

**DECLARATION OF HORIZONTAL PROPERTY REGIME
AND MASTER DEED ESTABLISHING
THE VILLAS AT BERRY HILL**

THIS DECLARATION OF HORIZONTAL PROPERTY REGIME AND MASTER DEED (the "Master Deed") has been prepared at the direction of and caused to be recorded by **HINTON MCGRAW BERRY HILL, LLC**, (hereinafter referred to as the "Declarant"), a Kentucky limited liability company, having an office at 12925 West US Highway 42, Prospect, Kentucky 40059.

WITNESSETH:

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

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

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

**ARTICLE I
Definitions**

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

(A) "Articles of Incorporation" mean the articles of incorporation of the council, a nonstock, nonprofit corporation, which shall govern and control, in part, the affairs and administration of the condominium project.

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

(C) "Buildings" mean, collectively, fifty-eight (58) Buildings ultimately to be constructed on the Land, containing a total of one hundred eleven (111) Units in the condominium project, subject to the provisions of Article XII herein. The location of the buildings on the Land and the area of each of the buildings are as set forth on the plans.

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

(E) "Common elements" mean all of the property, except the Units, including, without limitation, the outside walls and roofs of the buildings, the foundations and structural members of the buildings and all columns, girders, beams, and supports, the Land and improvements on the property (including the Land under the Units), all utility or other pipes and material located outside of the Units, except such as are part of the Units, all central installations for the furnishing of utilities and other services to the Units, all driveways, roadways, grass areas, and sidewalks, all recreational facilities available in whole or in part for use by the Unit owners.

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

(G) "Council" means BERRY HILL COUNCIL OF CO-OWNERS, INC., a Kentucky nonstock, nonprofit corporation, incorporated on October 5, 2007. Said articles are filed with the Office of the County Clerk of Franklin County, Kentucky in Corporate Book A70, Page 200, the members of which shall be each an owner of record of a Unit in the condominium project. Also known as "Berry Hill Association".

(H) "The Villas at Berry Hill" means the name by which the condominium project will be known.

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

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

(K) "Open Space Area" shall mean that portion of the development denoted as "Open Space" on the plans referenced herein below.

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

(M) "Plans" mean the plans and specifications for the condominium project, including the floor plans for 6 Units identified as 1014 and 1016 Berry Hill Drive; 1013 and 1011 Berry Hill Drive; and 1103 and 1101 Leawood Drive, Franklin, Kentucky, prepared by Land Design & Development, Inc. showing the layout, location, Unit numbers and dimensions of said Units, and recorded in Plat Cabinet H, Slide 108 through 111, inclusive, in the Office of the County Court Clerk of Franklin County, Kentucky, filed simultaneously with the recording of this Master Deed. Additional Plans shall be recorded with Amendments to this Master Deed, as they become available, in the Office of the County Court Clerk of Franklin County, Kentucky.

(N) "Condominium Rules" mean the rules and regulations promulgated by the board of directors of the Council and governing, in part, the use and occupancy of the Units and Common Elements.

(O) "Berry Hill Rules" mean the rules and regulations promulgated by the Berry Hill Association and governing, in part, the use of the Open Space, including, but not limited to the Restrictions as set forth in this Master Deed and the Rules adopted by the Association.

(P) "Unit" means an enclosed space (KRS 381.810(1)) within the buildings measured from interior unfinished surfaces of walls, ceilings, and floors, having a direct exit to a thoroughfare or to a common element leading to a thoroughfare. Each Unit shall include the interior unfinished surface of any doors, windows, vents, and other structural element as ordinarily are regarded as enclosures of space, and any wallpaper, paint, carpet, tile, and all other decorating or finishing materials affixed or installed as part of the physical structure of the Unit, and all closets, cabinets, storage areas, and visible fixtures, mechanical systems, and equipment installed in and for the sole and exclusive use of an individual Unit; provided, however, that neither pipes, wires, conduits, or other public utility lines or installations constituting part of the overall systems designed for the general service of an entire building, nor property of any kind which is not removable without jeopardizing the soundness and safety of the remainder of an entire building, shall be deemed to be included within any Unit. "Entire building," as used in the preceding sentence, shall include any other Unit and any common element, whether general or limited.

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

ARTICLE II

Units

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

Subject to the provisions of Article XII herein, there shall be One Hundred Eleven (111) Units within the condominium project. None of which Units have currently been built, and for purposes of identification, each Unit shall be assigned a number and more specifically identified as this Master Deed is Amended. No Unit shall bear the same identification number as any other Unit. The plans set forth the layout, location within the applicable building, Unit number designation, and dimensions of each Unit.

