

**DECLARATION OF RESTRICTIVE COVENANTS FOR  
SEPTEMBER LAKES**

THIS DECLARATION OF RESTRICTIVE COVENANTS, made and published by the undersigned Declarant ("Declarant");

WHEREAS, September Lakes, LLC, ("Owner" and "Developer") is the Developer of all of the lot of a residential subdivision known of record as September Lakes, (hereinafter referred to as "September Lakes" or "Subdivision") as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, a plat of which is of record in Plat Book \_\_\_\_, Page \_\_\_\_, in the Warren County Court Clerk's office for Warren County, Kentucky, as may be amended from time-to-time (the "Plat");

WHEREAS, Declarant desires to provide for the protection and preservation of the values, desirability and attractiveness of September Lakes; and

WHEREAS, Developer further desires to establish for Developer's benefit and the mutual benefit and advantage of all future owners and occupants of or any portion thereof, certain rights, easements, privileges, obligations, restrictions, covenants, and regulations governing the use and occupancy of September Lakes.

NOW, THEREFORE, Declarant, as legal title holder of September Lakes and for the purposes set forth above and further hereinafter set forth, declare as follows:

**ARTICLE I**  
Definitions

The following words when used in this Declaration or any supplemental declaration hereto (unless the context shall prohibit such) shall have the following meanings:

(a) "Association" shall mean and refer to September Lakes Homeowners' Association to be organized as set forth and as provided for herein.

(b) "Board" shall mean and refer to the Board of Directors of the Association.

(c) "Building" shall mean and refer to the single-family residential building which may be built on each lot. In no event shall any Building be occupied prior to construction being completed.

(d) "Declaration" shall mean and refer to this Declaration of Restrictive Covenants applicable to September Lakes and which is recorded in the office of the Warren County Court Clerk in Bowling Green, Kentucky.

(e) "Developer" shall refer to September Lakes, LLC having its principal place of business at 855 Lovers Lane, Suite 101, P.O. Box 50905, Bowling Green, Kentucky 42102, its successors and assigns.

(f) "Lot" shall mean and refer to any plot of land to be used for single family residential purpose and so designated on the Plat.

(g) "Majority of Owners" shall mean and refer to the holders of more than sixty-six and two-thirds percent (66 2/3%) of the total votes of the Members.

(h) "Member" shall mean and refer to any person or persons who shall be an Owner, and as such shall a Member of the Association.

(i) "September Lakes" shall mean and refer to that certain residential community known as September Lakes, "which is being developed on real property now owned by the Developer in Warren County, Kentucky, and described in Exhibit "A" attached hereto and incorporated herein by reference.

(j) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Lot which is part of September Lakes, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.

(k) "Plat" shall mean and refer to the Plat of September Lakes, of record in Plat Book \_\_\_, Page \_\_\_, in the office of the Warren County Court Clerk, and any additional or amended plans filed with regard to September Lakes. In the event the Plat shall be amended by the Developer or any Owner with respect a Lot or Lots and/or the combination/reconfiguration of a Lot or Lots, the total number of Lots to be reconfigured shall not exceed the original number of Lots being combined or replatted.

(l) "Person" shall mean and refer to a natural person, as well as corporation, partnership, firm, association, trust, or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

(m) "Property" or "Properties" shall mean and refer to any and all of that certain real estate described in Exhibit "A" attached hereto and incorporated herein by reference.

## **ARTICLE II**

### **Properties Subject to this Declaration**

#### **SECTION ONE. Subjection of the Properties to Declaration and Laws.**

The Declarant, as legal titleholder in fee of the Properties, hereby submits and subjects the Properties to the provisions of this Declaration. This Declaration shall constitute covenants running with the land and binding upon all parties now owning or hereafter having or acquiring any right, title or interest in the Properties or any part thereof, and shall inure to the benefit of

each Owner hereof. Every person hereafter acquiring a Lot, by acceptance of a deed to any interest in a Lot or any portion of the Properties shall accept such interest subject to the terms of this Declaration, and by acceptance of the same shall be deemed to have consented to and agreed to be bound by the terms, conditions, and covenants of this Declaration.

