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**MASTER DEED AND DECLARATION
OF CONDOMINIUM PROPERTY REGIME
FOR
THE OVERLOOK AT BEARGRASS CREEK CONDOMINIUMS**

THIS MASTER DEED AND DECLARATION OF CONDOMINIUM PROPERTY REGIME (the "Master Deed") is made and entered into this 7 day of May, 2003, by **OVERLOOK BEARGRASS, LLC**, a Kentucky limited liability company with address of 2206 Frankfort Avenue, Louisville, Jefferson County, Kentucky 40206 ("Owner"), and is joined by **Commonwealth Bank and Trust Company**, a Kentucky banking corporation with address of P O Box 249, Shelbyville, Shelby County, Kentucky 40066-0249, as mortgagee and joinder party ("Mortgagee")

WITNESSETH

WHEREAS, Owner is the owner in fee simple of certain real estate located at 7100 Beargrass Run Place and 3100 Beargrass Run Court in Louisville, Jefferson County, Kentucky, which when fully developed shall be improved with not more than twenty-six (26) habitable condominium units (the "Units"),

WHEREAS, Owner desires to, and does hereby submit and subject such real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon or hereafter erected, and all rights and privileges belonging or in any way pertaining thereto, to the provisions of the Kentucky Horizontal Property Law, KRS 381 805 to 381 910, as amended (the "**Horizontal Property Law**"),

WHEREAS, Owner desires to establish certain rights and easements in, over and upon said real estate for the benefit of itself, its successors and assigns, and all future owners of any part of said real estate, and any Unit or Units thereof or therein contained, and to provide for the harmonious, beneficial and proper use and conduct of the Property and all Units, and

WHEREAS, Owner desires and intends that the several Unit owners, mortgagees, occupants, and other persons hereafter acquiring any interest in the Property (as hereinafter defined) shall at all times enjoy the benefits of, and shall hold their interest subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of condominium ownership of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property,

NOW, THEREFORE, in consideration of the foregoing premises, which are hereby incorporated herein, Owner, as the present owner and developer of the Property, declares as follows

1. **Legal Description of Real Estate and Definitions** (a) The real estate ("Real Estate") which is hereby submitted and subject to the provisions of the Horizontal Property Law is legally described on **Appendix I** attached hereto and made a part hereof

(b) Said Real Estate and improvements thereon and appurtenances thereto shall be known as the "The Overlook at Beargrass Creek Condominiums," or the "Project"

(c) Except to the extent hereinafter modified or changed

(i) The following words and terms whenever used herein, shall have the same meaning as provided for such words and terms in the Horizontal Property Law "Condominium" and "Master Deed",

(ii) The term "Board" shall mean the Board of Directors of the Homeowners' Association,

(iii) The term "By-Laws" shall mean the By-Laws of the Homeowners' Association as adopted by the Board of Directors thereof. A copy of the initial By-Laws is attached hereto and made a part of this Master Deed as Exhibit C.

(iv) The term "Common Area" shall mean the General Common Elements of the Project,

(v) The term "Common Elements" shall mean, collectively, the General Common Elements and the Limited Common Elements;

(vi) The term "Common Expenses" shall be construed broadly and shall mean all charges, costs and expenses incurred by the Homeowners' Association for and in connection with the operation and administration of the Project, including, without limitation (1) maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Common Area and of the Limited Common Elements the restoration of which is not the responsibility of a particular Unit owner, and the costs of any additions and alterations thereto, (2) all labor, services, common utilities, materials, supplies and equipment therefor, (3) all liability for loss or damage arising out of or in connection with the Common Elements and the use thereof, (4) all premiums for hazard, liability and other insurance with respect to the Project, (5) all costs incurred in acquiring a Unit pursuant to judicial sale, (6) all administrative, accounting, legal and managerial expenses, (7) the cost of operation, maintenance, improvement and replacement of any recreational facilities located on the Common Area, (8) amounts incurred in replacing or substantially repairing capital improvements of the Project, including, but not limited to, roof replacement and road, driveway and parking lot resurfacing, and (9) all reserve funds or other funds established by the Homeowners' Association,

(vii) The term "Eligible Holder" shall mean a holder, insurer or guarantor of a bona fide first mortgage on a Unit which has made written request to the Homeowners' Association (listing its name and address and the Unit number or address of the Unit on which it has, insures or guarantees such mortgage) for the notices specified herein,

- (viii) The term "General Common Elements" shall have the meaning given thereto in Section 5 hereof,
- (ix) The term "Homeowners' Association" shall mean The Overlook at Beargrass Creek Condominium Association, Inc, a Kentucky non-profit corporation, established pursuant to Section 17 of this Master Deed,
- (x) The term "Limited Common Elements" shall have the meaning given thereto in Section 6 hereof,
- (xi) The term "Property" as used in this Master Deed means all of the land, property, and space comprising the Real Estate and all improvements and structures erected, constructed, or contained therein or thereon, including the buildings and all easements, rights and appurtenances belonging thereon, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Property by owners thereof, and
- (xii) The term "Unit" as used herein and throughout this Master Deed shall mean a "Unit" as defined in KRS 381.810(D), as amended, together with the percentage of undivided ownership interest in the Limited Common Elements allocated to such Unit in accordance with Section 6, subject to readjustment of such percentage of undivided interest in the Common Elements in accordance with Section 2 herein.

2. Description of the Buildings

(a) The buildings constructed and/or to be constructed at The Overlook at Beargrass Creek Condominiums will be fully described in a set of floor plans of the buildings to be recorded simultaneously herewith or with the recording of an amendment hereto pursuant to KRS 381.835 or as otherwise contemplated hereby (the "Floor Plans").

(b) The Overlook at Beargrass Creek Condominiums shall be developed in one phase, and when totally developed shall consist of not more than twenty-six (26) Units included within two (2) buildings.

3. Future Amendment Each owner of a Unit, by acceptance of a deed to that Unit, hereby further acknowledges, consents, and agrees to any future amendment of this Master Deed that is recorded by Owner as follows

(a) any additional Common Area described in any such amendment shall be governed in all respects by the provisions of this Master Deed,

(b) the percentage of ownership in the Common Elements appurtenant to each Unit shall be shifted and reallocated to the extent set forth in any such recorded amendment of this Master Deed as contemplated herein, and upon the recording of any such amendment the amount by which such percentage appurtenant to a Unit is reduced, as set forth in each such recorded amendment, shall thereby be and be deemed to be released and divested from such Unit owner and reconveyed and reallocated among the other Unit owners as set forth in any such recorded amendment,

(c) each deed, mortgage or other instrument affecting a Unit shall be deemed given subject to the conditional limitation that the percentage of ownership in the Common Elements appurtenant to each Unit shall, upon the recording of any amendment to this Master Deed, be divested pro rata to the reduced percentage set forth in such amendment and vested among the other Unit owners, mortgagees and others owning an interest in the other Units in accordance with the terms and percentages of any such recorded amendment to this Master Deed,

