

**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**OF KENDALLBROOK CROSSING SUBDIVISION**

THIS DECLARATION made on this the 18th day of March, 2010, by MEDINAH PROPERTIES, LLC, a Mississippi Limited Liability Company (the "Declarant");

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real Property located in Lamar County, Mississippi, being more particularly described in Exhibit "A"; and

WHEREAS, the Declarant desires that each time said Properties are sold that all improvements erected thereon, whether by the Declarant or any other Owner, shall comply with the covenants contained herein; and

WHEREAS, the purpose of such Covenants and Restrictions is to enhance the charm and beauty of the surroundings, to insure the proper development and use of each building site within said Property; and, in general, to provide for a high quality of improvement on said Property in accordance with orderly development plans; and

NOW THEREFORE, Declarant does hereby subject the above described property and any parcel or parcels into which the same may be subdivided to the following covenants and does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations, and obligations shall be deemed to run with the land described herein and shall be a benefit and a burden thereto to Declarant, its successors and assigns, and to any person acquiring or owning an interest in the subject Property and improvements, their Grantees, successors, heirs, executors, administrators, devisees and assigns.

## ARTICLE I

### DEFINITIONS

The following words when used herein shall have the following meanings:

- (a) "Assessment" shall mean an Owner's share of the common expenses from time to time assessed upon such Property Owner by the Association.
- (b) "Association" shall mean and refer to Kendallbrook Crossing Homeowners Association.
- (c) "Board of Directors" or the "Board" shall mean and refer to the Board of Directors of the Association.
- (d) "Bylaws" shall mean the bylaws of the Association.
- (e) "Common Area" shall mean all real property, and any improvements thereon owned by the Association for the common use and enjoyment of the Owners.
- (f) "Declarant" shall mean and refer to Medinah Properties, LLC, a Mississippi Limited Liability Company, its successors and assigns.
- (g) "Declaration" shall mean this instrument as it may be from time to time amended.
- (h) "Dwelling" shall mean a single family residential detached house.
- (i) "Green Space" shall mean certain portions of Common Area which may be designated to be maintained in its natural condition.
- (j) "Invitees" shall mean an owner's tenants, guests, employees or other guests or invitees.
- (k) "Lot" shall mean and refer to any Lot, parcel or parcels, tract or tracts of land, exclusive of the common area.

(l) "Member" shall mean and refer to each Owner as provided herein in Article III.

(m) "Owner" or "Property Owner" shall mean and refer to the record owner, whether one or more persons or entities, or a fee or undivided fee interest in any Lot which is part of the Properties, including contract sellers, but excluding those persons or entities who hold an interest merely as security for the performance of an obligation.

(n) "Person" shall mean an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof, including Declarant.

(o) "Property" or "Properties" shall mean and refer to that certain real property described in Exhibit "A", which is subject to this Declaration and to any parcel or parcels into which the same may be subdivided and re-subdivided.

## ARTICLE II.

### PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association, to levy reasonable fees for the use and maintenance of any Common Area; and

(b) the right of the Association, to suspend any Member's voting rights and any Member's rights to use the Common Areas (except rights to use common

roadways) for any period during which any assessment remains unpaid and for any period not exceeding sixty (60) days for each infraction of any of the published rules and regulations of the Association; and

(c) the right of the Association to borrow money for the purpose of improving Common Areas in a manner designed to promote the enjoyment and welfare of the Members, and in aid thereof to mortgage any of the Common Areas; and

(d) the right of the Association to adopt reasonable rules respecting use of Common Areas to reasonably limit the number of guests of Members who may use any facilities on the Property; and

(e) the right of the Association to grant licenses, rights-of-way and easements for the construction, maintenance and repair of any utility lines, whether public or private to any municipal agency or public utility; and

(f) the rights of the Owners of Lots to perpetual easements over and upon any of the Common Areas; and

(g) the right of each Member to use the common roadways; provided, however, that each Member shall comply in all respects with all rules and regulations which are not inconsistent with the provisions of this Declaration and which the Board of Directors may from time to time adopt and promulgate with respect to parking and traffic control upon the Common Areas; and

(h) the right of Declarant or the Association to dedicate or grant to Lamar County or such other governmental authority having jurisdiction over the Property, the common roadways and rights-of-way, and if so dedicated, each Property Owner shall be obligated to join in such dedication.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The Members of the Association shall be and consist of every person who is, or who hereafter becomes, an owner of record of the fee title to a Lot.

Section 2. Voting Rights. The voting rights of the Members shall be as follows, to-wit:

- (a) Each Owner, other than Declarant, of a Lot shall be entitled to one vote for each Lot owned.
- (b) Declarant, its successors or assigns, shall be entitled to seven votes for each lot owned.

Section 3. Memberships Appurtenant to Real Property. In every case, the membership shall be appurtenant to the ownership of a Lot. A membership shall not be held, assigned, transferred, pledged, encumbered, or conveyed in any manner except in conjunction with and as an appurtenance to the ownership, assignment, transfer, pledge, encumbrance or conveyance of the Lot to which the membership is appurtenant.

