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DECLARATION OF EASEMENTS, COVENANTS  
AND RESTRICTIONS

NELSON COUNTY INDUSTRIAL PARK

BARDSTOWN, KENTUCKY

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Of Public Record In  
Deed Book \_\_\_\_\_, Page \_\_\_\_\_,  
Office of the Clerk of Nelson County, Kentucky.

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TABLE OF CONTENTS

1.0 RECITALS, PURPOSE & ADMINISTRATIVE AUTHORITY.....1

2.0 DEFINITIONS.....2

3.0 PLANS SUBMITTALS AND APPROVALS.....4

4.0 USES AND OPERATIONS.....7

5.0 DEVELOPMENT STANDARDS.....9

6.0 ENFORCEMENT.....14

7.0 MODIFICATION, REPEAL AND ASSIGNMENT.....15

8.0 RIGHT OF REPURCHASE.....16

9.0 EXCEPTIONS AND MODIFICATIONS.....17

10.0 MISCELLANEOUS PROVISIONS.....17

## NELSON COUNTY INDUSTRIAL PARK

### DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (“Declaration”), is made, entered into and effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by the NELSON COUNTY FISCAL COURT, KENTUCKY, a Kentucky municipal corporation (hereinafter referred to as the “Declarant”);

#### 1.0 RECITALS, PURPOSE & ADMINISTRATIVE AUTHORITY

##### 1.01 Property Ownership

Declarant is the owner of certain real property located in the County of Nelson, Commonwealth of Kentucky more particularly described on the Plat thereof designated Nelson County Industrial Park, Phase 1, appearing of record in Plat Cabinet \_\_\_\_\_, Slot \_\_\_\_\_, in the Office of the Clerk of Nelson County, Kentucky, and which property is to be known and identified as the Nelson County Industrial Park, Phase I (hereinafter referred to as the “Park”).

Being a portion of the property acquired by Nelson Fiscal Court from Barr Schular, by Deed dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

##### 1.02 Purpose

In order to establish a general plan for the design, development and improvement of the Park, and to protect and enhance the development, use, desirability and value of the Park for the public, Declarant desires to subject the Park to certain covenants, conditions and restrictions upon and subject to which all of the property in the Park shall be held, transferred, sold, leased, improved, conveyed and occupied.

##### 1.03 Establishment of Restrictions

The Declarant does hereby declare that the real estate comprising the Nelson County Industrial Park, Phase 1, shall hereafter be owned, held, used, transferred, sold, leased, conveyed, improved and occupied subject to the covenants, conditions, restrictions and other provisions set forth in this Declaration.

##### 1.04 Architectural & Process Review

The Declarant has appointed the Bardstown Industrial Development Corporation, acting by and through its duly authorized officers, agents and employees, as

Declarant's representative to act in matters relating to this Declaration, except for those matters specifically reserved for action solely by the Declarant.

1.05 Additions to Park; Adjacent Property Excluded

The real property subject to this Declaration is a portion of a larger area of land owned by, or which may be acquired by, Declarant and which Declarant may also develop as a portion of the Park. Declarant hereby reserves the right, from time to time, to cause separate and additional covenants, conditions and restrictions, similar to or different from those imposed by this Declaration, to be filed with respect to such other portions of the remaining land owned by Declarant and, in addition, to annex into or remove all or any part of such other area from the Park. Property adjacent to the Park and owned by Declarant shall not be subjected to this Declaration or any other restriction until such time as Declarant, in the exercise of its sole and absolute discretion, may record a Declaration of Annexation, or a separate declaration of covenants, conditions and restrictions, all in such form as Declarant may deem appropriate.

1.06 Authority & Responsibilities of the Declarant's Designated Representative

The Declarant's representative identified in Section 1.04 above (hereinafter sometimes referred to as the "Declarant's Representative") shall be responsible for the review, modification, approval, approval subject to conditions, and disapproval of any and all actions, activities and submittals required by this Declaration. Further, the Designated Representative shall have the authority to (i) require modifications to, or additional information in connection with, any and all actions, activities and submittals required; (ii) to make the determinations and grant the exceptions, extensions, modifications and approvals provided for herein; (iii) take the enforcement actions as set forth in this Declaration or provided by applicable law; and, (iv) to otherwise act on behalf of the Declarant in ensuring compliance with the covenants, conditions, restrictions and other requirements set forth herein. All references in this Declaration to the "Declarant" shall mean and include the Declarant's Representative unless expressly provided otherwise, or the context clearly requires otherwise. The Designated Representative shall report its actions and activities concerning the Park to the Declarant as circumstances dictate.