### **ARTICLE III**

#### **Architectural and Engineering Control.**

SECTION ONE. Approval of Plans and Specifications. No building, fence, wall, pool, or other structure (including a detached garage) shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change in alteration, therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer. The Developer shall, at its sole discretion, retain the right to disapprove building plans (including placement of all improvements) that it believes are not in harmony with the intended design of the Subdivision. Such disapproval may follow even though submitted plans meet all other requirements and guidelines, including square footage minimums, as outlined below. After Developer shall have conveyed title to all Lots, the architectural control shall be vested in the Association, or in an architectural committee composed of three (3) or more members of the association appointed by the Association. In the event said Developer, Association, or Association's designated committee, as the case may be, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and the Article will be deemed to have been fully complied with. The Developer, or after the delivery of architectural control to the Association or its architectural committee, said Association or committee, may vary the established building lines, in its sole discretion, where such variance is not in conflict with applicable zoning regulations. No building shall be constructed except in accordance with the plans and specifications approved by the developer or the association.

SECTION TWO. Construction and Foundation Location Approval. The Owner prior to the commencement of construction shall cause a licensed surveyor or licensed engineer to locate the building on the Lot in accordance with the site plan submitted and approved as set forth in Section One of this Article.

SECTION THREE. Building Materials. The exterior building material of all structures shall extend to ground level and shall be either brick, stone, dryvit, cement based siding, wood siding, man-made stone, or other modern masonry material . Brick, stone or man-made stone shall extend to grade for residences constructed with siding materials. Vinyl material is only permitted at soffits and undersides of porches. Brick, outside trim, color and roof color must be approved by Developer in writing.

SECTION FOUR. Minimum Floor Areas. Each residence shall have a minimum of 2,400 square feet of living space, with the first floor having a minimum of 1,800 square feet. Any living space constructed within any basement, garage, or porch, any floor space in any

bonus room with a ceiling height of less than six feet (6'), and any covered outdoor living space shall be excluded from the square foot calculation.

SECTION FIVE. Landscaping, Sidewalks, Driveways. All driveways shall be surfaced with concrete or by bituminous macadam (asphalt) and must be finished within ninety (90) days of occupancy of the residence. No gravel or dirt driveways shall be permitted. After the construction of a residence, the Owner shall within sixty (60) days grade, seed, and straw or sod the entire Lot and the unpaved right of way of any/abutting streets and install foundation landscaping in keeping with the character of the surrounding Lots. As part of the Lot landscaping each Owner shall plant a minimum of four (4) deciduous trees with a minimum one and three fourths inches (1 ¾") diameter caliper. Provided, however, that this section shall not prohibit gardens in the rear yards or decorative flower beds. Certain Lots have been designated for the construction of sidewalks. All Builders shall install five foot (5') wide sidewalks on all street frontages as required by the Developer and the Plans. Builders will use and adhere to the Developer's approved concrete contractors, specifications, and quality control, and construction inspection procedures.

SECTION SIX. Mail and Paper Boxes. Each Lot shall be serviced by a mail and paper box. The mail and paper box shall be constructed of the common design as specified by the Developer at the expense of the Lot Owners.

SECTION SEVEN. Drainage and Culverts. Drainage of each Lot shall conform to the general drainage plans of the development as platted and approved by the Warren County Planning Commission. Neither Owner shall be permitted to change the ditch line and elevation as approved by the Planning Commission. Any destruction to the seeding and sodding of the road shoulder, ditch, or yard shoulder shall be the responsibility of the Owner to repair. All portions of any driveway, culverts; or grading shall be constructed in accordance with the Construction Plans in such a manner as the streets will not be disqualified for acceptance into the road system of Warren County. All driveways shall have a minimum of a 15 inch culvert installed and these must have concrete or masonry headwalls on the open ends [storm pipe sizing as provided by engineer and shown on Plat]. Developer will provide headwall design, specifications, and other requirements. The Owner shall construct the driveway so that the culvert is set deep enough to allow the continued through passage of water, without pooling, from Lots at a higher elevation.

SECTION EIGHT. Garage Construction. All homes are required to have a minimum of an attached and finished two (2) car garage and not to exceed a four (4) car garage with a maximum of three (3) doors. All garages on the primary structures shall be side or rear entry. Any garage door(s) on accessory structures shall be side entry unless approved otherwise by the Developer or its assigns.

SECTION NINE. Notwithstanding any other provision herein the Developer may at any time relinquish architectural control and transfer architectural control to the Association (which may thereafter designate its architectural committee) by notifying, the Association, in writing, of the Developer's decision to transfer architectural control.