(d) a right of revocation is hereby reserved by Owner in any such deed, mortgage or other instrument with respect to a Unit to so amend and reallocate the percentages of ownership in the Common Elements appurtenant to each Unit,

(e) the percentage of ownership in the Common Elements appurtenant to each Unit shall include and be deemed to include any additional Common Elements annexed thereto by a recorded amendment to this Master Deed, and each deed, mortgage or other instrument affecting a Unit shall be deemed to include such additional Common Elements and the ownership of any such Unit and lien of any mortgage shall automatically include and attach to such additional Common Elements as such amendments to this Master Deed are recorded,

(f) each Owner shall have a perpetual easement, appurtenant to his Unit, for the use of any additional Common Elements annexed thereto by and described in any recorded amendment of this Master Deed for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to, or which shall be classified as Limited Common Elements for the sole benefit of, the owners of specific Units as may be provided in any amendment to this Master Deed,

(g) the recording of any amendment to this Master Deed shall not alter the amount of the lien for expenses assessed to a Unit prior to such recording,

(h) each Unit owner, by acceptance of the deed conveying his Unit, agrees for himself and all those claiming under him, including mortgagees, that this Master Deed and any amendment to this Master Deed, is and shall be deemed to be in accordance with the Horizontal Property Law, and for the purposes of this Master Deed and the Horizontal Property Law, any changes in the respective percentage ownership in the Common Elements as set forth in any amendment to this Master Deed shall be deemed to be made by agreement of all Unit owners,

(i) Owner reserves the right to amend this Master Deed at any time in such manner, and each Unit owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this Section 3 to comply with the Horizontal Property Law as it may be amended from time to time, and the foregoing provisions of this Master Deed and the deeds and mortgages of the Units and Common Elements contain and will contain clauses designed to accomplish a shifting of the Common Elements. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other so that a valid shifting of the Common Elements can be accomplished

In furtherance of the foregoing, an irrevocable Power of Attorney coupled with an interest is hereby granted and reserved unto Owner, its successors and assigns, excepting therefrom individual Unit owners, to shift and reallocate from time to time the percentage of

ownership of Common Elements set forth in any addendum or amendment to this Master Deed pursuant to this Section 3. Each execution of a deed of conveyance, mortgage or other instrument with respect to a Unit and the acceptance thereof, shall be deemed a grant, and an acknowledgement of and be deemed conclusive evidence of the consent of the parties thereto to such reservation of power to Owner as Attorney-in-Fact, to Owner, its successors and assigns, of the power to shift and reallocate from time to time the percentages of ownership in the Common Elements appurtenant to each Unit set forth in any recorded addendum or amendment to this Master Deed. Further, Owner specifically reserves unto itself and its successors and assigns, the right to determine the percentage of ownership in General Common Elements and Limited Common Elements and appurtenances to General Common Elements and Limited Common Elements to each Unit set forth in any such recorded amendment.

4. Units. The Unit numbers of each of the Units are fully set forth in the Floor Plans and delineated on Exhibit A.

(a) The total number of Units shall be twenty-six (26).

(b) The appropriate location, dimensions and immediate Common Area(s) and Limited Common Elements to which each Unit has access are set forth in said Floor Plans. The legal description of each Unit shall consist of its number as aforesaid followed by the words, "The Overlook at Beargrass Creek Condominiums Horizontal Property Regime". Each Unit shall consist of the space enclosed and bounded by a vertical projection of the Unit boundary lines, and by the horizontal planes at the floor and ceiling elevations, shown on the Floor Plans, and shall include the exclusive right to use the Limited Common Elements immediately adjacent to said Unit as shown by said Floor Plans or as described herein, if any.

(c) No Unit shall by deed, plat, court decree, judgment or otherwise be subdivided or in any manner separated into tracts or parcels smaller than the whole Unit as shown on the Floor Plans.

(d) If two horizontally adjoining Units are purchased simultaneously by one party, the wall separating the Units may be wholly or partially removed, if said wall is not a load bearing wall, and does not, in the area proposed to be removed, contain any ducts or utility lines serving other Units, and such removal is approved by (i) the Board, and (ii) the Owner, for so long as Owner owns any Units or real property subject to this Master Deed. The voting rights, percentage interest and maintenance charges attributable to each Unit shall not be altered by reason of said removal.

5. Description of the General Common Elements. The General Common Elements shall consist of all of the Property, excepting the individual Units and fixtures therein and excepting any portion of the Property or Project or appurtenances thereto described as Limited Common Elements, and shall include, but not be limited to, the Real Estate and any improvements and fixtures attached thereto, stairways, entrances and exits, storage areas, walkways, roofs, pipes, ducts, electrical wiring and conduits, public utility lines, floors and ceilings (other than the interior surfaces thereof located within the Units), perimeter walls of the Units (other than the interior surfaces thereof), structural parts of the building, outside walks and outside driveways, grading, landscaping, and all other portions of the Property, except in all cases for the individual Units and any Limited Common Elements appurtenant thereto. Heating, ventilating and air conditioning equipment serving a single unit is not a General Common

Element Structural columns and load bearing walls located within the boundary of the Unit shall be part of the General Common Elements, provided that the Homeowners' Association shall have no obligation to decorate, paint or maintain the exposed surfaces thereof. General Common Elements shall also include tangible personal property used for the maintenance and operation of The Overlook at Beargrass Creek Condominiums Horizontal Property Regime (the "Regime") even though owned by the Homeowners' Association hereinafter described. Any parking area or other paved portion of the Property allocated to parking purposes shall be part of the General Common Elements and not part of any individual Unit.

6. Definition and Description of Limited Common Elements

(a) A Limited Common Element is a Common Element whose ownership or percentage of ownership is conveyed by deed, will, or other evidence of conveyance of a Unit, and which shall be maintained (except as specified herein) by the Unit owner and limited to the use, enjoyment and occupancy of the particular Unit or Units.

(b) The entrance and exits to the Units, and storage areas, decks, porches, balconies, garages and/or parking areas, if any, specifically assigned to a Unit as shown on the Floor Plans filed herewith or otherwise specified herein, and that area designated for patios, courtyards or garden areas shown on Plans filed herewith, or on any amendment hereto, and adjoining or specifically designed for a Unit, shall be a Limited Common Element.

(c) No porch, deck, balcony, courtyard or patio areas designated as a Limited Common Element for a Unit may be enclosed.

7. Percentage Interest

(a) Percentage interests in the Common Elements are calculated to the equivalent of the percentage representing the floor area of the individual Unit with relation to the floor area of the total existing Units as built, all as set forth in KRS 381.830 and the Horizontal Property Law, as amended. Appurtenant to each Unit is the percentage interest in the Common Elements assigned to such Unit as set forth on Exhibit B attached hereto and made a part hereof under the heading "% of Ownership".