2.0 DEFINITIONS

2.01 "Building" shall mean any structure, which encloses, in whole or in part, space for sheltering any use or occupancy.

2.02 "Declarant" shall mean Nelson Fiscal Court, its successors and assigns. The term "Declarant" as used throughout this Declaration herein shall also be deemed to mean and include the Designated Representative and all subsequent assignees of the Declarant and its designated representative, successors and assigns.

- 2.03 “Declarant’s Representative” shall mean the Bardstown Industrial Development Corporation, and its lawful successors and assigns.
- 2.04 “Enclosure” shall include any structure constructed to hold or house material or screen material, machinery, equipment, storage bins, tanks and other improvements from view.
- 2.05 “Front of Building” shall mean the exterior elevation of a building that faces the public street or, in the event of a building that has more than one exterior elevation facing a public street, the exterior elevation on which the main entrance used by visitors to the building is located.
- 2.06 “Gross Floor Area” shall mean the sum of the horizontal area included within the boundary lines of any particular lot or parcel of land within the Park.
- 2.07 “Gross Lot Area” shall mean the total horizontal area included with the boundary lines of any particular lot or parcel of land within the Park.
- 2.08 “Extremely Hazardous Substance” shall mean those substances which are subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA), 40 CFR Part 302, and amendments thereto, and whose quantity at any single point in time equals or is greater than the Threshold Planning Quantity for such substance identified in Appendices A and B of 40 CFR Part 355, as the same may be amended from time to time.
- 2.09 “Improvements” shall mean all changes made to a lot to include, among other things and without limitation, all buildings, enclosures, storage containers, parking areas, driveways, utilities, trackage, fences, screening walls, retaining walls, loading areas and facilities, plantings, berms, lawns, retaining ponds, drainage features, landscaping, signs, lighting equipment and any structures of any kind or type.
- 2.10 Nelson County Industrial Park or “Park” shall mean that certain real property in or near the City of Bardstown, County of Nelson, Commonwealth of Kentucky described in Section 1.01 of this Declaration above, as the same may hereafter be expanded or reduced in accordance with Section 1.05 or other applicable law.
- 2.11 “Lot” shall mean a recorded parcel of land located within the Park under one ownership.
- 2.12 “Lot Boundary Line” shall mean the horizontal limits of a lot.
- 2.13 “Material Safety Data Sheet” shall mean that form required for submission to the Local Emergency Planning Committee under the Federal Emergency Planning and Community Right to Know Act and designed in accordance with the Federal

Hazard Community Rule, 29 CFR part 1910.1200, and other applicable law, as the same may be amended from time to time.

- 2.14 “Occupant” shall mean and include any person or entity which occupies, purchases, leases, rents or is otherwise licensed or regularly entitled to occupy and/or use any lot and/or improvement on any lot as well as such person’s or entity’s heirs, successors and assigns in interest.
- 2.15 “Parking Area” shall mean an area other than a street or driveway used for the parking of vehicles when not in use.
- 2.16 “Property Development Plan” shall mean a plan submitted by an owner and/or operator of property within the Park conforming to the requirements set forth in Section 3.02 and elsewhere in this Declaration.
- 2.17 “Setback” shall mean the required distance, and the land resulting therefrom, between a lot line and the closest possible building line of a conforming structure.
- 2.18 “Structure” shall mean anything constructed, erected or place with a fixed location on the ground or attached to something having a fixed location on the ground.
- 2.19 “Use” shall mean the purpose for which land, buildings, structures and other improvements are designed, arranged, used, occupied or intended to be occupied or utilized.

### 3.0 PLANS SUBMITTALS AND APPROVALS

#### 3.01 Approval Required

No improvements shall be constructed, installed, erected, placed, altered, modified, maintained or permitted to remain on any lot or parcel of land located within the Park until a “Property Development Plan” conforming to the requirements of this Declaration shall have been submitted to and approved in writing by the Declarant. Piecemeal submission of a Property Development Plan and related documentation is discouraged except in extraordinary situation and may constitute grounds for rejection.

#### 3.02 Plan Submittal

The Property Development Plan contemplated by Section 3.01 of this Declaration above shall be submitted in writing over the signature of the owner, and if applicable the operator or occupant of the real property within the Park, and shall include and adequately described, but shall not be limited to, the following:

- (1) All Improvements, Buildings and Structures, to include:
  - a. Blueprints of all improvements, buildings and structures
  - b. Overhangs
  - c. Site coverage
  - d. Building coverage
  - e. A brief description of the use of each improvement, building or structure
  - f. A completed Material Safety Data Sheet for each extremely hazardous substance proposed to be stored, handled, located or generated within the Park or in a building, structure or storage facility.
  
