

DECLARATION AND MASTER DEED <sup>00 08871 PG 0375</sup>  
Establishing

**ROSEWOOD CONDOMINIUMS**

**THIS DECLARATION AND MASTER DEED (the "Master Deed")** has been prepared at the direction and caused to be recorded by **HIGHLANDS RESTORATION GROUP, LLC**, (hereinafter referred to as "Declarant") a Kentucky limited liability company having an office at 1505 Rosewood Ave., Louisville, KY 40207; to wit:

**RECITALS:**

A. Declarant is the owner in fee simple of a certain tract of land located on 1505 Rosewood Ave. in Jefferson County, Kentucky, being more particularly described as follows:

BEGINNING at a point in the Northwesterly line of Rosewood Avenue 10 feet Southwestwardly from the line common to Lots 28 and 29 Block 2, as shown on the revised plan of E A Goddard's Subdivision, plat of which is of record in Plat and Subdivision Book 3, Page 38, in the office of the Clerk of the County Court of Jefferson County, Kentucky, said point also being 370 feet Southwestwardly from Baxter Avenue running thence Southwestwardly with the Northwestwardly line of Rosewood Avenue, 125 feet; thence Northwestwardly in a line parallel with the line common to lots 28 and 29, aforesaid, 127 feet, thence Southwestwardly in a line parallel with the Northwesterly line of Rosewood Avenue, 21 feet, thence Northwestwardly in a line parallel with the line common to Lots 28 and 29 aforesaid, 38 feet to the Southeasterly line of an alley, thence Northeastwardly with the Southeasterly line of said alley, 146 feet, thence Southeastwardly in a line parallel with the line common to said Lots 28 and 29 aforesaid, 165 feet to the beginning.

BEING the same property acquired by Highlands Restoration Group, LLC by Deed dated September 15, 2004, of record in Deed Book 8488, Page 271, in the office of the Clerk of Jefferson County, Kentucky.

B. Declarant desires to create a residential condominium project 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 Kentucky Horizontal Property Law, found at KRS 381.805 to KRS 381.910:

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

**ARTICLE I**

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## Definitions

The words listed in this article I when used in this Master Deed shall have the meanings set forth for each in this article I, in addition to other defined terms set forth elsewhere in this Master Deed:

- (A) "Articles of Incorporation" means the Articles of Incorporation of the Council, a Kentucky non-stock, not-for-profit corporation known as "Rosewood Condominium Council, Inc.", 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" means all of (i) the one (1) three-story existing apartment building to contain eight (8) units, which units are established by this Master Deed, (ii) the existing garage building that contains certain garage Limited Common Elements as set forth below and which may contain one unit (see section T of this Master Deed), and (iii) one (1) proposed three-story condominium building which may contain up to three (3) units as set forth in section T of this Master Deed. The location of the existing Buildings on the Land, the number by which each Unit in the building shall be designated, and the area of each of the Units are initially as set forth on the plans as may be expanded as contemplated by section T of this Master Deed.
- (D) "Bylaws" means 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" shall consist of all the property as set forth on the set of floor plans of the buildings, excepting the individual units, including but not be limited to, the land (including the Land under the Units), the foundation; structural columns; exterior walls; floors; roofs of the buildings (other than interior decorated surfaces thereof located within the boundaries of individual units); attics; the portion of the basement of the existing Building that is not a Unit and that is not Limited Common Elements as set forth below; the porch that leads into the main entrance to the existing Building and that is not designated on the plans recorded with this Master Deed as a Limited Common Element; elevator; structural parts of the buildings; windows; outside lighting; outside retaining walls; pipes; ducts; conduits and electrical wiring constituting part of the overall systems designed for the general service of the building; parking areas; sidewalks; grass areas; landscaping; garbage and refuse areas; public utility lines; and foyers; the stairways located therein and the exterior doors leading from the outside of the buildings to the foyers which serve as the points of entry to the buildings. Common elements shall include tangible personal property used for the maintenance and operation of the Condominium Project even though

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owned by the Council hereinafter described. All areas designated as general common elements are to be maintained by the Council.