(b) Owner reserves unto itself the exclusive right to readjust the percentage interest in Common Elements to correct any mathematical errors and to permanently establish and affix the final percentage interest in the Project as built as per KRS 381.830(b). The Owner and the Homeowners' Association reserve the right to round-up or round-down the percentages of ownership in the Common Elements for any one or more Units in order that the total percentage of ownership equals one hundred percent (100%).

(c) Each Unit owner shall own an undivided interest in the Common Elements in the percentage set forth on Exhibit B under the heading of "% of Ownership" (and as set forth in any amendment to this Master Deed), as a tenant-in-common with all the other Unit owners, and except as otherwise limited in this Master Deed, shall have the right to use and occupy said Common Elements for all purposes incident to the use and occupancy of the Unit as a place of residence, and such other incidental uses permitted by this Master Deed, which shall be appurtenant to and run with the Unit.

(d) Any conveyance of an individual Unit shall be deemed also to convey the undivided interest of the owner in the Common Elements, both General Common Elements and Limited Common Elements, appertaining to said Unit without specifically or particularly referring to same. Such interests shall remain undivided and shall not be the object of an action for partition or division of the co-ownership thereof, except as to the adjustment of the percentages of interest in the Common Elements as otherwise provided herein.

8. **Purpose** The buildings and the Units therein are restricted exclusively to single family residential use. Additional provisions with respect to the use and occupancy of the Units and common areas and facilities are contained in Section 13 herein.

9. **Damage or Destruction; Condemnation; Insurance**

(a) The provisions of KRS 381.890 are hereby waived for all purposes. In the event that all or any part of a building or buildings, constituting, in the aggregate, less than two-thirds (2/3) of the Units, are destroyed by fire or other casualty, the Common Elements of such building(s) shall be repaired and reconstructed through the application of the Regime's insurance coverage, and if such coverage is inadequate, the additional funds required for such reconstruction and repair shall be a part of the Common Expenses.

(b) The Homeowners' Association shall maintain the insurance coverage described below and as otherwise required herein and/or in the By-Laws, and all such policies shall be maintained with generally acceptable insurance carriers authorized to transact business in the Commonwealth of Kentucky. Reference should be made to the FNMA Conventional Home Mortgage Selling Contract Supplement and the FHLMC Sellers Guide for specific requirements regarding the qualifications of insurance carriers. Such insurance coverage shall include (i) a master policy of fire and extended coverage, vandalism, malicious mischief and liability insurance, and worker's compensation insurance and other insurance coverage required by law, if applicable, (ii) officers' and directors' liability and indemnification insurance, and (iii) fidelity insurance coverage against dishonest acts on the part of the officers, directors, employees and/or members of the Homeowners' Association and of all other persons responsible for handling funds of or administered by the Homeowners' Association. Any master policy shall be purchased by the Homeowners' Association for the benefit of the Homeowners' Association, the Unit owners and their mortgagees as their interest may appear, subject to this Master Deed and the By-Laws. The "master policy" may be made up of several different policies purchased from different agencies and issued by different companies, and certificates of insurance shall be issued to each Unit owner and mortgagee upon request. The Homeowners' Association shall hold any proceeds of such insurance in trust for the Unit owners and the Eligible Holders, as their interests may appear.

(i) All Buildings (excluding insurance on Improvements as that term is defined below), structures, Common Elements of the Project or other improvements now or at any time hereafter constituting a part of the Project shall be insured against fire and other perils covered by a standard extended coverage endorsement, in an amount not less than 100% of the replacement value thereof, with a deductible agreed to by the Board, exclusive of the cost of the land, foundations, footings, excavation and engineer's, architect's and other professional fees and other items normally excluded from coverage, without deduction for depreciation, but

inclusive of the cost of the following improvements and betterments (collectively, the "Improvements") to any Unit added by the Developer any partitioning, trim, drywall and other improvements or betterments

- (ii) Such insurance policy(ies) shall
- (1) Have the cost of demolition, water damage (excluding floods, backing up of sewers and drains, the running off of surface water and the overflow of a body of water), and agreed amount endorsements and a deductible of any single loss or group of losses within one year in such amounts as shall be found reasonable by the Board, after carefully considering and comparing the increased premium costs resulting from a low deductible with the lower premium costs by higher per loss risk resulting from a high deductible, together with all other pertinent factors,
 - (2) Provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt,
 - (3) Provide coverage for built-in fixtures and equipment in an amount not less than 100% of the replacement cost thereof (subject to the deductibles described above), and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Unit owner as permitted in this Master Deed or in the By-Laws,
 - (4) Contain either a waiver by the insurer of any increased hazard clause, a severability of interest endorsement, or a provision stating that the coverage will not be affected by the act, omission or neglect of any person unless such act, omission or neglect is within the knowledge and control of the Board prior to the occurrence of the loss,
 - (5) Not provide coverage for any items of personal property installed by or for any Unit owner, or other unattached personal property located within any Unit,
 - (6) Include provisions requiring the issuance of certificates of coverage and the issuance of written notice to the Board and to any mortgagee or mortgagees of any Unit not less than 30 days prior to any expiration, substantial modification or cancellation of such coverage,
 - (7) Be without prejudice to the right of the Unit owner to obtain individual contents and chattel property insurance, and
 - (8) Be reviewed annually by the Board, and if any of such coverage becomes impossible or impractical to obtain, the Board shall obtain

coverage which most closely approximates the required coverage with the deductible provisions as determined by the Board

(iii) If the Project is intended to be qualified under the requirements of FHLMC, FNMA, HUD, FHA, VA or other similar programs, the insurance requirements of any such program are incorporated herein by reference. **IF ANY INSURANCE COMPANY IS UNSURE OF THE COVERAGE INTENDED, IT SHOULD ASK FOR AN INTERPRETATION FROM THE BOARD. OTHERWISE, THE BROADEST COVERAGE SHALL BE PRESUMED, IF THERE IS ANY AMBIGUITY**

(c) The Homeowners' Association shall borrow funds necessary to cover any such shortfall in insurance coverage and shall amortize the cost over a period of time not exceeding the reasonable useful life of the reconstruction or repairs. In the event that buildings constituting two-thirds (2/3) or more of the Units are so damaged or destroyed, then, unless the Unit owners shall, by the affirmative vote of three-quarters (3/4) of the Unit percentage of Common Element ownership, elect to reconstruct and repair the damaged or destroyed Units, (a) the Regime shall terminate, (b) the buildings shall be demolished (with the cost thereof being paid from available insurance proceeds), and (c) all remaining insurance proceeds shall be paid to the Unit owners and their mortgagees, as their interests may appear, in their percentage of ownership of Common Elements. In the case of the damage or destruction of Common Elements other than buildings (in any situation not terminating in the abolition of the Regime), the Common Elements shall be reconstructed from available insurance proceeds and any reconstruction or repair costs in excess of insurance proceeds shall be paid by the Unit owners through an assessment by the Homeowners' Association