(B) Ownership of the Units

Each Unit owner shall obtain fee simple ownership of the Unit acquired, the appurtenant undivided interest of the general common elements to the condominium project, and, if applicable, any limited common elements appurtenant to the Unit. Each Unit owner shall be a member of the Council. The form of ownership of a Unit may be individual, corporate, in partnership, joint with right of survivorship, a tenancy in common, a tenancy by the entireties, or (subject to the other provisions of the condominium documents) any other estate in real property recognized by law and which may be conveyed and encumbered. All deeds to each Unit shall describe such Unit by reference to this Master Deed, the plans, the name of this condominium project, and the identifying number of the Unit followed by the words "a condominium Unit." No Unit shall be subdivided,

and no action for partition of a Unit shall lie, except in the manner provided in the Horizontal Property Law of Kentucky and upon the prior written approval of the holder(s) of any mortgage(s) on such Unit and approved by a majority vote of the Council. Any conveyance of a Unit shall be deemed also to convey the undivided interest of the Unit owner in the general common elements and any limited common elements appurtenant to the Unit, whether or not the instrument evidencing such conveyance expressly shall so state.

(C) Taxation of Units

The owner of each Unit shall be responsible for any and all ad valorem or real estate taxes and special assessments that may be assessed against the Unit and its percentage of ownership in the common element by any governmental authority with jurisdiction over the Unit. Nothing contained in this Master Deed shall be construed as giving to any Unit owner any right of contribution or adjustment against any other Unit owners on account of any deviation by any governmental authority from the percentages of ownership set forth in any valuation or assessment against the Unit owned by such Unit owner.

(D) Maintenance and repair of Units

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

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

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

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

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

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

(E) Liability of Unit owner for certain repairs.

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

(F) Loss Prevention and Allocation of Responsibility.

(1) The unit owners are required to maintain the interior of the unit at all times in a manner which would prevent the development of mold, mildew, or similar toxic growth. In the event that mold or mildew or other health-impairing microbial growths occur in the unit, the unit owner shall take immediate action to remove the growths, and sterilize the unit, and the owner and/or occupant is to also immediately notify the Berry Hill Association. If mold or mildew or other growth causes damage to the portions of the unit which are maintained by the Berry Hill Association, or to common elements, or to any other unit, the costs of all repairs and remediation, other than that which is covered by such insurance as the Berry Hill Association may choose to obtain from time to time, will be borne by the condominium parcel owner of the unit from which the mold originated, unless the owner can establish that the damage was caused by the negligent failure of the Berry Hill Association to maintain the common elements. Repairs to the common elements shall be made by the Berry Hill Association, and the cost will be assessed against the unit from which the mold or mildew originated, to the maximum extent allowed by law. The assessment will be secured by a lien to the maximum extent allowed by law, and if a lien is allowed then the amount due will be collected in the same manner as any other assessment under this Declaration. In any event the unit owner will be responsible for all costs and attorneys' fees incurred by the Berry Hill Association in connection with the performance of any maintenance or corrective action needed, and in connection with the collection of any amounts owed by the unit owner pursuant to this section of the Declaration.

(2) Unit owners are also required to inspect all appliances, and all related hoses and connections, on a regular basis in order to ensure that these are all in proper working order, and in order to prevent any leaks or other incidents which could cause damage to the condominium property. The Berry Hill Association may also inspect appliances and related equipment at such times as the Board of Directors determines appropriate, and the Berry Hill Association is authorized to enter units for this purpose, following reasonable notice, and may require owners to undertake maintenance deemed to be appropriate as a preventative measure.

(3) When a unit is expected to be vacant or unoccupied for a period of 48 hours or more, it shall be the responsibility of the unit owner to turn off the water supply to the unit, including the water supply to the refrigerator, dishwasher and hot water heater during such period

of time, and turn off the electric power to the hot water heater. Additionally, the owner shall run the air conditioning unit during such time to maintain a proper humidity level during such absence, for the purpose of preventing the occurrence of mold or other toxic substances which could occur if moisture enters the unit during such times. Further, the unit owner is to arrange to have someone visit and inspect any unoccupied unit at least once every two weeks, in order to determine whether any leaks or damage has occurred. If any leak or damage is found, the owner and/or occupant shall notify the Berry Hill Association immediately.

(a) Any unit owner causing damage to any property in the Villas at Berry Hill condominium regime by reason of the installation, operation, or maintenance of any item or equipment located in his or her unit (including fixtures), or by his or her failure to comply with the requirements of this section of the Declaration, shall be strictly liable to the owner of any other unit damaged, and to the Berry Hill Association as to the common elements or any unit components for which the Berry Hill Association is responsible, for all damages caused, without regard to the negligence or fault of the owner from whose unit the cause of the damage originated.

(G) Alteration or improvements of Units and common elements.

No alteration or improvement to any common element or to the Unit which would alter or affect the common elements or any other Unit may be made by any Unit owner other than the Declarant without the prior written consent of the Board of Directors. This includes any change to any exterior colors or building materials. No application shall be filed by any Unit owner other than the Declarant with any governmental authority for a permit covering an addition, alteration, or improvement to be made in a Unit which alters or affects the common elements or other Units, unless approved and executed by the Board of Directors. Such approval and execution shall not evidence any consent to any liability on the part of the Board of Directors, or any individual member of the Board of Directors, to any contractor, subcontractor, materialman, architect, or engineer by reason of such addition, alteration, or improvement or to any person having any claim for injury to person or damage to property arising therefrom. Consent shall be requested in writing through the manager or managing agent, if any, or through the president or secretary of the Council if no manager or management agent is employed. The Board of Directors shall have the obligation to answer within 30 days. The Board of Directors may require that the Unit owner making such improvement, alteration, or addition obtain such insurance coverage and in such amounts as the Board of Directors deems proper.

