

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS FOR HIDDEN CREEK ESTATES (this "Declaration") is made as of _____, 2017, by December Estates, LLC, a Delaware corporation, 50 Broad Street, Suite 1904, New York, New York 10004 ("Developer").

WHEREAS, Developer owns certain real property located in, Scott County, Kentucky, more particularly described on Exhibit "A" attached hereto and made a part hereof, and the subsequent final record plats to be recorded for said property, all of which are or will be of record in the Scott County Clerk's Office (hereinafter the "Property"), which is being developed as a residential subdivision of single-family detached homes known and marketed as "Hidden Creek Estates"; and

WHEREAS, Developer desires to subject the Property to the covenants, restrictions, easements, charges and liens as contained in this Declaration, all of which are for the benefit of the Property and each individual Owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in the Property, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the "Common Areas", as hereafter defined, and administering and enforcing the within covenants and restrictions; and

WHEREAS, Developer has formed "Hidden Creek Estates Neighborhood Association, Inc." as a non-profit Kentucky corporation (the "Association") for the purpose of carrying out said powers and duties; and

NOW, THEREFORE, Developer declares that the Property described herein and known as "Hidden Creek Estates " located in Scott County, Kentucky, is and shall be held, transferred, sold, conveyed, occupied, mortgaged, and otherwise encumbered subject to all covenants, restrictions, easements, conditions, charges, and liens hereinafter set forth, all of which shall run with the title to the Property, and shall be binding upon all parties having, or hereafter acquiring, any right, title or any interest in the Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns.

ARTICLE I. DEFINITIONS

The following words shall have the following meaning when used herein unless the context clearly prohibits the same:

Section 1. "Board of Directors" or "Board" shall be the governing body of Hidden Creek Estates Neighborhood Association, Inc., having its normal meaning under Kentucky corporate law.

Section 2. "Bylaws" shall mean and refer to the Bylaws of Hidden Creek Estates Neighborhood Association, Inc., as they may be amended from time to time.

Section 3. "Common Area" shall mean (i) all real and personal property which the Association now or hereafter owns or holds for common use and enjoyment of the "Owners", as hereafter defined; (ii) common areas and/or rights of way which are not dedicated to the public including streets/roads, areas which are shown and identified as

"common areas" on plats of the Property, and any additional property subjected to this Declaration, recorded by Developer or its successors and assigns including, but not limited to, retention basins or ponds, retention easements, private open spaces, entry walls and/or features, walkways and landscape easements; and (iii) all other portions of the Property which now or may hereafter be designated on any plats of the Property or by Developer as Common Area. The Common Area may be conveyed to the Association or its successor at such time as Developer, in its sole discretion, determines.

Section 4. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, for general purposes, including any reasonable reserve, all as may be found to be appropriate by the Board pursuant to this Declaration, the Bylaws and the Articles of Incorporation of the Association.

Section 5. "Developer" shall mean and refer to December Estates, LLC, a Delaware limited liability company, or its successors or assigns, who take title to any of the unsold Lots for the purpose of sale.

Section 6. "General Assessment" shall mean and refer to assessments levied to fund Common Expenses for the benefit of all Members of the Association.

Section 7. "Lot" or "Lots" shall mean any subdivided tract or tracts of land shown upon the final record Plats of the Property, including the Mini Farm Lots. The term shall include all portions of the Lot owned, including any structures thereon.

Section 8. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 9. "Mini Farm Lot(s)" shall mean and refer to the larger Lots 45 through 51, inclusive.

Section 10. "Mortgage" shall mean and refer to a first mortgage and a deed that includes the reservation of a first priority vendor's lien.

Section 11. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 12. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 13. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot which is part of the Property, but excluding in all cases any Person who is a Mortgagee or holds an interest merely as security for the performance of an obligation.

Section 14. "Person" shall mean a natural person, a corporation, a company, a partnership, a trustee or other legal entity.

Section 15. "Plat" means the final record plat or plats of the Property of record in the Scott County Clerk's Office, showing the number of each Lot and expressing its area, location and other data necessary for identification, as such plat or plats may be amended from time to time.

Section 16. "Special Assessment" shall mean and refer to assessments levied in accordance with Article V, Section 4, of this Declaration.

ARTICLE II.

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership

Every Owner shall be a member of the Association. No Owner, whether one or more persons, shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership.

Section 2. Voting Rights

Developer shall have all votes in the Association as to all matters until such time as Developer no longer owns any Lots. Developer shall be entitled to appoint all the members of the Board of Directors until Developer no longer owns any Lot or when Developer has relinquished its rights under this Article II, Section 2. When Developer no longer owns any Lots or when Developer has relinquished its rights under this Article II, Section 2, then the governance of the Association shall be determined by the Board of Directors elected by the Members with each Owner being entitled to one vote for each Lot owned.

ARTICLE III.

Section 1. Hazard and Liability Insurance

The Association shall obtain and maintain insurance for all insurable improvements and Common Areas against loss or damage by fire or other hazards, including extended coverage and vandalism and malicious mischief, in an amount equal to full replacement value of all insurable property. The Association shall also obtain a public liability policy covering all the Common Areas, and all damage or injury caused by the negligence of the Association or any of its agents, which public liability policy shall be in amounts authorized from time to time by the Association Board of Directors not less than \$1,000,000.00 for injury, including death, to one individual, \$1,000,000.00 for injury or injuries, including death, arising out of a single occurrence, and \$500,000.00 property damage, including, but not limited to, water damage liability, liability for non-owned and hired automobiles and liability for property of others. The public liability policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owner. Premiums for all such insurance shall be considered Common Expenses. All such insurance coverage shall be written in the name of the Association as trustee for each of the Owners. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) The original of all policies and endorsements thereto shall be deposited with the Board which shall hold them for safekeeping in the manner the Board maintains all other books, records or documents. Such policies

shall be available for review by any Owner and any Mortgagee upon reasonable notice.