- (F) "Condominium Documents" means, collectively, the Master Deed, Articles of Incorporation, Bylaws, and rules and regulations.
- (G) "Council" means, Rosewood Condominium Council, Inc., a Kentucky non-stock, not-for-profit corporation, the members of which shall be each an owner of record of a Unit or Units in the condominium project.
- (H) "Limited Common Elements" means those portions of the Common Elements which are reserved by this Master Deed or amendments to this Master Deed, by the recorded floor plans, by agreement of all Owners, or in the case of garage spaces by the designation of Developer at the time of conveyance of Units (which garage Limited Common Elements are designated "Garage LCE ---" as set forth on the plans recorded with this Master Deed), or in the case of certain storage spaces by the designation of Developer at the time of conveyance of Units (which storage Limited Common Elements are designated "Storage LCE ---" as set forth on the plans recorded with this Master Deed), and certain porches that are designated Limited Common Elements on the plans recorded with this Master Deed; all of which Limited Common Elements are for the use of a certain Unit or number of Units to the exclusion of other Units, including without limitation: (1) interior unfinished surfaces of each Unit's perimeter walls, ceilings and floors and space between floors; (2) entrances and exits to the Unit; (3) attics (meaning any space between the roof of a building and the ceiling of a Unit), crawl spaces, certain storage basements (if any, and if not included in a Unit as shown on the final "as built" plans referred to in Section 2.2), slabs, balconies, stoops, patios, storage areas and decks, if any, now (or hereafter if approved by the Board) attached to or assigned to a particular Unit and whether or not shown on the "as built" plans; and (4) utility service facilities serving a Unit or several Units, including the air conditioning and heating equipment and systems.

ARTICLE II

**(A) Description of Buildings; Units and Commons Area; Amendments to Declaration and Master Deed to Comply with Law.**

The Master Deed and Declaration initially establishes eight (8) units in one (1) three-story existing apartment building with right to construct and establish as part of the condominium regime an additional building with up to 3 units and to create a unit in the garage building, as contemplated by section T of this Master Deed. **The location of the buildings on the Land**, the number by which each Unit in the building shall be designated, and the area of each of the Units **are as set forth on the plans.**

**(B) Identification and Ownership of Units; Responsibilities of Unit Owners.**

(a) For purposes of identification, each unit has been assigned a number as indicated on Exhibit A attached hereto and made a part hereof. No unit bears the same identification number as any other unit.

(b) The location, dimensions and limited common area to which each unit has

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access are set forth in and on the aforementioned floor plans. The legal description of each unit shall consist of its number as indicated on Exhibit A together with the words Condominium Unit, in Rosewood Condominiums. Each unit shall consist of the space enclosed and bounded by the interior finished surfaces of the perimeter walls, floors of each unit as are shown on the set of floor plans filed of record simultaneously herewith or with any amendment hereto and shall include the exclusive right to use the limited common elements immediately adjacent to said unit.

(c) No unit may, by deed, plat, court decree or otherwise, be subdivided or partitioned or in any other manner separated into tracts or parcels smaller than the whole unit as shown on the floor plans, except in the manner provided for in the Horizontal Property Law and upon the prior written approval of the holder(s) of any mortgage(s) on such unit and approval by the Declarant.

(d) Each unit owner shall obtain fee simple ownership of the unit acquired, the appurtenant undivided interest in the general common elements of 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, partnership, joint with right of survivorship, tenancy in common, tenancy by the entirety, 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.

(e) 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 elements by any governmental authority with jurisdiction over the unit. Nothing contained in this Declaration and Master Deed shall be construed as giving to any unit owner any right of contribution or adjustment against any other unit owner 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.

(f) It shall be the responsibility of each unit owner with respect to the unit owned by such unit owner:

(i) 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, papering, plastering, or varnishing which may be necessary to maintain the good appearance and condition of the unit.

(ii) To maintain, repair, and replace at the expense of such unit owner, the main door leading directly from a unit into a foyer, windows and, if any, window screens, and the appliances and fixtures located in the unit, or located in the limited common elements, if any, 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, furnaces, air conditioning equipment, interior lighting fixtures, appliances, sinks, doors, drop ceilings, telephones, or any electric, gas, or water pipes or lines or wires or conduits or ducts serving any such appliances, elevator and fixtures.

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

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(iv) 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, hereinafter defined.

(v) 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.

(g) 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 employee, family member, guest, agent, or lessee 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 of the Council 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 of this Declaration and Master Deed, the Board of Directors of the Council 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 Declaration and Master Deed for nonpayment by a unit owner of common charges and assessments.

(h) No alteration or improvement to a common element, including the exterior of any door leading from a unit to a common foyer or to the exterior of the building 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 of the Council. No application shall be filed by any unit owner other than 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 of the Council. Such

approval and execution shall not evidence any consent to any liability on the part of the Board of Directors of the Council, or any individual member of the Board of Directors, to any contractor, subcontractor, material man, 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 the managing agent, if any, or through the president or secretary of the Board of Directors of the Council if no manager or management agent is employed. The Board of Directors of the Council shall have the obligation to answer within 30 days. The Board of Directors of the Council 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 of the Council deems proper.