ARTICLE III

Common Elements

(A) General common elements

The general common elements of the condominium project include the Land and all other areas, and all structures and improvements, within the boundaries of the condominium project not included within the Units and limited common elements. The general common elements include, but are not necessarily limited to, the Land, the foundations, structural columns, walls, floors (including slabs on which the buildings, including garages, are built), and ceilings and roofs (other than the interior decorated surfaces thereof located within the boundaries of individual Units) of the

buildings, the gardens, outside walks, and outside driveways, breezeways, automobile parking spaces (other than those designated as limited common elements pursuant to the article of this Master Deed entitled "Limited Common Elements"), outside retaining walls and landscaping on the common elements, any recreational facilities located on the Land, and compartments or installations of central services such as pipes, ducts, electrical wiring and conduits, and public utility lines including water lines, fire hydrants and water meters.

(B) Interest in common elements

Each Unit shall have appurtenant to it that percentage interest in the common elements which the floor area of the Unit bears to the sum of the floor area for all Units (which percentage interest shall be set forth with each Amendment to this Master Deed), and each Unit owner shall bear the same percentage of the common expense of the condominium project. The undivided interest in the common elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the instrument of such conveyance.

(C) Common elements to remain undivided

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

(D) Adjustments in percentage of ownership

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

(E) Use of common elements

The common elements shall be used in accordance with the limitations imposed by the Binding Elements for the benefit of the Unit owners, the furnishing of services and facilities for which the same are reasonably intended, and for the enjoyment to be derived from such proper and reasonable use. Each Unit owner may use the general common elements in accordance with the purposes for which they are intended so long as such use does not hinder the exercise of or encroach upon the rights of other Unit owners. The Board of Directors shall, if any question arises, determine the purpose for which a common element is intended to be used. The Board of Directors shall have the right to promulgate the Condominium Rules which may limit the use of the common elements to Unit owners, their guests, permitted tenants, and invitees.

(F) The Rules

The boards of directors of the Council may from time to time adopt, amend and repeal rules and regulations to be known as the "Condominium Rules and Regulations," ("Rules") with respect to all aspects of the Council's rights, activities and duties under this Master Deed. The Condominium Rules may, without limitation, govern use of Berry Hill and of any Common Elements, including prohibiting or restricting the use of any portion of the development, Open Space or of any Common Elements by Owners, Residents or others; interpret this Master Deed or establish procedures for operation of the Council or the administration of this Master Deed; provided, however, that the Rules shall not be inconsistent with this Master Deed, or any articles or bylaws. A copy of the Condominium Rules, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Council and shall be available to each Unit owner upon request.

(G) Maintenance and Repair of common elements

The maintenance and operation, including landscaping, snow removal, exterior painting and all other repair, of the common elements, (including, but not limited to, the repair of major cracks in the slabs on which the Units and garages are built) shall be the responsibility and expense of the Council, unless and except as otherwise expressly provided in the condominium documents, and the Board of Directors of the Council, pursuant to authority found at Article VI of this Master Deed, shall have the authority to make all decisions of the Council as respects repairs and maintenance and the costs incurred pursuant thereto. It shall be the responsibility of the Council to maintain, repair, or replace:

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

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

(3) All portions of what would appear to be the Unit but which really constitute a part of the exterior of any building and, therefore, in actuality are common elements, including, but not limited to, all exterior doors and windows (except all interior painting, interior caulking and interior repair of same).

(4) All common elements not heretofore mentioned.

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

(6) All fences around any portion of the condominium project.

(H) Alteration and improvement of common elements

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

ARTICLE IV Limited Common Elements

(A) Limited common elements

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

(B) Limited common elements to remain undivided

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

(C) Parking spaces

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

ARTICLE V Assessments

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

(A) Maximum Regular Assessments and Special Assessments

a) Until December 31, 2008, the maximum regular assessment to cover each Unit's share of the common expenses of the condominium project shall be set at a rate not to exceed One Thousand Nine Hundred Twenty and no/100ths Dollars (\$1,920.00) per year [i.e., \$160.00 per month] for each Unit. The maximum regular assessment provided for herein shall be payable monthly and shall commence as to each Unit owner, except Declarant, on the day of the initial conveyance of the Unit to the Unit owner. The first assessment shall be adjusted according to the number of days remaining in the month. At closing, the assessment shall be collected for the month in which the closing occurs and for the immediately following month.