- (b) Exclusive authority to adjust losses under policies hereafter in force on the submitted Property shall be vested in the Board; provided, however, that no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Board be brought into contribution with insurance purchased by Owners or their Mortgagees. Each Owner shall be responsible for securing his own homeowners insurance coverage for his Lot.
- (d) It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, insurance on his individual Lot and such other insurance as is not provided by the Association pursuant to the provisions of this Article.
- (e) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
 - (i) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and their employees, agents, tenants and invitees and of any defenses based on coinsurance or on invalidity arising from the acts of the insured;
 - (ii) a waiver by the insurer of its right to repair and reconstruct instead of paying cash;
 - (iii) that the policy cannot be canceled, invalidated or suspended on account of the conduct of any officer, director, agent or employee of the Association without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner or Mortgagee;
 - (iv) that any "other insurance" clause in the policy exclude Owners' policies from consideration;
 - (v) that coverage may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice as to non-payment and thirty (30) days' prior written notice as to any other reason to any and all insureds including the institutions servicing Mortgages on behalf of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.
 - (vi) That coverage will not be prejudiced by (a) act or neglect of the Owners when said act or neglect is not within the control of the Association, or (b) any failure of the Association to comply with

any warranty or condition regarding any portion of the premises over which the Association has no control.

Section 2. Fidelity Coverage

The Association may obtain fidelity coverage against dishonest acts on the part of all persons responsible for handling funds belonging to or administered by the Association.

Section 3. Damage or Destruction

- (a) Immediately after the damage or destruction by fire or other casualty of all or any part of the Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction as used in this paragraph means repairing or restoring the Property to substantially the same condition as existed prior to the fire or other casualty.
- (b) Any such damage or destruction shall be repaired or reconstructed within one hundred twenty (120) days after the date of damage or destruction. If, for any reason, the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction are not made available to the Association within said period of sixty (60) days after the casualty, then such period shall be extended until such information shall be made available to the Association.

Section 4. Repair and Reconstruction

If the damage or destruction for which the insurance proceeds are paid to the Association is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Additional special assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Such assessments shall be apportioned in accordance with the provisions of this Declaration governing collection of annual assessments.

ARTICLE IV.

RIGHTS AND OBLIGATIONS

Section 1. Association's Responsibility

The Association shall be responsible for the maintenance of the Common Area, such maintenance to be funded as hereinafter provided. The maintenance shall include, but not be limited to, maintenance, repair and replacement.

Section 2. Owners' Responsibility

Each Owner shall maintain his Lot, including, but not limited to, all structures and improvements thereon in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Declaration of Covenants applicable to such Lot. As used herein, "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property which standard may be more specifically determined and set forth by the Board of Directors. Each Owner shall be required to submit an initial landscaping plan ("the Initial Plan") to Developer prior to acquiring a Lot from Developer. The Initial Plan shall show in specificity the proposed plantings to be made on Owner's Lot (excluding areas behind the residence), including the types of trees, bushes and other plantings and their locations. If Developer approves the Initial Plan, Owner shall cause the plantings to be made in accordance with the Initial Plan within six (6) months of Owner acquiring title to Owner's Lot. If Developer, in its sole discretion, does not approve the Initial Plan, Owner and Developer will try to reach an agreement upon the Initial Plan within thirty (30) days thereafter. If no agreement can be reached, then Developer shall have the right to establish the Initial Plan for the Owner, and the Owner shall be required to cause plantings to be made in accordance with Developer's Initial Plan within five (5) months of the plan being submitted to Owner by Developer. Thereafter, Owner shall maintain the landscaping in a manner consistent with the Community-Wide Standard and the Initial Plan. From time to time, Owner may submit a subsequent landscaping plan ("the Subsequent Plan") to Developer for approval and, upon receipt of such approval, can modify the landscaping in accordance with the Subsequent Plan. If any Owner fails to properly perform any maintenance responsibility under this Section, the Association may perform it and assess all costs incurred by the Association against such Lot and the Owner as a specific assessment in accordance with the provisions of this Declaration.

Section 3. Services

The Board of Directors of the Association may obtain and pay for the services of any persons or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association Board may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration, and such services shall be deemed reasonable and necessary Common Expenses to benefit the Owners of the Lots.

Section 4. Personal Property for Common Use

The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

Section 5. Rules, Regulations and Fines

The Board may make Rules and Regulations governing the use of the Common Area, which Rules and Regulations shall be consistent with the rights and duties established by this Declaration. The Board may impose sanctions for violations of this Declaration, the By-Laws, or the Rules and Regulations, including reasonable monetary fines (up to \$100.00 per day), suspension of voting rights, and suspension of the right to use any facilities within the Common Areas.

Section 6. Implied Rights

The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE V.