Section 4. Other Voting Provisions. If the fee title to a particular Lot is owned of record by more than one person or entity, then the vote appurtenant to such Lot may be exercised by any one of the fee owners thereof, unless the other owner or owners of

such fee title shall object prior to the completion of voting upon the particular matter under consideration. In the case of any such objection, the vote appurtenant to said Lot shall not be counted.

#### ARTICLE IV

##### COVENANTS FOR ASSESSMENT

###### Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each parcel which it owns within the Properties, hereby covenants and each Owner of any other parcel or lot of the Property by acceptance of the deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association as follows:

- (a) A regular annual assessment.
- (b) Special assessments for maintenance and improvements as may be desired and required by the Association. Prior to such special assessments being levied, same shall be approved by a majority vote of the members of the Association. A meeting of the members of the association shall be duly called for the purpose of approving any special maintenance or improvement assessment. Provided, however, there shall be no special assessments for maintenance and improvements until at least fifty percent (50%) of the Property has been sold or until two (2) years from the date hereof, whichever is sooner.

Section 2. General. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge upon the Property and shall be a continuing lien upon the lot or parcel or property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such lot or parcel of property at the time when the assessment fell due. No owner shall relieve himself of his personal obligation for delinquent assessments by passing such obligation to his successors in title unless expressly assumed by the successors in title with the written consent and approval of the Board of Directors.

Section 3. Purpose of Assessments. The assessments levied by the Association shall be used to promote the health, safety and welfare of the owners and occupants of the Property to defray all costs incurred in the proper caring for and maintaining the Property as a quality development; and to accomplish the intent of this Declaration. The assessments provided herein shall include, but not be limited to, the costs of providing materials and services to accomplish the following:

- (a) Maintaining, replacing and repairing the common areas within the property.
- (b) Maintaining the landscaping at the common entrance to the property. Constructing and maintaining an aesthetically pleasing common entranceway to the common entrance to the property.
- (c) Maintaining the appearance of entrance markers, identification signs and common roadway markers in a good state of repair.
- (d) General policing of the Property on a regular basis to remove bottles, cans, trash or debris discarded by the public along the streets or roadways.

(e) Paying the costs of insurance premiums on any insurance which the association carries.

(f) Paying all ad valorem taxes and other taxes and fees which may accrue to the association.

(g) Paying all necessary and reasonable costs of administration, management, legal and accounting services connected with the association.

(h) Provide such other services as the association may deem to be in the best interests of the development and the members of the association.

(l) Kendallbrook Crossing Homeowners Association is not organized for profit and no part of the net earning shall inure to the benefit of any member, any director of the association, any officer of the association or any other individual.

Section 4. Assessments are not dues. All assessments herein provided are not intended to be, and shall not be construed as being, in whole or in part, dues for membership in the association.

Section 5. Changes in Assessments. The Board of Directors of the Association may, after consideration of the then current costs of providing services hereinabove enumerated, increase the initial or annual assessments to cover the actual costs of such services. The Board of Directors may also, after consideration of the then current maintenance costs and future needs of the association, fix the regular annual assessment and initial assessment for subsequent years at the lesser amount.

Section 6. Notice and Quorum of Any Action Authorized Under Section 1.

Written notice of any meeting called for the purpose of taking any action authorized under Section 1 shall be sent to all members not less than 10 days nor more



than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the membership shall constitute a quorum.

Section 7. Uniform Rate of Annual and Special Assessments. Both annual and special assessments must be fixed at a uniform rate for all lots unless Members and fifty-one percent (51%) of the Eligible Mortgage Holders have given prior written approval, the Board of Directors of the Association shall not change the pro rata interest or obligations of any Lot (or Owner thereof) for the purposes of levying annual and special assessments and charges. Provided, however, if a Property Owner is responsible for damage to a Common Area such Owner may be assessed at a higher rate to Compensate the Association for repairing said damage.

Section 8. Duties of the Board of Directors with Respect to Assessments.

(a) The Board of Directors shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association.

(b) Written notice of the assessment shall thereupon be delivered or mailed to every owner subject thereto.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; the Lien; Remedies of Association.

(a) If any assessment or any part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment shall, together with such interest thereon

and cost of collection thereof as hereinafter provided, become a continuing lien on the Lot of the non-paying Owner, which lien shall be binding upon such Lot and the Owner thereof, his successors and assigns. The Association shall have the right to reject partial payments of an assessment and demand the full payment thereof. The obligation of the then existing Owner to pay such assessment, however, shall remain his personal obligation and shall not be extinguished by abandonment or by transfer of title. The lien for unpaid assessments shall be unaffected by any sale or assignment of a Lot and shall continue to be in full force and effect.

(b) The Association shall give written notification to the holder(s) of the mortgage on the Lot of the non-paying Owner of such Owner's default in paying any assessment when such default has not been cured within sixty (60) days, if such mortgagee has requested same pursuant to this provisions of this Declaration.