(d) The Homeowners' Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any Unit, nor the liability of any Unit owner for injuries therein not caused by or connected with the Homeowners' Association's operation, maintenance or use of the Project

(e) If a Unit owner damages a building or other improvements now or at any time hereafter constituting a part of the Project which is covered under the an insurance policy maintained by the Homeowners' Association, then such Owner causing such damage shall be responsible for paying, with such amount constituting an individual assessment and lien on such owner's Unit, the lesser of (i) the insurance deductible due under such insurance policy, or (b) the cost to repair and/or replace any damage to a building or other improvement, which amount shall be due within 10 days after delivery of written notice and demand from the Homeowners' Association

(f) The taking of a portion of a Unit or of the Common Areas by eminent domain shall be deemed to be proceeds from insurance on account of a casualty and shall be deposited with the Homeowners' Association. Even though the awards may be payable to Unit owners, the Unit owners shall deposit the awards with the Homeowners' Association and in the event of failure to do so, in the discretion of the Board, a special assessment shall be made against the defaulting Unit owner in the amount of the award thereto, or the amount of such award shall be set off against the sums hereafter made payable to such Unit owner. The proceeds of the awards shall be distributed or used in the manner herein provided for insurance proceeds,

except that when the Project is not to be terminated and one or more Units are taken in part, the taking shall have the effect as elsewhere stated herein. With respect to any such taking

- (i) If the taking reduces the size of a Unit and the remaining portion of a Unit, in the reasonable discretion of the Board, can be made tenable, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Project
 - (1) The Unit shall be made tenable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the owner of the Unit.
 - (2) The balance of the award, if any, shall be distributed to the owner of the Unit and to each mortgagee of the Unit, the remittance being payable jointly to the Unit owner and such mortgagees.
 - (3) The percentage of common interest appurtenant to each Unit shall be redetermined in the method originally determined, but to reflect the reduction in floor area in the Project.
- (ii) If the taking destroys or so reduces the size of the Unit that, in the reasonable discretion of the Board, it cannot be made tenable, the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Project
 - (1) The amount of the award for such Unit shall be paid to the owner of the Unit and to each mortgagee of the Unit, the remittance being paid jointly to the owner and such mortgagees, provided that the owner simultaneously conveys by deed all of the right, title and interest of such owner in and to the Unit, including the Units' percentage of common interest, to the remaining owners in the Project.
 - (2) The remaining portion of such Unit, if any, shall become a part of the Common Area and shall be placed in condition for used by all of the Unit owners in the manner approved by the Board.
 - (3) The percentage of common interest appurtenant to each Unit shall be redetermined in the manner originally determined but to reflect the reduction in floor area in the Project.
- (iii) The change in the percentage of common interest appurtenant to each Unit, which comes as a result of a taking or as a result of destruction by casualty shall be evidenced by an amendment to this Master Deed.
- (iv) Each Unit owner and/or his respective mortgagee, by acceptance of a deed conveying his Unit, and each mortgagee encumbering such ownership interest, hereby irrevocably appoints the Owner or the Board, as the case

may be, as his attorney in fact, coupled with an interest, and authorize, direct and empower such attorney, at the option of the attorney, to represent the Unit owner and/or each such mortgagee, in any negotiations, agreements, settlements and/or proceedings arising out of any taking under eminent domain or threat thereof, and to execute, acknowledge and record for and in the name of each Unit owner and/or such mortgagee, any amending instruments as may be necessary or desirable to effect the purpose of this section. The power of attorney includes the right to receive proceeds and execute releases on behalf of each Unit owner and each such mortgagee.

(g) The approval of Eligible Holders of first mortgages on Units to which at least 51% of the votes of Units subject to mortgages held by such Eligible Holders are allocated, shall be necessary

- (i) In connection with any restoration or repair of the Project after a partial condemnation or damage due to an insurable hazard other than substantially in accordance with this Master Deed and the original plans and specifications,
- (ii) For any election to terminate the Regime after substantial destruction or a substantial taking in condemnation of the Project,
- (iii) Except as expressly provided in this Master Deed or as fixed by applicable law, to any reallocation of interests in the Common Elements resulting from a partial condemnation or partial destruction of the Project

10. Easements and Encroachments

(a) Perpetual non-exclusive easements are hereby declared reserved and granted over, under, along and on any part of the Common Elements as they exist on the date of the recording hereof, and any additional Common Elements made subject to this Master Deed, for (i) utility purposes, including, but not limited to, the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and other communication equipment, fiber optic and cable television lines, and electrical conduits and wires and equipment (collectively, "Utility Services"), (ii) for such other purposes as shall be reasonably necessary for the continuing development by Owner of all of the Units contemplated or permitted by this Master Deed, and (iii) in the event that any portion of the Common Elements encroaches upon any Unit, or any Unit encroaches upon the Common Elements or another Unit as a result of the construction, reconstruction, repair, shifting, settlements or movement of any portion of the Project, reasonable easements are hereby declared and reserved over, under, along and on such portions of the Common Elements and/or Units for such encroachments and the maintenance thereof for so long as such encroachments exist. Further, each Unit owner shall have a perpetual and non-exclusive easement of ingress and egress on and over the General Common Elements to and from such Unit, which easement shall be appurtenant to and run with the Unit.

(b) The Board may direct the President or another authorized officer(s) of the Homeowners' Association to grant easements for Utility Services for the benefit of the Project over, under, along and on any portion of the Common Elements and each Unit owner hereby

grants the Homeowners' Association (acting by and through its President or other authorized officer), an Irrevocable Power of Attorney to execute, acknowledge and record, for and on behalf of each Unit owner, such instruments or documents as may be necessary to effectuate the foregoing. The foregoing Power of Attorney granted hereby shall survive any disability or death of the Unit owner and shall be binding on each successive owner and mortgagee.

(c) All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Owner, its successors and assigns, and any owner, purchaser, mortgagee, and other person having an interest in the Real Estate or any part or portion hereof.

(d) The respective deeds of conveyance, and any mortgage or trust deed or other evidence of obligation, shall be subject to the easements and rights described and reserved in this Master Deed, and reference to this Master Deed shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, and trustees of such parcels as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

11. Assessments

(a) The proportionate share of each Unit owner in the common surplus and Common Expenses of the Project is equal to the percentage of interest in the Common Elements appurtenant to such Unit as set forth on Exhibit B. Each person or entity which becomes the owner of a Unit, whether or not it shall be so expressed in any such deed or other form of conveyance, shall be deemed to covenant and agree to pay to the Homeowners' Association the Unit's share of assessments as fixed, established and collected from time to time as hereinafter provided. All assessments, together with interest thereon at the lesser of (i) eighteen percent (18%) per annum, and (ii) the maximum rate permitted by applicable law, and the cost of collection, including, without limitation, a lien preparation charge, filings fees, court costs and reasonable attorney's fees, shall be a charge and continuing lien upon the Unit against which the assessment is made, and shall also be the personal obligation, jointly and severally, of the owner(s) of the Unit at the time the assessment fell due.