## ARTICLE IV

### Use Restrictions

SECTION ONE. Land Use. No Lot 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 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 (2 1/2) stories in height, excluding the basement, and which shall contain a private two (2) car garage, or approved fences, pools and related improvements all of which must be approved in advance as provided in Article V.

SECTION TWO. Setbacks. No structure shall be located on any Lot nearer to any Lot line than the maximum building setback lines shown on the Plat, for said respective lot and in compliance with zoning guidelines. A minimum front building setback of fifty feet (50') shall be maintained for all Lots. A minimum twenty five feet (25') side setback along the roadways shall be maintained for all corner Lots or as otherwise identified on the Plat. Homes constructed on the lots that front Nob Hill Road shall face Nob Hill Road.

SECTION THREE. Nuisances. No noxious or offensive trade or activity shall be conducted on any Lot, including but not limited to barking dogs, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

### SECTION FOUR. Use of Other Structures and Vehicles.

(a) No structure of a temporary character shall be permitted on any Lot except temporary tool sheds, field offices, or field sales offices, used by a builder or the Developer, which shall be approved by the Developer and removed when construction or development is completed.

(b) No outbuilding, trailer, recreational vehicle, bus, basement, tent, shack, garage, barn or structure' other than the main residence erected on a Lot shall at any time be used as a residence, temporarily or permanently.

(c) No trailer, recreational vehicle, bus, boat, truck, or commercial vehicle shall be parked or kept on any lot at anytime unless housed in a garage or basement. No automobile, trailer or recreational vehicle, bus, or boat which shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street. No trailer, boat, truck, or any other motorized or non-motorized vehicle, except an automobile, shall be routinely parked on any street in the subdivision. Such occasions shall not exceed twelve (12) hours. All vehicles shall be parked on the driveway or within a garage.

SECTION FIVE. Dish Antennae and Satellite Antennas. Dish antennae and satellite systems shall be allowed only if the dish is no larger than twenty inches (20") in diameter and incorporated into the construction or architecture to be as inconspicuous as may be reasonably possible. The location of any such system shall be subject to the specific approval of the

Developer or the Association. The erection of ham radio, CB towers, TV antenna, cell phone towers, etc. and the like are prohibited.

SECTION SIX. Animals. No animals, including reptiles, livestock or poultry or any kind shall be raised, bred or kept on any Lot. Dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept, provided that they are not kept, bred, or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the Lot occupied by the owner of such pet.

SECTION SEVEN. Clothes Lines. No outside clothes lines shall be erected or placed on any Lot.

SECTION EIGHT. Business Home Occupations. No trade business profession or occupation of any kind shall be conducted on any Lot except that members of the recognized professions in the community may receive the usual ordinary calls at their home. Nothing shall be done on any Lot which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof, 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 six (6) months from completion of the house.

SECTION NINE. Signs. No signs for advertising or for any other purpose shall be displayed on any Lot or on a building or a structure on any Lot except one sign for advertising the sale thereof, which shall not be greater in area than eight (8) square feet. Additional signs, including directional signs, shall not be placed or located within any common area, right-of-way, or entryway within the development. The Developer shall have the right to erect larger signs when advertising the development within the common areas, entryways or right-of-ways. This restriction shall not prohibit placement of occupant name signs and Lot numbers as allowed by applicable zoning regulations. Rental signs shall be prohibited for any property within the development.

SECTION TEN. Garbage and Refuse. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Garbage and refuse shall be placed in suitable containers which shall be concealed and contained within buildings or by means of a screening wall or material similar with that of the building or by sufficient landscaping to provide a permanent screen at all times of the year. No materials, supplies or equipment shall be stored except inside a closed building or behind a visual screen so as not to be visible from streets or lots. No unsightly growth shall be permitted to grow or remain upon any Lot and no refuse pile or other unsightly object shall be allowed to be placed or remain anywhere thereon. In the event any Owner shall fail or refuse after a thirty day notice delivered or mailed, to his last known address to keep his lot free of such unsightly growths or objects, the Developer or the Association may enter upon the Lot and remove the same at the expense of the Owner and such entries shall not be deemed as trespass. Any cost or expense so advanced shall be allowed and become a lien on' the Lot which shall be collectible and enforceable as an unpaid assessment.