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**(C) Percentage Interest in Common Elements.**

(a) Unless otherwise provided herein, the percentage of the undivided interest in the common elements pertaining to each unit and its owner for all purposes is as set forth in Exhibit A attached hereto and made a part hereof, which is calculated by dividing the floor area of a unit by the sum of the floor areas for all units.

(b) Each unit owner shall own an undivided interest in the percentage hereinabove set forth in the common elements as a tenant in common with all the other unit owners, and,

APPEAL 1005

except as otherwise limited by this Declaration and Master Deed, shall have the right to use and occupy the common elements for all purposes incident to the use and occupancy of a unit as an residence and for such other incidental uses permitted by this Declaration and Master Deed, which right shall be appurtenant to each unit. Notwithstanding the unit owners' joint title to elements, no unit owner shall use any common element in any manner calculated to disturb or annoy any other owner in the peaceable possession and enjoyment of a unit.

(c) The term "unit" as used herein and throughout this Declaration and Master Deed shall mean a "unit" as defined herein and in KRS 381.810 (1), together with the percentage of undivided ownership interest in the common elements allocated to such unit as hereinabove set out. Any conveyance of an individual unit shall be deemed also to convey the undivided interest of the owner in the common elements, both general and limited, appertaining to said unit, without specifically or particularly referring to same.

Such interest shall remain undivided and shall not be the object of an action for partition or division of the co-ownership, except as provided by the Horizontal Property Law.

**(D) Common Expenses and Collection of Assessments.**

(a) "Common expenses" of the Condominium Project means all charges, costs and expenses incurred by the Council, the Board of Directors of the Council, and/or the managing agent for and in connection with the operation and administration of the Condominium Project. Common expenses include, but are not necessarily limited to, those expenses for maintenance of the building (except to the extent of the units comprising a part of same), including the roofs, attics and foyers and all portions of a unit which constitute a part of the exterior of the building, as well as the repair of utility services, the provision of water service, insurance premiums, garbage removal, painting of the common elements, including the exterior of all surfaces, doors leading to the exterior of the building, care and replacement of exterior lighting fixtures, asphalt and concrete repair and replacement, costs of Condominium Project materials, supplies, equipment and tools, management, legal, accounting and engineering service fees, repairs and replacements of common element utility lines and equipment, and repayment of any loans obtained to pay for common expenses and to establish reserves to be maintained to cover future replacement costs and contingencies.

(b) The making and collection of assessments against unit owners for common expenses of the Condominium Project, as defined above, shall be pursuant to the bylaws of the Council and subject to the following provisions:

(i) Each unit owner shall be liable for its proportionate share of the common expenses and shall share in the common surplus (after due allowance for the retention of any reserve to cover future common expenses), such shares being the same as the unit owner's undivided share in the common elements. No unit shall be exempt from contribution toward such expenses 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; provided, however, the Board of Directors of the Council may, but is not required to, abate or reduce a unit owner's contribution for a reasonable period of time during which the unit owned by such unit owner is uninhabitable as the result of damage or destruction.

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(ii) Assessments and installments on such assessments paid on or before 10 days after the day when due shall not bear interest, but all sums not paid on or before 10 days after the date when due, including any sums due as a result of acceleration of unpaid assessments as may be provided in the bylaws, shall bear interest from the date when due until paid at the rate of interest per annum provided in the bylaws. All payments upon account shall be first applied to interest and then to the assessment payment first due.

(iii) Except as provided in paragraph (v) of this section of this Declaration and 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 paragraph of this section of the Declaration and Master Deed shall be deemed to be incorporated by reference in and reserved by each deed or the 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 common expense.

(iv) 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 Declaration and 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 as set forth above, 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 mortgage upon the unit of such unit owner.

(v) Where the mortgagee of a first mortgage of record or the purchaser of a unit obtains 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 assessment 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

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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.

(vi) 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. Anything to the contrary contained in this Declaration and 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 reserve or contingency accounts or other assessments, and the units owned by the Declarant, prior to the Declarant transferring control to the Council, shall not be subject to any lien therefore; and 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.

