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CLERK OF COURTS, OKALOOSA CO, FL

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Cross - Reference to Declaration recorded in Official Records Book 1869 at Page 1878, amended at Book 2128 at Page 1074, Book 2143 at Page 1239, Book 2186 at Page 497, Book 2228 at Page 612, Book 2228 at Page 4189, Book 2273 at Page 2728, Book 2305 at Page 3722, Book 2329 at Page 630, Book 2536 at Page 4018, and Book 3054 at Page 2451, all of the Public Records of Okaloosa County, Florida.

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR KELLY PLANTATION
(The Brownstones)

THIS SUPPLEMENTAL DECLARATION is made this 27th day of February, 2015, by Kelly Plantation Owners Association, Inc, a Florida non-profit corporation (hereinafter, with its successors and assigns, referred to as "Declarant").

WITNESSETH:

WHEREAS, on October 10, 1994, the initial Declarant, Kelly Plantation Partners, filed that certain Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation (the "Declaration"), which was recorded in Official Records Book 1869 at Page 1878, et seq. of the Public Records of Okaloosa County; and

WHEREAS, on February 12, 1998, the initial Declarant amended the Declaration by filing that certain Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2128 at Page 1074, of the Public Records of Okaloosa County, Florida (the "First Amendment"); and

WHEREAS, on April 17, 1998, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2143 at Page 1239, et seq. of the Public Records of Okaloosa County, Florida; and

WHEREAS, on October 26, 1998, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2186 at Page 497, et seq. of the Public Records of Okaloosa County, Florida; and

WHEREAS, on October 20, 1999, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2228 at Page 612, et seq., of the Public Records of Okaloosa County, Florida; and

WHEREAS, on October 27, 1999, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2228 at Page 4189, et seq., of the Public Records of Okaloosa County, Florida; and

WHEREAS, on December 7, 2000, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2273 at Page 2728, et seq., of the Public Records of Okaloosa County, Florida; and

WHEREAS, on July 18, 2001, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2305 at Page 3722, et seq., of the Public Records of Okaloosa County, Florida; and

WHEREAS, on November 30, 2001, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2329 at Page 630, et seq., of the Public Records of Okaloosa County, Florida; and

WHEREAS, on June 2, 2004, the initial Declarant further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 2536 at Page 4018, et seq., of the Public Records of Okaloosa County, Florida; and

WHEREAS, on June 26, 2012, the initial Declarant further amended the Declaration by executing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 3054 at Page 2451, et seq., of the Public Records of Okaloosa County, Florida, to effect a transfer of all Declarant rights and responsibilities to the Declarant here; and

WHEREAS, on December 12, 2012, the Declarant and DKLM Investments, LLC further amended the Declaration by filing that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Kelly Plantation, which was recorded in Official Records Book 3068 at Page 4537, et seq., of the Public Records of Okaloosa County, Florida; and

WHEREAS, Article VII, Section 7.1 of the Declaration, the Declarant may subject the real property described on Exhibit "B" thereto to the provisions of the Declaration; and

WHEREAS, Article VII, Section 7.4 of the Declaration contemplates that any additional covenants and easements applicable to specific portions of the Properties would be set forth in a Supplemental Declaration applicable to such portions of the Properties, rather than in an amendment to the Declaration applicable to all of the Properties; and

WHEREAS, KPH3, LLC ("Owner") is the owner of the real property described on Exhibit "A" attached hereto (the "Brownstones Property"), which real property is part of the real property described on Exhibit "B" to the Declaration; and

WHEREAS, Owner and Declarant have executed an agreement to submit the Brownstones Property to the provisions of the Declaration, as amended; and

WHEREAS, Declarant hereby submits the Brownstones Property to certain easements and covenants in addition to those contained in the Declaration, as amended;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant and Owner hereby subject the real property described on Exhibit "A" attached hereto to the provisions of the Declaration, as amended, and to the provisions of this Supplemental Declaration, which shall apply to such property in addition to the provisions of the Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration and the Declaration, as amended, both of which shall run with the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Supplemental Declaration shall be binding upon the Declarant in accordance with the terms of the Declaration.