SECTION ELEVEN. Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of any Lot, nor any part thereof; any all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

SECTION TWELVE. Alteration. Nothing shall be altered or constructed in or removed from the area designated as a open space/common area for those Lots which adjoin said open space/common area except upon the written consent of the Developer or its assigns.

SECTION THIRTEEN. Repair of Vehicles. No vehicles of any type shall be permanently or semi permanently parked on a Lot for purposes of accomplishing repairs thereto or the reconstructions thereof. This restriction shall also apply to all vehicles not in operating condition regardless of whether or not such vehicles are being operated.

## **ARTICLE V**

### **Exterior Maintenance**

It shall be the duty of each Owner to keep the grass on the Lot properly cut, to keep the Lot free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Vacant Lots shall not be allowed to grow more than 15 inches before mowing is required. Should any Owner fail to do so, then in addition to maintenance upon the area designated as a Landscape areas or easements, the Association shall be authorized to perform exterior maintenance upon each Lot which is subject to assessment hereunder as follows: paint, repair, replace and care for roof, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. In addition, upon the failure of any Lot Owners to comply with any condition or requirement of Article III, Article IV, or this Article V, for actions or failure to act arising prior to vesting of architectural. control in the Association, the Developer may take such action as is necessary to comply therewith, and the Owner on demand shall reimburse Developer. for the expense incurred in so doing. For actions or failure to act arising after architectural control is turned over to the Association by the Developer, all such enforcement provisions shall be vested in the Association who may, by a majority vote, authorize work to remedy the non-complying conditions and add the cost of such work to the assessment to which the subject Lot is subject.

## **ARTICLE VI**

### **Easements**

Permanent easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. A temporary construction easement twenty-five (25) feet to each side of any easement shown on the Plan is reserved for the use of Developer until such time as all improvements in the Subdivision have been dedicated to and accepted by the appropriate governmental authority. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage .channels in the easements.

## **ARTICLE VII**

### **General Provisions**

SECTION ONE. Enforcement. The Association, the Developer, or any Owner shall have the right to enforce by any proceeding, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Developer or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so hereafter.

SECTION TWO. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION THREE. Amendment. This Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than eighty percent (80%) of the Lot Owners, and thereafter by an instrument signed by no less than seventy-five percent (75%) of the Lot Owners, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be recorded and shall only be effective when placed of record in the appropriate public records of Warren County, Kentucky.

SECTION FOUR. Rights and Obligations. Each Grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All future Lot Owners and Occupant shall be subject to and shall comply with the provisions of this Declaration. All rights, benefits, and privileges of every character imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such Grantee in like manner, as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

## **ARTICLE VIII**

### **The Association**

SECTION ONE. Membership. The Owner of any Lot, including the Declarant and the Developer, upon acquiring record title, shall automatically then become a member of the Association and shall remain a member until he is no longer the record title Owner of said Lot for any reason, at which time his membership in the Association shall automatically cease. Membership is mandatory upon acquisition of ownership of a Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot.



## SECTION TWO. Classes of Membership.

- i. Class A: Class A members shall be all Owners, except the Developer prior to termination of its Class B membership. If however, Developer owns one or more Lots upon or after the termination of its Class B membership, then Developer shall become a Class A member.
- ii. Class B: The Class B member shall be the Developer, its successors or assigns. The Class B membership shall terminate and cease upon the first to occur of (i) when all Lots are sold, (ii) the 1<sup>st</sup> day of January 2020, or (iii) when, in its discretion, the Developer so determines.

Class A Voting. Except for matters concerning special assessments and amendments to this Declaration, Class A Members shall not be entitled to vote until the termination of the Class B membership, at which time Class A Members shall be entitled to one vote for each Lot owned. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine but in no event shall there be more than a single vote for each Lot. In the event that joint owners are unable to agree among themselves, then they shall lose their vote.

Class B Voting. Except for special assessments and amendments to this Declaration, the Class B Member (Developer) shall be the only Member entitled to vote in the Association until such time as the Class B membership shall cease.

Special Assessments and Amendments. On all matters concerning a special assessment relating to the Common Areas or Common Use Facilities, or an amendment to this Declaration, the voting shall prior to termination of the Class B membership, be as follows:

- (a) The Class A Members shall have one (1) vote for each Lot owned.
- (b) The Class B Member shall have three (3) votes for each Lot owned.