(vii) For an unoccupied Unit owned by the Declarant, Declarant is only liable for ninety (90%) of the assessment which it would otherwise have to pay for the Unit, such reduction being based on the provisions of KRS 381.870 allowing an adjustment based on such considerations as the fact that such Units are unoccupied and have a lower or non-existent demand on common utilities such as water and sewer and garbage collection. If the Unit becomes occupied, the Declarant must thereafter begin paying a full assessment for that Unit

**(E) Administration of the Condominium Project.**

Administration of the project, including the use, maintenance, repair, replacement and restoration of the common elements, including signage on doors leading to a common foyer or on the outside of the building, and any additions and alterations to them, shall be in accordance with the provisions of the Kentucky Horizontal Property Law, this Declaration and Master Deed, the bylaws of the Council and all rules and regulations adopted by the Board of Directors of the Council.

The maintenance and operation, including landscaping, gardening, snow removal, cleaning, painting and all other repair of the common elements shall be the responsibility and expense of the Council, unless and except as otherwise expressly provided elsewhere in this Declaration and Master Deed or in the bylaws. Notwithstanding the duty of the Council to manage, operate, maintain, and repair the Condominium Project, subject to and in accordance with the provisions of this Declaration and Master Deed and bylaws, the Council shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the Condominium Project required to be maintained and repaired by the Council, or caused by the weather or other elements, or by other unit owners or persons, including, but not limited to, defects which are the result of characteristics common to the materials used, damage due to ordinary wear and tear and normal use, and damage due to wind, rain, snow, hail, and condensation on or expansion or contraction of materials due to weather.

**(F) Use and Occupancy of Units and Common Areas.**

The building and the units therein are intended for and restricted exclusively for residential purposes as approved by the Declarant or the Board of Directors of the Council, and the use and occupancy thereof shall be no greater than the present permitted

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usage under the existing zoning classifications. In addition, the following restrictions shall apply:

(a) No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any part of the property except at such location and in such form as shall be determined by the Declarant and/or the Board of Directors of the Council.

(b) There shall be no obstruction of the common elements and nothing shall be stored in the common elements without the prior consent of the Declarant and/or the Board of Directors except as herein expressly provided. Each unit owner shall be obligated to maintain and keep his or her own unit in good, clean order and repair.

(c) Nothing shall be done or kept in any unit or in the common elements which will increase the rate of insurance on the building or contents thereof without the prior written consent of the Declarant and/or the Board of Directors of the Council. No unit owner shall permit anything to be done or kept in his or her unit or in common elements or limited common elements which will result in the cancellation of insurance on the buildings or contents thereof or which would be in violation of any law. No waste shall be committed in the common elements or limited common elements.

(d) Unit owners shall not cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls of the building, and, no awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls, the doors leading to a unit from a common foyer or to the outside of the building, windows, or roof of any part thereof, without the prior written consent of the Declarant and/or Board of Directors of the Council.

(e) No animals, including reptiles, livestock or poultry of any kind, shall be raised, bred or kept in any Unit or in the Common Elements for any commercial purposes except that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept, providing they are not kept, bred or maintained for any commercial purposes and further provided that no such pet weights in excess of 30 pounds. Notwithstanding the foregoing, and based solely on prior contractual obligations, the initial purchaser of Unit 4 shall have the right to have one existing pet that exceeds the weight limitation, that pet being an approximately 75 pound Sheppard that is approximately 10 years old; when that existing pet dies the owner of Unit 4 may not replace it with any pet other than a pet that meets the foregoing weight limits of this subsection (e). All household pets, including dogs and cats, shall at all times be confined to the Unit occupied by the owner of such pet; provided, however, that household pets may be walked within the Common Elements, but when not in a unit, any such acceptable pets must be on a leash and at all times under the control of a resident and the owner or handler of such pet must clean up and remove any animal feces from any area in which it is deposited. The Board of Directors may impose a fine of not more than \$50 on any unit owner not abiding by this requirement. No pet may be kept or maintained in a Unit if it is or becomes a nuisance. Actions that constitute a nuisance include, but are not limited to, repeated barking, an attack on a person, or more than one unprovoked attack on other animals. Abnormal or unreasonable crying, barking, scratching, or failure to have the pet licensed and inoculated, or fleas or other vermin infesting the pet (if not eradicated promptly after the discovery of such infestation), or repeated defecation that is not immediately cleaned up by

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cleaned up by the pet's owner, shall be cause for the Board of Directors to require and force removal of the pet from the condominium regime. The decision of the Board of Directors as to whether any pets violate this Rule is final and binding on all owners. Pet owners are fully responsible for personal injuries and property damage caused by their pets and shall (and do hereby) indemnify and hold harmless the Board of Directors, the Council and all other Unit Owners from and against losses, costs, claims and expenses, including without limitation attorney fees and court costs, caused by such pets.

(f) No noxious or offensive activity shall be carried on in any unit or on the property, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other unit owners or occupants or constitute waste at common law.