(b) The Board shall, from time to time, but not less than once every twelve (12) months, determine the amount of the regular total assessment necessary to defray the anticipated Common Expenses set out in a budget for a given period not to exceed twelve (12) months, including, without limitation, funds required for general operating purposes as well as for reserves established and estimated by the Board. The Board shall establish (i) reserves for future capital improvements, (ii) reserves for the periodic maintenance, repair and replacement of the Common Elements, and (iii) a working capital fund equal to at least two months' estimated assessments for each Unit. Payment of all assessments shall be due on the date established by the Board.

(c) The owner of each Unit is liable to pay that percentage of the regular total assessments that is equal to the percentage interest of such Unit in the Common Elements in accordance with this Master Deed, as the same may be amended. Notwithstanding any determination or application of percentage interest in the Common Elements under this Master Deed, no assessment or maintenance fee shall be charged or assessed against any Unit until that Unit shall be for sale and constructed to "shell" (which shall refer to the completion of unpainted

drywall within the Unit, and without the installation of cabinets and finished flooring) Thereafter, Units which are for sale, have been constructed to shell, and have not received a Certificate of Occupancy shall pay fees and assessments equal to forty percent (40%) of that charged to a completed Unit sold by Owner

(d) In addition to levying regular assessments, and to the extent that reserve funds are insufficient, the Board may levy special assessments to construct, structurally alter or replace Common Elements, provided that funds shall not be assessed for any capital improvement in excess of Two Thousand Five Hundred Thousand Dollars (\$2,500 00) for any one item, or in excess of Five Thousand Dollars (\$5,000 000) in the aggregate in any one calendar year, without the prior consent of a majority of the voting power represented at a meeting of the Homeowners' Association and Unit owners duly called for that purpose or unless expressly stated in the annual budget of the Homeowners' Association. The foregoing limitations shall not affect or limit the ability of the Homeowners' Association to restore or replace damaged or obsolete portions of the Common Elements or to make alterations or improvements required by applicable law. Until such time as Owner has sold all Units which may be constructed and subjected to this Master Deed, the consent of Owner shall be required before any capital improvement may be made. The Board shall calculate each Unit's proportionate share of any such special assessments, and shall give the owners of the Units written notice thereof and of the due dates therefor.

(e) The Board may levy an assessment against an individual Unit or Unit owner to reimburse the Homeowners' Association for those costs (i) incurred in connection with that Unit, or (ii) properly chargeable pursuant to this Master Deed to a particular Unit (e.g., for the cost of making repairs which are the responsibility of a Unit owner). Any such assessment shall become due and payable on such date as the Board determines and gives written notice to the affected Unit owner.

(f) The Board may levy a reasonable assessment as a fine or penalty for violation of this Declaration, for which a lien may be filed and be subject to foreclosure in the same manner as a regular assessment.

(g) The Homeowners' Association will bear the cost of all water and sanitary usage for the Project as Common Expenses, and may assess each Unit benefited for its share thereof based upon such Unit's percentage interest in the Common Elements. Provided, that the Board can assess an extra amount against a Unit to recover the cost of any extraordinary amount of such utility usage by that Unit as determined in the discretion of the Board. All such assessments hereunder shall be considered to be a part of the annual regular assessment.

12. Unpaid Mortgages or Assessments

(a) In the event any Unit owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or trust deed against his Unit, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto, and shall thereupon have a lien therefor against such Unit, which lien may be collected or foreclosed in like manner as a lien for unpaid Common Expenses or assessments.

(b) Any assessments of the Board, whether regular or special, shall constitute a lien on the Unit to which the same are assessed, which may be enforced or foreclosed in the

same manner as mortgages under Kentucky state law. In the event any assessment shall be unpaid when due and remain unpaid for a period of ten (10) days from the due date, the Board may, in addition to interest as provided above, assess a "late charge" or "penalty" equal to ten percent (10%) of the unpaid amount, all of which shall constitute a part of the assessment. In the event such assessment shall remain unpaid after 30 days from the due date, the entire assessment for the 12 months following shall immediately become due and payable in full without demand and the Board may commence collection of the same. Reasonable attorney's fees of the Homeowners' Association shall be recoverable on any delinquent assessment. No owner may exempt himself or itself from liability for assessments by a waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit. The lien of any such assessment becoming due and payable after the date of recordation of any bona fide first mortgage on a Unit shall be subordinate to the lien of such first mortgage, but shall not be affected by any sale or transfer of a Unit, except that a sale or transfer of a Unit pursuant to a foreclosure of a first mortgage shall extinguish any such lien for assessments which became payable prior to any such sale or transfer. Any such sale or transfer of a Unit pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit so sold or transferred from the lien of, assessments thereafter becoming due.

13. Restrictions and Covenants Concerning The Use And Occupancy Of Units and Common Areas Owner shall promulgate rules and regulations relating to the use and occupancy of the Units and Common Elements. These rules and regulations shall be consistent for all Units in The Overlook at Beargrass Creek Condominiums. Until such time as the Board shall be empowered to undertake the government of the Property, the Units and Common Elements shall be occupied and used as follows (subject to the rights of Owner to amend the following rules and restrictions)

(a) No part of the Property shall be used for other than housing and the related common purposes for which the property was designed. Each Unit shall be used as a residence for a single family and for no other purpose.

(b) Except for the construction, sales and management activities of the Owner, no industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, non-profit, charitable or otherwise, designed for the distribution of profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the Property. To the extent permitted by applicable law, a Unit owner may use a portion of his or her Unit for an office or studio (other than as a music and/or dance studio), provided that the activities conducted therein shall not interfere with the quiet enjoyment or comfort of any other owner or occupant of a Unit, and provided further that such activities do not increase the normal flow of traffic or individuals in and out of the Project or in and out of said owner's Unit, or result in any extra vehicles being parked within the Project. Examples of such permitted usage would include an author, painter or any professional bringing papers home from an offsite office to work on after normal business hours.

(c) Each Owner of a Unit shall maintain liability insurance and casualty insurance upon the Unit and its contents equivalent from time to time with the coverage (including risk insurance) maintained upon the Common Elements of the Property, or as otherwise determined by the Homeowners' Association. Such insurance shall name the Homeowners' Association as an additional insured. In addition, the policy or policies, or duly executed certificates for them, together with satisfactory evidence of payment of the premium

thereon, shall be provided to the Homeowners' Association within thirty (30) days of Owner's purchase of a Unit, and upon each renewal of such policies, which policies and/or certificates shall provide that the same cannot be cancelled, even for non-payment of premium, without thirty (30) days prior written notice to the Homeowners' Association.

