

## DEED OF RESTRICTIONS

FOR

## MASTERTON STATION SUBDIVISION - UNIT 11-C

THIS DEED OF RESTRICTIONS is made and entered into on this the 30<sup>th</sup> day of July, 2004, by MASTERTON PROPERTIES, LLC, a Kentucky limited liability company (hereinafter referred to as the "Developer").

## WITNESSETH

WHEREAS, the Developer is the owner of Unit 11-C, of the Masterton Station Subdivision to the City of Lexington, Fayette County, Kentucky, as shown by that final record plat of record in Plat Cabinet M, Slide 277, in the Fayette County Clerk's Office (the "Subdivision"); and

WHEREAS, the Developer intends to establish a general plan for the use, occupancy and enjoyment of the Subdivision; and

WHEREAS, in an effort to maintain uniformity in said use and occupancy, the Developer desires to create certain restrictions as to the lots in the Subdivision.

NOW, THEREFORE, the Developer does hereby establish the following covenants, conditions and restrictions as to the use and occupancy of all lots in the Subdivision as follows:

1. PRIMARY USE RESTRICTIONS: No lot in the Subdivision shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except a one single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one-half stories in height and which shall contain an attached private garage.
2. APPROVAL OF CONSTRUCTION PLANS: No house, building, fence, wall, structure or other improvement, or any addition to any of the foregoing, shall be erected, placed or altered on any lot until the construction plans, specifications, plot plan showing the proposed location of the house upon the lot following its completion, and a plan showing the grade elevation (including rear, front and side elevations) and location of the house, structure, fence, wall or improvement, the type of exterior material and the driveway (which shall be composed of Portland Cement concrete or paving brick) shall have been approved in writing by the Developer or by any person or association to whom it may assign such approval right. The Developer may vary the established building lanes, at its sole discretion, where not in conflict with applicable zoning regulations.
3. BUILDING MATERIALS: The type of exterior building materials utilized in the construction of any house within the Subdivision must first be approved in writing by the Developer. All construction shall be finished to grade level and any foundations exposed over twelve (12") inches in height must be painted a color complimentary to the color of the completed house.

MAIL TO:

GLENN A. HOSKINS, ATTY.  
P.O. BOX 55254  
LEXINGTON, KY 40555

4. SETBACKS: No structure shall be located on any lot closer to the front lot line or the side street line than the maximum building set back line set forth on the recorded plat, except bay windows and steps may project into said areas, and open porches may project into said areas not more than six (6') feet. Side yard setbacks shall be as required by applicable zoning regulations. Improvements, other than fences and gardens, may be constructed in such a manner that any encroachment with respect to the minimum building setback line and side yard requirements shall be averaged in accordance with the rules and regulations promulgated by the Lexington-Fayette Urban County Government. Title to any lot in the Subdivision shall be subject to the building set-back lines and utility easements set forth on the recorded plat(s).

5. MINIMUM FLOOR AREAS: The minimum floor area of any house built within the Subdivision, exclusive of porches, garages and basements, shall be as follows:

(i) All one (1) story houses shall have a minimum of 1,000 square feet on the ground floor, exclusive of the garage.

(ii) A one and one-half (1½) story house shall have a minimum of 1,200 total square feet, exclusive of the garage.

(iii) A two (2) story house shall have a minimum of 1,200 total square feet, exclusive of the garage.

6. NUISANCES: No obnoxious or offensive trade or activity shall be conducted on any lot and nothing shall be done which may become an annoyance or nuisances to the neighborhood.

7. USE OF OTHER STRUCTURES AND VEHICLES:

(a) No building or structure of a temporary character, including, but not limited to, trailers, tents, garages, barns or other "out buildings" shall be used upon any lot in the Subdivision at any time as a residence, either temporarily or permanently, nor shall any trailer, tent, shack, barn, "out building", or unmovable vehicle be used and/or maintained upon any lot in the Subdivision at any time, whether temporarily or permanent. (In certain cases, builders may be granted the right to place construction trailers or temporary offices on any lot in the Subdivision as long as the builder is actively constructing houses in the Subdivision, provided that the builder obtains the Developer's prior written consent.)

(b) No detached building shall be erected, altered, placed or permitted to remain on any Lot within the Subdivision.

(c) No commercial vehicle or truck weighing over one (1) ton shall be regularly parked on any lot or street in the Subdivision other than for delivery or construction purposes unless housed within a garage, and no person shall engage in major car repairs for others within the Subdivision at any time. No recreational vehicle, trailer, or boat shall be parked in any front yard or on any street in the Subdivision for a period in excess of twenty-four (24) consecutive hours, or in any manner that may be construed as an intentional attempt to circumvent this restriction.