ARTICLE I **Definitions**

The definitions set forth in Article I of the Declaration and the First Amendment are incorporated herein by reference.

ARTICLE II **Neighborhood Designations**

Pursuant to Section 3.4(a) of the First Amendment, the real property described on Exhibit "A" attached hereto shall be assigned to the Neighborhood hereby designated as the Brownstones Neighborhood.

ARTICLE III
Neighborhood Covenants, Conditions and Restrictions

Section 3.4(a) of the Declaration provides authority to impose specific covenants and regulations to apply to only one Neighborhood. Declarant and Owner hereby describe and impose the additional covenants, condition and restrictions described in Exhibit "B" attached and thereby incorporated here on all property within the Brownstones Neighborhood.

ARTICLE IV
Amendments

4.1 By Declarant. The Declarant may unilaterally amend this Supplemental Declaration if such amendment is necessary to achieve the following limited purposes: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units within the Brownstones Neighborhood; (c) to enable any institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase mortgage loans on Units within the Brownstones Neighborhood; (d) to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units located within the Brownstones Neighborhood; or (e) to satisfy the requirements of any governmental agency, provided such amendment does not adversely affect the title to any Unit within the Brownstones Neighborhood without the Owner's written consent.

4.2 By Owners. Except as provided above and otherwise specifically provided herein, this Supplemental Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, or 75% of the Owners of the Units within the Brownstones Neighborhood, the written consent of the Association acting upon resolution of its Board of Directors, and, so long as Declarant has an option to subject additional property to the Declaration pursuant to Article VII of the First Amendment, the consent of the Declarant.

Notwithstanding the above, no amendment adopted pursuant to this Section shall be effective to withdraw the real property herein from the provisions of the Declaration unless also approved by the Owners representing 75% of the total Class "A" votes in the Association. The percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required to be taken under that clause. To be effective, any amendment must be recorded in the Public Records of Okaloosa County.

If an Owner consents to any amendment to this Supplemental Declaration, it will be conclusively presumed that such Owner has the authority to so consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the

validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without its written consent.

IN WITNESS WHEREOF, the undersigned Declarant and Owner have executed this Supplemental Declaration of Covenants, Conditions, And Restrictions For Kelly Plantation this 2nd day of ~~February~~ ^{March}, 2015.

KELLY PLANTATION OWNERS ASSOCIATION, INC.,
a Florida non-profit corporation

By: *[Signature]*
Mike Spigelmire
Its President

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this 2nd day of ~~February~~ ^{March}, 2015, by Mike Spigelmire as President of the Board of Kelly Plantation Owners Association, Inc., on behalf of such corporation. Such person is personally known to me.



Vicki Spray
Notary Public
My Commission Expires: _____

KPH3, LLC
a Florida Limited Liability Company

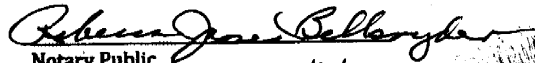
By: KPH3 Development Company, LLC
a Florida Limited Liability Company
Its: Member/Manager

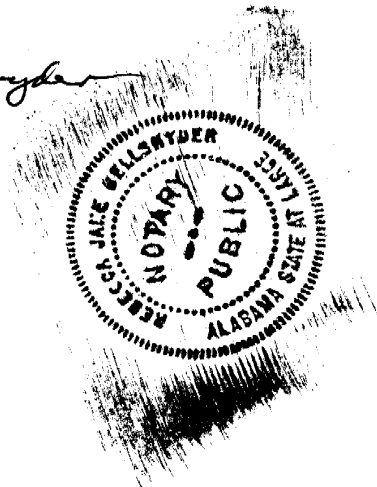
by: JGM Development Company, LLC
A Florida Limited Liability Company
its: Member/Manager


By J. Garrett McNeil
Its: Manager

STATE OF Alabama
COUNTY OF Jefferson

The foregoing instrument was acknowledged before me this 26th day of February, 2015, by J. Garrett McNeil as Manager of JGM Development Company, LLC, on behalf of KPH3, LLC. Such person is personally known to me.