Section 1. Creation of the Lien and Personal Obligation of Assessments

- (a) Each Owner of any Lot other than Developer, by acceptance of a Deed to said Lot, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association:
 - (i) annual assessments or charges; and
 - (ii) special assessments or charges, such assessments to be established and collected as provided herein; and
 - (iii) specific assessments or charges against any particular Lot which are established pursuant to Article IV, Section 2 of this Declaration.
- (b) All such assessments, together with interest, charges, costs and reasonable attorney's, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which assessment is made.
- (c) Each such assessment, together with interest, costs and attorney's fees, shall also be the personal obligation of the Owner of the Lot at the time when the assessment fell due. Each Owner shall be liable for his assessment coming due while he is the Owner of a Lot.
- (d) The grantee in a conveyance of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the Lot up to the time of such conveyance, without prejudice to such grantee's rights to recover from such grantor the amounts paid by grantee therefor.

Section 2. Purpose of Assessments

The annual assessments levied by the Association shall be used exclusively for Common Expenses or such other expenses as designated by the Board in the event of a special assessment or specific assessment against a specific Lot. In addition, the assessments shall include amounts necessary to establish an adequate reserve fund for maintenance, repairs and replacement of those Common Areas which must be replaced

on a periodic basis. Such amount for the reserve fund shall be included in the annual assessment and shall be payable in periodic installments rather than by special assessment.

Section 3. Computation of Annual Assessment

It shall be the duty of the Board at least sixty (60) days prior to the Association's annual meeting to prepare a budget covering the estimated cost of operating the Association during the coming year including an adequate reserve fund. The Board shall cause the budget and the annual assessments to be levied against each Lot for the following year to be delivered to each Member at least twenty (20) days prior to the meeting. The budget and the annual assessment shall become effective unless disapproved at the annual meeting by a vote of a majority of the total Association membership. Notwithstanding the foregoing, however, in the event the Board fails for any reason to determine the budget for the succeeding year then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year. Such budget shall include a breakdown of such costs allocated to Common Expenses. The per Lot annual assessment shall be computed by dividing the total annual assessment by the number of Lots excluding Lots owned by Developer.

Section 4. Special Assessments

In addition to the annual assessments authorized above, the Association may levy upon all Owners excluding Developer, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of a capital improvement upon the Common Area, provided that after the Developer no longer owns any Lot or has relinquished its rights under Article II, Section 2, any such special assessment shall have the assent of at least fifty-one percent (51%) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for such purpose. The Board may make special assessments, payable in installments over a period of not more than three (3) years. Each such special assessment together with interest, costs and reasonable attorney's fees shall become the personal obligation of each Owner, his or her heirs, successors and assigns, other than Developer. The per Lot special assessment shall be computed by dividing the total special assessment by the number of Lots excluding Lots owned by Developer.

Section 5. Notice of Meeting

Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than twenty (20) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members in person or by proxy entitled to cast twenty-five percent (25%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called upon written notice of not less than three (3) nor more than five (5) days. Such meeting shall not be required to satisfy the quorum in order to do business. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments

The initial annual assessment hereunder shall be Three Hundred Fifty Dollars (\$350.00) per year, per Lot beginning when a Lot is purchased from Developer. Developer shall not pay any assessments. Assessments are not applicable to Developer. The Board may from time to time increase or decrease the annual assessment. The Board shall determine the amount of and fix the due date of the annual assessment. The annual assessment will be prorated in the event of ownership of a Lot for a portion of the year.

Section 7. Lien for Assessments

All sums assessed to any Lot pursuant to this Declaration, together with interest, costs, charges and reasonable attorney's fees, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except only for:

- (a) Liens for ad valorem real property taxes; and
- (b) A lien for all sums unpaid which are secured by a first in priority Mortgage, or any Mortgage in favor of Developer, duly recorded in the Scott County Clerk's Office, and all amounts advanced pursuant to such Mortgage(s) and secured thereby in accordance with the terms of such instrument(s).

All other persons acquiring liens or encumbrances on any Lot which become liens after this Declaration is filed for record shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens or encumbrances.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association

Any assessments which are not paid when due shall be delinquent and the lien provided for herein shall attach and the lien shall include the amount of the assessment plus late charges, interest, and reasonable attorney's fees. Any assessment past due for a period of fifteen (15) days shall incur a late charge of ten percent (10%). The Association shall cause a notice of delinquency to be given to any Owner who has not paid within fifteen (15) days following the due date. If the assessment is not paid within fifteen (15) of its due date, then there shall also be due a late charge equal to ten percent (10%) of the assessment, together with interest on the assessment due and the late charge at the rate of eighteen percent (18%) per annum, or at whatever rate the Association shall establish, not to exceed the highest rate allowed by Kentucky law, all costs of collection including reasonable attorney's fees actually incurred, and any other amounts provided for herein. The interest shall begin to accrue on the date fifteen (15) days after when the assessment was due and shall continue until all amounts provided for herein have been paid in full. In the event that the assessment remains unpaid after thirty (30) days, the Association, through the Board, may institute suit to collect such amounts or to foreclose its lien. Each Owner, by his acceptance of a deed to a Lot, vests in the Association or its agents the right and power to bring actions against him personally for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens on real property. The lien provided for in this Article

shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid in the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area.

Section 9. Effect of Lien on Mortgage

In the event that the holder of a Mortgage or other person acquires title to any Lot as a result of foreclosure of a Mortgage, such holder or other person, his successors, successors-in-title and assigns, shall not be liable for, nor shall such Lot be subject to a lien for, any assessment hereunder on account of any period of time prior to such acquisition of title.

Section 10. Certification as to Assessments

Any Owner, Mortgagee of a Lot, person having executed a contract for the purchase of a Lot, or lender considering the loan of funds to be secured by a Lot, shall be entitled upon request to a statement from the Association or its management agent setting forth the amount of the assessments past due and unpaid (with late charges and interest applicable thereto) against that Lot.