8. GARAGES: Garages shall be attached to the residence, and may be front, rear, or side entry garages; and all residences constructed upon the lots in the Subdivision must have garages large enough to accommodate one (1) automobile.

9. SODDING AND LANDSCAPING: After the house has been constructed, the lot owner shall be responsible for grading the lot and sodding between the front, side and street side walls and the pavement or any abutting streets. In addition, the area between the back wall of the house and a line parallel and twenty (20) feet to the rear of the back wall of the house must be sodded.

10. DRIVEWAYS and SIDEWALKS:

(a) Each lot owner shall be responsible for concreting a tapered sidewalk apron of that lot's driveway with curb cuts and related concrete work to be in conformity with the Developer's plan; and each lot owner agrees to provide and maintain sidewalks on that lot, at the lot owner's expense.

(b) Each lot owner shall concrete or pave the driveway within fourteen (14) days (weather permitting) after completion of a single family dwelling. All driveways and approaches shall be constructed of Portland Concrete or paving brick.

(c) Any person cutting into or tunneling under or damaging in any manner the street, sidewalk, or road serving any lot within the Subdivision must repair and restore the street, sidewalk or road to its original condition, all at such person's own risk and expense. This provision shall not be construed as any permission or consent by the Developer to allow any such action, and shall not create any liability on the Developer of the Subdivision, either expressed or implied, if such a cut or damage should occur.

11. BUSINESS/HOME OCCUPATIONS: No trade or business of any kind (and no practice of medicine, dentistry, chiropody, osteopathy and like endeavors) shall be conducted on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of Paragraph 1 above, a new house may be used by the builder thereof as a model home for display or for the builder's own office, provided said use terminates within two years from completion of that house (or such later date as may be granted by the Developer in certain cases).

12. TREES: Upon completion of construction of the house on each lot, the owner shall be responsible for planting at least one (1) shade tree in the front yard of the lot.

13. FENCES. No chain line fence of any kind shall be permitted on any lot. Any fences erected on a lot shall first be approved by the Developer, and no fence, wall or hedge of any nature may be extended toward the front or side of the property line beyond the building set-back line as shown on the recorded plat in the Fayette County Clerk's Office. Any fence used must conform with the character of the Subdivision and

permanent. (In certain cases, builders may be granted the right to place construction trailers or temporary offices on any lot in the Subdivision as long as the builder is actively constructing houses in the Subdivision, provided that the builder obtains the Developer's prior written consent.)

(b) No detached building shall be erected, altered, placed or permitted to remain on any Lot within the Subdivision.

(c) No commercial vehicle or truck weighing over one (1) ton shall be regularly parked on any lot or street in the Subdivision other than for delivery or construction purposes unless housed within a garage, and no person shall engage in major car repairs for others within the Subdivision at any time. No recreational vehicle, trailer, or boat shall be parked in any front yard or on any street in the Subdivision for a period in excess of twenty-four (24) consecutive hours, or in any manner that may be construed as an intentional attempt to circumvent this restriction.

8. GARAGES: Garages shall be attached to the residence, and may be front, rear, or side entry garages; and all residences constructed upon the lots in the Subdivision must have garages large enough to accommodate two (2) automobiles, except that the residences upon Lots 131-142, 194-200a, and 204-205 shall only require a garage large enough to accommodate one (1) automobile.

9. SODDING AND LANDSCAPING: After the house has been constructed, the lot owner shall be responsible for grading the lot and sodding between the front, side and street side walls and the pavement or any abutting streets. In addition, the area between the back wall of the house and a line parallel and twenty (20) feet to the rear of the back wall of the house must be sodded.

10. DRIVEWAYS and SIDEWALKS:

(a) Each lot owner shall be responsible for concreting a tapered sidewalk apron of that lot's driveway with curb cuts and related concrete work to be in conformity with the Developer's plan; and each lot owner agrees to provide and maintain sidewalks on that lot, at the lot owner's expense.

(b) Each lot owner shall concrete or pave the driveway within fourteen (14) days (weather permitting) after completion of a single family dwelling. All driveways and approaches shall be constructed of Portland Concrete or paving brick.

(c) Any person cutting into or tunneling under or damaging in any manner the street, sidewalk, or road serving any lot within the Subdivision must repair and restore the street, sidewalk or road to its original condition, all at such person's own risk and expense. This provision shall not be construed as any permission or consent by the Developer to allow any such action, and shall not create any liability on the Developer of the Subdivision, either expressed or implied, if such a cut or damage should occur.