(d) 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 Board. The right is reserved by Owner and its agent or agents to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units and on any part of the Common Elements, and the right is hereby given to any mortgagee, who may become the owner of any Unit, to place such signs on any Unit owned by such mortgagee. Owner shall have the right to use any unsold Unit or Units for office, sales or display purposes. Owner shall have the right to rent or lease any unsold Units on such terms and conditions, as it deems appropriate.

(e) There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Board except as herein expressly provided. Each Unit owner shall be obligated to maintain and keep his own Unit, its windows and doors, and the patio or balcony which is a Limited Common Element reserved for the use of his Unit, in good, clean order and repair.

(f) Nothing shall be done or kept in any Unit or in the Common Elements or Limited Common Elements which will increase the rate of insurance on any Project building or contents thereof applicable for residential use without the prior written consent of the Board. No Unit owner shall permit anything to be done or kept in the Common Elements or Limited Common Elements which will result in the cancellation of insurance on a building 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.

(g) Unit owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of any building or otherwise hung so as to be visible from any of the Common Element areas. In addition, no sign, awning, canopy, shutter, radio, television or satellite antenna or dish, or any other transmitting or receiving device, shall be affixed to or placed upon the exterior walls or roof of any part thereof or otherwise located on any part of the Common Area, without the prior consent of the Board in its sole discretion.

(h) No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung 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) No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred, or kept in any Unit or in any part of the Property, except that dogs, cats, or other household pets may be kept in Units subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purpose, and any pet permitted under this section when outside the confines of the owner's Unit must be kept on a leash and accompanied by a responsible person and kept as required by law or ordinance, and such person accompanying the pet shall pick up all of such pet's solid waste and dispose of it in a closed plastic bag or other plastic container within the Unit or the Project's dumpster, and provided

further that any such pet creating or causing a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days written notice from the Board

(j) No noxious, offensive or illegal activity shall be carried on in any Unit or on the Property, nor shall anything be done therein, either wilfully or negligently, which may be or become an annoyance or nuisance to the other Unit owners or occupants, or constitute waste at common law

(k) Nothing shall be done in any Unit or in, on, or to the Common Elements which will impair the structural integrity of any Project building or which would structurally change any such building, except as otherwise provided herein

(l) There shall be no storage or parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches, chairs, or other personal property on any part of the Common Elements or Limited Common Elements without the prior consent of, and subject to any rules or regulations of the Board

(m) Nothing shall be altered on, constructed in, or removed from the Common Elements or Limited Common Elements, except upon the written consent of the Board

(n) Drapery backing in a building (which is visible from the outside) shall be of an "off white" color, and shall be approved by Owner and, subsequently, by the Board

(o) The appearance of locks and door knobs on all entrance doors to each Unit shall not be changed without first obtaining permission from Owner or the Board. Any added locks shall match the existing locks and door knobs in appearance.

(p) All garbage, be it wet, solid or otherwise, must be placed in plastic bags securely fastened before disposing of same in the Project garbage dumpster(s). All garbage cans shall be kept within the Units and located so as to be concealed from the view of neighboring Units and the Common Area

(q) No trailer, commercial truck, house trailer, boat, boat trailer or rack, mobile home, or movable housing unit of any type (even if temporarily immobile) may be parked on the parking or other Common Area of the Project for more than 24 hours or as otherwise limited by the Board, except for temporary maintenance vehicles and trucks making deliveries. The Owner, and the Board upon assignment of right by the Owner, shall have the right to limit the number of vehicles which each Unit owner may have present on the Common Area or otherwise within the Project (although no less than one per Unit), and to assign specific parking spaces in its sole discretion

(r) No auction, estate or garage sale, or other sale, whether public or private may be conducted within the Common Areas of the Project or in the improvements thereon, without the prior written consent of the Board

(s) Parking along the private streets within the Project which obstructs the flow of traffic is expressly prohibited

(t) The Homeowners' Association will undertake snow and ice removal efforts from private streets and parking areas only when there has been an accumulation of at least two inches, but the Homeowners' Association makes no warranty and assumes no liability with respect thereto

(u) No Unit owner shall do any planting or make any change in the easement areas or the exterior of any Unit without the prior written consent of the Board. It shall be the responsibility of the Homeowners' Association to maintain the landscaping located in the Common Area, including along any perimeter property boundaries and to comply with any applicable approved landscaping plans for the Property

(v) No grills (gas, electric or otherwise) shall be placed on or about the premises of a Unit or its balcony/patio or on any Common Areas of the Project, provided, however, that the Homeowners' Association may, from time to time, designate an area within the Common Area where a grill may be operated by a Unit owner

14. Violation of Master Deed

(a) The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained or contained in the Horizontal Property Law shall give the Board the right, in addition to any other rights provided for in this 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 Board, or its employees, officers, directors, contractors and agents, shall not thereby be deemed guilty in any manner of trespass, or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. Furthermore, if any Unit owner (either by his own conduct or by the conduct of any other occupant of his Unit) shall violate any of the covenants of this Master Deed or the rules and regulations adopted by the Board and such violation shall continue for thirty (30) days after notice in writing or shall reoccur more than once thereafter, then the Board shall have the power to issue to the defaulting Unit owner a ten (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 Unit and thereupon an action in equity may be made by the Homeowners' Association 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 owned by him 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 re-acquiring 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's fees, and all other expenses of the proceeding and sale, and all such items shall be taxes against the defaulting Unit owner in said decree. Any balance of 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 Master Deed

(b) In addition to the foregoing, the Homeowners' Association and any aggrieved Unit owner shall be granted a right of action against Unit owners for failure to comply with the provisions of this Master Deed, the By-Laws and other related documents, or with decisions of the Homeowners' Association which are made pursuant to authority granted to the Homeowners' Association therein. Likewise, Unit owners shall have a right of action against the Homeowners' Association to make it enforce or comply with the provisions of this Master Deed, the By-Laws and other related documents

15. Entry by Board The Board and its officers, directors, contractors, agents and employees may enter any Unit when necessary in connection with any painting, maintenance or reconstruction for which the Board is responsible, or which the Board has the right or duty to do. Such entry shall be made with as little inconvenience to the Unit owners as practicable, and the Board at the expense of the maintenance or reserve funds of the Homeowners' Association shall repair any damage caused thereby.

16. Grantees Each grantee of Owner, by the acceptance of a deed of conveyance for a Unit, 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 Master Deed, and the provisions of the Horizontal Property Law, as at any time amended, and all easements, rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations herein imposed, shall be deemed and taken to be covenants running with the Unit, and shall bind any person having at any time any interest or estate in said Unit, and shall inure to the benefit of such owner in like manner as though the provisions of this Master Deed were recited and stipulated at length in each and every deed of conveyance.