ARTICLE VI.

SPECIFIC REGULATIONS OF USE

Section 1. Land Use

No Lot shall be used except for private single-family residential purposes. There shall be no more than fifty-one (51) single-family residential detached houses designed for the occupancy of one family only (including any domestic servants living on the premises) built on the Property described herein. There shall be no more than one (1) single-family detached house built on a Lot. For purposes of this Declaration, there shall be specifically excluded from the meaning of the phrase "private single family residential purposes" and shall not be permitted, regardless of whether any of the same would otherwise be permitted by any applicable zoning regulations or other governmental laws, rules, or regulations, any uses which constitute or relate to (a) boarding houses, (b) lodging houses, (c) fraternities or sororities, (d) clubs, (e) hotels, (f) residences or homes for social rehabilitation, (g) nursing homes, (h) group or community residences or homes for the aged or infirmed, (i) programs with respect to which admission to residency in or occupancy of the premises is limited to or intended in whole or in part for persons in the custody of the criminal justice system and/or persons engaged in the care, custody, nurturance, or supervision of such persons, and (j) any "group home" or other similar use as determined by Developer or the Association. No structure of a temporary character, trailer, mobile home, tent, shack, garage or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. No improvement shall be located on any Lot nearer to the front, side and rear Lot lines or the side street line than the minimum building set back lines shown on the recorded plat without the approval of the Developer.

Section 2. Rental Provisions

Any Lot Owner may lease said Lot provided that (i) the Owner shall retain such lease/contract documentation and provide the identity of the tenant(s) to the Association, upon demand; (ii) use of the said Lot shall be subject to compliance with the provisions of this Declaration, the Bylaws, and the Rules and Regulations of the Association; (iii) the Board shall have the power to enforce this Declaration, the Bylaws and the Rules and Regulations against the tenant(s) of said Lot, and any attorneys' fees and court costs incurred shall be charged to the Lot Owner and shall constitute a lien against said Unit from the date of assessment until the date of full payment; and (iv) the Board shall have the power to terminate such lease and/or to bring summary proceedings to evict the tenant(s) in the name of the landlord thereunder in the event of the tenant(s)' non-compliance with this Declaration, the Bylaws and the Rules and Regulations, with the court costs and attorneys' fees incurred thereby to be charged to the Lot Owner and constituting a lien against said Lot from the date of assessment until the date of full payment. Notwithstanding this Declaration, the Bylaws and the Rules and Regulations of the Association shall not be amended to prevent short-term rentals of the Lots, such as through Airbnb or HomeAway/VRBO without the written approval of all Lot Owners. The Lot Owners and not the Association shall be responsible for compliance with any governmental regulations, licenses, permits, registrations, inspections, fees or taxes relating to any such rental.

Section 3. Dwelling Size

No single family, detached residential building shall be constructed or permitted to remain upon any Lot unless such building has the following minimum square feet of living area (which shall not include garages, porches (open or enclosed), terraces, or basement (whether finished or not) areas, even though the same may be located under the main roof of the building) for the respective building categories;

- (a) Ranch: 2,200 square feet
- (b) Story and a half; 2,400 square feet
- (c) Two-story: 2,600 square feet

Section 4. Approval of Plans and Restrictions

- (a) No construction activity of any kind, including excavation or Lot clearing, shall begin and no residence, garage, out building, fence, barn, shed, wall, pod, flag pole, pool, structure or other improvement shall be erected, placed or altered on any Lot until the building plans and location of such improvements including driveways, shall be first approved in writing by Developer or the Association. All residences, garages, outbuildings, barns and sheds shall be "stick built" on-site. All matters in this Declaration that are subject to Developer's approval shall be determined by Developer in its sole and absolute discretion. No carports shall be constructed on any Lot. The Developer, its agents, committees, successors and assigns or the Association shall not be liable to any person by reason of mistakes, negligence, or non-feasance arising out of or in connection with the

approved or disapproval of any plans submitted to the Developer or the Association. In the event the Owner of any Lot (excluding Mini Farm Lots) shall not, within a period of one (1) year from the date of the original deed to such Lot from the Developer, begin construction of a residence upon said Lot according to the building plans approved by the Developer, then and in such event, at the option of the Developer, the Owner of such Lot at the expiration of the original one (1) year period shall immediately reconvey said Lot by general warranty deed with clear title to the Developer for an amount equal to the price which such Owner paid Developer for such Lot when acquired. All buildings and other structures must be completed within one year after the commencement of construction, except in such cases where completion is impossible or has been delayed by strikes, fires, national emergencies or acts of God. The Developer or the Association may seek injunctive relief to have the incomplete building or other structure finished or removed at the Lot Owner's expense.