After December 31, 2008, the board of directors of the Council shall fix the amount of the maximum regular assessments to be paid by each Unit Owner against each Unit at least thirty (30) days in advance of each maximum regular assessment period. Written notice of the maximum regular assessment shall be sent to every Unit owner subject thereto. The due date for payment of the maximum regular assessment shall be the first day of each month unless such date is amended by resolution of the board of directors.

b) NOTWITHSTANDING ANY OTHER PROVISION HEREIN, the cost of water used by the Irrigation System to service the Lands immediately surrounding the Lot shall be separately charged to, and paid by that Lot owner as a separate, regular assessment.

c) In addition to the regular assessments authorized above, the Council may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Common Element, including fixtures and personal property related thereto provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting either in person or by proxy at a meeting duly called for such purpose.

d) Each Unit owner shall be personally liable for the payment of the regular and special assessments. No Unit owner shall be exempt from payment of any assessment by waiver of the use or enjoyment of the common elements or by abandonment of the Unit owned by such Unit owner or by claiming that the quantity or quality of services does not warrant such payment or is not as contemplated by such Unit owner as of the time of purchase.

(B) Interest; application of payments

Any assessment not paid within ten (10) days after the due date shall become delinquent. If an assessment is not paid within ten (10) days after the due date, the assessment shall bear a late charge of one and one-half percent (1-1/2%) per month. All payments upon account shall be first applied to interest and then to the assessment payment first due.

(C) Lien for assessments

Except as provided in Article V(E) of this Master Deed, any unpaid common expenses assessed to a Unit owner shall constitute a lien against the Unit owned by such Unit owner and against such Unit owner's interest in the condominium project prior to all other liens except the lien of a first mortgage on the Unit and tax or assessment liens on the Unit by the taxing subdivision of

any governmental authority, including but not limited to state, county, city, and school district taxing agencies.

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

(D) Transfer of Units

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

(E) Limitation on mortgage liabilities

Where the mortgagee of a first mortgage of record or the purchaser or purchasers of a Unit obtain title to the Unit as a result of foreclosure of a first mortgage, or by voluntary conveyance in lieu of such foreclosure, said mortgagee or purchaser shall not be liable for the shares of common expenses or assessments by the Council pertaining to such Unit or chargeable to a former Unit owner of such Unit which became due prior to acquisition of title by said mortgagee or purchaser as a result of the foreclosure or voluntary conveyance in lieu of said foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the other Unit owners of Units, including a successor or assign of the mortgagee. The waiver of liability granted herein for the payment of past due assessments shall not apply to a Unit owner who takes back a purchase money mortgage or to any other mortgagee which is not an "institutional mortgagee." The term "institutional mortgagee" herein used shall mean a first mortgage holder which is a bank, savings and loan association, life insurance company, pension fund, trust company, credit union, or other similar institutional lender.

(F) Rental pending foreclosure

In any foreclosure of a lien for assessments, the Unit owner of the Unit subject to the lien shall be required to pay a reasonable rental for the Unit, and the Council shall be entitled to the appointment of a receiver to collect the same.

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

ARTICLE VI
Council of Co-owners and Berry Hill Association

A. The Declarant and every Unit Owner shall be a member of the Council as set forth herein and in the Horizontal Property Regime and Master Deed Establishing The Villas at Berry Hill being established by this document ("Berry Hill Declaration"). Such Unit Owner and member shall abide by the rules and regulations of the Council, shall pay the assessments provided for in this Master Deed, when due, and shall comply with decisions of the referenced entity's governing body. Conveyance of a Unit (except conveyance to a mortgagee) automatically transfers membership in the Council without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment.

B. The Council shall be comprised of only one (1) class of membership, that being all of the Unit Owners. Every person, group of persons, or entity which is a record Owner of a fee interest in any Unit shall automatically be a member of the Council; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of any Unit. Members shall be entitled to one (1) vote for each Unit in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record owner of a fee interest in any Unit, then the vote for the membership appurtenant to such Unit portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit. In the event agreement is not reached, the vote attributable to such Unit shall not be cast.

C. Until Declarant conveys all Units, or elects to reject its continuing appointment as herein described, each Unit Owner, by acceptance of a deed for the Unit, does automatically and irrevocably appoint Declarant as the attorney-in-fact for the Unit Owner, and in his or her name and stead, to act for the Unit Owner in executing any document or taking any action with respect to, including any action to amend, this Master Deed or the articles of incorporation or bylaws of either of the associations referenced herein and to otherwise exclusively exercise all rights of such Unit

Owner to vote as a member of the association referenced herein on all matters coming before said association and to cast such vote as Declarant sees fit in its sole discretion. Any action so taken by Declarant shall be fully binding upon the Unit Owner as if taken by the Unit Owner in his or her own name without acting through an attorney-in-fact. Such irrevocable appointment of Declarant as attorney-in-fact is a power coupled with an interest.

