

**FIRST AMENDED AND RESTATED**

**DECLARATION**

**OF**

**COVENANTS, CONDITIONS AND RESTRICTIONS**

**THIS DECLARATION**, made on the date hereinafter set forth, by **KINGSBROOK HOMEOWNERS ASSOCIATION INC.**, a New Jersey corporation, having a mailing address of P.O. Box 6604, Lawrenceville, NJ 08648, hereinafter referred to as “Declarant”.

**WITNESSETH:**

**WHEREAS**, Declarant is the successor in interest to Trafalgar House Residential, Inc., (“Trafalgar”) which recorded the original Declaration of Covenants, Conditions and Restrictions for the Kingsbrook residential subdivision on or about August 11, 1987, at Deed Book 2407, Page 475, in the Mercer County Clerk’s Office; and

**WHEREAS**, Declarant is the owner of certain property in the Township of Lawrence, County of Mercer and State of New Jersey, which is more particularly described in the legal description attached hereto and made a part hereof as Schedule “A”; and

**WHEREAS**, the Planning Board of Lawrence Township did on May 28, 1985 (confirmed by Resolution of Memorialization dated June 26, 1985) grant Preliminary Major Subdivision Approval to BFC Ashleigh Builders Corp., the predecessor in title to Trafalgar for the creation of eighty-six (86) new building lots and two (2) open space lots and one (1) lot containing an existing dwelling and appurtenances on the property described in Schedule “A”; and

**WHEREAS**, the Kingsbrook residential subdivision is comprised of the eighty-nine (89) lots created from the property described in Schedule “A”, all as set forth in the Final Plat filed in the Mercer County Clerk’s Office on February 13, 1987, as Map Nos. 2823A and 2823B (hereinafter the “Filed Map”); and

**WHEREAS**, the Kingsbrook development plans received Final Major Subdivision Approval from the appropriate authorities (confirmed by Resolution of the Lawrence Township Planning Board dated September 11, 1986); and

**WHEREAS**, Declarant desires to provide for the preservation and maintenance of the Common Areas (hereinafter defined) in the development (Schedule “A”), and to this end, desires to subject the Lots and Common Areas therein to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are hereby declared to be for the benefit of the Lots and Common Areas heretofore created or to be subsequently created on the property described in Schedule “A” and every Owner of any and all portions thereof; and

**WHEREAS**, Declarant is the agency which was delegated and assigned the power and authority to maintain and administer the Common Areas, to administer and enforce the covenants, and property described in Schedule “A” and to collect and disburse all assessments and charges necessary for such maintenance, administration, and enforcement, pursuant to the original Declaration and all as hereinafter provided; and

**WHEREAS**, Declarant has received the necessary approval of at least 75 percent of the Lot Owners in the Kingsbrook residential subdivision to enter into this Amended and Restated Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, Declarant declares that the property hereinafter described in Schedule "A" is and shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the covenants, restrictions, conditions, easements, charges, assessments, obligations, and liens hereinafter set forth in this Declaration.

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.** **"ANNUAL ASSESSMENT"** shall mean and refer to those fees or charges levied by the Association or the Township of Lawrence upon the Owner of each Lot for the purpose of adequately meeting expenses for the maintenance of the Common Areas and areas within the jurisdiction of the Association and for the promotion and maintenance of the recreation, health, safety and welfare of the residents of the Lots.

**Section 2.** **"ARTICLES OF INCORPORATION"** shall mean and refer to the Articles of Incorporation of the **KINGSBROOK HOMEOWNERS ASSOCIATION, INC.**, as amended, a copy of which is attached as Schedule "B".

**Section 3.** **"ASSOCIATION"** shall mean and refer to **KINGSBROOK HOMEOWNERS ASSOCIATION, INC.**, its successors and assigns (hereinafter referred to sometimes as the "Association" or "KHA").

**Section 4.** **"BOARD OR BOARD OF TRUSTEES"** shall mean and refer to the Board of Trustees of the Association.

**Section 5.** **"BY-LAWS"** shall mean and refer to the By-Laws of the Association, a copy of which is attached hereto and made a part hereof as Schedule "C".