- (b) The entire façade of all residences on a Lot shall be brick, stone, fiber cement siding (i.e., Hardi plank or equivalent), or other acceptable masonry material which extends to the finished grade and has been approved in writing by Developer. There shall be no exposed foundations on a Lot. There is excepted from this provision areas where the structure will not support brick without the builder taking extraordinary measures to support brick. This includes areas such as dormers, bay windows or other such areas. Detached garages and out buildings must have a façade that matches the primary residence on the Lot. No second story additions are permitted.
- (c) Exterior colors on the residences on each Lot shall be earth tones or white unless approved by Developer in writing. The roof pipes, vents, louvers, flashing and utility equipment shall be painted to match the surface from which they project, or pursuant to a color scheme approved by Developer.
- (d) All driveways, including the apron, on each Lot shall be constructed of concrete and shall be completely installed prior to or upon completion of construction of the residence on such Lot.
- (e) All roofs on each Lot shall be made up of dimensional asphalt shingles, copper or standing seam metal and shall have a minimum 8/12 pitch. A lower roof pitch may be allowed on areas of the house not visible from the street with the prior written approval of Developer.
- (f) All Owners, including builders, are responsible to insure that all construction is maintained in a neat and orderly fashion and that no trash or debris remains on the Lot and that no mud or dirt reaches the street, drainage area or detention facilities from the Lot during construction.
- (g) Commercial vehicles, tractors, motorhomes, boats and other watercraft, RV's and trailers may be kept on Lots only in an enclosed garage or approved outbuilding on the Lot. All Lots shall be kept free of any and all

junk motor vehicles, inoperable vehicles and automotive debris. Commercial repair of motor vehicles shall not be permitted upon any Lot. No motorized off-road vehicle, including, but not limited to trail bikes, mini-bikes, go-carts, three-wheelers, four-wheelers, gators, ATV's and snowmobiles shall be used on any Lot in a manner that may constitute a nuisance or be offensive or unsafe to any other Owners. No trucking company operation shall be conducted on any Lot. Neither the Developer nor the Association shall be responsible or held liable for accidents occurring within the Property.

- (h) All utilities service lines to the residences on each Lot shall be underground.
- (i) No satellite dishes in excess of 18" shall be installed on any Lot without written approval of Developer. No more than one satellite dish shall be installed on any Lot. No satellite dish shall be mounted on the front of the residence or visible when the residence is viewed from the street. Satellite dishes that are not mounted to the residence must have a landscaping screen so they are not visible from the street or an adjoining Lot.
- (j) No above ground holding or storage tanks of any sort shall be permitted on a Lot if they are visible from adjoining Lots without the written approval of Developer. If approved, landscaping or fencing may be required by Developer to screen such tanks. LP and other gas tanks must be buried underground.
- (k) Garbage and refuse shall be placed in containers on a Lot which shall be contained within a building or shall be concealed by means of a screening wall of materials similar to and compatible with that of the residence on the Lot or sufficient landscaping to provide a permanent screen at all times of the year. These elements shall be integrated with the building plan for the residence, be designed so as not to attract attention, and shall be located in as reasonably inconspicuous a place as is possible. If refuse containers are set out by the edge of the road for pickup, such container shall be set out the evening before pickup and shall be removed from the edge of the road by the evening of the day of pickup. No Lot or Common Area shall be used as a dumping ground for rubbish, trash or garbage, and any and all such waste shall be kept in suitable sanitary containers. No vacant Lot shall accrue trash, rubbish or debris at any time. Grass and/or shrubbery clippings, dead shrubs, leaves or any other debris shall be disposed of in appropriate waste receptacles. Dumping of said materials on any other Lot or the Common Area is strictly prohibited. Developer reserves the right to remove any trash from Lots at the expense of the Owner of the Lot and/or at the expense of the individual who violates this section.
- (l) No exterior clothes lines or laundry shall be hung or permitted on a Lot.

- (m) No animals, livestock or poultry shall be kept or raised on any Lot except that dogs, cats, other small animals or birds that are customarily kept as household pets are allowed unless they are being kept, bred or maintained for commercial purposes. No dog runs or permanent dog or other pet shelters or kennels shall be permitted. At no time will pigs, goats, bovine, swine, llama, emu, wild or exotic animals (including snakes, large cats, monkeys, reptiles, etc.) or any animals which may constitute a nuisance or be offensive or unsafe to any other Owners be allowed on any Lot. Notwithstanding, horses, sheep, chickens, roosters and cattle may be kept, bred or maintained for commercial purposes on the Mini Farm Lots. Developer, in its sole and absolute discretion, may also approve other animals to be kept on the Mini Farm Lots, but in no event will pigs, goats, bovine, swine, llama, emu be allowed to be kept on the Mini Farm Lots.

No animal shall be permitted to run at-large and farm animals shall be secured by gates and fencing in good repair and sufficient to prevent the escape of the animal. Such gates shall remained closed and locked unless someone is actually passing through it, or some emergency exists. No dog or other animal shall be permitted to become obnoxious, dangerous, or a nuisance to any residents or make loud and disturbing noises, except for noise normally made by permitted animals (for example, crowing by roosters).

Farm animals shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby Lots and not to cause health hazards. Furthermore, farm animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the Mini Farm Lot. No farm animal may be slaughtered on-site.

Beehives shall be permitted on Mini Farm Lots except that the number of beehives shall be limited to one (1) for each acre of Lot area. No beehive shall be kept closer than two hundred nine (209) feet to any Mini Farm Lot line and the front of any beehive shall face away from the property line of the Lot closes to the beehive. A solid fence or dense hedge, known as a "flyway barrier", at least six (6) feet in height, shall be placed along the side of the beehive that contains the entrance to the hive, and shall be located within five (5) feet of the hive and shall extend at least two (2) feet on either side of the hive. No such flyway barrier shall be required if all beehives are located at least twenty-five (25) feet from all property lines.

The Developer or the Association shall have the authority to require the removal, remove or have impounded any animal or beehive maintained on a Lot in violation of this Section at the cost of the Lot Owner.