ARTICLE VII

Easements

(A) Existing easements

Easements are hereby declared and granted by each Unit owner in favor of each other Unit owner, and reserved by Declarant, for all utility purposes as they exist on the date of the recording of this Master Deed or as are contemplated by the plans, or as may be required to be incorporated in the final construction of the buildings and the common elements. Each Unit owner shall have an easement in common with all other Unit owners to use all pipes, wires, ducts, cables, conduits, public utility lines, and other common elements located in any of the other Units and serving the Unit(s) of such Unit owner. Each Unit shall be subject to an easement in favor of all of the Unit owners to use the pipes ducts, cables, wires, conduits, public utility lines, and other common elements, servicing such other Units and located in such Unit. Easements are further declared and granted and reserved for ingress and egress for pedestrian traffic over, through, and across sidewalks, paths, walks, and lanes as are now and from time to time may exist upon the common elements; and for vehicular traffic over, through, and across such driveways, parking areas (subject to the rights of applicable Unit owners in parking spaces which are limited common elements), and other portions of the common elements as are now and from time to time may be paved and intended for such purposes. All easements and rights described in this Master Deed are easements appurtenant, running with the Land, and shall inure to the benefit of and be binding upon the Declarant, Unit owners, and any other person having any interest in the condominium project, but shall be subject to and limited by the provisions of the condominium documents. The deed of conveyance of any Unit, or any mortgage or other evidence of obligation, shall be subject to the easements and rights described in this Master Deed, and reference to this Master Deed shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, and trustees of such Units as fully and completely as if such easements and rights had been recited fully and set forth in their entirety in such documents.

(B) Easement of Enjoyment

Every Owner shall have a right and easement of enjoyment in and to any Common Area or Open Space as described in this Declaration which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

a) The right of the Berry Hill Council of Co-Owners, Inc. to dedicate or transfer all or any part of any Common Area or Open Space as described in The Villas at Berry Hill Declaration to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No Common Area or Open Space Area shall be dedicated or transferred to a Unit of local government without acceptance of the Unit of local government involved and the approval of the Frankfort/Franklin County Planning Commission. Anything to the contrary herein notwithstanding, the Council and the members thereof shall be

responsible for the maintenance of Common Area and Open Space so long as the Property is used as a residential subdivision or until properly dedicated to a Unit of local government. This Section cannot be amended without approval from the Frankfort/Franklin County Planning Commission.

b) The right of the association, or Declarant to place reasonable restrictions upon the use of any Common Area or Open Space Areas that such association owns or is responsible for maintaining.

c) Any Unit owner may delegate, in accordance with the bylaws, his right of enjoyment to any Common Area or Open Space Area to the members of his family, his tenants, guests or contract purchasers of the Unit.

(C) Future easements

The Council may grant further easements for utility purposes for the benefit of the condominium project, including the right to install, lay, maintain, repair, and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, cable television wires and equipment, and electrical conduits and wires over, under, along, and on any portion of the condominium project, and each Unit owner hereby grants the Council (acting through its president) an irrevocable power of attorney to execute, acknowledge, and record, for and on behalf of each Unit owner, such instruments or documents as may be necessary to effectuate such easements; provided, however, that any easement through a Unit shall be only according to the plans and specifications for the building in which such Unit is located, or as such building is contracted, unless approved in writing by the Unit owner. The power of attorney granted by this section shall survive any disability or death of the Unit owner and shall be binding on each successive Unit owner.

(D) Access to Units by Council

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

(E) Declarant's easement for marketing purposes

Declarant reserves the right with respect to its marketing of Units to use the common elements for the ingress and egress of itself and for prospective purchasers and lessees of Units, including the right of such prospective purchasers and lessees to park in parking spaces which are

not limited common elements. Any damage to the common elements resulting from this easement shall be repaired by Declarant promptly after the same occurs.

(F) Declarant's easement for completion of Units

Declarant reserves the right for the purpose of completing the development of the condominium project, including the buildings and Units, to have access to the common elements and (but only to the extent reasonably necessary and only upon reasonable prior notice to the applicable Unit owner and at reasonable hours) to any Units presently existing, for the ingress and egress of itself and its subcontractors, materialmen, and suppliers for the purpose of constructing, installing, maintaining, and repairing equipment and fixtures pursuant to such development, and for other activities reasonably necessary in connection with such development, including the right to use the roadways and to park in those parking spaces which are not limited to common elements at the condominium project. Declarant agrees to repair any damage which may be caused to the building or to any Unit resulting from the actions of Declarant permitted by this section promptly after Declarant is notified that such damage has occurred.

(G) Easements for encroachments

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

(H) Additional easement

The Board of Directors shall have the right to grant such additional easements burdening the common elements as are reasonably determined by it to be compatible with the intended uses and future development of the condominium project, including, without limitation, additional easements for ingress and egress to and from and over the Land.

ARTICLE VIII
Insurance

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

(A) Authority to purchase; named insured

All insurance policies upon the condominium project shall be purchased by the Council. The named insured shall be the Council individually and as agent for the Unit owners, without naming them, and as agent for the mortgagees of the Unit owners. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit

owners. Such policies shall provide that payments by the insurer for losses shall be made to the Council as insurance trustee as designated below, and all policies and their endorsements shall be deposited with the insurance trustee. Unit owners shall obtain coverage at their own expense for their own Units, their limited common elements, their own personal property, and other risks and shall provide a copy of said policy to the Council on an annual basis.

(B) Coverage

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

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

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

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

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

(C) Premiums

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

(D) Insurance trustee

All insurance policies purchased by the Council shall be for the benefit of the Council and the Unit owners and mortgagees of the Units as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Council, as trustee, or to a bank in Kentucky with trust powers as may be designated as insurance trustee by the Board of Directors, which trustee is referred to in this instrument as the "insurance trustee." Payment of premiums, renewal and sufficiency of policies, settlement of claims with insurers, and collection of insurance proceeds

shall be the responsibility of the Board of Directors, and the sole duty of the insurance trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this Article.