**Section 6.** **"COMMON AREAS"** shall mean those areas owned by the Association in fee or by easement including Lots 280 and 278 in Block 6A containing ±

26.20 and 66.51 acres respectively and also containing the storm water detention facilities for the “Kingsbrook” subdivision and which Lots 280 and 278 are shown on Schedule “D” attached hereto, said Schedule “D” being a copy of the Filed Map. Said areas are intended to be owned by the Association subject to all easements for inter alia ingress and egress to Lot 279 in Block 6A and reservations for future Lawrence Township Master Plan road rights-of-way and sanitary sewer easements to the Ewing-Lawrence Sewerage Authority and other drainage and/or utility easements as shown on Schedule “D”.

**Section 7.** **“COMMON EASEMENT”** shall mean easements inuring to the benefit of all Owners and invitees and licenses which may also be used by utility companies for purposes of installation, maintenance and repair of all utility lines or utility facilities affecting the premises described in Schedule “A” annexed hereto which easement includes those set forth on the Filed Map of the premises herein described filed in the office of the County Clerk in the County of Mercer, as well as all utility easements and access easements herein referred to, if applicable.

**Section 8.** **“CONSERVATION AREA”** shall mean and refer to a certain portion of the Common Areas shown on Schedule “D” attached hereto and made a part hereof generally abutting Shipetaukin Creek.

**Section 9.** **“DECLARANT”** shall mean and refer to Kingsbrook Homeowners Association, Inc., its successors and assigns.

**Section 10.** **“DECLARATION”** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions.

**Section 11.** **“LOT”** shall mean and refer to any of the eighty-six (86) new, individual building lots or plots of land developed or intended to be developed with a

single-family detached dwelling as shown upon the Filed Map which is filed in the Mercer County Clerk's Office relative to property described in Schedule "A". Specifically excluded from the definition herein made is the lot or plot referred to as Lot 279, Block 6A on the Filed Map for "Kingsbrook" (formerly known as "Ashleigh Woods") which contains an existing dwelling and appurtenances and is not intended to be subject to this Declaration.

**Section 12.** **"MEMBER"** shall mean and refer to all those Owners who are members of the Association as hereinafter provided.

**Section 13.** **"OWNER"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any new building lot, situate upon the property, but excluding those having such interest merely as security for the performance of an obligation.

**Section 14.** **"PROPERTY"** shall mean and refer to that certain real property or easement(s) conveyed to the Association, and such areas within the jurisdiction of the Association as set forth herein, and in the By-Laws of the Association.

**Section 15.** **"SPECIAL ASSESSMENTS"** shall mean and refer to those fees or charges levied by the Association upon the Owner of each Lot for the purpose of any construction, reconstruction, repair, or replacement of a capital improvement upon or maintenance of the Common Areas, including fixtures and personal property related thereto.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS DECLARATION**

All premises (with the exception of Lot 279, Block 6A) within the area described in Schedule "A" including Common Areas and Lots to be established from among the lands described in Schedule "A", subject to the final subdivision approval from the Township of Lawrence and the information shown on the Filed Map, shall be and are held, transferred, sold conveyed, leased and occupied subject to this Declaration and the Schedules hereto attached.

### **ARTICLE III**

#### **PROPERTY RIGHTS**

**Section 1.**     **TITLE TO COMMON AREAS.** Declarant shall retain legal title to the Common Areas and shall have the following rights with respect to the Common Areas:

(a)     The right of the Association, its successors and assigns to convey, dedicate, grant, reserve or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes, including but not limited to purposes of installing, maintaining, repairing, replacing and inspecting all lines, pumps, pumping stations and appurtenances for water, sewer, drainage, fuel oil, and other utilities, with the right of the Grantees to have access over and across such portions of the Common Areas and Common Easements consistent with the full exercise of such grants.