A simple majority of the votes cast will determine whether a special assessment or amendment to this Declaration shall be come effective.

SECTION THREE. Duties of the Association. In addition to the powers delegated to it by the heretofore mentioned Articles, and without limiting the generality thereof, the Association shall have the obligation to perform each of the following duties.

(a) Operation and Maintenance of the Area and Landscape. To operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of the Area designated as a Common Area or Landscape Area on the Plan. To keep the entrance columns, fence, and all improvements of whatever purpose from time to time located thereon in good order, condition, and repair; and to maintain the same free and clear of obstructions and in a safe condition for use at all times.

(b) Assessments. To levy assessments on the Owners of Lots, and to enforce payment of such assessments.

(c) Rights of Enforcement. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration and to enforce, by mandatory injunction or otherwise, all of the provisions hereof.

## **ARTICLE IX**

### Covenant for Maintenance Assessments

SECTION ONE. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, for each Lot owned, to pay such Assessments as may be assessed hereunder and under the Bylaws of the Association. Any Assessment, when established, shall become a charge with the land, and constitute a lien upon the Lot, together with any reasonable attorney's fees incurred by the Association in connection with the collection and enforcement of same. In the event any assessment remains unpaid for a period of thirty (30) days after written notification from the Association to the Lot Owners the assessment is due, the Association shall be entitled, but not required, to place a Notice of Lien with respect to said assessment on said Lot of record in the Office of the Warren County Court Clerk.

SECTION TWO. Annual Assessments. From and after the date of the sale of the first Lot to anyone other than the Developer, the Association shall set an annual assessment which shall be paid by all Owners, in advance, prorated so that the due date of the assessment for each subsequent year shall be January 1st. No assessment shall be due for the year 2007. The first billing cycle shall be January 1, 2008, for the year of 2008, at which time the first annual assessment shall be set at \$300.00. The annual assessment shall be paid by all Owners, said assessment taking into consideration current costs and those future needs which the Association decides to meet. Developer may increase the annual assessment by not more than Fifty Dollars and No/100 (\$50.00) annually. Developer shall not pay an annual assessment on the Lots it owns.

SECTION THREE. Special Assessments. In addition to the annual assessments authorized herein, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any Association expense deemed reasonably necessary by the Association; provided, however, that any such special assessment shall have the assent of seventy percent (70%) of the Owners present and voting in person or by proxy at an annual or special meeting of the Membership of the Association at which a quorum is present in accordance with Section Five of Article VIII. Such special assessments shall be due and payable on the date or dates which are fixed by the Resolution authorizing such special assessment.

**ARTICLE X**

**Developer's Option to Repurchase Vacant Lot(s)**

Developer's Option to Repurchase Vacant Lot(s). it is in the best interest of September Lakes, LLC be developed as a residential community; accordingly,

- (a) any Lot on which construction has not begun within three (3) years after the date of recording of a deed from the Developer transferring the lot shall be subject to an Option for the Developer to repurchase the Lot(s), for the purchase price specified as consideration thereof in the deed.
- (b) The Option to Repurchase shall be exercised by the Developer by written notice to the record owner, by personal delivery, by certified mail, return receipt requested, or by reputable overnight carrier. Closing of the repurchase shall occur within thirty (30) days of the date of the Developer's notice; and Owner shall remove any liens on the Lot(s) record during Owner's ownership of the Lot(s).

**ARTICLE XI**

Execution by Declarant

September Lakes, LLC has executed this Declaration of Restrictive Covenants because of its ownership interests in the real property constituting September Lakes, for the purpose of subjecting such real property, and their interest therein, to the terms of this Declaration.

This \_ day of \_\_\_\_\_, 2008.

SEPTEMBER LAKES, LLC

By: \_\_\_\_\_  
Name: Tom Pennington  
Title: Member

By: \_\_\_\_\_  
Name: Matthew Cook  
Title: Member

\_\_\_\_\_

COMMONWEALTH OF KENTUCKY

COUNTY OF WARREN

Acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2007, by Tom Pennington and Matthew Cook, Members of September Lakes, LLC, a Kentucky limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

PREPARED BY:

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By: \_\_\_\_\_  
George E. Strickler, Jr.