any other Owner or occupant. No variance granted pursuant to the authority of this Section 7.4 shall constitute a waiver of any provision of the Declaration as applied to any other party or other part of the Property, and no variance may be granted to permit anything that is prohibited by applicable law. All provisions of the Declaration not affected by the grant of a variance shall continue to apply with full force and effect to the Lot for which the variance is granted and to the balance of the Property.

ARTICLE VIII

USE RESTRICTIONS AND MAINTENANCE

8.1 Restrictions. The Property shall be subject to the following restrictions:

8.1.1 Purpose of Property. Except for Lots designated as Common Areas, the Property shall be used only for residential purposes and common recreational purposes auxiliary thereto. Notwithstanding the above, an occupant maintaining a personal or professional library, keeping personal business or professional records, or conducting personal business or professional telephone calls or correspondence, in or from a Living Unit, shall not be a violation of these restrictions. Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, (e.g. family room, bedrooms, offices

or recreational rooms). The Declarant shall have the right to use unsold residences as model homes or sales offices.

8.1.2 Nuisance. No obnoxious or offensive activity of any kind shall be engaged in on any Lot or Limited Use Easement nor shall any Owner or occupant thereof engage in any activities that interfere with the quiet enjoyment, comfort and health of the occupants of adjacent neighboring Lots. This paragraph shall not apply to any Lots owned by the Declarant and held for sale.

8.1.3 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets (excluding pot-belly pigs) may be kept, provided that they are not kept, bred or maintained for any commercial purpose. Dogs, cats and other household pets must be kept within the confines of the Owner's Living Unit, except when being held on a hand leash by the person attending the animal. A Lot Owner shall be responsible for cleaning up after his household pet. Notwithstanding the above, the Association shall have the right to promulgate rules and regulations pertaining to the size, number and type of such household pets and the right to levy fines and enforcement charges against persons who do not clean up after their pets. Additionally, the right of an occupant to maintain an animal in a Living Unit shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on other Living Units or occupants.

8.1.4 Signage. No sign of any kind shall be displayed to the public view on any Lot or Limited Use Easement except one sign of not more than four (4) square feet advertising the property for sale. This paragraph shall not apply to signs used by Declarant to advertise the Property during the construction or sale period.

8.1.5 Trash. No burning of any trash and no accumulation or storage of litter, new or used building materials or trash of any kind shall be permitted on any Lot. Trash and garbage shall be placed in sanitary containers and shall not be permitted to remain in the public view except on days of trash collection. This paragraph shall not apply to any Lots owned by the Declarant and held for sale.

8.1.6 Prohibited Accessory Structures. No permanent or temporary building, tent, storage shed, free standing greenhouse, or swimming pool shall be erected or permitted to remain upon a Lot. Decks are permitted provided they are located upon a Lot and approved pursuant to Section 7.1. This paragraph shall not apply to any Lots owned by the Declarant and held for sale.

8.1.7 Maintenance. Each and every Lot and Living Unit thereon as well as the driveway providing access thereto, shall be maintained by the Owner thereof in a reasonable manner in accordance with the general standards of maintenance prevailing throughout the Property. An Owner shall be responsible for the watering of landscaping installed by the Declarant or the Association on such Owner's Lot as well as the watering and maintenance of any other landscaping installed by such Owner. Should any Owner fail to maintain his Lot or Living Unit to the extent provided in the Declaration, the Association may do so, after notice,

and assess such owner for the cost. The assessment shall be a lien on the Owner's Lot to the same extent as other liens provided for herein. This paragraph shall not apply to any Lots owned by the Declarant and held for sale.

8.1.8 Automobiles, Recreational Vehicles, Boats, Travel Trailers. No recreational vehicle, mobile home, boat, unlicensed vehicle, travel trailer or commercial vehicle shall be parked or stored on any Lot, for a period in excess of forty-eight (48) hours during any calendar month, unless the same is in the garage and completely out of view. Trucks exceeding a three-quarter (3/4) ton rating are prohibited, unless such trucks are kept in the garage and completely out of view.

No vehicle in inoperable or unlicensed condition shall be stored on any Lot for a period in excess of five (5) days unless the same is in the garage and completely out of view. This paragraph shall not apply to any Lots owned by the Declarant and held for sale.

8.1.9 Garage and Yard Sales and Holiday Decorations. There shall be no more than two (2) garage or yard sales held by the Owner or residents of any Lot during any twelve (12) month period.

Holiday lights and decorations may be erected no sooner than four (4) weeks prior to and shall be removed not later than four (4) weeks after such holiday.

8.1.10 Obstruction of Easements and Drainage. No structure, planting or other material other than driveways, or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement or the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels in the easement area.

ARTICLE IX

EASEMENTS AND MAINTENANCE

9.1 Access Easements. All Lots shall be subject to an access easement in favor of the Declarant and the Association for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, replacing and otherwise dealing with the Common Areas, including all improvements thereon. Such access easement shall also permit the Declarant and the Association to enter upon any Lot for the purpose of correcting grade and drainage patterns for the benefit of the entire Properties, provided that the Lot shall be restored with any pavement, grass or sod which shall have been removed.