- (2) Driveways, Access Roads and Parking areas, to include:
  - a. The location and configuration of all driveways, access roads, parking areas and vehicle circulation routes.
  - b. The total number of parking spaces provided for each type of parking (visitor, handicapped, truck, employees, etc.) and the ratio of the number of employees working during the largest shift to the number of employee parking spaces.
  
- (3) Loading and services areas, to include:
  - a. Truck parking
  - b. Outdoor vehicle maintenance areas
  - c. Loading dock/ramp areas
  - d. Rail spurs
  - e. Outdoor trash and recyclable materials storage areas
  - f. Screening devices/enclosures
  - g. Underground and above-ground (outdoor) storage tanks and the identity of all substances that will be contained in the same.
  
- (4) Interfaces between on-site and off-site pedestrian and vehicle circulation routes.
  
- (5) Interfaces with adjacent properties.
  
- (6) Conceptual and final on-site grading, drainage and utility plans.
  
- (7) A sketch or sketches of improvements, buildings and structures and identification of exterior materials and finishes to be used in their construction.
  
- (8) Location and type of all plantings.

- (9) Exterior signs.
- (10) Such other information, plans, drawings, designs and specifications as shall be required by the Declarant in the exercise of its sole and absolute discretion.

### 3.03 Changes in the Approved Plan

Any change in a Property Development Plan or related specifications previously approved by the Declarant must also be submitted to and approved in writing by the Declarant.

### 3.04 Basis for Approval

Approval of the Property Development Plan by Declarant shall be based, among other things, on adherence to state and local codes, ordinances, rules and regulations; adherence to the requirements and restrictions contained in this Declaration; conformity and harmony of external design, aesthetics and materials with neighboring structures, improvements, operations and uses; impact on neighboring lots of the location and uses of the proposed improvements; the relation of finished ground elevations; topography and grade of the lot being improved to that of neighboring lots and improvements; the property facing and orientation of the front exterior elevation of all buildings with respect to nearby streets; the anticipated and potential environmental impact of the uses to be located on any lot; and, the conformity of the plans and specifications to the goals and objectives of the Declarant and the purposes of this Declaration.

### 3.05 Submittal and Approval Schedule

A response by the Declarant to the submission of a proposed Property Development Plan or other instrument required to be submitted for approval, or portion thereof applicable to the improvement in question, in the form of any approval, conditional approval, disapproval, request for additional information or clarification, notice of deficiency, or requirement for a change in the plan, must be provided to the person or entity submitting such Plan within thirty (30) days of its receipt by the Declarant; or fifteen (15) days in the case of on-site grading and drainage plans. Should the Declarant not respond within the time period(s) set forth above, it shall be conclusively presumed that the Declarant has approved the plan, or portion thereof submitted, subject in all cases, however, to the restrictions contained in Section 4.0 and Section 5.0 of this Declaration. Provided further, however, that the Declarant shall have the right and authority to give written notice that one (1) additional 30-days period (or 15-day period in this case of on-site grading and drainage plans) will be required for the examination and review of such plans, specifications and other instruments, and in such event there shall be no presumption of approval until the expiration of such additional period.

### 3.06 Conflict with Governmental Regulations

These covenants and restrictions and any associated approvals, modifications or exemptions are in no way intended to supersede or operate as a substitute for any applicable statutes, codes, ordinances, rules, regulations or procedures of controlling governmental jurisdictions and the approval of a developer's plans, specifications, calculations or work by the Declarant shall not constitute an implication, representation or certification that the above items are in compliance with applicable statutes, codes, ordinances, rules, regulations or procedures. However, where the provisions of this Declaration are more restrictive than an applicable statute, code, ordinance, rule, regulation or procedure, this Declaration will govern the development of the property. The owner, lessee and /or occupant of the subject property, as applicable, have the sole and exclusive responsibility for compliance with all applicable statutes, codes, ordinances, rules, regulations and procedures.