(E) Shares of the proceeds; mortgagees

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

(F) Distribution of proceeds

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

(1) Expense of the trust

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

(2) Reconstruction or repair

If the damage for which the proceeds are paid is to be repaired or reconstructed substantially in accordance with the original plans for the buildings, the remaining proceeds shall be paid to defray the cost of such as provided in Article IX of this Master Deed. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit owners and their mortgagees being payable jointly to them. All mortgages and other liens existing against any Unit(s) at the time of damage shall attach to such repaired or reconstructed Unit(s) in the same priority as existed prior to such damage. All such repaired or reconstructed Units shall bear the same Unit numbers as those of the original Units and shall retain the same percentage of ownership in the common elements as those of the original Units (subject to "as built" adjustment as may be required by statute. If the damage for which the proceeds are paid is not to be repaired or reconstructed in accordance with the original plans for the buildings as permitted by Article IX of the Master Deed, the mortgagees of Units in that building may demand that the remaining proceeds be applied in reduction of the mortgage debt on such Units up to the total amount of the mortgage debt then due. Any proceeds remaining after such application in reduction of the mortgage debt shall be paid to defray the costs of repair and reconstruction as provided in the Article of this Master Deed entitled "Reconstruction or Repair after Casualty." This

section is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(3) Failure to reconstruct or repair

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

(4) Certificate

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

(G) Council as agent

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

ARTICLE IX
Reconstruction or Repair after Casualty

(A) Determination to reconstruct to repair

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

(1) Common element

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

(2) Buildings

If the damaged or destroyed improvements is one or more of the buildings, such building or buildings also shall be reconstructed or repaired except that, as to each building (if any) as to which more than two-thirds of such building has been destroyed, such building shall not be reconstructed or repaired if (and only if) (a) all of the Unit owners of Units in such building shall agree in writing within 30 days after the date of the occurrence of such destruction that they desire

that such building not be repaired or reconstructed and request the secretary of the Council in writing to call a special meeting of the Unit owners for the purpose of deciding whether such building shall be repaired or reconstructed, and (b) Unit owners of Units in the entire condominium project to which greater than 80% of the common elements are appurtenant shall vote not to repair or reconstruct such building at the meeting of all of the Unit owners, which shall be duly called by the secretary of the Council within 10 days after the receipt by the secretary of the written request from the Unit owners of the affected building. In the event the building is not reconstructed or repaired, the Unit owners of such building (and their mortgagees) shall be entitled to receive their proportionate share of the insurance proceeds payable as a result of such destruction, and the Board of Directors shall cause the Master Deed to be amended to revise the allocation of the common elements amount to the Units located in the remaining buildings according to the proportion which the floor area of each such Unit bears, respectively, to the sum of the floor area for all of remaining Units.

(3) Certificate

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

(B) Manner of reconstruction

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

(C) Responsibility

If the damage is only to those parts of a Unit for which the responsibility of maintenance and repair is that of the Unit owner, then the Unit owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Council.

(D) Estimate of costs

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

(E) Assessments

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

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

(F) Construction funds

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

(1) Council

If the total of assessments made by the Council in order to provide funds for payments of costs of reconstruction and repair that is the responsibility of the Council is more than \$10,000.00, then the sums paid upon such assessments shall be deposited by the Council with the insurance trustee. In all other cases the Council shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(2) Insurance trustee; construction fund

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

(a) Council--lesser damage

If the amount of the estimated cost of the reconstruction and repair that is the responsibility of the Council is less than \$10,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Council; provided, however, that, upon request to the insurance trustee by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided or the reconstruction and repair of major damage.

(b) Council--major damage

If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Council is more the \$10,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors and upon approval of an architect licensed to practice in Kentucky and employed by the Council to supervise the work.

(c) Unit owner

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

(d) Surplus

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

(e) Certificate

Any provisions of this Master Deed to the contrary notwithstanding, the insurance trustee shall not be required to determine whether or not sums paid by the Unit owners upon assessments shall be deposited by the Council with the insurance trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Council or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount paid. Instead, the insurance trustee may rely upon a certificate of the Council made by its president and secretary as to any and all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in this instrument to be named as payee, the insurance trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a Unit owner; and further provided that when the Council, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires, the approval of an architect named by the Council shall be first obtained by the Council upon disbursements in payment of costs of reconstruction and repair.

(G) Eminent domain

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

ARTICLE X
Sale and Mortgaging of Units

(A) Right to sell Units

The Unit owner of each Unit shall have the right to sell such Unit and the common elements appurtenant thereto, subject to all of the provisions of the condominium documents.

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

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

ARTICLE XI
Obligations of Unit Owners and Remedies upon Default

(A) All Unit owners and tenants subject to condominium documents which run with the Land

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

(B) Remedies upon default

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

(1) The right to enter any Unit or any portion of the condominium project upon which, or as to which, such violation or breach exists which requires emergency attention or emergency repairs, and on an emergency basis to abate and remove, at the expense of the defaulting Unit owner, any structure or thing or condition that may exist in violation of the condominium

documents; and the Council, or its employees or agents, shall not thereby be deemed guilty of trespass.