(c) If any assessment or part thereof is not paid within thirty (30) days after the due date, the unpaid amount of such assessment shall bear interest from the date of delinquency at the maximum interest rate per annum which can be charged to individuals and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the Property subject thereof after giving Notice to the Holder of any Recorded First Mortgage. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and attorney's fee to be fixed by the court, together with the costs of the action and/or all costs of foreclosure, including a reasonable attorney's fee.

Section 10. Reserves for Replacements. The Association may establish and maintain a reserve fund for replacement of the Common Areas. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any Recorded 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 assessments thereafter becoming due or from the lien thereof. The Owner and/or his successors and assigns of said lot shall remain personally liable for the payment of said lien.

Section 12. Assessment for Declarant and Homebuilder. Any lot owned by Declarant shall not be subject to assessment. Any lot purchased by a Homebuilder shall not be subject to assessment until 180 days after purchase.

## ARTICLE V.

### GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS OF THE ASSOCIATION

Section 1. Powers and Duties. The Board of Directors shall have all the powers, authorities, and duties necessary or appropriate for the management and

administration of the affairs of the Association. The powers, authorities and duties of the Board of Directors shall include, but shall not be limited to, the following:

(a) To provide for the care and upkeep of the Common Areas and services in a manner consistent with law and the provisions of the By-Laws and this Declaration; and

(b) To provide for the establishment, assessment, collection, use and expenditure of assessments and carrying charges from the Members, and for the filing and enforcement of liens therefore; and

(c) To provide for the designation, hiring and dismissal of the personnel necessary and appropriate for the proper care and maintenance of the Common Areas; and

(d) To provide for the promulgation and enforcement of such rules, regulations, restrictions and requirements as may be deemed proper respecting the use, occupancy and maintenance of the lots, structures and the Common Areas, including but by no means limited to the rules, regulations, restrictions and requirements designed to prevent unreasonable interference with the use of the Common Areas by the Members and others as provided herein; and

(e) To purchase insurance upon the Common Areas; and

(f) To repair, restore or reconstruct all or any part of the Common Areas after any damage, destruction, wear and tear, loss and/or otherwise improve the Common Areas; and

(g) To lease and to grant licenses, easement, rights-of-way, and other rights of use in all or any part of the Common Areas.

## ARTICLE VI.

### INSURANCE

#### Section 1. Association Insurance.

(a) The Association may obtain fire and extended coverage if applicable, and comprehensive public liability insurance in such limits, form and companies, as the Board shall deem advisable to adequately insure the Common Areas and protect the Owners from and against liability in connection with Common Areas.

(b) All costs, charges and premiums for any insurance so authorized and/or purchased by the Board as provided herein shall be a common expense of all Owners and a part of the assessment.

#### Section 2. Owners Insurance.

(a) Each Owner shall keep his property insured all times and shall furnish the Association with proof of such coverage. In every case of a loss due to any fire, act of God or otherwise in which the improvements have not been totally destroyed, each Owner shall promptly repair the improvements. If the improvements have been totally or completely destroyed, Owner shall promptly clean the Lot to a condition acceptable to the Architectural Review Committee. In the event Owner fails to repair the damage or clean the Lot, the Board of Directors, after thirty (30) days written notice may clear the Lot and levy a special assessment against the Lot for all costs incurred in cleaning said Lot. Repair or reconstruction of the improvements as used here shall mean restoring the improvements to substantially the same condition which existed prior to the damage.

(b) Each Owner shall be responsible at his own expense and cost for his own

personal insurance on the contents of his own property and personal property therein and/or thereon, and his personal property stored elsewhere on the properties; and for his personal liability not covered by liability insurance for all Owners obtained as a part of the common expense.

## ARTICLE VII

### AD VALOREM TAXES

Each Owner shall be responsible for and promptly pay ad valorem taxes on his Lot. The Association shall pay the ad valorem taxes on the Common Area.

## ARTICLE VIII

### ARCHITECTURAL CONTROL

#### Section 1. Architectural Review.

(a) No building, fence, wall or other structure shall be commenced, erected, placed, altered or maintained upon the Property, nor shall any remodel, exterior addition to or change or alteration therein be made until the proposed plans and specification showing the nature, kind, shape, height, materials, exterior color or finish, (plot plan showing the proposed location of such building or structure, and drives), landscape plan, and construction schedule shall have been submitted to and approved in writing by the Architectural Review Committee (ARC) designated by the Board. No alteration in the exterior appearance of any building or structure shall be made without like approval from the Architectural Review Committee.

(b) Two (2) copies of all plans and related data shall be furnished to the Architectural Review Committee. One copy shall be retained by the committee and the other copy shall be retained by the Property Owner or Builder marked "Approved" or

"Disapproved". Approval shall be dated and shall not be effective for construction commenced more than twelve (12) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it in writing, approval will not be required and this Article will be deemed to have been fully complied with.

(c) No approval of plans and specifications, and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals or standards shall in no event be construed as representing or guaranteeing that any residence will be built in a good, workmanlike manner. The Board or Committee may require payment of a cash fee, as established from time to time by the Board, to partially compensate for the expense of reviewing plans or related data, at the time they are submitted for review. This paragraph shall not apply to any Property utilized by a governmental agency or institution.