## 4.0 USES AND OPERATIONS

### 4.01 Permitted Uses and Operations

- (1) Use of the property shall be limited to those manufacturing, packaging, distribution and warehouse operations that are allowed in what is designated in the Zoning Regulations for Bardstown, Bloomfield, Fairfield, New Haven and Nelson County, Kentucky (the "Zoning Regulations") as I-1, Light Industrial District, a true and correct copy of which Zoning Regulations are attached hereto, incorporated herein by this reference, and designated as Exhibit "A" to this Declaration. Other uses allowed within the I-1 Light Industrial Park classification of the aforementioned Zoning Regulations may be permitted if determined in writing by the Declarant, in the exercise of its sole and absolute discretion, to be compatible with the aforementioned permitted uses.
- (2) Retail operations are not permitted within the Park except to the extent that the same are incidental to a primary permitted use and approved by Declarant.
- (3) Educational, training or emergency service facilities are permitted uses if determined by the Declarant in writing to be supportive of and compatible with the other uses permitted in the Park.

### 4.02 Outside Activities

- (1) All activities related to a permitted use or uses shall be conducted wholly within the improvements on the premises, including any storage of raw materials, products, packaging materials, and machinery, but excluding any mechanical equipment or other facilities related to the delivery of utilities, air circulation, air conditioning or heating within the plant; or the treatment of

any environmental pollutants that may be generated by the operations. When machinery and equipment is being installed or removed, temporary outside storage of the machinery and equipment shall not exceed forty-eight (48) hours without the prior written approval of the Declarant.

- (2) An exception to the provisions set forth in Section 4.02(1) above may be granted by the Declarant upon a showing by the owner, operator, lessee or occupant that the materials, products or machinery will be sufficiently screened to block visibility from anywhere outside of the lot on which the same is located. Should the owner, lessee or occupant wish to use some type of planting that will not initially provide for the required screening, a temporary method of providing screening, approved in writing by the Declarant, shall be used until the planting is of a size and density that provides required screening. All loading and unloading areas located within the Park shall be approved by Declarant.

#### 4.03 Environmental Pollution Controls

- (1) No operation or use shall be permitted or maintained with the Park which in any manner constitutes a nuisance of any kind extending beyond the lot boundary lines, or which is reasonably objectionable to the Declarant, including, but not limited to, unsightliness, glare, vibration, noise, sound or the emission of objectionable odors, dust, dirt, fumes, noxious or toxic gases or fumes, smoke, fly ash, vibration, interference with electrical service and/or radio and television broadcasts, or other emission or activity extending beyond the lot boundary lines of the lot on which such use is located.
- (2) No operation or use shall be permitted or maintained within the Park which causes, produces or results in any release, discharge or condition outside of the improvements on a lot involving noxious, toxic or corrosive fumes, radiation or hazardous chemical or biological agents.
- (3) No operation or use shall be permitted or maintained within the Park which, in the event of equipment failure, accident, human error or act of God, involves a potential for release, discharge or other condition that, in the opinion of applicable local, state or federal emergency agencies, or the Declarant in the exercise of its sole and absolute discretion, exceeds the ability of the owner, tenant, operator, occupant or appropriate emergency agency to protect the safety and health of employees and the public.

#### 4.04 Subdivision of Lot

No lot or parcel of land within the Park shall be further subdivided, or its boundary lines changes, without the prior written approval of the Declarant.

#### 4.05 Maintenance of Premises

Each owner, lessee, operator and/or occupant of any lot in the Park shall at all times maintain the premises, lot and all improvements thereon in a safe, clean, healthful and attractive condition and comply, in all respects, with all governmental, safety, health, fire and police laws, ordinances, rules, regulations, requirements and procedures. All owners, lessees, operators and occupants shall, at their expense, remove all trash, waste, industrial waste, garbage, excess dirt, fallen trees, undergrowth unused construction materials and any other unsightly materials, rubbish or debris of any character whatsoever from the Park. Lawns and shrubbery shall be kept neatly mown and trimmed and planters will be kept filled with appropriate plantings.

#### 4.06 Access Limitations

No path, passage, road, or way of ingress or egress shall be constructed or permitted to or from any real estate included in the Park, except those entrances, roads and rights-of-way created or approved in writing by the Declarant as streets, and those driveways to individual lots as are approved by the Declarant.

### 5.0 DEVELOPMENT STANDARDS

#### 5.01 Purpose

The following site planning and development standards are established in order to ensure that the Park is developed as a high-quality light industrial park and that the investments and properties of Park owners and occupants are protected from encroachment of inappropriate or substandard neighboring developments.

#### 5.02 Building Coverage

The total Gross Floor Area coverage of all buildings located upon any lot within the Park, including accessory buildings and enclosed storage areas, but not including vehicle parking areas, driveways, railroad spurs and utility service areas, shall not exceed fifty percent (50%) of the Gross Lot Area.