(2) The right to enjoin, abate, or remedy by appropriate legal proceedings, at law or equity, the continuance of any breach; and, pursuant to the appropriate court action, the right, if any Unit owner or any occupant of his Unit shall continue to be in violation of the condominium documents and rules for 30 days after notice in writing from the Council, to issue to the defaulting Unit owner a 10-day notice in writing to terminate the rights of said Unit owner to continue as a Unit owner and to continue to occupy, use, or control his Unit and to file a suit in equity against the defaulting Unit owner for a mandatory injunction against the Unit owner or occupants or, in the alternative, a decree declaring the termination of the defaulting Unit owner's right to occupy, use, or control the Unit and ordering that the Unit shall be sold at a judicial sale upon such notice and terms as the court shall establish, except that the defaulting Unit owner shall not be entitled to reacquire the Unit at such sale or by virtue of right of redemption.

(C) Cost and attorney fees

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

(D) No waiver of rights

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

(E) Rights are cumulative

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

ARTICLE XII
Future Development and Withdrawal

The Villas at Berry Hill, as proposed, shall consists of one hundred eleven (111) Units in the buildings, and may consist of additional Units contained in additional buildings which may be constructed. These buildings and the Units therein together with the common elements appurtenant thereto will automatically become subject to this condominium regime by amendment(s) to the Master Deed upon the filing of their respective floor plans. Declarant specifically reserves the right, from time to time, to further amend the Master Deed to the extent of adding additional Units and

general common elements (not to exceed a total of one hundred eleven (111) Units) and limited common elements and, once added by amendment, the Units therein shall have the same rights, privileges, and obligations as appear herein. In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby granted and reserved unto Declarant, its successors and assigns (however, individual Unit owners shall not be included within the meaning of successors and assigns as used in this paragraph), to amend the Master Deed to accomplish the foregoing and to SHIFT AND REALLOCATE from time to time the percentage of ownership in the common elements appurtenant to each Unit to the percentages set forth in each amendment pursuant to this paragraph. Each execution of a deed of conveyance, mortgage, or other instrument with respect to a Unit, and the acceptance thereof, shall be deemed a grant, and an acknowledgement of and conclusive evidence of the parties thereto to the consent of such reservation of power to Declarant as attorney in fact and shall be deemed to reserve to Declarant and its successors and assigns the power to shift and reallocate from time to time the percentages of ownership in the common elements appurtenant to each Unit set forth in each such recorded amendment. Further, Declarant specifically reserves unto itself, and its successors and assigns, the rights to determine the location of all future Units, common elements, and limited common elements; it being provided, however, that all future development of the condominium project shall be restricted to the Land and the condominium project shall not be expanded to include any other property.

Each Unit owner by acceptance of a deed to a Unit further acknowledges, consents, and agrees to this Master Deed and to each such amendment that is recorded, as follows:

(A) The portion of the additional common elements and any additional limited common elements described in each such amendment shall be governed in all respects by the provisions of this Master Deed.

(B) The percentage of ownership in the common elements appurtenant to each Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded amendment and upon recordation thereof the amount by which such percentage appurtenant to a Unit is adjusted as set forth therein shall thereby be and be deemed to be reallocated from or to such Unit owner and reconveyed and reallocated among the other Unit owners as set forth in such recorded amendment.

(C) Each deed, mortgage, or other instrument affecting a Unit shall be deemed given subject to the conditional limitation that the percentage of ownership in the common elements appurtenant to each Unit shall, upon the recording of each amendment, be adjusted in proportion to the revised percentage set forth in such amendment and vested among all the other owners, mortgagees, and others owning an interest in the other Units in accordance with the terms and percentages of each such recorded amendment.

(D) A right of revocation is hereby reserved by the grantor in each such deed, mortgage, or other instrument of a Unit to so amend and reallocate the percentage of ownership in the common elements appurtenant to each Unit.

(E) The percentage of ownership in the common elements appurtenant to each Unit shall include and be deemed to include any additional common elements made a part of the condominium project by a recorded amendment, and each deed, mortgage, or other instrument

affecting a Unit shall be deemed to include such additional common elements and the ownership of any such Unit and lien of any such mortgage shall automatically include and attach to such additional common elements as such amendments are recorded.

(F) Each Unit owner shall have a perpetual easement, appurtenant to his Unit, for the use of any additional common elements annexed thereto by and described in any recorded amendment for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the owners of specific Units as may be provided in any such amendment.

(G) The recording of each such amendment shall not alter the amount of the lien for expenses assessed to a Unit prior to the date of such amendment.

(H) Each Unit owner by acceptance of the deed conveying his Unit agrees for himself and all those claiming under him, including mortgagees, that the Master Deed and each Amendment is and shall be deemed to be in accordance with the Horizontal Property Law and, for purposes of the Master Deed and Horizontal Property Law, any changes in the respective percentages of ownership in the common elements as set forth in each Amendment shall be deemed to be made by agreement of all Unit owners and mortgagees.