- (n) No building or structure of a temporary character such as, but not limited to, storage huts, trailers, tents, shacks, sheds, Portable on Demand Storage (PODS), or other structures shall be constructed or permitted to remain on any Lot; provided, however, Developer may have a temporary building

or structure for the purpose of marketing the Lots and overseeing the construction and temporary tool sheds and/or field offices used by individual builders during the course of construction on such Lot. PODS shall not be permitted on any Lot longer than a consecutive seven (7) day period and only in connection with the Lot resident's move-in or move-out.

- (o) There shall be no gardens in the side yards or front yards of any Lot.
- (p) Mailboxes must be set in brick, stone or other material to match the exterior of the residence on the Lot. No separate paper holders are permitted without the approval of Developer.
- (q) No signs of any kind shall be displayed on any Lot, with the exception that one (1) small real estate sign (which shall not be greater than nine (9) square feet) shall be allowed on any Lot except that Developer may have large signs to advertise the development and Lot sale. The Developer, at its discretion, may install entry signs, traffic control signs or other signs necessary for the identification and benefit of the development, subject to applicable zoning and building regulations.
- (r) There shall be no above ground swimming pools on a Lot. Hot tubs and spas are subject to written approval by Developer. In-ground swimming pools are subject to written approval by Developer. If so approved, in-ground swimming pools shall be permitted on each Lot so long as they are constructed and maintained in compliance with any and all health and safety codes and regulations and any and all other state and local requirements. There shall be no increase in drainage to other properties permitted as a result of or during such construction. All approved in-ground swimming pools shall be constructed in compliance with any and all setback requirements. No lighting of any such pool shall be installed without the approval of the Developer, and if allowed, will be designed for recreational character so as to buffer the surrounding residences from all such lighting.
- (s) There shall be no further subdividing of any Lot or its boundary line without Developer approval but Developer can re-plat any Lot or the Common Area. No zone changes for this Property shall be applied for without the prior approval of Developer. No Lot shall be used as a road or street to furnish ingress, egress or regress to and no Lot Owner shall permit a road or driveway to cross any Lot to adjoin other lands outside the Property.
- (t) There shall be no discharging of firearms, fireworks, bows, cross-bows or other projectile weapons on any Lot or the Common Area except by maintenance and/or security personnel in the performance of their duties or in the protection of the Lot Owners, their property, or permitted animals from predators. The term "firearms" includes B-B guns, paint guns, pellet guns, and other firearms of all types, regardless of size.

- (u) There shall be no seasonal or holiday lighting on a Lot except from Nov. 20 to Jan. 20, subject to any rules and regulations of the Association. No man-made lawn ornaments of any kind will be permitted in front or side yards or in yards facing streets unless approved by the Developer.
- (v) No trade or business shall be conducted on any Lot except one may conduct business as long as: 1.) the trade of business is not apparent or detectable by sight, smell or sound, 2.) the business conforms with all zoning laws, 3.) the business does not involve persons coming onto the Property, and 4.) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, offensive use, hazard or threaten the security or safety of the other residents. Notwithstanding, certain agricultural trades and businesses may be conducted on the Mini Farm Lots in conformity with all zoning laws. The growing of crops and horse farm and cattle farm operations and riding stables and horse boarding operations are specifically allowed on the Mini Farm Lots. Any other farming operations on the Mini Farm Lots are subject to the prior written approval of Developer. No operations for the exploration of any oil, gas or minerals shall be conducted on the Lots.
- (w) All residential structures on a Lot shall be of traditional or classical architecture except where otherwise expressly approved in writing by Developer. Any variation approved by Developer shall, in the sole and absolute discretion of Developer, be compatible with the neighborhood, deemed attractive and tasteful in appearance, and anticipated to enhance the value of the neighborhood. Air conditions, utility equipment and utility meters shall be completely screened from public view in a manner and at a location approved in writing by the Developer. No window air conditions are permitted. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed upon any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Developer.
- (x) The residential structure on each Lot must have, at a minimum, an attached two-car garage consisting of 400 square feet (exclusive of the balance of the residential structure). However, an unattached garage may be substituted for an attached garage with the written approval of Developer.
- (y) There may be a maximum of two (2) additional non-residential accessory structures (such as an unattached garage or storage shed) constructed on each Lot. The exterior and roof of all such additional non-residential accessory structures constructed on each Lot must be of the same exterior and roof as the residence. Notwithstanding, barns and run-in sheds shall conform in size and design to those generally prevailing on the farming properties in Scott County, Kentucky. Plans for all additional non-residential accessory structures (including barns and run-in sheds) shall be subject to written approval by Developer prior to construction.