#### 5.03 Building Heights

The maximum height of any building located in the Park shall not exceed fifty feet (50') unless otherwise approved in writing by the Declarant in the exercise of its sole and absolute discretion.

#### 5.04 Setbacks

(1) No building or other structure of any kind, or any appurtenance to a structure, shall be placed any nearer on any site or lot to a lot boundary line than is specified as follows:

- a. For buildings or other structures of less than fifty thousand square feet in Gross Floor Area;
  - i. Seventy-five feet from the front of building to the front lot boundary line, of which the first twenty-five feet from the lot boundary line must be green space.
  - ii. Fifty feet from the side and rear lot boundary lines, of which the first twenty-five feet from the lot boundary line must be green space.
- b. For buildings and other structures of more than fifty thousand square feet in Gross Floor Area;
  - i. One hundred feet from the front of building to the front lot boundary line, of which the first fifty feet from the lot boundary line must be green space.
  - ii. Seventy-five feet from the side and rear lot boundary lines, of which the first fifty feet from the lot boundary line must be green space.

(2) Improvements which are allowed to be placed in a setback area include landscaping, steps and walks, planters, railroad spurs, driveways, direction and traffic control signs, and fences in side and rear setbacks only. Parking lots, utility service areas and business identification signs may be placed in the setback area, but not within the green space portion. Driveways and railroad spurs may be placed in the green space portion of the setback area only to the extent reasonably required for access, but in any such event must cross such area in as direct a manner as is appropriate for the functional and attractive development of the property.

#### 5.05 Utilities

(1) A minimum of twenty-foot width utility easements must be provided and maintained along the inside of all lot boundary lines.

(2) All lot owners, lessees, operators and occupants of real property within the Park shall, at their expense, connect to and use municipal sewer service to dispose of all sanitary and process sewage, at such time and to the extent such

service is reasonably available to a lot within the Park. For purposes of this Section 5.05, municipal sewer service is reasonably available to a lot within the Park. For purposes of this Section 5.05, municipal sewer service shall be deemed to be reasonably available to a lot within the Park (triggering the aforementioned obligation to connect to and use the same within sixty (60) feet of the lot boundary line for such lot.

- (3) All utility lines extending to any improvement on a lot within the Park including electrical, telephone, gas, water, sewer and cable television, shall be install, constructed, placed and maintained underground.

#### 5.06 Building Exterior

- (1) The design of the exterior elevations of any improvement, building or structure to be built in the Park and the construction materials to be used must be approved in writing by the Declarant prior to the state of construction.
- (2) All exterior wall elevations of buildings and other structures are to have architectural treatment with colors, materials and finishes coordinated to achieve unity of design.
- (3) All office spaces and the entire front of any building shall be constructed primarily of brick, stone, masonry or decorative concrete block, as approved by Declarant. A design which incorporates metal, vinyl or building materials other than brick, stone or block as decorative treatment or to tie-in the office or front façade with the remainder of the building must identify the type and location of these materials on the Design Plan, and shall require the prior written approval of Declarant.

#### 5.07 Temporary Structures

- (1) Temporary structures such as mobile offices and classrooms, portable toilets or equipment or trailers may be placed on a lot only while the permanent structure is being constructed, renovated or expanded. Such temporary structures and surroundings shall be maintained in a clean, neat and safe manner and shall be completely removed upon the completion of the permanent structure.
- (2) Temporary toilet facilities shall be provided on the construction site by the owner, lessee, occupant or their contractor for all workers during the construction of any and all improvements, unless sufficient facilities of this type are otherwise available for use upon the lot.

#### 5.08 Parking Areas, Driveways & Traffic Flow

- (1) All driveways, parking areas, and loading and unloading areas shall be paved with asphalt, concrete, or such other durable year-round surface materials as may be approved in writing by the Declarant.
- (2) Parking is not permitted on any roadway, street or driveway in the Park, or on any portion of a lot not paved and designated by the approved Property Development Plan for parking.
- (3) Adequate Parking shall be provided on site by the owner, operator, lessee or occupant to accommodate all parking needs for employees, visitors, trucks, trailers (whether loaded or empty) and any other vehicles which may enter upon the property. The types of outdoor lights and lighting fixtures must be approved by Declarant.
- (4) The Declarant retains the right to regulate and control the traffic flow (including the direction thereof) on the public roadways, streets and major roads located within the Park.