17. Homeowners' Association

(a) The Homeowners' Association has been incorporated by Owner as a Kentucky not-for-profit corporation known as "Overlook Homeowners Association, Inc." to act as the council of co-owners as defined in KRS 381.810, to act as the governing body for all Unit owners in administration and operation of the Property, to act as required and/or contemplated by this Master Deed and to otherwise act as required and/or contemplated by the By-Laws (as hereinafter defined). Each Unit owner or owners shall be a member(s) of the Homeowners' Association, which membership shall terminate upon the sale or other disposition of such member of his Unit, at which time the new Unit owner or owners shall automatically become a member therein. Membership in the Homeowners' Association shall be appurtenant to and may not be separated from ownership of any Unit, and each Unit shall be entitled to one (1) vote. Unless the Owner elects to surrender such right at an earlier date, the Owner shall have the sole and exclusive right to vote in the election of the Board of Directors of the Homeowners' Association and on all other matters pertaining to the Homeowners' Association, until Owner has developed and sold all of the Units, after which time each Unit owner as a member of the Homeowners' Association shall be entitled to vote. With respect to any Unit where the owner consists of more than one person or entity, the vote for such Unit shall be exercised as such persons or entities determine among themselves, but in no event shall more than one vote be cast for each Unit.

(b) The books and records and papers of the Homeowners' Association, including, without limitation, financial statements, this Master Deed, the Articles of Incorporation, the By-Laws and other rules and regulations regarding the Homeowners' Association, shall at all times during normal business hours, be available and subject to inspection by any Unit owner as well as the lenders, holders and insurers of any first mortgage on any Unit. Further, the Homeowners' Association shall also make available to prospective purchasers of the Units current copies of this Master Deed, the Articles of Incorporation, the Bylaws and any rules and regulations of the Homeowners' Association and the most recent annual audited financial statements of the Homeowners' Association, if prepared. Upon the written request of any of HUD, FNMA, FHLMC and/or VA (collectively, the "Agencies") which has an interest or prospective interest in the Regime, the Homeowners' Association shall prepare and furnish within a reasonable time an audited financial statement of the Homeowners' Association for the immediately preceding fiscal year.

18. **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.

19. **Notices**

(a) Notices required or permitted to be given to the Homeowners' Association, the Board, or any Unit owner may be delivered to any officer of the Homeowners' Association or member of the Board or such Unit owner (i) by personal delivery against a written receipt to his or her Unit, or (ii) by registered or certified U S mail, postage prepaid, return receipt requested, addressed to such party at his or her Unit or other address on file with the Homeowners' Association. Any such notices to Unit owners shall be deemed given three (3) business days after deposit in the U S Mail in accordance with the foregoing.

(b) Notwithstanding the foregoing, an Eligible Holder shall, upon written request to the Homeowners' Association including the name and address of such Eligible Holder and the Unit number, be entitled to timely notice from the Homeowners' Association of

- (i) Any proposed amendment of this Master Deed or related documents effecting a change in (1) the boundaries of any Unit or the exclusive easement rights appurtenant thereto, (2) the interests in the General Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto, (3) the number of votes in the Homeowners' Association appertaining to any Unit, or (4) the purposes to which any Unit or the Common Elements are restricted,
- (ii) Any proposed termination of the Regime,
- (iii) Any condemnation loss or casualty loss which affects a material portion of the Project or which affects any Unit on which there is a first mortgage held, insured or guaranteed by such Eligible Holder,

- (iv) Any delinquency in the payment of assessments or charges owned by an owner of a Unit subject to the mortgage of such Eligible Holder, which such delinquency has continued for a period of 60 days, and
- (v) Any lapse, cancellation or material modification of any insurance policy maintained by the Homeowners' Association

20. Amendments

(a) If during the construction period of the Project or before ninety percent (90%) of the total permissible Units have been sold, it is found that an error exists on the part of the draftsman of this instrument or on the part of the engineer, an amendment setting forth the error and correction may be filed by Owner without the consent of any other party thereto or Unit owner and shall become part of this Master Deed. No further change shall be made except by amendment procedures immediately following

(b) Except as otherwise expressly provided herein, the provisions of this Master Deed may be amended, changed or modified by an instrument in writing setting forth such amendment, change or modification signed and acknowledged by owners of seventy-five percent (75%) of Units and fifty-one percent (51%) of Eligible Holders having bona fide first mortgage liens of record against any Units, provided, that Owner's prior written consent to any such amendment shall be required for any such amendment for so long as Owner owns any Units. The By-Laws, a copy of which are attached hereto and made a part hereof as Exhibit C, unless otherwise provided therein, shall be amended, changed or modified only by an instrument in writing, setting forth such amendment, change or modification, and signed by the majority of the members of the Board and owners of at least seventy-five percent (75%) of all Units, and also by Owner for so long as Owner has any ownership in any Units

(c) Any amendment, change or modification hereto shall conform to the provisions of the Horizontal Property Law and shall be effective upon recordation thereof. No change, modification or amendment which affects the rights, privileges, or obligations of Owner shall be effective without the prior written consent of Owner

(d) In addition to any other requirements of this Master Deed and the By-Laws, the consent of the owners of seventy-five percent (75%) of Units and of fifty-one percent (51%) of Eligible Holders having bona fide first mortgage liens of record against any Units, shall be required for

- (i) the termination of the Regime,
- (ii) the material amendment of any provisions of this Master Deed, the By-Laws or related documents, or the addition of material provisions thereto, which establish, provide for, govern or regulate any of (1) voting, (2) assessments, assessment liens or subordination of such liens, (3) reserves for maintenance, repair and replacement of Common Elements, (4) insurance or fidelity bonds, (5) rights to use of the Common Elements, (6) responsibility for maintenance and repair of the several portions of the Project, (7) expansion or contraction of the Regime or the addition, annexation or withdrawal of property to or from the Regime, (8)

boundaries of any Unit, (9) the interests in the General Common Elements or Limited Common Elements, (10) convertibility of Units into Common Elements, or Common Elements into Units, (11) leasing of Units, (12) imposition of any right of first refusal or similar restriction on the right of a Unit owner to sell, transfer or otherwise convey his or her Unit, or (13) establishment of self-management by the Homeowners' Association where professional management has been required by any of the Agencies,

- (iii) the amendment of any provisions included in this Master Deed or the By-Laws which are for the express benefit of Eligible Holders,

The foregoing requirements of this Section 20(d) shall not apply to any amendment of this Master Deed, the By-Laws or related documents, or termination of the Regime, resulting from destruction, damage or condemnation of the Project as otherwise contemplated by this Master Deed

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

22. Construction The provisions of this Master Deed shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first-class condominium project. The use of the singular herein shall include the plural, and the reference to any gender shall include a reference to all genders