(d) Refusal of approval of plans, specifications, or location may be based by the Architectural Review Committee upon any ground, including purely aesthetic considerations, so long as they are not arbitrary or capricious. Neither the board nor the Architectural Review Committee shall be liable to a Property Owner or to any other person on account of any claim, liability or expense suffered or incurred by or threatened against a Property Owner or such other person arising out of or in any way relating to the subject matter of any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Architectural Review

Committee or public authorities whether given, granted or withheld.

(e) If there is an alteration of the original plans or any exhibit thereto, approval of such alteration must be obtained by the Architectural Review Committee prior to proceeding with the plans as altered.

Section 2. Building Sizes and Locations.

(a) The minimum square feet of living area heated and cooled to be contained within the main house or residential structure constructed on any lot shall be set at a minimum of one thousand four hundred (1,400) square feet.

(b) Front lot line, rear lot line, and side set back limits shall be established by the Architectural Review Committee. In addition, the Architectural Review Committee is authorized to impose different requirements on properties that have a special Scenic View and to establish the location of and the size, in particular, the height, of all structures to be constructed thereon.

(c) No improvements shall be located less than ten (10) feet from any other property line.

Section 3. Topography. The topography of the Property shall not be altered by removal, reduction, excavation, filling or any other means without the prior written approval of the Architectural Review Committee. Written approval will be granted for the minimum amount of earth movement required in plans and specifications approved pursuant to the provisions of the Declaration.

Section 4. Rules and Regulations, etc. The Architectural Review Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted to it for



approval. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The decisions of the Architectural Review Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Committee (or any policy, standard or guideline established by the Committee) may appeal the decision of the Architectural Review Committee to the Board of Directors, and upon written request, such members shall be entitled to a hearing before the Board of Directors.

#### Section 5. Environmental Hazards.

(a) To secure the natural beauty of the Property, the Architectural Review Committee may promulgate and amend from time to time rules and regulations which will govern activities which may, in its judgment, be environmental hazards, such as the application of fertilizers and pesticides or other chemicals. Failure of any Property Owner or tenant of property in Kendallbrook Crossing to comply with the requirements of such rules and regulations shall constitute a breach of this Declaration.

(b) The Declarant hereby reserves unto itself, its successors in title, assigns and agents a perpetual and releasable right on, over and under all property in Kendallbrook Crossing for the purpose of taking any action necessary to effect compliance with such environmental rules and regulations. The cost of such action by the Declarant shall be paid by the respective property owner(s) of the property upon which the work is performed.

Section 6. Committee Appointment and Operation. The Board of Directors shall appoint an Architectural Review Committee which shall be composed of

three (3) or more individuals who shall serve at the pleasure of the Board of Directors, however, Declarant shall be a permanent member of the three (3) member Architectural Review Committee. The affirmative vote of a majority of the members of the Architectural Review Committee shall be required in order to adopt or promulgate any rule or regulation or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Declaration.

## ARTICLE IX.

### EASEMENTS

Section 1. Utility Easements. The Declarant, the Association, and each utility providing service to the Property shall have and is granted or reserved non-exclusive easements and rights-of-way in, through, across, on, over and under the portions of the Property which are not improved with Dwellings, buildings or other structures, including full rights of ingress and egress, for the installation, operation, use maintenance, repair and removal of utilities and drainage facilities and easements located in utility or drainage easements, which are hereby granted and reserved by Declarant herein and the right to remove any obstruction in any utility or drainage easement which may interfere with the use of any utility or drainage easement or with the installation, operation, use, maintenance, repair and removal of such utility or drainage facility.

The Declarant shall have non-exclusive easements and rights-of-way in, through, across, on, over and under the portion of the Common Areas which is not

improved with buildings or structures to store building supplies and materials, install, construct, maintain, reconstruct and repair sewers, water pipes, irrigation pipes, electrical wires or cables, telephone wires or cables, gas lines, storm drains, television cables, underground conduits, and any related improvements or appurtenances and for all other purposes reasonably related to the completion of construction and the provision of utility services to any portion of the Property. Any and all conveyance documents from the Declarant to the Association with respect to the Common Areas shall be conclusively deemed to incorporate the provisions of this Section 1, whether or not specifically contained in such conveyance documents. At the Declarant's request, the Association shall from time to time execute, acknowledge, and deliver to the Declarant such documents as the Declarant considers necessary to implement the provisions of this Section 1.

The reservations and rights in this Section expressly include the right to (i) cut any trees, bushes or shrubbery, (ii) make any gradings of the soil, and (iii) take any other similar action reasonably necessary to provide economical and safe utility and drainage facility installment, repair and maintenance and to maintain reasonable standards of health, safety and appearance.