(b)     The right of the Association to borrow money for the purpose of improving the Common Areas and, in aid thereof, to mortgage said Properties; provided, however, that the right of the Association to borrow money or mortgage said properties must be authorized by the vote in person or by proxy of three-fourths (3/4) of all of the votes eligible to be cast by all of the Members of the Association;

(c) The right of the Association to take such steps as are reasonably necessary to protect its Property against foreclosure ;

(d) The Association shall not dispose of any Common Area, by sale or otherwise, except to an organization conceived and established to own and maintain the Common Areas for the benefit of such development and thereafter such organization shall not be dissolved or dispose of any of the Common Areas without first offering to dedicate the same at no charge to the municipality wherein the land is located. Such dedication or transfer shall not become effective unless such dedication, transfer and determination as to purpose and conditions thereof shall be authorized by the vote in person or by proxy of three-fourths (3/4) of all of the votes eligible to be cast by all of the Members of the Association, and unless written notice of the proposed resolution authorizing such action is sent to every member at least ninety (90) days in advance of the scheduled meeting, at which such action is taken. A true copy of such resolution together with a certificate of a result of the vote taken thereon shall be made and acknowledged by the President and Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Areas, prior to the recording thereof in the Office of the Mercer County Clerk. Such certificate shall be conclusive evidence of authorization by the membership.

**Section 2. OWNERS EASEMENTS OF ENJOYMENT.** Every Owner shall have a right and easement of enjoyment in and to the Common Area described

herein which shall be appurtenant to and shall pass with the title to every Lot, which rights shall be subject to the rights of the Association.

**Section 3. DELEGATION OF USE.** Any Owner may delegate, in accordance with the By-Laws, his right to enjoyment to the Common Areas and facilities to members of his family, his tenants, or contract purchasers who reside on the Lot.

**Section 4. EXTENT OF EASEMENTS OF ENJOYMENT.** The rights and easements of enjoyment created hereby shall be subject to the following:

(a) Subject to the limitations of Section 5 below, the right of the Declarant and of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas, and in aid thereof to mortgage said Areas.

(b) The right of the Association, as provided in the By-Laws to promulgate the rules and regulations for the use and the enjoyment of the Common Areas or to suspend the enjoyment and voting rights of any Member for any period during which any assessment remains unpaid, or for any period during which any infraction of its published rules and regulations continues, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment; and

(c) The following easements which are hereby established:

(i) A blanket perpetual and non-exclusive easement in, upon, over, across and through the Common Areas for the purpose of the installation, maintenance,

repair and replacement of all sewer, water, power and telephone pipes, lines, mains, conduits, poles, transformers, master television antennas or cable television facilities and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility systems serving the Common Areas or Lots, which easement shall be for the benefit of the Declarant, or any governmental agency or utility company which requires same for the purpose of furnishing one or more of the foregoing services.

(ii) A blanket perpetual and non-exclusive easement of unobstructed ingress and egress in, upon, over across and through the Common Areas to the Township of Lawrence, the Association, their respective officers, agents and employees and all policemen, firemen, and ambulance personnel in the proper performance of their respective duties.

**Section 5. SPECIFIC LIMITATION OF EASEMENT OF ENJOYMENT.** The rights and easements of enjoyment of Owners with respect to the Common Areas shall be limited by the following provisions. No Owner shall be permitted to perform any of the following activities with respect to the Common Areas without prior written approval by the Board:

(a) Construction or encroachment of any structures, including but not limited to buildings, fences (physical, electronic or other), pavements, playgrounds, sports fields, treehouses or other structures.

(b) Ornamental landscaping.

(c) Mowing of grass and lawns.

(d) Tree cutting, pruning or trimming.

(d) Selective clearing or trimming or grubbing of underbrush or other natural vegetation.

(e) Construction or creation of bikeways or pedestrian paths or walkways.

(f) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials on any portion of the Common Areas.

(g) Composting of any materials.

(h) Removal, excavation or dredging of top soil, sand, gravel, loam, rock or other materials.

**Section 6. SPECIFIC LIMITATION OF EASEMENT OF ENJOYMENT OF CONSERVATION AREA.** The rights and easements of enjoyment of Owners with respect to the Conservation Area shall be limited by the following provisions which are intended to protect the Conservation Area and preserve same in its natural, scenic, open and existing state:

(a) There shall be no construction or encroachment of any structures, including but not limited to buildings, fences (physical, electronic or other), pavements, playgrounds, sports fields, treehouses or other structures.

(b) There shall be no ornamental landscaping.

(c) There shall be no mowing of grass and lawns.

(d) There shall be no tree cutting, pruning or trimming.

(e) There shall be no selective clearing or trimming or grubbing of underbrush or other natural vegetation.