#### 5.09 Landscaping

- (1) Every lot on which a structure is to be built or placed shall be landscaped in accordance with a plan submitted and approved as specified in this Declaration, and thereafter such landscaping shall be maintained in a safe, attractive, well-kept and manicured condition.
- (2) The Property Development Plan shall also include the location and specifications of all sidewalks, driveways and parking areas; the location and type of outdoor lighting; the location and design of all signage; the location and specifications of all berms, drainage features and holding ponds; the location and specifications of all planters; and, the location and types of all plantings.
- (3) The owner, operator, lessee and/or occupant of a lot shall be responsible for keeping any right-of-way between their lot boundary line and any public street moved and free of trash or obstruction.
- (4) Landscaping shall be completed within ninety (90) days of occupancy of any building, unless seasonal conditions will jeopardize the viability of the plantings. Upon the prior written approval of the Declarant, planting can be delayed until the next planting season for the type plantings being used.

#### 5.10 Signage

- (1) Exterior occupant identification signs may be erected on lots by lot owners, operators, lessees or occupants, except within the green space areas of the required setbacks, in accordance with state and local building codes and local ordinances and regulations governing signs.
- (2) The design, materials used in construction, method of lighting and location of all exterior occupant identification signs must be included in the Property Development Plant that is submitted to and approved in writing by the Declarant.

#### 5.11 Screening of Outdoor Refuse and Recyclable Materials Containers

- (1) All outdoor refuse and recyclable materials containers shall be sufficiently screened so that they are not visible from any public through-way or adjacent property. Such screening may consist of a constructed enclosure or plantings that will provide year-round screening.
- (2) Outdoor refuse and recyclable materials collection enclosures shall be constructed of durable materials with finishes and colors which are in unity and harmonious with the overall architectural theme and design of the principal building.
- (3) Outdoor refuse and recyclable materials containers shall be sufficient in size and design to contain all refuse and recyclable materials generated on site and deposited between collections.

#### 5.12 Easements

The owner, lessee, operator and/or occupant of any lot within the Park shall at all times execute and deliver all easements reasonably necessary and required by the Declarant or any utility company for the further development of the Park, provided that such easements do not unreasonably interfere with the occupancy, use and/or development of the lot. These easements may (i) be for ingress, egress, access, gas, sewer, water, drainage, telephone and electrical facilities, (ii) include reasonably necessary rights to cut down or trim trees, and (iii) contain such other limitations on construction or improvement of the lot covered by the easement as may be reasonably necessary or required.

#### 5.13 Drainage

The owner, lessee, operator and/or occupant of any lot within the Park shall grade the drainage area in front of the site located between the paved area of the street and the building set back lines of a lot, all according to plans and specifications approved by the Declarant. Drainage pipes, where necessary, shall be installed by

the owner, lessee, operator and/or occupant according to such plans and specifications, all at such party's expense. Additionally, this area shall be sodded or seeded by the owner or occupant and shall be properly and adequately maintained in order to prevent erosion.

## 6.0 ENFORCEMENT

### 6.01 Inspection

The Declarant and/or its employees, agents and representatives may from time-to-time at any reasonable hour or hours enter upon and within and inspect any property subject to these covenants and restrictions, and any and all improvements thereon, to ascertain compliance therewith. Provided further, however, that the Declarant shall have no duty to make any such inspections.

### 6.02 Rights and Obligations

This Declaration and all restrictions, conditions, covenants, and agreements contained herein are made for the direct, mutual and reciprocal benefit of each and every lot and the Declarant; shall and do hereby create mutual, equitable servitudes on each lot in favor of every other lot within the Park; shall and do hereby create reciprocal rights and obligations between the respective owners and occupants of all lots, and privity of contract and estate between all owners and occupants of said lots, their heirs, successors and assigns; and shall, as to each owner and occupant of each lot, and their respective heirs, successors and assigns, operate as covenants running with the land, for the benefit of all other lots within the Park.

### 6.03 Enforcement; Abatement of Violation

Enforcement of this Declaration or any provision hereof may be had by proceedings at law or in equity against any person or entity violating or attempting to violate any covenant, condition or restriction, either to restrain violation or to recover damages, or both, and may be maintained by the Declarant or by the owner or occupant of any lot within said Park. In the event of any violation of the restrictions, covenants and conditions set forth herein, the Declarant or any interested lot owner or occupant shall notify the offending lot owner or occupant of the violation and demand correction thereof. In the event that the lot owner, or any operator, lessee or occupant of a lot, fails to comply with the provisions hereof and thereof within thirty (30) days after mailing of said written notice, the Declarant shall have the right to reenter and correct the violation and the cost of correcting such violation shall be paid by the lot owner, operator, lessee and/or occupant to the Declarant upon demand. In the event a lot owner, operator, lessee or occupant shall fail to remedy any violation of the restrictions, covenants and conditions set forth herein within the time period specified above, or shall fail to reimburse the Declarant the cost of correcting any

violation, then the Declarant or the owner or occupant of any other lot within the Park, as the case may be, shall be further entitled to recover all reasonable costs and expenses, including reasonable legal costs and attorneys fees, incurred in the enforcement of the terms hereof or in collecting any amounts past due. All remedies provided for herein, whether at law or in equity, shall be cumulative and not exclusive of any other right or remedy.

