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**FIRST AMENDMENT TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR QUARRY BLUFF  
ESTATES – SECTION E**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR QUARRY BLUFF ESTATES – SECTION E is made this 13<sup>th</sup> day of August, 2012, but effective for all purposes as of December 31, 2011, by HUGHES DEVELOPMENT, LLC, an Indiana limited liability company (hereinafter called "Declarant"), as successor in interest to LPI INVESTORS, LLC, an Indiana limited liability company (hereinafter called "LPI").

WHEREAS, on June 16, 2006, LPI filed of record that certain Plat of Quarry Bluff Estates - Section E, in Plat Book 14, Page 44 in the Records (the "Patio Home Plat"); and

WHEREAS, on July 1, 2010, LPI caused to be filed of record those certain Amended and Restated Declaration of Covenants, Conditions and Restrictions For Quarry Bluff Estates –Section E (the "Restrictions") as Instrument No. 201011399, in the Office of the Recorder of Clark County, Indiana (the "Records") which Restrictions affected the property described in the Patio Home Plat and amended and restated in their entirety the Declaration of Covenants, Conditions and Restrictions For Quarry Bluff Estates – Section E, filed as Instrument No. 200612299 in the Records; and

WHEREAS, by Warranty Deed and Assignment in Liquidation dated as of December 31, 2011, and filed of record as Instrument No. 201202608, LPI conveyed to Declarant, *inter alia*, all of LPI's right, title and interest in and to the Patio Home Plat and the Restrictions and, as a result of said instrument, Declarant became the successor declarant under the Restrictions.

WHEREAS, Declarant has determined that Commons Area G, as shown on the Patio Home Plat, should be developed into a Lot and should no longer be a common area of the subdivision known as Quarry Bluff; and

WHEREAS, Declarant desires to modify the Restrictions to enable Common Area G, as shown on the Plat, to be used as a building site for a part of a triplex patio home style Dwelling.

NOW, THEREFORE, Declarant in accordance with Paragraph 7(A) of the Restrictions hereby amends the Restrictions as follows:

1. **DEFINITIONS:** The definitions of "Parcel" and "Patio Home Common Areas" set forth in Paragraph 2 of the Restrictions are hereby deleted in their entirety and replaced with the following language:

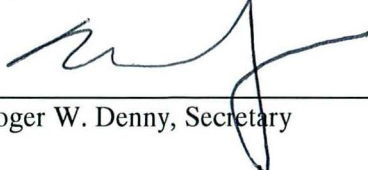
"'PARCEL' shall mean and refer to Parcels 1 through 20, Parcels 22 through 27, and Commons Area G, as shown and designated on the Patio Home Plat."

"'PATIO HOME COMMON AREAS' shall mean the surface of any utility easements located in Section E and serving more than one Lot. The areas designated as "Commons Area A" through "Commons Area F," "Commons Area H" and "Lift Station Lot" on the Patio Home Plat and the Patio Home Common Area Facilities shall constitute Common Areas for which the Association (as defined in the Master Restrictions) shall be and remain responsible for pursuant to the Master Restrictions. The area designated as "Commons Area "G" on the Patio Home Plat shall **not** be considered to constitute a common area of subdivision."

2. **NO FURTHER CHANGES:** The terms and conditions of the Restrictions shall remain in full force and effect, except as expressly modified herein. To the extent there are any irreconcilable conflicts between the terms of the Restrictions and this Amendment, the terms of this Amendment shall control.

IN WITNESS WHEREOF, Hughes Development, LLC has caused this document to be executed for and on its behalf by its duly authorized officer on the 13<sup>th</sup> day of August 2012, but effective for all purposes as of December 31, 2011.

**HUGHES DEVELOPMENT, LLC**, an Indiana limited liability company

By:   
Roger W. Denny, Secretary

STATE OF INDIANA

COUNTY OF CLARK

BEFORE ME, the undersigned, a Notary Public, in and for the above-named County and State, this 13<sup>th</sup> day of August, 2012, personally appeared Roger W. Denny as Secretary of Hughes Development, LLC, an Indiana limited liability company, and acknowledged the execution of the foregoing First Amendment on behalf of said limited liability company.

WITNESS my hand and notarial seal.