(f) There shall be no construction or creation of bikeways or pedestrian paths or walkways.

(g) There shall be no dumping or placing of soil or other substance or material as landfill, and no dumping or placing of trash, waste or unsightly or offensive materials on any portion of the Conservation Area.

(h) There shall be no composting of any materials.

(i) There shall be no removal, excavation or dredging of top soil, sand, gravel, loam, rock or other materials from the Conservation Area.

In effectuating the purposes of the foregoing provisions, it is the intent of this Declaration that Lawrence Township be herewith granted a non-exclusive easement in and to the Conservation Area for conservation, flood control, drainage and public access purposes and which easement shall carry with it inter alia the following rights and privileges:

(aa) The right of access to the Conservation Area for the purpose of inspection by municipal officials designated by Lawrence Township to determine compliance herewith.

(bb) The right to promulgate enforcement provisions for improper conduct in or use of the Conservation Area.

(cc) The right, subject to the approval of the Lawrence Township Planning Board to plant trees or shrubs in the Conservation Area which are consistent with existing vegetation to enhance the area.

(dd) The right to delineate the Conservation Area by permanent standard markers or monuments to be specified by the Township Engineer of Lawrence Township.

#### **ARTICLE IV**

##### **COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. PURPOSE OF ASSESSMENTS.** The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the homes situation upon the Lots, including but not limited to such of the following as may be applicable:

- (a) the payment of any applicable taxes on Common Areas;
- (b) the payment of any applicable sewer fees attributable to the Common Areas or Lot;
- (c) the payment of liability and property damage insurance premiums which the Association must pay;
- (d) the maintenance, repair and improvement of Common Areas, utility facilities, (except those located in the public right-of-way) and recreational areas, and detention facilities and the landscaped island in the public street known as Ashleigh Drive and the landscaped divider in the public street known as Registry Drive;
- (e) cutting of grass and removal of leaves in Common Areas;
- (f) the removal of snow from the Common Areas, if applicable;

- (g) the removal of trash and garbage from the Common Areas;
- (h) making structural repairs to any of the appurtenances in the Common Areas and any utility facility including but not limited to detention facilities or drainage lines in these Common Areas;
- (i) compliance with ordinances, regulations, government rules and regulations affecting such Common Areas;
- (j) the supervisory and management costs for the activities including but not limited to legal and accounting fees.

**Section 2. ANNUAL ASSESSMENTS.** The amount of the Annual Assessment shall be fixed by the Board of Trustees of the Association on an annual basis in a sum sufficient to meet the expenses necessary for the improvement and maintenance of the Common Areas and for the promotion and maintenance of the recreation, health, safety and welfare of the residents of the Lots, and each Lot shall be treated equally with regard to an Assessment. The amount of the Annual Assessment may be changed from time to time by action of the Board of Trustees in accordance with the Articles of Incorporation and Bylaws, but such action shall be taken only when justified by changes in circumstances. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Trustees.

**Section 3. DATE OF COMMENCEMENT OF ASSESSMENTS: DUE DATES.** The annual and Special Assessments provided for herein shall be pro-rated for

payment by Owners on a monthly basis or on such other basis as determined by the Association.

**Section 4. SPECIAL ASSESSMENTS.** In addition to the Annual Assessments authorized above, the Board of Trustees of the Association may levy, in any Assessment year, a Special Assessment provided that before the Board of Trustees levies any such assessment, it shall have the vote or written consent of fifty-one (51%) percent of the Members.

**Section 5. COMPUTATION OF ASSESSMENT.** Both Annual and Special Assessments shall be computed by dividing the total number of Lots (currently 86) into the total Assessment calculated pursuant to Sections 2 and 4 above, as the case may be; the quotient thereby arrived at shall be the Assessment each Owner shall pay pursuant to the terms of this Declaration. All Assessments must be fixed at a uniform rate for all Lots.

**Section 6. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.** Any Assessment not paid within thirty (30) days after the due date shall be subject to a late fee to be determined by the Board and shall bear interest from the due date at the rate of twelve (12%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

**Section 7. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.** The Declarant, for each Lot within the

“Kingsbrook” subdivision hereby covenants and each Owner of any Lot (with the exception of Lot 279) by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges, and (2) Special Assessments, such Assessments to be established and collected as herein provided.