11. BUSINESS/HOME OCCUPATIONS: No trade or business of any kind (and no practice of medicine, dentistry, chiropraxy, osteopathy and like endeavors) shall

exposed over twelve (12") inches in height must be painted a color complimentary to the color of the completed house.

4. SETBACKS: No structure shall be located on any lot closer to the front lot line or the side street line than the maximum building set back line set forth on the recorded plat, except bay windows and steps may project into said areas, and open porches may project into said areas not more than six (6') feet. Side yard setbacks shall be as required by applicable zoning regulations. Improvements, other than fences and gardens, may be constructed in such a manner that any encroachment with respect to the minimum building setback line and side yard requirements shall be averaged in accordance with the rules and regulations promulgated by the Lexington-Fayette Urban County Government. Title to any lot in the Subdivision shall be subject to the building set-back lines and utility easements set forth on the recorded plat(s).

5. MINIMUM FLOOR AREAS:

A. 40 FOOT LOTS. The minimum floor area of any house built upon Lots 131-142, 194-200a, and 204-205, within the Subdivision, exclusive of porches, garages and basements, shall be as follows:

(i) All one (1) story houses shall have a minimum of 1,000 square feet on the ground floor, exclusive of the garage.

(ii) A one and one-half (1½) story house shall have a minimum of 1,200 total square feet, exclusive of the garage.

(iii) A two (2) story house shall have a minimum of 1,200 total square feet, exclusive of the garage.

B. ALL OTHER LOTS. The minimum floor area of any house built upon all other Lots within the Subdivision, exclusive of porches, garages and basements, shall be as follows:

(i) All one (1) story houses shall have a minimum of 1,100 square feet on the ground floor, exclusive of the garage.

(ii) A one and one-half (1½) story house shall have a minimum of 1,300 total square feet, exclusive of the garage.

(iii) A two (2) story house shall have a minimum of 1,500 total square feet, exclusive of the garage.

6. NUISANCES: No obnoxious or offensive trade or activity shall be conducted on any lot and nothing shall be done which may become an annoyance or nuisances to the neighborhood.

7. USE OF OTHER STRUCTURES AND VEHICLES:

(a) No building or structure of a temporary character, including, but not limited to, trailers, tents, garages, barns or other "out buildings" shall be used upon any lot in the Subdivision at any time as a residence, either temporarily or permanently, nor shall any trailer, tent, shack, barn, "out building", or unmovable vehicle be used and/or maintained upon any lot in the Subdivision at any time, whether temporarily or

shall be in accordance with all appropriate governmental regulations. **All approved fences must have the finished side facing out from the said lot.**

14. MAILBOXES AND PAPERHOLDERS: All mailboxes must be black in color and of a uniform type selected by the Developer.

15. GARBAGE CANS, TANKS, POOLS, ETC. All garbage cans, above-ground tanks, and other similar items shall be located or screened so as to be concealed from view of neighboring lots, streets, and property located adjacent to such lot. All rubbish, trash, and garbage shall be regularly removed from the lot and shall not be allowed to accumulate thereon. No above-ground pools shall be erected, constructed or installed on any lot.

16. CLOTHESLINES: No outside clothesline shall be erected or placed on any lot.

17. DRAINAGE: Drainage of each lot shall be in conformity with the general drainage plan of the Subdivision; no storm water drains, roof downspouts or ground water shall be integrated into the sanitary sewer system, and all lot connections shall be made with water-tight joints in accordance with plumbing code requirements.

18. DISPOSAL OF TRASH: No lot shall be used as a dumping ground for rubbish, trash, garbage, or other waste. All such material kept upon the lot on a temporary basis shall be placed in a sanitary container, incinerator or similar equipment which shall be maintained in a clean and sanitary condition.

19. ANIMALS: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, with the exception of dogs, cats and other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area), provided that such pets are not kept, bred or maintained for commercial purposes, and provided that such pets be kept within an enclosed area and not permitted to run or stray upon other lots unless on a leash or under direct control.

20. OWNER'S DUTY TO MAINTAIN PROPERTY: Each lot owner shall keep the grass properly cut, keep the lot free from weeds and trash, and keep the lot neat and attractive. If a lot owner fails to so maintain the lot, the Developer, or its assignee, may take any action it deems appropriate to make that lot neat and attractive, and the owner shall, upon demand, reimburse the Developer for any expenses incurred plus an administrative surcharge of 25% of the total of such expenses.