My Commission expires:

June 7, 2018

Resident of Floyd County

  
Notary Public

Amy J. Burnette  
Printed

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, and that this instrument was prepared by:

Alan M. Applegate  
**APPLEGATE FIFER PULLIAM**  
P. O. Box 1418  
Jeffersonville, Indiana 47131-1418  
(812) 284-9499

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**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR QUARRY BLUFF  
ESTATES – SECTION E**

WHEREAS, on April 15, 2003, LPI Investors, LLC, an Indiana limited liability company ("Declarant"), caused that certain plat of Quarry Bluff Estates to be filed of record in Plat Book 12, Page 88 in the Office of the Recorder of Clark County, Indiana (the "Records") (the same being a re-plat of Quarry Bluff Estates, as recorded in Plat Book 12, Page 54 in the Records), as amended by that certain partial re-plat of Quarry Bluff Estates, recorded on February 24, 2004 in Plat Book 13, Page 32 in the Records (the "Original Plat"); and

WHEREAS, on April 15, 2003, Declarant caused to be filed of record that certain Declaration of Covenants, Conditions and Restrictions for Quarry Bluff Estates [Excluding Riverfront Lots] as Instrument No. 200310904, in the Records (the "Original Restrictions"), as amended by: (i) the First Amendment to Declaration of Covenants, Conditions and Restrictions for Quarry Bluff Estates [Excluding Riverfront Lots] filed on August 1, 2003 as Instrument No. 200323023 in the Records (the "First Amendment"); (ii) the Second Amendment to Declaration of Covenants, Conditions and Restrictions for Quarry Bluff Estates [Excluding Riverfront Lots] filed on August 26, 2003 as Instrument Nos. 200326031 and 200326032 in the Records (the "Second Amendment"); and (iii) the Third Amendment to Declaration of Covenants, Conditions and Restrictions for Quarry Bluff Estates [Excluding Riverfront Lots] filed on June 16, 2006 as Instrument No. 200612300 in the Records (the "Third Amendment" and together with the Original Restrictions, the First Amendment and the Second Amendment, hereinafter referred to as the "Original Master Restrictions"); and

WHEREAS, the Original Master Restrictions envisioned the development of patio homes within the boundaries of the Subdivision (as defined in the Original Master Restrictions), and in furtherance of such development, on June 16, 2006, Declarant filed of record that certain Plat of Quarry Bluff Estates - Section E, in Plat Book 14, Page 44 in the Records, the same being a partial re-plat of the Original Plat (the "Patio Home Plat" and together with the Original Plat and further modifications that may be made from time to time, hereinafter referred to as the "Plat"); and

WHEREAS, in accordance with Paragraph 3 of the Master Restrictions, on June 16, 2006, Declarant caused to be filed of record those certain Declaration of Covenants, Conditions and Restrictions For Quarry Bluff Estates – Section E, as Instrument No. 200612299 in the Records (the "Original Patio Home Declaration"); and

WHEREAS, on or about the date hereof Declarant has amended and restated in their entirety the Original Master Restrictions, which Amended and Restated Declaration of Covenants, Conditions and Restrictions for Quarry Bluff Estates [Excluding Riverfront Lots] was filed of record as Instrument No. 201011398 in the Records (the "Master Restrictions"); and

WHEREAS, Declarant has determined that certain definitions and provisions set forth in the Original Patio Home Declaration should be amended to, among other things, (i) clarify the definition and ownership of the common areas within Section E (as hereinafter defined), (ii) describe the common areas expenses for which the Patio Home Association (as hereinafter defined) shall be responsible, (iii) exclude Parcel 21 from these Restrictions so that Declarant may develop and sell or lease storage units thereon,

(iv) include additional provisions for the development of single-family homes within Section E, and (v) provide an exemption from assessments for certain builders and affiliates of Declarant; and

NOW, THEREFORE, in accordance with Paragraph 7(A) of the Original Patio Home Declaration, Declarant hereby declares that the Original Patio Home Declaration is hereby amended, restated and replaced in its entirety by this Amended and Restated Declaration of Covenants, Conditions and Restrictions For Quarry Bluff Estates – Section E (this “Declaration”) and that the real property described in the Patio Home Plat is and shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the protective covenants, conditions, restrictions, easements, assessments and liens (sometimes referred to herein collectively as either “Covenants” or “Restrictions”) hereinafter set forth. Every grantee, owner, tenant, occupant or user of any such interest in such real property now or hereafter made subject to this Declaration, by acceptance of a deed, lease, contract or other conveyance of such interest, whether or not it shall be so expressed in any such deed or other conveyance, whether or not such deed or other conveyance shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take their interest in and to such property subject to this Declaration and to the terms and conditions hereof and shall be deemed to have assented to said terms and conditions. These Restrictions shall run with the land and shall be binding upon Declarant, the Patio Home Association, their successors and assigns, and upon the parties having or acquiring any interest in the Section E or any other part or parts of the Subdivision subject to such Restrictions, and shall inure to the benefit of Declarant, the Patio Home Association, the Association and any owner of property within the Subdivision or any part or parts thereof.