The Annual and Special Assessments, together with late fees, interest, costs and reasonable attorneys’ fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with late fees, interest, costs and reasonable attorneys’ fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The obligation for delinquent Assessments shall pass to his successors in title, said Assessments being a charge against a Lot in favor of the Association. The Association shall provide for the issuance and issue to the owner or mortgagee, upon the owner or mortgagee’s request, a statement of such amounts due. A person other than a Lot Owner may rely upon such statement, and said Owner’s liability shall be limited to the amounts set forth therein. Liability for the payment of said amount to the Association shall not attach to the purchase of the Lot following a mortgage foreclosure sale, provided the Association has been joined as a party to the foreclosure unit. Such unpaid share shall be deemed to be expenses collectible from the remaining Owners, including the acquirer.

**Section 8. SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the

sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien thereof.

**Section 9. LIST OF ASSESSMENTS, NOTICE OF ASSESSMENT, CERTIFICATE AS TO PAYMENT.** The Board shall cause to be prepared, at least thirty (30) days in advance of the due date of each Assessment, a list of the properties and the Assessments applicable thereto, in alphabetical order, according to the names of the Lot Owners thereof, which list shall be kept by the treasurer of the Association and shall be open to inspection.

Liens for unpaid Assessments may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property. A suit to recover a money judgment for unpaid Assessments may be maintained without waiving the lien securing same.

If an Annual Assessment is not fixed by the Board of Trustees as required, an Assessment shall be presumed to have been fixed in the amount of the previous year's Assessment, and any such Assessment shall be due on or before the date that is 1 year following the due date of the previous year's Assessment. In the event the Annual Assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board, provided that nothing herein shall serve to prohibit or prevent the Board from imposing a lump sum Assessment in the case of any immediate need or emergency.

**Section 10. ACCELERATION OF ASSESSMENT INSTALLMENTS AND OTHER REMEDIES OF THE ASSOCIATION.** If a Member shall be in default

in the payment of an Assessment or any installment thereon, the Board may accelerate the remaining installments of the Assessment upon notice to the Member, and the then unpaid balance of the Assessment shall become due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Member, or not less than ten (10) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur. If such default shall continue for a period of thirty (30) days, then the Board shall be entitled to:

- (i) accelerate the remaining installments of the Assessment
- (ii) file a lien for such accelerated Assessment; and
- (iii) notify the mortgagee of the Lot affected of such default if such

mortgagee has requested notice from the Association in writing. If said default continues for a period of 60 days, then the Board may foreclose the foregoing lien pursuant to law and/or commence a suit against the appropriate Lot Owner(s) to collect said Assessment.

**Section 11. INTEREST AND COUNSEL FEES.** The Board, at its option, shall have the right in connection with the collection of any Assessment, or any other charge, to impose an interest charge at the legal maximum if such payment is made after a date certain stated in such notice, or, in the event of a payment by check which is returned for insufficient funds, to impose a bounced check fee in an amount established by the Board. In the event that the Board shall effectuate collection of said charges by resort of counsel, the Board may add to the aforesaid charge or charges the gross amount due as counsel fees, in addition to such costs allowable by law.

**Section 12.** **EXPENDITURE OF FUNDS.** Annual Assessments imposed by the Board shall be subject to ratification by a majority of the votes present at a duly conveyed meeting of the Association and provided that notice of such meeting includes notice of the subject Assessment. In certain instances, however, Special Assessments must be approved by the Members as provided in Section 4 of this Article IV.

## **ARTICLE V**

### **MAINTENANCE AND REPAIRS**

**Section 1.** **OWNER'S RESPONSIBILITY.** An Owner shall be responsible for maintenance and repairs and decoration on such Owner's lot, structural or otherwise, including but not limited to exterior and all walls, foundations, roofs, fences, service walks and painting. The Owner shall effectuate all such repairs and maintenance when necessary. In the event an Owner fails to maintain or repair any portion of or any item on the Lot and such failure constitutes a nuisance or violation of the Declaration, By-Laws, or Rules and Regulations, the Association shall be entitled, at its sole discretion, to enter the Lot after notice, and effectuate the necessary maintenance and repairs. All costs and attorney fees incurred by the Association in doing so shall be a charge on the land and shall be a continuing lien upon the Owner's Lot and shall be collectible in the same manner as if it were an Assessment.