21. SIGNS: No signs of any kind shall be displayed on any lot, with the exception of For Sale or Rent signs [which shall not be greater in size than nine (9) square feet] and signs deemed acceptable or necessary by the Developer. Builders who are actively constructing houses in the Subdivision shall have the right to display larger signs, provided that the sign is approved in advance by the Developer.

22. UTILITIES: Each lot owner shall be responsible for preserving and protecting underground utilities located on the lot; no utility lines of any kind may be above ground unless approved by the Developer.

23. GARDENS: No gardens, except those enclosed within a fence consented to by the Developer, shall be planted or extended nearer the street than the building setback line.

24. ANTENNAS OR SATELLITE DISHES: No lot owner shall install a satellite dish or telecommunications unit of any kind, size or proportion on a lot in unless approved by the Developer in writing. If approved, any such satellite dish or telecommunications unit must be situated in an obscure location of the house, with the exact location, size and height to be approved of in writing by the Developer.

25. SUBDIVISION/ONE BUILDING PER LOT: No additional subdivision of any lot shall be made without the written consent of the Developer and the appropriate governmental bodies; further, no more than one (1) building shall be built on any lot; however, this restriction shall not prohibit pool houses, gazebos or similar structures which have been approved by the Developer.

26. OBLIGATION TO CONSTRUCT OR RECONVEY: Every lot owner shall, within twenty-four (24) months after the date such owner acquires title to a lot without a dwelling thereon, commence in good faith the construction of a single family dwelling, approved according to Paragraph 2 above; provided that should construction not commence within the twenty-four (24) month period of time, the Developer may elect to repurchase any and all lots on which construction has not commenced for a purchase price equal to ninety percent (90%) of the agreed purchase price of said lot or lots hereunder, in which event the lot owner shall immediately reconvey and deliver possession of said lot or lots to the Developer by deed of special warranty.

27. ZONE CHANGES: No zone changes for any lot in the Subdivision shall be applied for without the prior approval of the Developer.

28. ROOF PITCH: No roof on any residence shall have less than a 5/12 pitch unless approved in writing by the Developer.

29. LANDSCAPING: As construction of the improvements on each lot is completed, landscaping shall be done as follows:

a. The front of each lot shall be landscaped with a minimum of six (6) shrubs. The property owner shall be required to replace any street trees damaged by his action. Street tree shall match in species, quality and size the tree that was destroyed at the time it was destroyed. No existing living tree may be removed without permission of the Developer. All street trees will be planted in unison at a time designated by the Developer based upon completion of development.

b. Sod shall be placed from the edge of the paved street to the building line of the house and across the entire width of the lot, and six (6') feet around the side and back of the house, with the exception of sidewalks and driveways. The remaining rear yard shall be graded and seeded or sodded.

c. No earthen material of any type shall be placed in any 100 - year flood plain as designated on any final record plat recorded in the Fayette County Clerk's Office.

30. ENERGY CONSERVATION EQUIPMENT: No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed upon any lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Developer.

31. HOMEOWNERS ASSOCIATION/ASSESSMENTS:

(a) The Articles of Incorporation of Masterson Station Neighborhood Association, Inc. (the "Association") are recorded in the Office of the Fayette County Clerk, in Lexington, Kentucky. Every owner of a lot in the Subdivision [and all other units of the Masterson Station, Masterson-Depriest and Greendale Hills Subdivisions] shall be a member of the Association, and, by acceptance of a deed for any lot, agrees to accept membership in and does thereby become a member of the Association. Such owner and member shall abide by the Association's by-laws, rules and regulations, shall pay the assessments provided for, when due, and shall comply with all decisions of the Association's Board of Directors.

(b) The objects and purposes of the Association shall be as set forth in its Articles of Incorporation and shall be to promote the social welfare and serve the common good and general welfare of its members, and shall include, unless such obligations are otherwise assumed by any municipal or governmental agency having jurisdiction thereof, the maintenance and repair of the streets, common areas, crosswalks, storm drains, basins, fences and entrances as are shown on the aforesaid plat, and acceptance of common areas for purposes of operation, maintenance and repair.

(c) Any assessments levied by the Association shall be used only for purposes generally benefiting the Association.

(d) The initial assessment hereunder shall be no higher than \$24.00 per year (\$2.00 per month) per lot beginning with January 1, 2005. No lot shall be subject to maintenance fee assessments until the house constructed thereon has been completed and is being occupied as a residence. After December 31, 2005, the Board of Directors of the Association may, from time to time, increase or decrease the assessment. The Board of Directors of the Association shall determine the amount of and fix the due date of each assessment. In no event shall the Developer be liable to pay any assessments for any lot unless it has constructed and completed a house on such lot and such house is being occupied as a residence. The annual assessment will accrue as of January 1 of each year and will be due and payable on or before February 1 of that year or such other date as may be established by the Association. The assessment will be prorated in the event of a change of ownership of a given lot for a portion of the year, with the proration to be calculated by determining the number of days of ownership of the lot from the date of closing through December 31 of that year.