## **1. GENERAL PURPOSES OF THE RESTRICTIONS.**

Section E is a part of the Subdivision and constitutes Patio Home Sections 4 and 5, as shown on the Plat. These Restrictions constitute the “Patio Home Section Restrictions” envisioned and defined in Paragraph 3 of the Master Restrictions. Accordingly, these Restrictions are in addition to, and not in replacement of, the Master Restrictions and are intended to govern those aspects of the Subdivision which are peculiar to patio home construction and living. Those portions of the Master Restrictions which expressly govern the property situated within the Patio Home Plat continue to govern and control said property. With the exception of the land use requirements, the minimum square footage requirements, and the building requirements contained in Paragraphs 3(B), 3(E) and 3(G) of the Master Restrictions, reference to the term “Lot” in said Master Restrictions shall be deemed to include reference to any Lot defined in these Restrictions. However, in the event there is any irreconcilable conflict between these Restrictions and the Master Restrictions, these Restrictions shall control. It is Declarant’s intent to develop Section E so as to enable the construction of single, duplex and triplex single family Dwelling units therein and the Patio Home Plat reflects each Parcel upon which a single, duplex or triplex patio home structure will be constructed. Dwellings (as defined in the Master Restrictions) in Section E shall be of a quality of design, workmanship, and materials approved by the Architectural Control Committee (as described in the Master Restrictions).

## **2. DEFINITIONS.**

The definitions of all capitalized terms used and not expressly defined in these Restrictions shall have the meaning ascribed thereto in the Master Restrictions. Additionally, the following words shall have the following meanings when used in these Restrictions:

“LOT” shall mean (i) any Parcel acquired for the purpose on constructing a single, free-standing Dwelling; (ii) any part of a Parcel now or hereafter separately described by metes and bounds description in a recorded deed and acquired for the purpose of constructing an attached duplex or triplex patio home

style Dwelling; or (iii) the balance of any divided Parcel that is acquired or held for the purpose of constructing an attached duplex or triplex patio home style Dwelling.

"OWNER" shall mean (unless expressly stated otherwise) a person, partnership, corporation or other legal entity who has or is acquiring any right, title or interest, legal or equitable, in and to a Parcel or Lot in Section E, including leasehold interests, but excluding those persons having such interest merely as security for the performance of an obligation.

"PARCEL" shall mean and refer to Parcels 1 through 20 and Parcels 22 through 27, as shown and designated on the Patio Home Plat.

"PARTY WALL" shall mean each shared wall or party wall separating each duplex or triplex Dwelling unit from one another, which Party Wall shall be located on, and shall be deemed to constitute the boundary line of, each respective Lot.

"PATIO HOME COMMON AREAS" shall mean the surface of any utility easements located in Section E and serving more than one Lot. The areas designated as "Common Area A" through "Common Area H" and "Lift Station Lot" on the Patio Home Plat and the Patio Home Common Area Facilities shall constitute Common Areas for which the Association (as defined in the Master Restrictions) shall be and remain responsible for pursuant to the Master Restrictions.

"PATIO HOME COMMON AREA FACILITIES" all of the following located on, over, below or through Section E and serving more than one Lot: (i) sanitary sewer, stormwater sewer, irrigation, electric and lighting facilities (including pumps and lift stations), (ii) signage, (iii) pool equipment, accessories and supplies, (iv) boat ramps and boat docks, (v) the mailbox pavilion situated on the area designated as Common Area F on the Patio Home Plat and (vi) any other equipment, accessories and supplies related to any of the foregoing.

"PATIO HOME ASSOCIATION" shall mean and refer to Quarry Bluff Patio Homeowners Association E, Inc., an Indiana nonprofit corporation, its successors and assigns, to whom Declarant may from time to time temporarily and/or permanently assign the responsibility and authority of operating and maintaining the Patio Home Common Areas within Section E.