## ARTICLE X.

### USE RESTRICTIONS

The Property shall be subject to the following use restrictions:

Section 1. Use of Lots and Dwellings. Each Lot and dwelling shall be used for single family residential purposes only. The term "single family residential purposes" as used herein shall be held and construed to exclude among other things,

hospitals, duplex houses, apartment houses, patio homes, churches, playgrounds and parks and to exclude offices, commercial and professional use, except as an office in the home, and these covenants do hereby prohibit such usage for any lot.

Section 2. Exterior Appearances.

(a) Any and all residential dwellings or structures shall be constructed of wood, Hardiboard or similar siding, brick or stucco only. Exterior siding of each home shall be majority brick siding. Aluminum fascia is allowed. Vinyl soffit material is allowed. Vinyl siding is not allowed as an exterior siding. Any and all other structures on any given lot shall be constructed of the same material as the residential dwelling on that particular lot. The use of concrete blocks, asbestos siding, logs or log type material as building materials for an exterior finish is expressly prohibited. Homes must be built on site at each Lot. All types of pre-built homes, including modular, are expressly prohibited.

(b) Each Property Owner shall conceal garbage receptacles and similar storage receptacles in the garage of the home or in the back yard only if it is fenced per the covenants to screen them from view from the road and adjacent properties.

(c) No projections of any type shall be placed or permitted above the roof of any improvement except approved chimneys or vents or other objects as may be approved by the Architectural Review Committee.

(d) All garages must accommodate a minimum of two automobiles and have a door(s) of metal construction. No open carports are allowed. All garages will be finished inside.

(e) No fence, wall, or hedge shall be placed on any of the lots in Kendallbrook Crossing nearer to any street than is permitted for the house on said lot unless

approved in writing by the ARC or the Association. Any fence or wall constructed on any lots will be constructed of a cedar or treated pine "good neighbor fence" running along the lot lines with no fence to be constructed higher than seven (7) feet. All posts must be treated four by four (4"x4") posts and the fence material must be left natural or have a semi-transparent stain. No wire or chain link fencing may be constructed on any lot except upon written consent of the Declarant or the Association. The ARC must approve the style and materials of all fences constructed. Compatible fence materials must be used at common or adjacent lot lines.

(f) All roof shingles must be of a quality of at least "Architect Series" fiberglass with a minimum twenty year (20) warranty.

(g) No home shall be constructed with a roof pitch of less than 8/12 on the main roof structure.

(h) Windows used in the homes may be constructed of aluminum, vinyl or wood with aluminum cladding.

(i) Front yards must be entirely grassed with solid sod. No "checkerboarding" will be allowed. Side and rear yards may be sodded or seeded and strawed. Landscaped flower beds must be installed on the front elevation of the home.

(j) One conforming mailbox for the subdivision will be determined by the Declarant. It shall be the responsibility of the builder of each home to purchase and cause to have installed that particular mailbox. Other mailboxes will not be permitted.

(k) It shall be the responsibility of the builder of the home to install a concrete sidewalk along the entire frontage of each and every street the lot abuts. The sidewalk shall be 48" wide, 3000-psi concrete (with a light broom finish), and placed 24" from the back of the street curb. The 24" space between the curb and sidewalk shall be sodded

like the front yard. The placement of the sidewalk in relationship to back of curb and grade side to side shall not exceed 5%. Only concrete shall be used for sidewalks and driveways.

(l) All shutters on homes shall be constructed of wood or similar materials that appear to be wood. Vinyl shutters are not allowed.

(m) No window or wall type air conditioner shall be permitted to be used, placed, or maintained on or in any structure in Kendallbrook Crossing.

Section 3. Signs. Except for uniform mail boxes and house numbers and such signs as "for sale", "for lease", "open house", or those required by legal proceedings, no signs, advertising or ornaments of any kind shall be maintained or permitted within any windows, on the exterior of any windows located within the development or elsewhere or any portion of the Property by anyone, including, but not limited to, the Property owner, a realtor, contractor, or sub contractor. Notwithstanding the foregoing, these restrictions shall not apply to Declarant, his agents or assigns, so long as Declarant shall own any of the Lots. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within those easement areas established under the Declaration.

Section 4. Other Buildings and Vehicles. No trailer, mobile home or other similar outbuilding or structure shall be placed on any Lot or on any other area at any time. Notwithstanding the foregoing, an outbuilding may be constructed on any Lot, providing that it is constructed of the same material as the primary residence, and provided the

Owner of such lot has obtained the prior written approval of the Architectural Review Committee. Each Owner shall provide for parking for at least two (2) automobiles for each Lot owned. There shall be no parking of vehicles in the streets or yards of the homes or Lots of Kendallbrook Crossing. All recreational equipment, including, but not limited to, trampolines, playscapes and swing sets must be located in the rear yard of the home and enclosed in a fence approved by the ARC. ATVs, UTVs, boats and trailers, and similar items, must be kept in the garage of the home or in the rear yard and enclosed in a fence approved by the ARC. Motor homes and RVs may be parked in the driveway, but only for a period of not more than three (3) days. The Board of Directors shall have authority to promulgate rules and regulations to govern or prohibit the outside storage or parking upon any Lot. No Owner or other occupant of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot, Dwelling or within any portion of the Common Areas, except (i) within enclosed garage or workshops or (ii) for emergency repairs and then only to the extent necessary to enable the movement thereof to a proper repair facility.

