

**SECOND AMENDMENT  
TO THE DECLARATION OF PROSPECT POINT PLANNED UNIT  
DEVELOPMENT**

**WHEREAS**, the Declaration of Prospect Point Planned Unit Development ("Declaration") dated October 25, 1974 was recorded on November 1, 1974, at Liber 73, page 794, et seq. of the Kenton County Clerk's records at Covington, Kentucky; and

**WHEREAS**, a Supplementary Declaration dated June 12, 1975 was recorded on June 13, 1975 at Liber 75, Page 412, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Second Supplementary Declaration dated November 26, 1975 was recorded on December 8, 1975, at Liber 76, Page 776, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Third Supplementary Declaration dated December 5, 1975 was recorded on December 8, 1975, at Liber 76, Page 779, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Fourth Supplementary Declaration dated March 30, 1976 was recorded on April 30, 1976, at Liber 77, Page 700, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Fifth Supplementary Declaration dated July 2, 1976 was recorded on June 13, 1976, at Liber 78, Page 221, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Sixth Supplementary Declaration dated December 9, 1976 was recorded on December 23, 1976, at Liber 79, Page 293, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Seventh Supplementary Declaration dated May 4, 1978 was recorded on June 14, 1977, at Liber 80, Page 496, et seq. of the Kenton County Clerk's records and was re-recorded on June 14, 1980 at Liber 88, Page 946, et seq.;

**WHEREAS**, the Eighth Supplementary Declaration dated May 4, 1978 was recorded on May 11, 1978, at Liber 82, Page 640, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Ninth Supplementary Declaration dated August 18, 1978 was recorded on August 21, 1978, at Liber 89, Page 439, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Tenth Supplementary Declaration dated August 21, 1979 was recorded on August 31, 1979 at Liber 86, Page 389, et seq. of the Kenton County Clerk's records; and

**WHEREAS**, the Eleventh Supplementary Declaration dated May 14, 1980 was recorded on May 22, 1980 at Liber 88, Page 857, et seq. of the Kenton County Clerk's records; and

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**WHEREAS**, the First Amendment to Declaration of Prospect Point dated May 1, 1989 was recorded on May 10, 1989, at Volume 132, Page 444, et seq. of the Kenton County Clerk's records which was declared to be invalid by the Kentucky Court of Appeals in Bearden, et al. v. Prospect Point Homeowners Association; and

**WHEREAS**, the Declaration and all supplements and amendments thereto are binding on all owners of the properties described in Exhibit "A", attached hereto; and

**WHEREAS**, the owner of the property described in Exhibit "A1" consents to this Second Amendment, but the terms of this Second Amendment are not binding upon the owner of the property described in Exhibit "A1";

**WHEREAS**, the parcel identification numbers of the properties described in Exhibits "A" and "A1" are attached as Exhibit "B";

**WHEREAS**, Article IX, Section 1 of the Declaration provides that it may be amended by a recorded instrument signed by the Owners of two-thirds (66-2/3%) of the Lots; and

**WHEREAS**, the requisite percentage of Lot Owners desire to amend certain provisions of the Declaration, as reflected on their collective ballots attached as Exhibit "C";

**WHEREAS**, the President of the Association hereby attests that at least two-thirds of the Lot Owners have consented to this Second Amendment;

**NOW THEREFORE**, the Declaration is hereby amended as follows:

1. Article III, Section 1(i) is deleted in its entirety.
2. Article IX, Section 1 is deleted in its entirety and substituted with the following:

Section 1. Duration. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and inure to the benefit of and be enforceable by the Association, or the owner of any land subject to this declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date of recordation of this Declaration after which the said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of two-thirds (66-2/3%) of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. No such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken and no such agreement to change shall be effective with respect to any permanent easements or other permanent rights relating to the Common Areas herein created.

3. Article X of the Declaration is deleted in its entirety and substituted with the following:

Section 1. Property and Casualty Insurance. The Association shall purchase, for all Owners' benefit, an "all risk" or "special form" policy that includes blanket insurance coverage on all buildings and structures, fixtures and equipment, and Living Units equivalent to 100% of the current replacement cost for fire, lightning, and extended coverage. This coverage shall include physical improvements and betterments, wall and floor coverings, fixtures, and including built-in appliances and cabinetry. The Association's policy shall exclude the contents of the Living Unit. The Owners shall be responsible for insuring their personal contents, personal liability for events occurring within the Living Unit, dwelling expenses insurance, and the deductible portion of any claim covered by the Association's policy. The proceeds of the policy shall be used to restore or replace any building, Living Unit, or Common Element damaged or destroyed by any peril covered by the insurance.

The policy shall have a reasonable deductible set at the discretion of the Board of Directors. The "deductible" portion of any insured claim shall be submitted by the Owner(s) of the Living Unit damaged or destroyed to his or her homeowners' insurance carrier.

Such insurance shall be in such amounts at all times sufficient to prevent the Owners from becoming co-insurers under the terms of any applicable co-insurance clause or provision.

The cost of all insurance provided for herein shall be a Common Expense. Any and all potential insurance claims must be submitted to the Board of Directors through the managing agent.

The policy shall further provide that the insurer waives the right to subrogation against an Owner or a member of the Owner's household.

Section 2. Liability Insurance. The Association shall purchase a comprehensive policy of public liability insurance covering Common Area, but not the Lots or Dwelling Units, insuring the Association, Directors, and Owners and members of their respective families, tenants and occupants in an amount of not less than One Million Dollars (\$1,000,000.00), per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. The insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a residential Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Owners, tenants or occupants.

Section 3. Other Insurance. In addition, the Association shall purchase contractual liability insurance, Directors' and Officers' liability insurance, employee dishonesty and/or fidelity bond coverage with the management company named as an additional insured in not less than the cash value of the reserve account, and such other insurance as the Board may deem desirable from time to time.

Section 4. Owners Insurance. Any Owner, tenant, or occupant must purchase insurance in addition to that provided by the Association consisting of an HO6 policy with **Dwelling Coverage (Improvements or Betterments; Additions and Alterations) Special Form**, which changes the policy form from Named Perils to "All Risk" subject to exclusions and with the Real Property Limit sufficient to cover the deductible on the Association's policy. However, no Owner, tenant, or occupant of any Living Unit may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried by the Association. Owners are responsible for any deductibles relating to their personal property insurance policies.

Section 5. Insufficient Insurance. In the event the property covered by the policy suffers damage or destruction from any cause or peril which is either not insured against or for which there are insufficient insurance proceeds, then the Association shall advance such costs in excess of available insurance proceeds. The amount advanced by the Association shall become a Special Assessment against all of the Lots, and this assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as for the nonpayment of assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

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