(g) Nothing shall be done in any unit or in, on or to the common elements which will impair the structural integrity of the building or which would structurally change the building, except as otherwise provided herein.

(h) No personal property or other articles shall be left out or exposed on any part of the common elements. The common elements and the limited common elements shall be kept free and clear of rubbish, debris and other unsightly materials.

**(i) Nothing shall be altered on, constructed in, or removed from the common elements or limited common elements, except upon the written consent of the Declarant and/or the Board of Directors of the Council.**

(j) No trailer, boat, motorcycle, or any recreational vehicle shall be kept or parked on the premises at any time except with the express consent of the Declarant and/or Board of Directors of the Council.

(k) Other rules and regulations may be made by the Declarant and/or the Board of Directors of the Council as to the usage of the units.

**(G) Violation of Declaration.**

The violation of any restriction or condition or regulation adopted by the Board of Directors of the Council or the breach of any covenant or provision herein contained or contained in the Horizontal Property Law shall give the Board of Directors of the Council the right, in addition to any other rights provided for in this Declaration and Master Deed:

(a) to enter upon the unit or any portion of the property upon which, or as to which, such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof; and the Council, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass.

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. Should the Council prevail in said legal proceeding, the unit owner in breach shall be liable to the Council for the expenses it incurs to enjoin, abate or remedy said breach including, without limitation, reasonable attorney fees and costs. Furthermore, if any unit owner (either by his or her own conduct or by the conduct

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of any other occupant of his unit) shall violate any of the covenants of this Declaration and Master Deed or the bylaws of the Council or regulations adopted by the Council and such violation shall continue for 30 days after notice in writing from the Board of Directors of the Council or shall reoccur more than once thereafter, then the Council shall have the power to issue to the defaulting unit owner a 10 day notice in writing to terminate the rights of the said defaulting unit owner to continue as a unit owner and to continue to occupy, use or control his or her unit; and thereupon an action in equity may be filed by the Council against the defaulting unit owner for a decree of 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 on account of the breach of covenant and ordering that all the right, title and interest of the unit owner in the property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting unit owner from reacquiring his interest at such judicial sale or by virtue of the exercise of any right of redemption which may be established. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney fees, and all other expenses of the proceeding and sale; and all such items shall be taxed against the defaulting unit owner in said decree. Any balance of the proceeds after satisfaction of such charges and any unpaid assessments hereunder or any liens shall be paid to the unit owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the unit and immediate possession of the unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any sale, and the decree shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration and Master Deed and to the bylaws of the Council.

**(H) Damage or Destruction.**

The Council, acting by and through its Board of Directors, shall acquire full replacement value insurance protection for the Condominium Project, including but not exclusively, casualty, liability and employee workmen's compensation insurance, if needed, without prejudice to the right of co-owners to insure their units on their own account and for their own benefit. The premiums on such insurance shall be considered common expenses, enforceable under lien rights, provided that, should the amount of any insurance premium be affected by a particular use of a unit or units, the owners of such units shall be required to pay any increase in premium resulting from such use. In case of fire or other destruction or damage and the Condominium Project's insurance indemnity is not sufficient to cover the cost of reconstruction or repair, the cost (or added cost) shall be paid by the co-owners as a common expense, and the Council by a majority vote will be authorized to borrow funds therefore and to amortize the repayment of same over a period of time not exceeding the reasonable life of the reconstruction or repairs. In the event of fire or damage, reconstruction and repairs of the building shall be mandatory regardless of the nature and extent of the damage. Reconstruction and repairs shall be made to follow and conform as closely as possible to the original basic architectural design of Rosewood Condominiums, and any mortgage existing prior to damage to the property shall attach and be continuing as a lien on the reconstructed property. All insurance proceeds resulting from said damage or destruction payable to unit owners and first mortgagees (as their interests may appear) shall be deemed assigned to the Board of Directors of the Council (representing the Council), which shall immediately deposit all proceeds in a trust account with a federally insured bank or thrift institution selected by

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PLANNING &  
DESIGN SERVICES

ISAPPEAL 105

the Board of Directors of the Council. Said trust account shall be entitled "Rosewood Condominiums, Trust Account for Repairs and Reconstruction". The Board of Directors of the Council, with qualified supervision, shall oversee all repairs and all reconstruction.

**(I) Easements and Encroachments.**

(a) 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 Declaration and Master Deed or as are contemplated by the plans, or as may be required to be incorporated in the final construction of the building 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 other unit owners to use the pipes, ducts, cables, wires, conduits, public utility lines, and other common elements serving 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 Declaration and 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 trust deed or other evidence of obligation shall be subject to the easements and rights described in this Declaration and Master Deed, and reference to this Declaration and 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.