(e) The Developer shall have total control of and be vested with all authority over the Association until such time as it has (i) transferred title to seventy five (75%) percent of the lots in the entire Masterson Station/Masterson-Depriest/Greendale Hills residential development, or (ii) transferred or assigned such control over to a third party or otherwise relinquished control to the Association.

32. RECREATIONAL AMENITY. Unless otherwise conveyed to the Association by deed or other written instrument, any "clubhouses", swimming pools, tennis courts or other similar recreational facilities situated within the Subdivision or upon any other portion of the Masterson Station/Masterson-Depriest/Greendale Hills residential development (hereinafter the "Recreational Amenity Facilities") shall be owned by the owner of the underlying real estate (the "Recreational Facilities Owner"), which may or may not be the Developer, and neither the Association nor the owner of any lot shall have any claim of ownership with respect to, or any rights to utilize, the Recreational Amenity Facilities in the absence of a specific agreement between the lot owner and the Recreational Facilities Owner. The criteria for membership in or use of the Recreational Amenity Facilities, the rules pertaining thereto, and the amount of assessments, dues, fees or other charges for such membership in or use of the Recreational Amenity Facilities shall be at the sole discretion of the Recreational Facilities Owner, and may be changed from time to time by the Recreational Facilities Owner. Any assessments, dues, fees or other charges levied by the Recreational Facilities Owner in connection with the Recreational Amenities Facility shall be separate and distinct from the assessments established by the Association pursuant to Paragraph 31 hereof.

33. NO MUNICIPALITY. No city or municipality shall be formed for the Subdivision or any portion thereof unless approved by the Developer.

34. SEVERABILITY OF PROVISIONS: The invalidation of any one of these covenants and restrictions by a judgment or Court order shall not affect any other provisions hereof which shall remain in full force and effect.

35. RESTRICTIONS BINDING UPON BUILDERS AND CONTRACTORS: These covenants and restrictions shall be binding upon and enforceable against a builder or contractor engaged by the owner of a lot in the Subdivision to construct a house or any other improvements upon the lot. The lot owner shall be responsible for ensuring that the builder/contractor is made aware of, and complies with, these covenants and restrictions.

36. ENFORCEMENT: Enforcement of these Restrictions by the Developer, the Association, or any lot owner shall be by proceedings by law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Any lot owner at any time may enforce the restrictions and covenants herein contained by appropriate legal procedure. The failure of any owner to demand or insist upon observance of any of these restrictions, or to proceed for

restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions.

37. AMENDMENTS: These covenants and restrictions may be amended at any time by the Developer, provided that the Developer still owns at least one (1) lot or tract of land in the entire Masterson Station/Masterson-Depriest/Greendale Hills residential development, and (a) the minimum floor area requirements set forth in Numerical Paragraph 5 hereof are not decreased thereby, (b) the amendment does not discriminate against the owner of any lot in the Subdivision, unless such owner consents to the amendment in writing, and (c) written notice specifying the nature of the amendment is sent to the owner of each lot in the Subdivision at least thirty (30) days prior to the effective date of such amendment. Furthermore, these covenants and restrictions may be canceled or amended at any time by the affirmative action of the owners of seventy-five percent (75%) of the lots subject to these restrictions, except that (a) no such cancellation or amendment shall affect the provisions of Paragraphs 31 or 32 hereof unless the Developer consents to same in writing, and (b) the Developer's written consent to any such cancellation or amendment shall be required if the Developer still owns any lots or tracts of land within the entire Masterson Station/Masterson-Depriest/Greendale Hills residential development. No amendment to these covenants and restrictions relating to the construction criteria of houses built upon any lot in the Subdivision shall be applicable to any house the construction of which commenced prior to the date such amendment is recorded in the Fayette County Clerk's Office.

38. RESTRICTIONS RUN WITH LAND: Unless canceled, altered or amended under the provisions of the preceding Paragraph, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by (a) a majority of the then owners of all lots in the Subdivision, and (b) the Developer, if the Developer still owns any lots or tracts of land in the entire Masterson Station/Masterson-Depriest/Greendale Hills residential development, has been recorded, agreeing to change these restrictions and covenants in whole or in part (provided that no such change shall affect the provisions of Paragraphs 31 and 32 hereof