Notary Public
My commission expires: 4/8/17



MORTGAGEE'S CONSENT AND SUBORDINATION

Rebel Funding, LLC, ("Secured Lender"), the mortgagee under that certain Mortgage, executed by KPH3, LLC, a Florida limited liability company, a Florida limited liability company, recorded May 2, 2014, in Book 3145 at Page 4814, of the Office of the Clerk of the Circuit Court of Okaloosa County, Florida (the "Mortgage"), together with the UCC-1 Financing Statement, recorded in Book 3145, Page 4829 of the Office of the Clerk of the Circuit Court of Okaloosa County, Florida, does hereby consent to the recording of this Supplemental Declaration of Conditions, Covenants and Restrictions for Kelly Plantation ("Declaration"). Furthermore, Secured Lender does hereby subordinate in all respects its interest in and to the mortgaged property described in the Mortgage to this Declaration; provided, however, that the lien of the Association for assessments under the Declaration shall be subordinate to the lien of Secured Lender under the Mortgage, as provided in Section 8.7 of the Declaration. Secured Lender does hereby acknowledge and agree that this Declaration shall be given priority over the Mortgage, and shall be unaffected by any default, foreclosure or exercise of any other remedy under the Mortgage, the same as if this Declaration were executed, delivered and recorded prior to the execution and recording of the Mortgage.

IN WITNESS WHEREOF, Secured Lender has caused this Consent and Subordination to be executed by and through its duly authorized representative as of the 27 day of Feb, 2015.

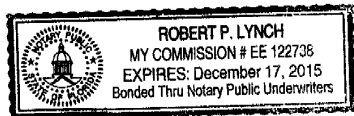
Rebel Funding, LLC, a Florida limited liability company

By: Charles W Rigdon
Name: Charles W. Rigdon
As Its: MANAGER

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this 27 day of Feb, 2015 by Charles W Rigdon, as manager for Rebel Funding, LLC, a Florida limited liability company. He/she is personally known to me or produced a FL Dr. License as identification.

[SEAL]



[Signature]
Notary Public Signature

Notary Public Printed Name

Exhibit A

Lots 1-4 as described on the plat for Brownstones Phase 1 at Kelly Plantation, as recorded in Plat Book 26 at Page 60-61 of the Official Records of Okaloosa County, Florida.

AND

All Common Area as designated on that same plat which is dedicated to Kelly Plantation Owners Association, Inc.

EXHIBIT "B" TO SUPPLEMENTAL DECLARATION FOR THE BROWNSTONES
ADDITIONAL COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS
FOR BROWNSTONES NEIGHBORHOOD

WHEREAS, it is the intention and desire of Owner to develop and construct upon the Property townhomes to constitute the Brownstones Neighborhood which shall be occupied and maintained as a residential development for the mutual and common advantage of all occupants and owners thereof who shall occupy and own the Property subject to the provisions of this document and all other rules and regulations applicable to the Property, and to be governed by the Kelly Plantation Owners' Association, Inc. ("Association") as a mandatory owner's association; and

WHEREAS, Owner and Declarant have designated this Neighborhood and determined that it will operate without a separate sub-association to manage its common elements and will require a separate annual Neighborhood Assessment in addition to the Base Assessment in order to fund specific operating and reserve costs which relate only to the Units within this Neighborhood; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the Property and for the maintenance of the Property and the improvements thereon, and in order to accomplish such objectives, Declarant desires to subject the Property, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions and easements established in the Declaration and additionally to those hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner of a portion thereof.

ARTICLE I

Association Powers and Responsibilities

Section 1.1 Assignment of Maintenance Duties.