**Section 2.** **EFFECT OF FAILURE TO MAINTAIN.** In the event the Association shall fail to maintain the Common Areas in reasonable order and condition, then the Township of Lawrence shall have such rights as are given to it by virtue of the provisions of N.J.S.A. 40:55D-43(b) and N.J.S.A. 40:55D-43(c) and Section 6.603(f)(3)(d) of the Land Development Ordinance of the Township of Lawrence.

## ARTICLE VI

### ARCHITECTURAL CONTROL

**Section 1. REQUIREMENT FOR PRIOR APPROVAL.** Subsequent to either land development or building construction upon the Lots and/or Common Areas by the Declarant, no buildings, fences, walls, or other structures shall be commenced, erected, or maintained upon the Lots, nor shall any exterior addition, change or alteration therein be made until the plans, drawings, and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted by “certified mail return receipt required” to and approved in writing by an Architectural Committee composed of representative(s) appointed by the Board for the sole purpose of assuring harmony of external design and location in relation to surrounding structures and topography. The method of obtaining such approval (or disapproval) and the time periods within which decisions on application shall be made by the Architectural Committee shall be reasonably promulgated by the Board.

**Section 2. FAILURE TO RESPOND; EFFECT.** If the Architectural Committee, when acting in the capacity of plan approval agent as the terms of this Declaration provide, fails to respond in writing within sixty (60) days after said plans, drawings, and specifications have been submitted by “certified mail return receipt required”, such failure shall be tantamount to approval of the proposed building, fence, wall or other structure.

## ARTICLE VII

### PROTECTIVE COVENANTS

**Section 1. IMPOSITION OF RESTRICTIONS.** Without intending to limit the generality of the foregoing provisions of Article VI, the following restrictions are imposed as a common scheme upon all Lots:

(a) no tank for storage of gas or liquids may be maintained on any Lot unless in accordance with law and hidden from external view of any other Lot;

(b) no animals, livestock or poultry of any kinds shall be raised, bred or kept in any dwelling on any Lot, except that dogs, cats or other domesticated household pets may be so kept.

(c) no garbage, refuse or rubbish shall be deposited on any Lot or street unless placed in a closed receptacle container or placed in other designated collection areas provided by the Lot Owner. Containers provided by the Lot Owners shall not be placed on any Common Areas except when necessary for collection and shall regularly be kept in a location on the Lot which is unobtrusive to view from any other portion of the land in the "Kingsbrook" subdivision.

(d) no drying or airing of any clothing or bedding shall be permitted outdoors within the area of the property of a Lot Owner and clothes hanging devices such as lines, reels, poles, frames, etc. shall not be erected;

(e) no noxious, unsightly or offensive activity, including vehicle repairs, shall be conducted on the property of a Lot Owner or on the streets, nor shall anything be permitted to be done which may be or may become an annoyance or nuisance to the residents of other houses;

(f) Weeds and grass shall be kept cut to reasonable standards on all Lots;

(g) the Lots shall be used for residential purposes only, except that the office of a professional person residing on the premises may be maintained thereon, provided that no advertisement or display shall be used for the same except a small professional name plate in conformance with law; and said Lots shall not be used for any business, commercial or other purpose except as permitted herein and by appropriate law;

(h) only one detached, single-family dwelling house which may, however, include an attached or built-in garage, may be constructed for living purposes. Additional detached structure accessories will be permitted provided it is in accordance with law and the design is similar to or in harmony with the main building and is approved by the Declarant or Architectural Committee in writing before installation;

(i) all outdoor pools must be approved in writing by the Declarant or Architectural Committee before installation. No above-ground pools will be permitted, nor will "air-bag" type outdoor pool houses be permitted;

(j) all building must be newly erected and no old structures of any description shall be moved upon any portion of the land herein conveyed unless approved in writing by the Architectural Committee in advance;

(k) no Lot or buildings shall be used for any undesirable purpose whatsoever, such as temporary shelter, or anything which may be considered a nuisance;