Section 5. Unsightly conditions and nuisances.

(a) It shall be the responsibility of each Property Owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on the Property. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property. Nor shall any nuisance or odors be permitted to operate upon or arise from the Property. Noxious or offensive activities shall not be carried on in any Lot, Dwelling or any part of the Common Areas, and each Owner, his family, tenants, invitees, guests, servants and agents shall refrain from any

act or use of a Lot, dwelling or the Common Areas which would cause disorderly, unsightly or unkempt conditions or which would cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Property or which would result in a cancellation of any insurance from any portion of the Property. Any Owner, or his family, tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Property shall be liable to the Association for the actual costs or removal thereof or the sum of two hundred and fifty dollars and no/100 (\$250.00), whichever is greater, and any sum shall be added to and become a part of that portion of the assessment next becoming due to which the Owner and his Lot are subject.

(b) No building materials of any kind or character may be placed or stored upon said property except for a period of three (3) months prior to the time the purchaser of such lot commences improvements. All building materials on said property shall be stored in a neat, orderly manner and said building materials shall be limited to that which is reasonably necessary for the construction of and/or the maintenance of the residence or other outbuildings located thereon.

(c) Outside clotheslines shall not be allowed on any lot.

Section 6. Antennas. Satellite dishes are limited to one per home and shall not be larger than a 20" diameter and shall not be affixed on the front elevation of any home constructed in Kendallbrook Crossing. Antennas, radio receivers and similar devices are prohibited.

Section 7. Pets.



(a) No animals, livestock, or poultry of any kind, shall be raised, bred, kept, staked or pastured on any Lot or in the Common Areas, except dogs, cats, birds or other household pets which shall be kept and maintained in accordance with the rules and regulations adopted from time to time by the Board of Directors or Declarant. Pets shall not be allowed to roam freely away from the Property Owner's Lot. If pets are walked, or if they roam to other Lots to "do their business", it shall be the pet owner's responsibility to collect and dispose of any waste produced by their pet.

(b) No kennels or pens may be constructed or used for the care and housing of a large number of dogs, and the number of dogs regularly housed at the residence of or by the owner shall be limited to two (2), except with the prior consent of the Declarant. Regardless of number, the keeping of said animals shall not be such as to constitute an annoyance, nuisance or danger to any neighbor or lot owner. Dogs that bark incessantly should not be permitted to stay outside for prolonged periods after sundown and before sunrise.

Section 8. Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and his agents, employees, heirs and assigns to maintain and carry on such facilities and activities as may be required for the completion, improvement, and sale of the Property or the development of Lots, dwellings and Common Areas.

Section 9. Trespass. Whenever the Association and/or the Declarant is permitted by the Declaration to repair, clean, preserve, clear out or do any action on any part of the Property, entering any Lot or any portion of the Property and taking such action shall not be deemed a trespass.

Section 10. Subdivided. No Lot shall be subdivided or re-subdivided or its boundary lines changed, except with the written consent of the Board of Directors and the Declarant so long as Declarant owns any Property subject to the Declaration.

Section 11. Sewer system. The sewer system in Kendallbrook Crossing is a low pressure sewer system. Each home will have a grinder pump system that will be installed at the time of construction of the home by, and at the expense of, the builder of the home. This pump will be owned and maintained by the Property Owner of each lot. The specifications for the grinder pump to be installed will be determined by the Declarant.

Section 12. Drainage. Drainage for each individual lot and home site must be handled by adequately sloping all areas so that runoff can be directed to the natural drainage areas or to storm drainage facilities. Runoff from one lot to another will not be permitted. The drainage shall be the responsibility of the Property Owner and/or builder of the home.

## ARTICLE XI

### GENERAL PROVISIONS

Section 1. Duration. The Covenants, Conditions and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Owners of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date hereof, after which time said covenants shall be automatically extended for the successive periods of ten (10) years unless an instrument signed by a majority of the Owners has been recorded in the Deed Records,

in the office of the Chancery Clerk of Lamar County, agreeing to abolish the said covenants, conditions and restrictions in whole or a substantial portion thereof; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

Section 2. Amendments. Notwithstanding Section 1 of this Article, the Covenants, Conditions and Restrictions of this Declaration may be amended by the Declarant prior to March 18, 2020; thereafter, subject to the provisions of Section 8 of these Articles, said covenants and this declaration may be amended or terminated with the consent of fifty-one percent (51%) of the owners, and in each case such amendment shall be evidenced by a document in writing bearing the signatures of such Owners. All amendments, if any, shall be recorded in the Office of the Chancery Clerk of Lamar County, Mississippi.

Section 3. Enforcement of Declaration.