- A. **Owners.** Each Owner shall have the legal obligation to care for and maintain all of their Lot and Unit to the extent that specific duties are not assigned to the Association here, including, but not limited to maintenance and repair of the exterior deck or patio and exterior lighting attached or connected to his/her Unit, painting, maintaining and restoring the interior on the Unit. In this Neighborhood, the developer will install a continuous rear fence along the portions of the Neighborhood common boundary with the Private Amenity Golf Course. Once completed, each Owner will be responsible for maintenance and repair of that section of fence which traverses their Unit boundary at their expense. In addition, those Owners will be responsible for the maintenance of the rear yard area within the fence line and inside the side boundaries of their Unit.
- B. **The Association.** This Declaration shall serve as an assignment to the Association of the following duties which otherwise would be performed

by the Owner:

- (i) Maintenance of common roadway, parking areas and exterior lighting infrastructure within the Property, but not attached to a Unit or otherwise located on or within a Lot;
- (ii) Maintenance of all landscaping, including the yard area in front of each Unit which is included within a Lot;
- (iii) Maintenance of the storm water drainage system;
- (iv) Maintenance, painting and repair of the exterior coating and roof system of the Units;
- (v) Maintenance of all other Common Areas not specifically described above.

Section 1.2 Acting for the Association. No Owner, except in his/her capacity as an officer of the Association, shall have any authority to act for the Association.

Section 1.3 Powers and Duties of the Association. The powers and duties of the Association shall include those set forth herein, in the Bylaws and the Articles, but in addition thereto, the Association shall have:

- A. The irrevocable right to access each Unit from time to time during reasonable hours as may be necessary for making emergency repairs therein or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units, however any non-emergency matters will require reasonable notice prior to access;
- B. To make and collect assessments, to maintain, and repair the Common Areas and, when necessary, an individual Lot/Unit pursuant to a Special Unit Assessment;
- C. Maintain accounting records according to good accounting principles which shall be open to inspection by Owners during reasonable business hours; and
- D. Prescribe and enforce such rules, covenants, regulations and restrictions as are specified in this Declaration, the Articles and the Bylaws, and amend said rules and restrictions from time to time as necessary.
- E. Prepare the annual Neighborhood Assessment budget.

ARTICLE II
Owners' Rights

Section 2.1 **Individual Lots.** Every Owner shall have a right to the quiet enjoyment in and to his individual Lot, subject to the following provisions:

- A. **Easement.** An easement is reserved for the Owners, its family members, tenants, lessees, business invitees, and guests of the Lots/Units described herein to cross, use and enjoy consistent with their purpose the Common Area, including stairways, spaces for parking and vehicle and pedestrian access.
- B. **Utility Easement.** A utility easement is reserved by, through and across each and every Lot for the installation and maintenance of utilities and utility lines and utility meters as they presently exist or as they may exist in the future, including, but not limited to water, electrical, gas, sewage, television, cable and telephone lines and related equipment. Such easement shall inure to the benefit of all of the Owners of the townhome Lots and to the Declarant.
- C. **Maintenance Easement.** A right of access is reserved, during reasonable times, for the purpose of maintaining any portion of the Property to which the Association is assigned maintenance responsibility.

ARTICLE III
Common Area Services to Owners

Section 3.1 **Common Area.** The Association, subject to the rights and duties of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including Association furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair meeting the Community Standard. The Association may delegate these responsibilities by contract to a corporation or other entity in the business of or qualified to manage subdivision or townhome association property.

Section 3.2 **Exterior Painting and Maintenance.** It is anticipated that the exterior portions of the Units will need repainting, re-staining, and/or retreatment periodically to maintain the attractive nature of the Property. Such periodic repainting and/or retreating shall be the responsibility of the Association.

Section 3.3 **Irrigation.** In the event an irrigation system is installed on Property, which the Association is not otherwise obligated to do, then the Association will own and maintain the irrigation system for all Common Areas. Expenses related to repair and operation of the irrigation system will be part of the General Assessment of the Association. In this Neighborhood, irrigation of all landscaped areas will use

a separate greywater/reclaimed water system installed by the developer on both the Common Areas and the Unit yards. The Association will be responsible for payment of use fees for irrigation from the Neighborhood Assessment funds. The Unit yard irrigation infrastructure will be metered and separate from the Common Area irrigation infrastructure for monitoring purposes.