(I) Declarant reserves the unilateral right to amend the Master Deed for the purpose of shifting and reallocating the percentages of ownership in the common elements in the manner provided by this article and any applicable law. If requested by Declarant, each Unit owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this Article to comply with the Horizontal Property Law as it may be amended from time to time.

(J) Additional Units shall be substantially completed prior to being subjected to the regime and shall be consistent with other Units in terms of quality of construction.

(K) The provisions of the Master Deed and in deeds and mortgages of the Units and common elements may contain clauses intended to confirm the right to shift the common elements. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the common elements can be accomplished.

No future Board of Directors acting for and on behalf of the Council shall amend the Master Deed or adopt or amend any Bylaws which would hinder, obstruct, or jeopardize Declarant's interest in the present or future development of the condominium project.

ARTICLE XIII

Amendment to Master Deed

This Master Deed may be modified, altered amended, or added to by Declarant pursuant to an instrument recorded by Declarant in the Office of the County Clerk of Franklin County, Kentucky, subject to and in accordance with Section VI(F), or by an instrument signed by each Unit owner of record (and by Declarant, if the consent of Declarant to such amendment is required under the terms of the condominium documents), or by a vote of greater than 75% in interest in the common elements at any duly called meeting of Unit owners provided that:

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

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

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

ARTICLE XIV **General**

(A) Severability

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

(B) Waiver

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

(C) Captions

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

(D) Gender

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

(E) Enforcement.

a) The terms of this Master Deed may be enforced by the applicable associations or any Unit owner. Enforcement of this Master Deed shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain or enjoin violation or to recover damages, and against the Unit to enforce any lien created by these covenants. In addition to all other amounts due on account of said violation or attempted violation, the Violating Party shall be liable to the parties enforcing this Master Deed (the "Enforcing Parties") for all reasonable attorney's fees and court costs incurred by

the Enforcing Parties. Failure or forbearance by an association or any Unit owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any lawsuit filed to enforce this Master Deed by injunction or restraint, there shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the terms of this Master Deed cannot be adequately remedied by action at law or by recovery of damages.

b) In addition to all other remedies of each association, each association shall have the right to assess a maximum fine of \$100.00 per day per violation against any Owner who violates any provision of this Master Deed or the articles, bylaws, or any rules and regulations of same after such Owner has been given notice of the violation and an opportunity to be heard with respect to the violation in accordance with such policies and procedures as may be adopted from time to time by the applicable board of directors or as may be set forth in the bylaws.

IN WITNESS WHEREOF, the Declarant has caused this Master Deed to be executed as of this 13th day of November, 2007.

DECLARANT:

HINTON McGRAW BERRY HILL, LLC
a Kentucky limited liability company

By: [Signature]
Mark T. Hinton, Member Manger

By: [Signature]
Scott W. McGraw, Member Manger

STATE OF KENTUCKY)
)
COUNTY OF OLDHAM)

I, a Notary public in and for the State and County aforesaid, do hereby certify that on this 13th day of November, 2007, Mark T. Hinton, Member Manager of **Hinton McGraw Berry Hill, LLC** appeared before me and before me acknowledged that he executed and delivered the foregoing instrument as his free and voluntary act and deed and as the free and voluntary act and deed of **Hinton McGraw Berry Hill, LLC**, a Kentucky limited liability company.

My Commission expires: Nov. 24, 2010

[Signature]
Notary Public, State at Large, Kentucky

STATE OF KENTUCKY)
)
COUNTY OF OLDHAM)

I, a Notary public in and for the State and County aforesaid, do hereby certify that on this 13th day of November, 2007, Scott W. McGraw, Member Manager of **Hinton McGraw Berry Hill, LLC** appeared before me and before me acknowledged that he executed and delivered the foregoing instrument as his free and voluntary act and deed and as the free and voluntary act and deed of **Hinton McGraw Berry Hill, LLC**, a Kentucky limited liability company.

My Commission expires: Nov. 24, 2010

Brenda E. Fisher
Notary Public, State at Large, Kentucky

THIS INSTRUMENT PREPARED BY:

EXHIBIT A

Legal Description of Land

THE VILLAS AT BERRY HILL

EXHIBIT B

Percentage in Interest of Each Unit in Common Elements

UNIT ADDRESS	SQUARE FEET	PERCENTAGE
1014 Berry Hill Drive	2074.77	14.05%
1016 Berry Hill Drive	1951.98	13.22%
1013 Berry Hill Drive	1757.16	11.90%
1011 Berry Hill Drive	1753.05	11.87%
1103 Leawood Drive	3588.40	24.31%
1101 Leawood Drive	3637.19	24.64%

503-508
534-661
523-838
508-689
540-094
528-242

TOTAL 14762.55 100.0%

DOCUMENT NO: 324107
RECORDED ON: DECEMBER 10, 2007 10:58:48AM
TOTAL FEES: \$98.00
COUNTY CLERK: GUY ZEIGLER
COUNTY: FRANKLIN COUNTY CLERK
DEPUTY CLERK: PATSY McCHESNEY
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