- (A) Compliance. If any provision of this Declaration is breached or violated or threatened to be breached or violated by any owner or other persons, then each of the other owners, the Declarant, and/or the Association, jointly or severally, shall have the right, but not the obligation to proceed at law or in equity to compel a compliance with, or to prevent the threatened violation or breach of, the provisions of this Declaration. If any structure or other improvement located on any portion of the property, including any lot, violates any provision of this Declaration, then the Declarant and/or the Association, jointly or severally, shall have the right, but not the obligation, to enter upon any portion of the property, including any

lot, abate, or remove such structure or such other improvement at the cost and expense of owners of the lot where such structure or improvements is located or who otherwise causes such violation, if the violation is not corrected by such owners within thirty days after written notice of such violation. Any person entitled to file or maintain a legal action or proceeding for the actual threatened violation or breach of this Declaration shall be entitled to recover attorney's fees and other costs and expenses attributable to such action or proceeding, and the Association shall be entitled to recover and receive any other amounts specified in Section 9 of Article IV. Any such entry and abatement or removal shall not be deemed to be a trespass. The failure by any person for any period of time to enforce any provision of this Declaration shall not be or be deemed a waiver of the right to enforce or otherwise bar or affect the enforcement of any and all provisions for this Declaration at any time, including any future time.

The following is hereby added to paragraph (A):

1. Initial courtesy notice of the violation shall be sent via certified mail, return receipt requested to the violator. This initial courtesy notice will advise the owner
  - of the specific violation
  - request compliance with the declaration within ten days of receipt
  - advise the owner that their membership privileges of voting

and use of the amenities will be revoked until the violation is remedied and , if the violation is remedied, no further action shall be taken and no fine shall be levied against the owner.

2. Second Notice. If the violation continues to exist after ten days of the receipt of the signed receipt of the courtesy notice, a second notice shall be mailed via certified mail, return receipt requested. The notice will:
  - advise the owner of the specific violation
  - request immediate compliance with the declaration
  - advise the owner of the (Right of Appeal) before the Advisory Board (See appeals process below) and
  - if the Advisory Board denies the appeal, a fine of \$100.00 will be levied if not remedied within ten days following the date of the appeal hearing decision.
3. Third Notice. If the violation of the Declaration still exists after thirty days following the appeal hearing decision, another notice will be sent via certified mail, return receipt requested. A fine of \$200.00 will be assessed and will be due immediately upon receipt of the third notice. The owner also will be notified at such time that if the violation is not remedied an additional fine of \$1,000.00 will be assessed.
4. Fourth Notice. If the violation of the Declaration still exists, a fourth notice will be sent via certified mail, return receipt requested. A fine of \$1,000.00 will be assessed and will be

due immediately upon receipt of the fourth notice. The owner will be notified that if the violation is not remedied the Board may, initiate legal proceedings to seek an injunction for the correction of the violation, collect any unpaid fines, collect attorney's fees and costs, and any other relief that may be appropriate in the circumstances. The fines may continue to be assessed and levied during the pendency of such legal proceedings.

(C) Appeals Process.

- (1) When the second notice of the violation of the Declaration is sent to an owner, the notice will include a statement notifying the owner of a "Right to Appeal" in the appeals process.
- (2) To appeal, the owner must send the property management company a written request for an appeals hearing. Request for an appeals hearing must be received within ten days of the receipt of the second notice.
- (3) Owner will be given ten days written notice of date of the appeal hearing.
- (4) Owner will be given twenty minutes to present their case.
- (5) Any appeal must demonstrate extenuating circumstances, which require deviation from the Declaration.
- (6) The appeal shall include all pertinent information to support the existence of said extenuating circumstances.
- (7) Each board member shall have an opportunity to ask

specific questions.

- (8) Upon completion of the question and answer period, the Board president will state that the appeal has been heard and the Board will make their decision in a closed session.
- (9) Written notice of the decision will be given to the owner within ten business days following the appeal hearing.
- (10) All decisions of the Board are final and may not be appealed further. If the appeal is denied, the owner must bring the violation into compliance with the declaration within ten days of the Board's notice of decision and to avoid further fines.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 5. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 6. Notices to Owner. Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 7. Lender's Notices. Upon written request to the Association, identifying the name and address of the holder or insurer and the Lot or address, any mortgage holder or insurer will be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage.

(b) Any sixty (60) days delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage.

(c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action that requires the consent of a specified percentage of mortgage holders.

Section 8. Consent of Eligible Mortgage Holders. The Owners, or the Board of Directors, or the Association, by any act or omission, shall not do any of the following without the prior written consent and approval of the holders of fifty-one percent (51%) of the holders of outstanding Recorded First Mortgages who have requested notice from the Association of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders:

(a) Abandon, partition, subdivide, encumber, sell or transfer any of the Common Area provided, however, that the granting of rights of way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area by the Owners shall not be considered an encumbrance, sale or transfer within the meaning of this Subsection;

(b) Abandon or terminate this Declaration; or



- (c) Modify or amend any material or substantive provision of this Declaration.