Section 3.4 Pest Control. Because of the common wall component of this Neighborhood's improvements, the Association will contract for the provision of pest control services for the Units and the cost of same will be included in the Neighborhood Budget. The pest control will cover both standard insect and pest control and wood destroying insect prevention and control coverages.

Section 3.5 Neighborhood Budget.

- A. Preparation and Approval of Annual Neighborhood Assessment. At least sixty (60) days before the beginning of each fiscal year, the Board of Directors shall prepare a separate budget to cover Neighborhood Expenses pursuant to Section 8.4 of the Declaration. Notice and participation by Unit Owners in this process shall be governed by that section. The costs of administration of the Neighborhood budget and maintenance responsibilities to the Association shall be included as a part of the Neighborhood Expenses.
- B. Other Assessments and Reserves. The determination of all other assessments and reserve contributions shall be governed by Article VIII of the Declaration. At a minimum, reserve accounts will be funded for exterior coating, roofing, irrigation, roadway and driveway infrastructure and common lighting within the Neighborhood. These reserves will be funded through Neighborhood Assessments.
- C. Accounts. Except as otherwise provided herein, all sums collected by the Board of Directors with respect to assessments against the Owners may be commingled in a single fund but remain separated with common accounting practices.

ARTICLE IV

Insurance and Duty to Rebuild or Repair

Section 4.1 Casualty Repairs for Units. Because of the common walls and roofing systems in this Neighborhood, in the event of damage to or destruction of a Unit or Lot by fire, windstorm, water or as the result of any other casualty, the Owner shall, with the consent of any first mortgagee and within a reasonable time after said event, cause said Unit to be repaired or rebuilt substantially in accordance with the plans and specifications under which the improvements were originally constructed, or any modification thereof approved by the NCC, so as to place the Unit, both interior and exterior, including the roof above such Unit, in as good and

tenantable condition as it was before the event causing such damage or destruction; failure to do so shall constitute a breach of these covenants. Subject to the priority of any mortgagee under a purchase money mortgage clause, all insurance proceeds for loss or damage to any Unit or any other improvement upon any Lot shall be used to assure the repair or rebuilding of any such Unit or any part thereof.

Section 4.2 **Lien on Insurance Proceeds.** The Association shall have a lien on all insurance proceeds, regardless of whether it is named as a loss payee in any insurance policy, with said lien being subordinate only to the claim of any mortgagee under a purchase money mortgage clause, to enforce the intent of Article XI, Section 4.1 above.

ARTICLE V **Party Walls**

Section 5.1 **Party Walls.** Each wall that is built as part of the original construction of the townhomes on the Property and placed on the dividing line between the Lots shall constitute a party wall, and each Owner shall own a portion of the wall which stands on his own Lot, with a cross-easement of support in the other portion.

Section 5.2 **Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore the same. No greater dimension of said party wall, or of any extension or restoration thereof, shall be placed upon the Lot of the Owner not extending, constructing, or restoring said party wall, than that existing prior to such fire or other casualty, without the prior written consent of all of the users of such party wall and the NCC. No addition to the dimensions of said party wall may be made by either of said Owners, or by those claiming under them respectively, without written consent of all users of such party wall and the NCC. If the other Owner thereafter makes use of the wall, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution under any rule of law regarding liability for negligent or willful acts of omissions.

Section 5.3 **Weatherproofing.** Notwithstanding any other provision of this Article V, any Owner who by his/her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5.4 **Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article V shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE VI
Neighborhood Committee

Section 6.1 Required. The Owners shall be required to elect a Neighborhood Committee in accordance with the process and for the purposes specified in Section 5.3 of the Bylaws. The committee shall have a minimum of three members and a maximum of five.