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(b) The Council may grant further easements for utility purposes for the benefit of the Condominium Project, including, without limitation, 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 Declarant, its successors and assigns, or, after control of the Condominium Project is transferred to the Council, the Council (acting through its president) an irrevocable power of attorney coupled with an interest 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 constructed, unless approved in writing by the unit owner. The power of attorney granted by this section of this Declaration and Master Deed shall survive any disability or death of the unit owner and shall be binding on each successive unit owner.

(c) The Council shall have a right of access to each unit upon reasonable prior notice and at reasonable hours:

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(i) to inspect the same for compliance with the provisions of the condominium documents.

(ii) 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 directors) including any pipes, wires, ducts, cables, conduits, and public utility lines located in or adjacent to any unit.

(iii) to prevent damage to the common elements or any other unit.

(iv) to abate any violation of law, order, rules, or regulations of any governmental authority having jurisdiction thereof; and (v) 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.

(d) Declarant reserves unto itself, its successors and assigns 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.

(e) Declarant reserves unto itself, its successors and assigns the right, for the purpose of completing the development of the Condominium Project, including the building 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, material men, 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 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 of this Declaration and Master Deed promptly after Declarant is notified that such damage has occurred.

(f) 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;

(i) the original or future construction or settling or shifting of any part of the building, or

(ii) any repair or restoration undertaken by the Board of Directors of the Council, or

(iii) 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 of this Declaration and Master Deed shall exist so long as the building in which the encroachment exists (or any replacement thereof permitted under any condominium document) shall stand.

(g) The Board of Directors of the Council 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.

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**(J) Bylaws; Initial Authority Vested Exclusively in Declarant or its Assigns.**

The bylaws for Rosewood Condominiums shall be adopted and exercised initially, as set forth therein, by the Declarant, its successors or assigns in order for the Declarant, its successors or assigns to be able to develop same into the Condominium Project described and to assure the placing of the Council on a sound basis for the protection of all owners in this Condominium Project. Each unit owner's ownership and use of the unit(s) owned by such unit owner may also be subject to certain rules and regulations promulgated initially by the Declarant, its successors or assigns and ultimately by the Board of Directors of the Council from time to time, which rules and regulations shall be applicable to all unit owners including Declarant, its successors and assigns. A copy of the rules and regulations, including any amendments thereto, shall be furnished initially by the Declarant or its successors or assigns and ultimately by the Board of Directors of the Council, to all unit owners and residents of the Condominium Project upon request. Subsequent to adoption of the bylaws, the administration of this condominium regime shall be governed by the bylaws of the Council, and they may be amended from time to time by amendment procedure set forth therein. The preceding sentence, the above paragraph of this section and anything to the contrary notwithstanding, the administration

and control of the condominium regime and the property, including but not limited to the adoption and amendment of the bylaws, adoption of condominium regime rules, assessment of common expenses and all other rights relating to the governing, managing and administration of this condominium regime and the property and all rights and powers which would otherwise be vested in the Council or Board of Directors of the Council shall be all vested in the Declarant or its successors or assigns until 100% of the units have been sold, transferred and recorded, or 7 years after the date of the filing of this Declaration and Master Deed, whichever first occurs. Until that time, the Declarant or its successors or assigns shall possess the irrevocable proxy of the unit owners, which proxy each unit owner automatically gives the Declarant, its successors or assigns, upon acceptance of a deed to a unit, and all unit owners agree to such administration by the Declarant or its successors or assigns in accepting unit conveyances. Notwithstanding the foregoing or anything in the bylaws to the contrary, Declarant or its successors or assigns, in their sole discretion, may elect to transfer all or less than all rights and powers which would otherwise be vested in the Council or Board of Directors of the Council, but for this section of this Declaration and Master Deed, to said Council or Board of Directors at any time.

**(K) Grantees.**

Each grantee of Declarant, by the acceptance of a deed of conveyance, accepts the same subject to all easements, restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration and Master Deed and the provisions of the Horizontal Property Law, as amended from time to time, and all easements, rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed 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 said land and shall inure to the benefit of such owner in like manner as though the provisions of this Declaration and Master Deed were recited and stipulated at length in each and every deed of conveyance.