- (z) There shall be no mobile homes, trailers, modular homes, or pre-fabricated homes permitted on any Lot at any time.
- (aa) Surfaces of all residential and non-residential buildings on a Lot must be kept in good repair so as to maintain an attractive pleasing appearance and in conformity with the community-wide standard. No basketball goal shall be attached to the front of the residence.
- (bb) No living trees shall be removed from any Lot at any time without the prior written approval of Developer and the Georgetown, Scott County Planning Commission (as applicable).
- (cc) All Owners shall be responsible for installing and maintaining septic tanks and drainage fields on their Lots that comply with all regulations of the Scott County and Kentucky Health Departments.
- (dd) Upon completion of construction of building improvements on each Lot, any disturbed area shall be sodded or seeded. All yards shall have temporary cover or erosion control until permanent cover is sown. Each Owner shall keep his Lot free of all construction debris and mowed as needed during the normal mowing season to prevent said Lot from being unsightly in appearance.
- (ee) A two-by-four galvanized v-mesh wire fence with a top board will be allowed erected by Developer on the rear boundary lines of certain Lots ("Boundary Line Fences"). The top board and posts will be painted black. The cost of maintaining and replacing Boundary Line Fences shall be the responsibility of the Owner of the Lot having a Boundary Line Fence. All Boundary Line Fences shall be painted a minimum of once every four years. Any replacement Boundary Line Fence must match the original Boundary Line Fence to the extent possible. All fencing other than Boundary Line Fences shall be (i) subject to the prior written approval of Developer, (ii) shall be brick, stone or some other wood beside green pressure treated wood, and (iii) shall be maintained in good condition. Copperwood, redwood, and cedar are specifically allowed for fencing. There shall be no chain link fences. Placement of fences for swimming pools shall be restricted to the immediate pool area only, and style and design thereof shall be subject to Developer approval. Underground "invisible" fencing will be permitted with prior Developer approval only.
- (ff) No activities which violate any rule, regulation or law or constitute a nuisance shall be permitted on any Lot nor shall any noxious or offensive use, activity, or practice be permitted which may be a source of annoyance to other Owners or occupants of other Lots which interfere with the use and enjoyment of their Lot. Solicitors are not permitted. Any Lot owner who is contacted by a solicitor on the Property is requested to notify the Association Board or its managing agent. No garage, yard, rummage or similar shall be held on any Lot or the Common Area, unless approved in advance by the Developer or the Association.

- (gg) No television or radio antennas or any other kind of antennas, whether attached or detached, shall be permitted on any Lot with the prior written approval of Developer.
- (hh) No cherry trees or other fruit-bearing or non-fruit-bearing trees which are a natural habitat for Eastern Tent Caterpillars shall be planted on any Lot or the Common Area unless approved by Developer.
- (ii) Feeding and/or petting of horses and/or cattle on adjoining properties is prohibited.
- (jj) No rock truck shall exceed twenty (20) tons pay load and no cement trucks shall exceed eight (8) cubic yards of cement per load on any road within the Property.
- (kk) Any swing sets must be of wooden construction. No plastic swing sets or other similar play equipment shall be permitted to remain on any Lot. Trampolines shall not be permitted to remain on any Lot unless they are located in the side or rear yards and are not visible from the road within the Property.
- (ll) In the event the entry walls and any gates are removed due to the widening of Ironworks Pike by a governmental entity, such improvements shall be reconstructed provided that the Lots disturbed by such reconstruction are restored to the same condition as immediately prior to such reconstruction.
- (mm) Individual ponds may be constructed on a subject Mini Farm Lot so long as they are maintained, do not become stagnant or such as may foster the breeding of mosquitos, and do not interfere with the existing or planned drainage of the Property. No dam or pond may be constructed in, or which results in the impounding of water in, any utility easement or setback line.
- (nn) Grass and weeds on each Lot must be kept mowed at regular intervals or as may be necessary to maintain the same in a neat and attractive manner.
- (oo) Developer, its assigns, the Association and any Owner may enforce the restrictions and may also, if they are the prevailing party, collect reasonable costs and fees, including reasonable attorney fees relating to the enforcement of these restrictions, and may file liens against the violating Lot for said cost and fees to insure payment of same.
- (pp) The invalidation of any one or more of these restrictions does not invalidate the remaining restrictions,
- (qq) In the event of an interpretation issue, Developer or the Association (as applicable) shall have the right to exclusively decide the interpretation.

- (rr) These Restrictions shall apply to all occupants of any Lot to the same extent as they apply to an Owner of the Lot.
- (ss) No drainage ditches, cuts, swales, streams, impoundments, mounds, dams or other physical improvements or elements of the landscape or terrain which control or determine the locations or flow of surface water and drainage patterns may be destroyed, altered, or modified by or at the direction or with the consent of any Owner or Person without the prior written consent of Developer. In the event of any destruction, alteration, modification, or improvement made or occurring without such prior consent of Developer, its representatives may have the right to enter upon the Property to remedy or repair such destruction, alteration, modification, or improvement without being guilty of trespass and without liability to any Owner with respect to the same or the consequences thereof, and in such event, the costs incurred by Developer to remedy or repair shall be reimbursed to Developer along with any costs and attorney fees that might be needed to collect said reimbursement.

ARTICLE VII.

GENERAL PROVISIONS

Section 1. Easements In Favor of Developer

- (a) Developer shall have a transferable easement on and over the Common Area for the purpose of making improvements on the Property, and for the purpose of doing all things in connection therewith.
- (b) Developer and its duly authorized agents, representatives and employees shall have an easement for the maintenance of sales offices and/or model residences on the Property for as long as Developer owns any Lot for sale in the ordinary course of business.

Section 2. Enforcement

Each Owner shall comply strictly with the By-Laws and with the Rules and Regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and each Owner of a Lot shall comply strictly with the covenants, conditions, restrictions and easements set forth in this Declaration or in the deed to his or her Lot. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages, or injunctive relief, or both, maintainable by the Board on behalf of the Association or, in a proper case, by an aggrieved Owner of a Lot. Failure by the Association or any Owner of a Lot to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability

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

Section 4. Notice of Sale, Lease or Mortgage

In the event an Owner sells, leases or mortgages his or her Lot, then such Owner will give the Association notice prior to closing, in writing, setting forth the name of the purchaser, lessee or Mortgagee of the Lot.