23. Release and Subordination Mortgagee joins in this Master Deed and hereby releases its mortgage dated September 19, 2002, of record in Mortgage Book 7004, Page 352, in the Office of the Clerk of Jefferson County, Kentucky, and all other documents and instruments securing the indebtedness secured by such mortgage, insofar only as said mortgage, documents and instruments affect the Common Elements

IN WITNESS WHEREOF, the parties hereto have caused this Master Deed to be signed by their duly authorized officers on their behalf, all done at Louisville, Kentucky, on the date and year first above written

OWNER:

OVERLOOK BEARGRASS, LLC

By Crescent Hill Development, LLC
Sole Member

By Daniel R. Kessler
Daniel R. Kessler, Managing Member

MORTGAGEE:

Commonwealth Bank and Trust Company

By Mary Maloney
Title Vice President

COMMONWEALTH OF KENTUCKY)
COUNTY OF JEFFERSON) SS

The foregoing instrument was acknowledged before me this 7th day of May, 2003, by Daniel R. Kessler as managing member of Crescent Hill Development, LLC, a Kentucky limited liability company and sole member of Overlook Beargrass, LLC, a Kentucky limited liability company, for and on behalf of the company

My commission expires September 17, 2003
Cathy Lynn Ziegler
NOTARY PUBLIC, STATE AT LARGE, KY

COMMONWEALTH OF KENTUCKY)
COUNTY OF JEFFERSON) SS

The foregoing instrument was acknowledged before me this 7th day of May, 2003, by Mitch McClair, as Vice President of Commonwealth Bank and Trust Company, to be the act and deed of said bank

My commission expires Sept 17, 2003
Cathy Lynn Ziegler
NOTARY PUBLIC, STATE AT LARGE, KY

This instrument was prepared by

Gregory A. Compton
Gregory A. Compton, Esq
Goldberg & Simpson, P S C
3000 National City Tower
Louisville, Kentucky 40202
502.589.4440 Phone
502.581.1644 Facsimile
Email gcompton@gsattv.com

Beargrass Overlook Master Deed 050503.doc

Exhibit List:

- Appendix I Legal Description of Property
- Exhibit A Floor Plans
- Exhibit B Designation of Percentage Interest in Common Elements
- Exhibit C Initial Homeowners' Association By-Laws

APPENDIX I

Beginning at an iron pin set on the west right-of-way line of Breckenridge Lane, said iron pin being located 64.55 feet right of station 66+06.8 of highway plan Project SSP 056 1952 001-003, sheet no 11, as shown on survey entitled "Boundary Survey of William F Burbank, Trustee" by John Charles, PLS # 3152, of Birch, Trautwein & Mims, Inc., dated July 29, 2002, Thence with said right-of-way line, South 04°37'11" West 149.67 feet to a concrete monument found, the center point bears South 58°57'31" East 0.33 feet; Thence South 21°40'15" West 86.04 feet to a concrete monument found, the center point bears South 26°48'15" East 0.65 feet, Thence South 01°44'43" East 12.47 feet to an iron pin set, Thence South 01°44'43" East 110.49 feet to an iron pin set, Thence South 01°44'43" East 33.66 feet to the southeast corner common to said Burbank (Deed Book 4542, Page 467) and Beverly Enterprises-Kentucky, Inc., as shown of record in Deed Book 5337, Page 171, Thence leaving said Breckenridge Lane right-of-way line and with said Beverly Enterprises up Bear Grass Creek, North 76°19'24" West 95.75 feet, Thence North 49°35'09" West 243.51 feet, Thence leaving said Beverly Enterprises and Bear Grass Creek and with the south line of Midlane Park Subdivision, Section 9-C, as shown of record in Plat and Subdivision Book 21, Page 52 in aforesaid clerk's office, North 57°07'39" East passing an iron pin set at 10.00 feet, a 1/2-inch diameter rebar found at 150.07 feet at the corner common to Lot 171 and Lot 170, a total distance of 178.59 feet to an iron pin set, Thence North 57°07'39" East 186.42 feet to a 1/2-inch diameter iron pipe found at the corner common to Lot 168 and Miklos Markovits (Deed Book 4239, Page 167), Thence leaving said Subdivision Section 9-C and with said Markovits, North 57°07'39" East 13.00 feet to the beginning and containing 1.39 +/- Acres as surveyed by John Charles, PLS 3152, of Birch, Trautwein and Mims, Inc. at 3001 Taylor Springs Drive, Louisville, Kentucky 40220

BEING the same property conveyed to Overlook Beargrass, LLC, by deed dated September 19, 2002, and recorded in Deed Book 7965, Page 414, in the office of the Clerk of Jefferson County, Kentucky.

DB 08145PG0036

EXHIBIT A
TO
MASTER DEED AND DECLARATION
OF CONDOMINIUM PROPERTY REGIME
FOR
THE OVERLOOK AT BEARGRASS CREEK CONDOMINIUMS

Reference is hereby made to that certain Preliminary Condominium Plat for The Overlook at Beargrass Creek Condominiums, which is incorporated herein by reference and was recorded contemporaneously with this Master Deed in the Office of the Clerk of Jefferson County, Kentucky, such plat comprising Sheets 1 through 4, and dated and prepared as follows.

Sheet:

Date:

Prepared by:

1
2-4

4-1-03
02-05-03

Birch, Trautwem & Mims, Incorporated
Weber Group, Inc.

EXHIBIT B

**THE OVERLOOK AT BEAR GRASS CREEK CONDOMINIUMS
 TOTAL SQUARE FOOTAGE BY UNIT**

Unit #	Total Gross Sq. Ft.	Total Interior Sq. Ft.	Basmt. Interior Sq. Ft.	1st Floor Sq. Ft.	% of Ownership
100	1,822	1,723	807	916	4.56%
200	949	916	---	916	2.42%
101	1,822	1,723	807	916	4.56%
201	949	916	---	916	2.42%
102	1,875	1,780	864	916	4.71%
202	949	916	---	916	2.42%
103	1,875	1,780	864	916	4.71%
203	949	916	---	916	2.42%
104	1,875	1,780	864	916	4.71%
204	949	916	---	916	2.42%
105	2,050	1,914	1,017	897	5.06%
205	1,060	1,017	---	1,017	2.69%
106	1,986	1,882	986	896	4.98%
206	1,028	986	---	986	2.61%
107	2,644	2,521	1,245	1,276	6.66%
207	1,290	1,245	---	1,245	3.29%
108	1,986	1,972	986	986	5.21%
208	1,028	986	---	986	2.61%
109	2,116	2,002	999	1,003	5.29%
209	1,036	999	---	999	2.64%
110	2,115	2,014	1,005	1,009	5.32%
210	1,041	1,005	---	1,005	2.66%
111	1,986	1,972	986	986	5.21%
211	1,028	986	---	986	2.61%
112	1,986	1,972	986	986	5.21%
212	1,028	986	---	986	2.61%
	39,422	37,825	12,416	25,409	100%