9.2 Maintenance of Common Areas. The Association shall be responsible for the care and maintenance of the Common Areas of the subdivision. The Association shall also be responsible for the care and maintenance of the Storm Water Facilities in a manner satisfactory to the Boone County, Kentucky Engineer including the replacing of any piping and the maintaining of good appearance around these easement areas. The Association shall be

responsible for any required maintenance of pipes, concrete gutters, fixtures or mechanical devices.

9.3 Reservation of Easements. The Declarant shall have and hereby reserves easements in favor of itself, its successors and assigns, and such other persons or entities as it may designate as follows:

9.3.1 In, on and over a twenty foot (20') wide strip of land on either side of all roadways on the Property for the purposes of access to construct, use and maintain, utilities, sidewalks, signage, lighting, landscaping and recreational uses and other uses deemed appropriate for or necessary to intergrade the Property into other real estate.

9.3.2 In, on and over all utility and drainage easements set forth on the Property for the installation and maintenance of utility and drainage systems.

9.4 Right of Association to Remove or Correct Violations. The Association may, in the interest or the general welfare of all of the Owners, enter upon any Lot or the exterior of any Living Unit at reasonable hours on any day for the purpose of removing or correcting any violation or breach of any attempted violation of any of the covenants and restrictions contained in this Declaration, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided however, that no such action shall be taken without a resolution of the Board of Trustees of the Association authorizing access to any Lot or property covered under this Section and any charges incurred by the Association in correcting the violation hereunder, (including court costs and reasonable attorney's fees) shall constitute a charge against the subject property and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and Lot for such expenses, and including costs of collection of said lien amount, which lien shall be subordinate to first mortgages as provided in Article V, Section 5.10.

9.5 Handicap Accessibility. Notwithstanding the other provisions herein, an Owner of a Living Unit and Lot may, at his expense, have such reasonable modifications made to the interior and exterior of his Living Unit and Lot and the Common Areas as may be necessary to afford physically handicapped persons full enjoyment of his premises. Any modifications to be undertaken to the exterior of a Living Unit and Lot or the Common Areas shall comply with the guidelines and regulations of the United States Department of Housing and Urban Development for buildings and facilities providing accessibility and usability for physically handicapped people; and shall be undertaken pursuant to a contract, the terms, conditions and specifications of which, shall be approved by the Board of Trustees. The approved contractor shall provide an adequate performance bond for the benefit of the Association.

Notwithstanding the other provisions herein, including those requiring approval of the Members of the Association, the Board of Trustees is authorized to make reasonable accommodations to any rules, policies, practices or services as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Living Unit and Lot, including the Common Areas.

9.6 Arbitration. In the event of any dispute between Owners, other than the Declarant, regarding the application of these restrictions or any rule or regulation, or in the event of a dispute pursuant to Section 8.1.10 hereof, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party thereof not less than five (5) days in advance of such hearing. The Board, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such a dispute unless the arbitration provided for herein has occurred, or unless both parties have waived the requirement for arbitration.

ARTICLE X

PARTY WALLS AND EASEMENTS

10.1 Party Walls. Each wall which is built as part of the original construction of an Attached Single Family Living Unit and placed on the dividing line between Lots or Living Units shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

10.2 Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

10.3 Destruction by Fire or Other Casualty. 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 restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution for the others under any rule of law regarding liability for negligent or willful acts or omissions. Unless otherwise agreed by the Association and the Owners of both Living Units damaged or destroyed by fire or other casualty such structure shall be rebuilt and all proceeds of insurance available therefor shall be used to restore the structure.

10.4 Weatherproofing. 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 shall bear the whole cost of furnishing the necessary protection against such elements.

10.5 Right of Entry. For purposes of making inspections and repairs under this Article X, an Owner, his agents or contractors shall have the right to enter upon the Lot of the other Owner of a party wall upon the giving of notice.

10.6 Easements. In the event that a structure is erected on more than one Lot, each such Lot shall have the benefit of mutual easements across the other Lot upon which said structure is located and through the structure, and each such Lot shall be subject to easements across it and through the structure erected thereon for the benefit of the other Lot upon which said structure is located, for the maintenance, continuation and upkeep of utility wires and lines

serving the individual Lots and Living Units located thereon. The Owner of each Lot shall maintain, repair and replace all wires and lines serving such Lot and Living Unit, and for such purpose may enter upon the other Lots or Living Units, but shall at all times be responsible for repairing and restoring to its former condition any Lot or Living Unit which is damaged or disturbed by reason of the performance of any maintenance, repair or replacement of such wires and lines, or by reason of the exercise of any right of easement, ingress and egress herein provided. The cost of repair and maintenance of wires and lines used jointly for the benefit of two Lots shall be shared by the Owners who make use of the same in equal amounts.