**(L) Assignment.**

Declarant shall have the right to assign any or all of its interest and any right, power,

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duty, privilege and benefit reserved unto it by this Declaration and Master Deed and in the Bylaws with respect to the Condominium Project, including, without limitation, the special power of attorney granted to Declarant pursuant to the authority of this Declaration and Master Deed, to a third party or parties and any such third party or parties shall have and hold such interest with the same power and authority as same are/were held by Declarant.

**(M) Incorporation.**

Declarant has or will cause the formation of a Kentucky non-stock, not-for-profit corporation known as "Rosewood Condominiums Council, Inc.", to act as the Council of Co-owners as defined in KRS § 381.810 and governing body for all unit owners in the administration and operation of the property. Each unit owner or owners shall be a member of such corporation, which membership shall terminate upon the sale or other disposition of such member of his or her unit, at which time the new unit owner or owners shall automatically become a member of the corporation.

**(N) Failure to Enforce.**

No terms, obligations, covenants, conditions, restrictions or provisions imposed hereby or contained herein shall be abrogated or waived by any failure to enforce the same, no matter how many violations or breaches may occur.

**(O) Notices.**

Notices required or permitted to be given to the Council, the Board of Directors of the Council or any unit owner may be delivered, respectively, to any officer of the Council, member of the Board of Directors of the Council or such unit owner at his or her unit or as set forth in the bylaws.

**(P) Amendments.**

(a) In addition to the authority of Declarant under section T of this Declaration and Master Deed, if, during the construction period or before Declarant, its successors or assigns relinquishes control of this Condominium Project as set forth in section J of this Declaration and Master Deed, it is found that an error exists on the part of the draftsman of this instrument or on the part of the surveyor or engineer, an amendment setting forth the error and correction may be filed by the Declarant, its successors or assigns without the consent of any other party thereto, and shall become a part of this Declaration and Master Deed. No further change shall be made except by amendment procedures immediately following.

(b) To the extent authority for amendment to this Declaration and Master Deed does not exist under other applicable provisions of this Declaration and Master Deed and after Declarant, its successors or assigns relinquishes control of this Condominium Project as set forth in Section J, the provisions of this Declaration and Master Deed may be amended, changed or modified by an instrument in writing setting forth such amendment, change or modification signed and acknowledged by the owners of units who, in the aggregate, own 66.66% or more of the general common elements of the condominium and by the first mortgagees of same, if any, having bona fide liens of record against said units. The bylaws, unless otherwise provided, shall be amended, changed or modified only in accordance with the procedures governing amendments as set forth in the bylaws.

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(c) Any amendment, change or modification to this Declaration and Master Deed shall conform to the provisions of the Horizontal Property Law and shall be effective upon recordation thereof. Bylaws and any amendments thereto need not be recorded.

**(Q) Severability.**

The invalidity of any restriction hereby imposed, or any provision hereof, or of any part of such restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration and Master Deed, and all of the terms hereof are hereby declared to be severable.

**(R) Captions.**

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

**(S) Construction.**

The provisions of this Declaration and Master Deed shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of an Residential Condominium Project.

**(T) Expandable Regime.** This is an expandable condominium regime. In other words, additional buildings may become a part of this Regime at the option of Declarant, its successors and assigns, as follows. Declarant currently contemplates that this condominium regime will consist of up to 12 units in 3 Buildings, as follows: 8 units in the existing Building as such units are established by this Master Deed and the plans recorded with this Master Deed; 1 unit in the area above the garage Limited Common Elements in the existing garage Building (which Declarant may or may not convert into a Unit; and one new Building with up to 3 units in it), but this expression of intent does not obligate Declarant, its successors or assigns, to construct all such units nor does this expression of intent prohibit Declarant from constructing more units, and Declarant expressly reserves the right to construct the one additional Building referenced in this Master Deed. If expanded, the percentage of common interest appurtenant to each unit in this condominium regime shall be redistributed on an as-built basis upon completion of additional units. The redistribution shall be done by an amendment or amendments to this Master Deed. Declarant hereby reserves for itself, its successors and assigns, for a period of ten (10) years from the date of this Master Deed, the right to execute on behalf of all contract purchasers, unit Owners, mortgagees or other lien holders, or other parties claiming a legal or equitable interest in this condominium regime, any amendment, agreement or supplement that may be required to expand this condominium regime, and by taking any interest in this condominium regime or by taking any interest in a unit, each such person or entity shall be deemed to have granted to Declarant a power of attorney for such purposes, coupled with an interest, running with this condominium regime or unit, as applicable, and binding upon the successors or assigns of any of the foregoing parties, with that power of attorney not being affected by the death or disability of any principal. Declarant, for itself, and for its successors and assigns, reserves an interest in any real estate, including this condominium regime and each unit, for these purposes. This interest reserved by Declarant and the power of attorney hereby granted by each interest holder includes the right to amend the percentage of common interest appurtenant to each unit and otherwise to amend this Master Deed to supplement the floor plans to accomplish the expansion of this condominium regime, as contemplated by this section.