(l) no domestic pets or other animals shall be allowed to become a nuisance, nor shall more than two dogs or two cats be permitted to be housed on any Lot;

(m) all fences (physical, electronic, or other), awnings or canopies must be approved in writing by the Architectural Committee before installation and shall not be placed in such manner as to detract from the value or enjoyment of adjacent properties. There shall be no chain link fences, other than those required by law, except for special purposes authorized in writing by the Architectural Committee;

(n) no excavation or grading may be started on any Lot and left unfinished for more than 60 days. After that time, unless footings and foundations are started and continued, Owner will be required to immediately refill any excavation and grade the Lot at Owner's expense, as it was before starting and to remove all machinery, equipment or materials to resume work again, permission must be secured from the Architectural Committee in writing.

(o) no recreational vehicles including, but not limited to, boats, campers, and motor homes, trailers of any kind, or inoperable vehicles shall be kept on a Lot or on the common area roadways for more than 50 days per calendar quarter with no more than three consecutive days in any seven day period, unless completely housed in a closed garage;

(p) no recreational vehicle, tent, shed, garage, shed or other vehicle or outbuilding may be used as a residence at any time except as permitted by local and state law and for a period of not more than 72 hours in any calendar year. No residence of a temporary character shall be permitted for any other purpose or time period;

(q) no sign or advertisements shall be erected on any Lot or the Common Areas except for street name signs and appropriate signs giving the Owner's name or profession. All other signs must be approved in writing by the Declarant before erection

of same and may not be changed thereafter. This restriction does not include signs used by the Declarant, its agent or assigns. No such signs shall be illuminated.

(r) the exterior of all houses must be properly maintained so as to present a well-cared-for appearance;

(s) there shall be no antenna or aerial of any nature installed except in accordance with applicable law and the Association's rules and regulations;

(t) no soil may be removed from any Lot unless it is excess after construction of basements or pools. All excess soil must be removed in accordance with appropriate law.

(u) it is understood that in the event that any of the restrictions herein set forth are violated, unless same have been released or changed as herein set forth, it shall be lawful for the Declarant or any other person or persons owning any other Lots in said development or subdivision to prosecute an action at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions either to prevent such violation or recover damages for the same;

(v) invalidation of any one of these restrictions by judgment, court order or otherwise, shall, in no way affect any of the other restrictions which shall remain in full force and effect.

## **ARTICLE VIII**

### **GENERAL PROVISIONS**

**Section 1.** **ENFORCEMENT.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or inequity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of

this Declaration, the By-Laws, and the Rules and Regulations of the Association. Any Owner found to be in violation of the restrictions, conditions, covenants, reservations, liens, and charges, now or hereafter imposed by the provisions of this Declaration, the By-Laws, and the Rules and Regulations of the Association shall be responsible for the Association's costs of enforcement including, but not limited to, reasonable attorney's fees and costs. Failure by the Association or by any Owner to enforce any covenant or restriction shall in no event be deemed a waiver of the right to so thereafter.

**Section 2. ENFORCEMENT BY THE MUNICIPALITY.** In the event that the Association shall fail to maintain all or part of the Common Areas and Common Easements in reasonable order and condition, the Township of Lawrence may serve written notice upon the Association setting forth the manner in which the Association has failed to maintain the Common Areas and Common Easements in reasonable condition, and said notice shall include a demand that the deficiencies in maintenance be cured within thirty-five (35) days of the date of the notice, and shall state the date of the notice, and shall state the date and place of a hearing thereon, which shall be within fifteen (15) days of the date of the notice. Thereafter, the Township, through its designated municipal body or officer, shall have and be entitled to, all the rights, privileges and powers set forth in Public Law 1975, Chapter 291, Section 31 b. (N.J.S.A. 40:55D-43 et seq.), specifically, but not limited to, the right to enter upon the Common Areas and Common Easements, maintain the same and assess the cost thereof, as provided herein.

The Declarant, for itself, its successors and assigns, the Association and its Members does hereby expressly covenant, agree, stipulate and authorize the Township, its agents and employees in case of emergency or in the event of a matter involving the

health and safety of municipal residents, to immediately enter upon the Common Areas and Common Easements and take whatever action is reasonably necessary and the cost of same shall be borne by the Association or the Owners, as set forth below.