#### 6.04 Failure to Enforcement Not a Waiver of Rights

The failure of the Declarant or its employees, agents or representatives, or any other lot owner or occupant, to enforce or demand or insist on the observance of any restriction, covenant or condition herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other provision set forth herein.

### 7.0 MODIFICATION, REPEAL AND ASSIGNMENT

#### 7.01 Term

Unless canceled, altered or amended in accordance with the provisions set forth herein, this Declaration, every provision hereof and every covenant, condition and restriction contained herein, shall run with the land, shall continue in full force and effect and be binding on all parties claiming under them for a period of twenty-five (25) yeas from the date this Declaration is placed of record in the Office of the Clerk of Nelson County, Kentucky, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each unless and until an instrument signed by the Declarant and the then owners of at least fifty-one percent (51%) of the total acreage within the Park has been recorded modifying this Declaration in whole or in part.

#### 7.02 Termination and Modification

This Declaration or any provision hereof, or any covenant, condition or restriction herein, may be canceled, terminated, extended, modified or amended by the Declarant at any time, and from time to time as long as the Declarant or Declarant's Representative owns any part of the Park; provided, however, that any alteration, modification or amendment made by the Declarant shall (i) not apply retroactively; (ii) not be more restrictive than the restrictions set forth herein; and (iii) be consistent with the general purpose of this Declaration in maintaining and promoting the value of the Park. In addition, this Declaration may be canceled, altered, modified or amended at any time by the affirmative action of the fee owners of at least 51% of the total Park acreage (including for computational purposes that acreage retained by Declarant and/or Declarant's Representative); provided, however, that so long as the Declarant's Representative owns any part of the Park, no such termination, extension, modification or amendment shall be affective without the written approval of the

Declarant or Declarant's Representative. No cancellation, alteration, extension, modification or amendment of this Declaration shall be effective until a proper written instrument, as required by this Declaration, has been executed, acknowledged and recorded in the Office of the Clerk of Nelson County, Kentucky.

7.03 Assignments of Declarant's Rights and Duties

Any and all of the rights, powers and reservations of the Declarant contained herein may be assigned to any person or entity, which will assume the duties of the Declarant pertaining to the particular rights, powers and reservations assigned, including rights of plan review and approval, and upon any such person or entity evidencing in writing its consent to accept such assignment and assume such duties, such person or entity shall, to the extent of such assignment, have the same rights and powers, and be subject to the same obligations and duties, as are given to and assumed herein by the Declarant. Any such assignment of rights, powers and obligations by the Declarant shall be terminable by Declarant by majority vote of Declarant's legislative body.

8.0 RIGHT OF REPURCHASE

8.01 Obligation to Construct or Reconvey

In the event that a lot owner has not commenced and thereafter diligently pursued, in good faith, construction of the planned improvements upon any lot in the Park within a period of one (1) year after the date of conveyance of such lot by Declarant or Declarant's Designated Representative, then Declarant shall have an option to repurchase such lot for an amount equal to ninety percent (90%) of the price initially paid to Declarant for such lot. Such option may be exercised upon the mailing of written notice thereof to the last known address of the lot owned by Declarant, after which said lot owner shall be obligated to reconvey and deliver possession of said lot to Declarant by deed of general warranty, free and clear of any and all liens, claim and encumbrances. Where a lot is leased from Declarant, and construction has not commenced thereon by the Lessee prior to the deadline set forth in this Paragraph above, the Declarant shall have the option of retaining all lease payments previously made, refunding any lease payments paid in advance, terminating the lease and retaking possession of the property. Any conveyance by the Declarant of any lot in the Park shall be made and accepted upon the condition that such Purchaser shall reconvey the property upon Declarant's exercise of the option set forth herein. The option in favor of Declarant set forth in this Paragraph shall continue in full force and effect until such time as consideration of the planned improvements have commenced, and thereafter is diligently pursued to completion.