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**(U) Consent of Mortgage Holders**

Joining in this instrument is (i) PBI Bank, Inc. ("Bank"), holder of one mortgage on the subject property, of record in Mortgage Book 9878, Page 604, in the office of the Clerk of Jefferson County, Kentucky, and (ii) Tunny, LLC, holder of a mortgage on the subject property, dated September 15, 2004, of record in Mortgage Book 8932, Page 146, in the office of the Clerk of Jefferson County, Kentucky, to indicate their consent to the terms of this Declaration, the Declarant agreeing that the lien rights of Central Bank and Tunny, LLC are hereby transferred to the individual units of the Regime hereby established or to be established, together with the development rights vested in Declarant pursuant to this Declaration.

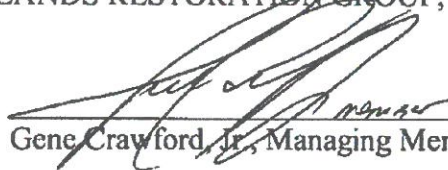
**(V) Mortgagee of Declarant.**

Any mortgagee of Declarant which acquires title by foreclosure or by deed in lieu thereof shall enjoy all the rights of the Declarant hereunder and under the bylaws of the Council.

[Signatures and Acknowledgements on Separate Counterpart Pages Following]

HIGHLANDS RESTORATION GROUP, LLC

By:

  
Gene Crawford, Jr., Managing Member

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State of Kentucky        )  
  ) SS  
County of Jefferson     )

The foregoing Master Deed was executed and acknowledged before me on July 20, 2006, by GENE CRAWFORD, Managing Member of Highlands Restoration Group, LLC, a Kentucky limited liability company, on behalf of the company.

My commission expires: 11/17/2007

  
Notary Public

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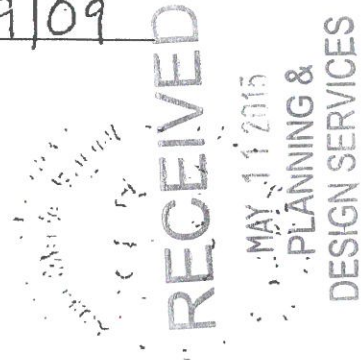
TUNNY, LLC

By: *Paula M. Main*  
Paula M. Main, Member

COMMONWEALTH OF KENTUCKY     )  
  )SS  
COUNTY OF Franklin            )

The foregoing instrument was acknowledged and sworn to before me on  
July 19, 2006, by Paula M. Main, authorized member of Tunny, LLC, a  
Kentucky limited liability company, on behalf of the company.

*Anne Marie Riddell*  
Notary Public  
Commission expires: 4/19/09



*ISAPPELLUCOS*

PBI BANK, INC.

By: Cliff Radin  
Cliff Radin, Senior Vice President

COMMONWEALTH OF KENTUCKY )  
  )SS  
COUNTY OF JEFFERSON       )

The foregoing instrument was acknowledged and sworn to before me on July 14, 2006, by Cliff Radin, Senior Vice President of PBI Bank, Inc., on behalf of the bank.

Cheryl Stafford  
Notary Public, ~~state of~~ Large, KY  
Commission expires: 5-17-08

THIS INSTRUMENT PREPARED BY:  
Gene Crawford  
Gene Crawford  
11915 Creel Lodge Dr.  
Louisville, KY 40223

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Rosewood Condominiums

Unit No.	Unit Location and Type	Unit Floor Area	Percentage of Common Interest
1	See Plans	1,978	13.2%
2	See Plans	1,697	11.4%
3	See Plans	1,446	9.7%
4	See Plans	2,018	13.5%
5	See Plans	1,681	11.2%
6	See Plans	1,216	8.1%
7	See Plans	1,991	13.3%
8	See Plans	2,920	19.5%
		<u>14,947</u>	<u>100.0%</u>

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Recorded In Condo Book

No. 115 Page 13-14

Part No. 2271

Document No.: DM2006115995  
 Lodged By: salyers  
 Recorded On: 07/21/2006 11:47:40  
 Total Fees: 46.00  
 Transfer Tax:  
 County Clerk: BOBBIE HOLSCLAW-JEFF CO KY  
 Deputy Clerk: DONREI

END OF DOCUMENT

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