The cost of the maintenance by the Township shall be assessed pro rata against the Lots in accordance with their assessed value at the time and imposition of the lien and the assessment shall become a lien and tax on said properties and be added to and be a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

The Township shall have no obligation to proceed as set forth herein and the Association shall hold the Township harmless for any liability arising from the Township's actions or failure to act with respect to maintenance of the Common Areas and Common Easements.

**Section 3.**     **SEVERABILITY.** Invalidation of any one of these covenants and restrictions by judgment or Court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 4.**     **DURATION AND AMENDMENT.**     The covenants and restrictions of the Declaration shall run with and bind the land, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The Declaration may be amended by vote of not less than fifty-one (51%) percent of the Lot Owners; provided, that the Lot Owners receive thirty (30) days written notice prior to the meeting at which the vote will be taken. Any amendment must be recorded.

**Section 5.**     **CONVEYANCES.** Declarant reserves the right, prior to any conveyance of title to any Common Areas herein described, to determine, in Declarant's sole discretion, the type of improvement to be constructed upon such Common Area, provided, however, that any such improvements shall comply with the requirements and approvals of governmental authorities having jurisdiction over such Common Area and Declarant further reserves the right, prior to the conveyance of any such Lot to apply for and obtain additional governmental approvals affecting such Common Area including but not limited to modifications of, supplements to and amendments of prior approvals.

**Section 6.**     **DISSOLUTION.** The Association cannot be dissolved unless the interests, rights and obligations of the Association in and to the Common Areas and Common Easements shall be dedicated or assigned to the Township of Lawrence, County of Mercer, State of New Jersey. If the Township of Lawrence shall not accept said dedication or assignment, then such interests, rights and obligations of the Association shall be transferred to such other public or private agency or instrumentality as will most nearly carry out the original intention of this Declaration. The provisions herein shall apply also if the Association ceases to operate, and in such case, it shall be the duty of the Owners herein to cause said interest, rights and obligations to be dedicated, assigned or transferred as provided herein.

**Section 6.**     **INSURANCE.** The Association, through its Board of Trustees, shall, in addition to liability and other types and kinds of insurance as provided herein and in the Association By-Laws, be required to obtain and maintain, if applicable, fire insurance with extended overage insuring the Common Areas and covering the interests of the Association and the Board of Trustees as their interests may appear, in the amount

determined by the Board of Trustees. All such policies shall provide that adjustment of loss shall be made by the Board of Trustees.

Premiums for any such insurance coverage shall be included in the monthly assessment for common expenses and such premium charges shall be held in a separate escrow account of the Association to be used solely for the payment of said premiums, as same become due.

All policies of physical damage insurance, if possible, shall contain waivers of subrogation and waivers of any reduction of pro-rata liability of the insurer as a result of any insurance carried by any Lot Owner or of invalidity arising from any acts of the insurance or any Lot Owner, and shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the insured, including all mortgages of Lots.

**IN WITNESS WHEREOF**, the undersigned, being the Declarant herein, has hereunto set its hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

KINGSBROOK HOMEOWNERS,  
ASSOCIATION, INC.

\_\_\_\_\_  
\_\_\_\_\_, Secretary

By: \_\_\_\_\_  
\_\_\_\_\_,  
President

STATE OF NEW JERSEY )  
  :  
COUNTY OF MERCER    )

SS

**BE IT REMEMBERED**, that on this \_\_\_\_ day of \_\_\_\_\_, 2009, before me, the subscriber, an Attorney at Law of the State of New Jersey, personally appeared \_\_\_\_\_ who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction, that s/he is the Secretary of KINGSBROOK HOMEOWNERS ASSOCIATION, INC., the corporation named in the within Instrument; that \_\_\_\_\_ is the President of said corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporation and the affirmative vote of at least 75% of the Lot Owners; that deponent well knows the corporate seal of said corporation; and that the seal affixed to this Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said corporation in presence of deponent, who thereto subscribed his name thereto as attesting witness.

Sworn and Subscribed to  
Before me this \_\_\_\_ day  
of \_\_\_\_\_, 2009.

\_\_\_\_\_  
\_\_\_\_\_  
Attorney at Law of New Jersey

\_\_\_\_\_  
\_\_\_\_\_