## 8.02 Extension of Construction Start Deadline

Upon the written request of the owner, operator, purchaser, occupant or lessee of any lot within the Park, which request includes an explanation of unavoidable events or circumstances causing a delay in the commencement and pursuit of construction, the Declarant may extend the time within which construction of the planned improvements must commence and the time in which the Declarant may exercise its option shall accordingly be extended. The Declarant must respond in writing to such a request, communicating its approval or denial of the time extension and identifying the time period of any extension, within fourteen (14) days of the receipt of the request, failing which such request for extension shall be deemed to have been granted.

## 9.0 EXCEPTIONS AND MODIFICATIONS

Upon written application by a lot owner, operator, occupant, lessee or prospective lot owner requesting relief from a provision contained in this Declaration that would in the opinion of the Declarant work an undue hardship on such owner, operator, occupant, lessee or prospective owner in making improvements to the property, the Declarant may grant relief from the covenants and restrictions of this Declaration in the form of an exception, variance or modification. Any such exception, variance or modification shall be limited in scope to that essential to provide the necessary relief, shall maintain the spirit and intended effect of the covenants and restrictions set forth herein, and shall be prepared in written, recordable form and be placed of record in the Office of the Clerk of Nelson County, Kentucky.

## 10.0 MISCELLANEOUS PROVISIONS

### 10.01 Constructive Notice and Acceptance

Every person or entity which now or hereafter owns or acquires any right, title or interest in or to any lot in the Park or any portion thereof is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquired an interest in said property.

### 10.02 Paragraph Headings

The paragraph or section headings used herein are inserted for convenience only and are not intended to be a part of the Declaration or to in any way define, limit or describe the scope and intent of the particular paragraphs and sections to which they refer.

#### 10.03 Effect of Invalidation

If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof which shall continue in full force and effect.

#### 10.04 Liability

Neither Declarant nor its employees, agents, representatives, successors or assigns shall be liable to any owner, operator, lessee, licensee or occupant of land within the Park or subject to this Declaration by reason of mistake in judgment, negligence, nonfeasance, malfeasance, action or inaction, or for the enforcement or failure to enforce any provisions of this Declaration. Each and every owner, operator, lessee, licensee or occupant of any of said property within the Park, upon accepting an interest in and to such property, agrees that they waive any right to and will not bring any action or suit against Declarant or its employees, agents, representatives, successors or assigns to recover any such damages or to seek equitable relief.

#### 10.05 Rights of Mortgagees.

All restrictions and other provisions set forth herein shall be deemed subject and subordinate to the lien of all bona fide mortgages or deeds of trust upon the real property subject to this Declaration and none of the covenants, conditions or restriction set forth herein shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust; provided, however, that if any portion of said property is sold under a foreclosure of any mortgage or under the provisions of any deed of trust, any purchaser at such sale, and such purchaser's heirs, successors and assigns, shall hold any and all property so purchased subject to all of the terms, covenants, conditions and restrictions set forth in this Declaration.

#### 10.06 Joinder by the Bardstown Industrial Development Corporation.

The Bardstown Industrial Development Corporation joins in the execution of this Instrument for purposes of acknowledging, consenting and agreeing to the terms and provisions of this Declaration, and accepting the rights, duties, obligations and responsibilities assigned herein by the Declarant, Nelson Fiscal Court.

IN WITNESS WHEREOF, the Declarant, Nelson Fiscal Court, Bardstown, Kentucky, and its Designated Representative, the Bardstown Industrial Development Corporation, have caused the execution of this instrument by their duly authorized representatives this \_\_\_\_ day of \_\_\_\_\_, 2007.

DECLARANT:

NELSON FISCAL COURT  
BARDSTOWN, KY

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Title: \_\_\_\_\_

BARDSTOWN INDUSTRIAL  
DEVELOPMENT CORPORATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF KENTUCKY

COUNTY OF NELSON

The foregoing was subscribed, acknowledged and sworn to before me by \_\_\_\_\_ and \_\_\_\_\_, in their respective capacities as \_\_\_\_\_ and \_\_\_\_\_ of Nelson Fiscal Court, Bardstown, Kentucky, to be the duly authorized act and deed, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC  
State-at-Large, KY

My Commission Expires:\_\_\_\_\_

STATE OF KENTUCKY

COUNTY OF NELSON

The foregoing was subscribed, acknowledged and sworn to before me by \_\_\_\_\_, in her capacity as \_\_\_\_\_ of the Bardstown Industrial Development Corporation, a Kentucky corporation, to be the duly authorized act and deed of said corporation, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC  
State-at-Large, KY

My Commission Expires:\_\_\_\_\_