A change to any of the following would be considered as material:

- (i) Voting rights;
- (ii) Assessments, assessment liens, or subordination of assessment liens;
- (iii) Reserves for maintenance, repair, and replacement of Common Areas;
- (iv) Responsibility for maintenance and repairs;
- (v) Reallocation of interests in the Common Areas or Limited Common Areas, or rights to their use;
- (vi) Convertibility of Lots into Common Areas or Common Areas into Lots, except as reserved by the Declarant under Article XII;
- (vii) Insurance or fidelity bonds;
- (viii) Imposition of any restriction on an Owner's right to sell or transfer his or her Lot;
- (ix) Any provisions that expressly benefit Mortgages or insurers.

Section 9. Additional Rights of Eligible Mortgage Holders – Notice.

(a) The Association shall promptly notify any Eligible Mortgage holder on any Lot, which such holder is the holder of a Recorded First Mortgage as to any assessment levied pursuant to the Declaration, or any installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days, and the Association shall promptly notify such holder on any Lot as to which there is default by the Owner with respect to performance of any other obligation under this Declaration which remains

uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any Recorded First Mortgage on any Lot, and the protection extended in this Declaration to the holder of any such Mortgage shall not be altered, modified or diminished by reason of such failure. Also, any failure to give any such notice shall not affect the validity of the lien for any assessment levied pursuant to this Declaration, nor shall any such failure affect any of the priorities for liens as specified in Article IV hereof.

(b) No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days' written notice to the holder of the Recorded First Mortgage encumbering the Lot which is the subject matter of such suit or proceeding.

(c) Any holder of a Recorded First Mortgage on any Lot upon the Property may pay taxes, utility charges or other charges levied against the Common Area which are in default and which may or have become a charge or lien against any of the Common Area. Any holder of a Recorded First Mortgage who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Owners.

(d) No mortgagee and no beneficiary or trustee under a deed of trust shall become personally liable for or obligated for any unpaid maintenance fund assessment.

(e) No amendment to this Declaration shall affect the rights of the holder of any Recorded First Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof.

(f) The holders, insurers or guarantors of any Recorded First Mortgage on a

Lot who have requested the Association in writing will be entitled to: (i) inspect the books and records of the property during normal business hours; (ii) receive an annual financial statement of the project within ninety (90) days following the end of any fiscal year of the project; (iii) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings; and (iv) current copies of this Declaration, the Bylaws of the Association and all other rules concerning the project.

Section 10. Captions. The captions contained in this Declaration are for convenience only are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration.

Section 11. Record of Mortgage. Any holder of a Recorded First Mortgage shall be entitled to notify the Association that such mortgagee holds a mortgage on a Lot. The Board of Directors shall maintain such information in a book entitled "Holders of Recorded First Mortgages."

Section 12. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered forty-eight hours after a copy of the same has been deposited in the United States mail, post pre-paid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association; provided, however, that notice of meetings need not be mailed by Certified Mail, Return Receipt Requested. Such addresses may be changed from time to time by notice in writing to the Association.

## ARTICLE XII

### DECLARANT'S RIGHTS AND RESERVATIONS

Section 1. Declarant's Rights and Reservations. No provisions in the Charter, By-laws or this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to subdivide or resubdivide any portions of the Property, or to complete improvements (if any) to and on the Common Area or any portion of the Property owned by Declarant or to alter the foregoing or to construct such additional improvements as Declarant deems advisable in the course of development of the Property. Such right shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary for the conduct of its business for completing the work and disposing of the lots by sale, lease or otherwise. Each Owner by accepting a deed to a lot hereby acknowledges that the activities of Declarant may temporarily or permanently constitute an inconvenience or nuisance to the Owners, and each Owner hereby consents to such inconvenience or nuisance. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title to a lot by a purchaser from Declarant to establish on that lot, Common Areas, additional licenses, easements, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the property. The Declarant need not seek or obtain Board approval of any improvement constructed or placed by Declarant on any portion of the Property. The rights of Declarant under this Declaration may be assigned by Declarant to any successor and any interest or portion of Declarant's interest in any portion of the Property by a recorded, written assignment. Notwithstanding any other provision of this

Declaration, the prior written approval of Declarant, will be required before any amendment to this Article shall be effective while Declarant owns a lot.

NOW, THEREFORE, Declarant declares that all lots and homes transferred, sold, conveyed and occupied in the Kendallbrook Crossing Subdivision shall be subject to the covenants, conditions, restrictions, easements, charges and liens as set forth in the Declaration of Covenants and Restrictions of Kendallbrook Crossing Subdivision.

WITNESS THE SIGNATURE OF THE DECLARANT on the date and year first above written.

DECLARANT

MEDINAH PROPERTIES, LLC, a Mississippi  
Limited Liability Company

By: \_\_\_\_\_  
J. K. McBrayer, Member

STATE OF MISSISSIPPI

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, within my jurisdiction, the within named J. K. McBrayer, who acknowledged that he is a Member of Medinah Properties, LLC, a Mississippi Limited Liability Company, and that for and on behalf of the said Limited Liability Company, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said Limited Liability Company so to do.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES:

\_\_\_\_\_

*damp\covenant\Medinah Properties Covenants (103)*