

SECOND AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR TUSCANY/EAST  
POINTE RESIDENTIAL COMMUNITY

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TUSCANY/EAST POINTE RESIDENTIAL COMMUNITY (this "Second Amendment") is made and entered into as of this the 31<sup>st</sup> day of March, 2015, by and between (i) **C. M. GATTON, TRUSTEE OF THE C.M. GATTON TRUST UNDER AGREEMENT DATED JANUARY 7, 1995**, having a mailing address of 100 West State Street, Bristol, Tennessee 37620 ("Gatton"), and (ii) **HAYMAKER DEVELOPMENT CO., LLC**, a Kentucky limited liability company, having a mailing address of 3120 Wall Street, Suite 300, Lexington, Kentucky 40513 ("Haymaker"). Gatton and Haymaker are hereinafter collectively referred to as the "Declarants" and each individually as a "Declarant".

WITNESSETH:

WHEREAS, the Declarants entered into that certain "Declaration of Covenants, Conditions and Restrictions for Tuscanly/East Pointe Residential Community" dated as of June 27, 2005, and recorded in Deed Book 2564, Page 124, in the Fayette County Clerk's Office (the "Original Declaration"); and

WHEREAS, pursuant to that instrument titled "First Amendment to Declaration of Covenants, Conditions and Restrictions for Tuscanly/East Pointe Residential Development", dated September 3, 2013, of record in Deed Book 3182, Page 539, in the Fayette County Clerk's Office (the "First Amendment"), the Original Declaration was amended to, among other things, delete certain property being purchased by Continental 245 Fund, LLC, a Wisconsin limited liability company ("Continental"), from the scope of the Original Declaration; and

WHEREAS, pursuant to Numerical Paragraph 3 of the Original Declaration, the Declarants have the right (provided they first obtain the written consent of Continental) to unilaterally amend the Original Declaration for the purpose of removing any portion of the Properties (defined therein) from the scope of the Original Declaration and the jurisdiction of the East Pointe Homeowners Association, Inc. (the "Association") without the consent of any other third parties, so long as either of them still own any portion of their respective Property (as defined in the Original Declaration) and such amendment is evidenced by a written instrument executed by both Declarants and recorded in the Fayette County Clerk's Office; and

WHEREAS, in contemplation of the purchase of a 65.00 acre component of the Properties by the Board of Education of Fayette County, Kentucky, for a new high school

MAIL TO:

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

(the "School Site"), the Declarants are desirous of amending the Original Declaration for the purpose of removing the School Site from the scope of the Original Declaration and from the jurisdiction of the Association.

NOW THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declarants hereby amend the Original Declaration as follows.

1. Recitals; Definitions. The foregoing Recitals are hereby incorporated by reference as if fully restated herein. Capitalized terms used herein and not otherwise defined shall have the meanings attributable to such terms in the Original Declaration or in the First Amendment, as the case may be.

2. Removal of School Site. The School Site, being that 65.00 acre parcel of land more particularly described on Exhibit "A" hereto, is hereby removed from the scope of the Original Declaration and the jurisdiction of the Association.

3. Ratification. Except as otherwise modified herein, the Original Declaration shall continue in full force and effect. All references to the "Declaration" shall refer to the Original Declaration as amended by the First Amendment and this Second Amendment.

4. Counterparts. This Second Amendment may be executed in counterparts, each of which shall be deemed an original. The signatures to this Second Amendment may be executed and notarized on separate pages and when attached to this Second Amendment shall constitute one complete document.

IN WITNESS WHEREOF, the Declarants have executed this Second Amendment to Declaration of Covenants, Conditions and Restrictions for Tuscan/East Pointe Residential Community as of the date first set forth above.



C.M. GATTON, TRUSTEE OF THE  
C.M. GATTON TRUST UNDER  
AGREEMENT DATED JANUARY 7,  
1995, by Timothy L. Haymaker, his  
Attorney-in-Fact (See Limited Power of  
Attorney in Deed Book 2387, Page 299)

STATE OF KENTUCKY )  
 )  
COUNTY OF FAYETTE )

The foregoing Second Amendment to Declaration of Covenants, Conditions and Restrictions for Tuscany/East Pointe Residential Community was acknowledged before me by Timothy L. Haymaker, the duly-authorized Attorney-in-Fact for C.M. Gatton, the Trustee of the C.M. Gatton Trust under Agreement dated January 7, 1995, on this the 31<sup>st</sup> day of March, 2015.

My Commission Expires: 11-10-2018

*Glen A. Hoshli*

NOTARY PUBLIC, KY., STATE AT LARGE

HAYMAKER DEVELOPMENT CO.,  
LLC, a Kentucky limited liability  
company

BY: *Timothy L. Haymaker*  
TIMOTHY L. HAYMAKER,  
Managing Member

STATE OF KENTUCKY )  
 )  
COUNTY OF FAYETTE )

The foregoing Second Amendment to Declaration of Covenants, Conditions and Restrictions for Tuscany/East Pointe Residential Community was acknowledged before me by Timothy L. Haymaker, the Managing Member of Haymaker Development Co., LLC, a Kentucky limited liability company, on this the 31<sup>st</sup> day of March, 2015.

My Commission Expires: 11-10-2018

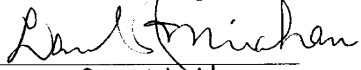
*Glen A. Hoshli*

NOTARY PUBLIC, KENTUCKY,  
STATE AT LARGE

Accepted and agreed:

CONTINENTAL 245 FUND LLC, a Wisconsin  
limited liability company

BY: CONTINENTAL PROPERTIES COMPANY,  
INC., a Wisconsin corporation, its Manager

BY:   
Name: Daniel J. Minahan  
Title: President AH

THIS INSTRUMENT PREPARED BY:



GLENN A. HOSKINS  
GLENN A. HOSKINS, P.S.C.  
P.O. Box 55254  
1077 Eastland Drive  
Lexington, Kentucky 40555  
(859) 231-1077

EXHIBIT "A"

(Legal Description of School Site being Deleted  
from the Scope of the Original Declaration)

Being all of Lot 1 (consisting of 65.00 acres) of the Tuscany Subdivision, Unit 10, Section 1, in Lexington, Fayette County, Kentucky, as shown by that Final Record Plat thereof of record in Plat Cabinet R, Slide 279, in the Fayette County Clerk's Office, and to which plat reference is hereby made for a more particular description of said property; said property being known and designated as 2000 WINCHESTER ROAD, Lexington, Kentucky.

Being a portion of the same property conveyed to Haymaker Development Co., LLC, a Kentucky limited liability company, from The Bill Gatton Foundation, by deed dated August 18, 2004, of record in Deed Book 2490, Page 579, in the Fayette County Clerk's Office; and also being a portion of the same property conveyed to Haymaker Development Co., LLC, a Kentucky limited liability company, from C.M. Gatton, Trustee of the C.M. Gatton Trust Under Agreement dated January 7, 1995, by deed dated March 31, 2015, of record in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, in the Fayette County Clerk's Office (and recorded simultaneously herewith).

I, Donald W Blevins Jr, County Court Clerk  
of Fayette County, Kentucky, hereby  
certify that the foregoing instrument  
has been duly recorded in my office.



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By: MARCIA DERR ,dc

201503310207

March 31, 2015                      14:50:10    PM

Fees	\$19.00	Tax	\$0.00
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Total Paid	\$19.00
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6 Pages

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