Section 5. Reservations of Easements

Developer hereby reserves for itself, its successors and assigns, across the Property for the following uses and purposes:

- (a) An easement for ingress and egress by vehicular and pedestrian traffic over (i) such drives, roadways, walkways and paths as are shown on the Plat or Plats recorded in connection with the Property, and (ii) such drives, roadways walkways and paths as may be constructed in the future,
- (b) An easement for the purpose of installing, operating, maintaining and replacing wires, pipes, conduits and other structures and facilities necessary to the furnishing of gas, water, sewerage, storm drainage, electricity, telephone and other utilities and services, including the right to use in common with the Owners of the Property, the wires, pipes, conduits, and other structures and facilities furnishing such utilities and services to such Owners.

Section 6. Common Area Easement

The Developer has included within its plan several Common Area open space easements, including the pond area thereon (the "Pond") and the walkway to South Elkhorn Creek (the "Walkway") for the enhancement of Property and for the use of all Lot Owners. The Common Area open space easements may be used for locating utilities. All Common Area open space and the Pond area and Walkway are and shall remain private property exclusively for recreational or access purposes. The Common Area open space, the Pond area and the Walkway shall be used exclusively by residents or guests accompanied by residents. The Association (as hereinafter defined) shall maintain the Common Area open space, the Pond area and the Walkway and any other section of the Property that Developer may by future deed restriction or amendment hereof designate and provide. No structure, object or plant material may be placed in the Common Area open space, the Pond area or the Walkway without the approval of the Developer or Association. The Pond area and Walkway may be used in accordance with the rules promulgated by the Association. The Pond area and Walkway shall be considered an amenity and can be used for fishing and walking, in accordance with the aforesaid rules. The Pond area and Walkway shall be used at the risk of the user and the Developer and the Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of the Pond area or the Walkway. No Lot Owner docks are permitted and no boats or other water craft shall be permitted in the Pond area.

Section 7. Title to Common Area

The Developer may retain the legal title to the Common Area until such time as the Developer determines, in its sole discretion, that the same should be conveyed to the Association; provided, however, the Developer hereby covenants that it shall convey legal title to the Common Area to the Association no later than at such time as it conveys its last Lot. When the Developer conveys legal title to the Common Area to the Association, the Association shall accept such legal title and assume full and complete control, responsibility, and liability for the Common Area so conveyed.

ARTICLE VIII.

The liability of each and all the directors of the Association shall be and is hereby limited to the greatest extent permitted by law, and no director of the Association shall be liable to the Association for monetary damages for breach of such director's duties as a director, except for the following (which exception shall be construed as narrowly as legally permissible):

- (a) For an transaction in which the director's personal financial interest is in conflict with the financial interest of the Association;
- (b) For acts or omissions not in good faith or which involve intentional misconduct or which are known to the director to be a violation of law; or
- (c) For any transaction from which the director derives an improper personal benefit.
- (d) In addition to the limitation on a director's liability stated above, no action taken as a director and no failure to take action as a director shall be the basis for monetary damages or injunctive relief unless:
- (e) The director has breached or failed to perform the duties of the director's office in compliance with the general standards for directors as set forth in KRS 273.215; and
- (f) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

If the Kentucky Non-Profit Corporation Act is amended after approval of this Article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Association shall be deemed to be eliminated or limited by this provision to the fullest extent then permitted by the Kentucky Non-Profit Corporation Act, as so amended.

ARTICLE IX.

Any or all of the several approved, enforcements, assessment rights and obligations retained by Declarant herein may be transferred to any Person ("Assignee"), provided the transfer shall not reduce an obligation or enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is a written instrument signed by Declarant and duly recorded in the Scott County Clerk's Office. In any event, Declarant (or Assignee, if applicable) shall be deemed to have

transferred such special rights to the Association when the Declarant (or Assignee, if applicable) no longer owns any Lot within the Property.

ARTICLE X.

No Person shall take any action which would cause the Property, or any part thereof, to cease to be in compliance with the cluster subdivision regulations of The Subdivision and Development Regulations of Georgetown, Sadieville, Stamping Ground, and Scott County, Kentucky.

ARTICLE XI.

Prior to the conveyance of the first Lot, Declarant may unilaterally amend any portion of this Declaration. After such first conveyance, Declarant may unilaterally amend any provision of this Declaration so long as it still owns any Lot within the Property and so long as the amendment has no material adverse effect upon substantive right of any Owner; thereafter and otherwise, and except as otherwise provided in this Declaration, this Declaration may be amended only by the affirmative vote of (i) a majority of the Members at a meeting duly called for such purpose and (ii) Declarant so long as Declarant owns any Lot in the Property.

ARTICLE XII.

These restrictions, conditions, provisions and regulations as set forth herein shall be binding on Owners, their successors-in-interest and assigns, and shall constitute covenants which run with the land. Once Developer has assigned its rights under this instrument to the Association, this Declaration may be amended by the Members, as provided in Article XI of this Declaration. Any such Amendment shall be recorded in the Scott County Clerk's Office before it becomes effective.

Remainder of page intentionally left blank.

Signature page follows.

IN WITNESS WHEREOF, the Developer and the Mortgagees have executed this Declaration of Covenants, Conditions, Easement and Restrictions on this ____ day of _____, 2017.

DECEMBER ESTATES, LLC, a Delaware
limited liability company

By: _____

Its: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____ as _____ of December Estates, LLC, a Delaware limited liability company, on behalf of said company.

My Commission Expires: _____.

NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY:

Robert S. Ryan
WYATT, TARRANT & COMBS, LLP
250 West Main Street, Suite 1600
Lexington, KY 40507-1746
Phone: 859/233-2012
E-mail: rryan@wyattfirm.com

61621149.5
7/17/2017 11:16 am