10.7 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.

10.8 Rights Not Subject to Suspension. The rights and easements created in this Article X shall not be suspended by the Association for any reason.

ARTICLE XI

FEDERAL HOME LOAN MORTGAGE CORPORATION PROVISIONS

11.1 "FHLMC". The following provisions are included herein for the benefit of the holders of first mortgages on any Lot within that portion of Wysteria Village which is subject to the provisions of this Declaration, in order to permit compliance with the requirements of Federal Home Loan Mortgage Corporation (FHLMC) as a condition to the purchase of loans on Living Units in the subdivision. The covenants and provisions hereinafter set forth shall run in favor only of the first mortgage holders, and the provisions hereinafter set forth may be altered, amended, revised or rescinded by actions of the Board of Trustees of the Association, without approval of the Members of the Association, but only without such approval to the extent that such alteration, amendment, revision or rescission is necessary to comply with the requirements of FHLMC.

11.2 "FHLMC RIGHTS". It is provided as follows:

- (a) Unless at least two-thirds (66-2/3%) of the first mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Declarant or Developer) of the individual units in the subdivision have given their prior written approval, the Association shall not be entitled to:
 - (i) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common property owned, directly or indirectly, by such homeowners association for the benefit of the units in the subdivision (the granting of easements for public utilities or for other public purposes consistent with the intended use of such common property by the Association shall not be deemed a transfer within the meaning of this clause);

- (ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Unit Owner;
 - (iii) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, the exterior maintenance of units, the maintenance of units, the maintenance of the common property party walks or common fences and driveways, or the upkeep of lawns and plantings in the subdivision;
 - (iv) fail to maintain fire and extended coverage on insurable subdivision common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);
 - (v) use hazard insurance proceeds for losses to any subdivision common property for other than the repair, replacement or reconstruction of such common property.
- (b) First mortgagees of Living Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the homeowners association. All first mortgagees of units in the subdivision shall be entitled to such reimbursement.
- (c) No Owner, or any other party, has priority over any rights of any first mortgagee of a Living Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of common property.
- (d) A first mortgagee, upon request, is entitled to written notification from the homeowners association of any default in the performance by the individual Borrower of any obligation under the Declaration which is not cured within sixty (60) days.

ARTICLE XII

GENERAL PROVISIONS

12.1 Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Failure by the Declarant, the Association or by 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.

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

12.3 Amendment. Except as otherwise provided in this Declaration, the covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter by an instrument signed by not less than fifty-one percent (51%) of the Lot Owners. Any amendment must be recorded. No amendment to the covenants and restrictions of this Declaration shall be binding upon any Lot owned by the Declarant or upon any additional property annexed to the terms of this Declaration by the Declarant, or upon any Lot upon which Living Unit has not yet been erected unless the Declarant or any such Lot Owner agrees to said amendment in a recorded writing.

12.4 Right to Amend Documents. Notwithstanding anything above to the contrary, this Declaration and the By-Laws may be amended at any time without the vote of Owners by a written instrument executed by the Declarant for the purpose of: eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; conforming to any requirements imposed or requested by any governmental agency, public authority or financial institution; provided, however, that no such amendment shall materially affect any Owner's interest in the Association. Each Owner and his mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration and the By-Laws by Declarant as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate the provisions of this paragraph.

12.5 Professional Management Contracts and Other Contracts. The Association may delegate all or any portion of its authority to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause or without payment of a termination fee on ninety (90) days or less written notice.

The Association shall have the right to contract with other homeowner's associations in the community for the purpose of providing for the maintenance, repair and landscaping of streets, right-of-ways and adjoining areas in the community.

12.6 Non-Discrimination. No Lot Owner (including the Declarant) and no employee, agent or representative of a Lot Owner shall discriminate on the basis of sex, race, color, creed, or national origin in the sale or lease of any Lot or in the use of the Common Areas.

12.7 Articles of Incorporation and By-Laws. Copies of the Articles of Incorporation and By-Laws for the Association are attached hereto as Exhibits "B" and "C".

IN WITNESS WHEREOF, the undersigned Declarant, Highway 25, LLC, a Kentucky limited liability company, and Keystone Home Builders, Inc., a Kentucky corporation, has hereunto set their signatures on the day and year first above written.

HIGHWAY 25, LLC
a Kentucky limited liability company,

By: _____
Its: _____

KEYSTONE HOME BUILDERS, INC.,
a Kentucky corporation

By: _____
Its: _____

STATE OF OHIO :
 : SS.
COUNTY OF HAMILTON :

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, _____ of Highway 25, LLC, a Kentucky limited liability company, on behalf of such company.

Notary Public

STATE OF OHIO :
 : SS.
COUNTY OF HAMILTON :

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, _____ of Keystone Home Builders, Inc., a Kentucky corporation, on behalf of such corporation.

Notary Public

THIS INSTRUMENT PREPARED BY:

Stephen R. Hunt, Esq.
ARONOFF, ROSEN & HUNT
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