"SECTION E" shall mean Quarry Bluff Estates – Section E, as shown in the Patio Home Plat.

### **3. GENERAL RESTRICTIONS.**

**A. Land Use.** Each Parcel is a residential Parcel and shall be used, if at all, as a site for a single, duplex or triplex residential building (as shown on a building layout drawing ("Building Layout Exhibit") prepared by a professional engineer and approved by Declarant) for private residence purposes only, by one Family (as defined in the Master Restrictions) in a free-standing single-family Dwelling, two Families in a duplex building containing two Dwellings, or three Families in a triplex building containing three Dwellings, as applicable; provided, however, that Declarant may maintain a sales office in Section E on a Parcel owned by Declarant until Declarant has sold all Parcels owned by Declarant. No Building Accessory or Outbuilding or house trailer, mobile home, manufactured home, bus, motor home, camper, boat and/or trailer, tent, basement, shack, garage, barn or any other building or structure shall be placed or constructed on any Parcel or Lot at any time for use as either a temporary or a permanent residence, or for any other purpose, without the express written approval of the Architectural Control Committee and the Association, which approval may be granted or denied in the absolute discretion of the Architectural

Control Committee or the Association. No more than one Dwelling may be placed or constructed on any Lot and no Lot may be reduced in size by any device, voluntary alienation, partition, judicial sale or other process or processes of any kind, without the express written approval of the Architectural Control Committee, which approval may be granted or denied in the absolute discretion of the Architectural Control Committee.

**B. Building Type and Garages.** Notwithstanding anything in the Master Restrictions to the contrary, each Dwelling in Section E shall have an attached garage arranged to contain not less than two (2) automobiles for the sole use of the Owner or occupants of the Dwelling. Garage doors may be located on the front elevation of a Dwelling. The remaining provision of Paragraph 3C of the Master Restrictions shall continue to apply to each Dwelling within Section E.

**C. Minimum Square Footage.** Dwelling shall be erected, placed, altered or permitted to remain on any Lot in Section E having a total finished floor area less than 1,800 square feet for a one story Dwelling, 2,100 square feet for a one and one-half story Dwelling (with a minimum of 1,800 square feet on the ground floor), and 2,400 square feet for a two story Dwelling (with a minimum of 1200 square feet on the ground floor). Porches, terraces, garages, carports and Basements shall be excluded when calculating square footage.

**D. Placement of Dwellings.** There are no setback limitations pertaining to Dwellings on any Lot.

**E. Maintenance of Lots.** All lawns and landscaping situated on a Lot within Section E shall be maintained by the Patio Home Association. Accordingly, an easement is hereby reserved for the benefit of the Patio Home Association and the Association to enter upon the Lot for purposes of cutting grass and maintaining the lawn and all landscaping ("Lawn Maintenance"). No Owner shall prevent the Patio Home Association, the Association, or any of their contractors or agents from entering onto the Lot for purposes of Lawn Maintenance. The Association or the Patio Home Association, as determined by the Association at its sole discretion, shall enter into a single contract with a landscape and/or lawn maintenance company, which company may be changed from time to time at the sole discretion of the Association, to provide Lawn Maintenance and shall determine, in the Association's absolute discretion, the timing, scope and manner of the Lawn Maintenance. Notwithstanding the foregoing, the reservation of the easement and Lawn Maintenance rights contained in this Paragraph shall not be deemed to relieve any Owner of a Lot in Section E from the provisions of Paragraph 3(N) of the Master Restrictions.

**F. Party Walls, Shared Roof Structures, Repair, Maintenance and/or Replacements and Insurance.**

i. **Materials.** Each duplex will have one (1) Party Wall and each triplex will have two (2) Party Walls. Each Party Wall shall be constructed with such practices and materials so as to meet all federal, state and local building codes, fire ratings and other applicable requirements, as well as standard underwriting requirements of liability and property insurance carriers authorized to issue insurance in the State of Indiana.

ii. **Easements.** It is intended that, following construction of each duplex and triplex building on a Parcel and the sale of each Dwelling therein, the Party Wall(s) serving each Dwelling shall be located on the boundary line(s) of the Lot upon which the Dwelling is situated. An easement shall be deemed to exist and run to each adjoining Lot Owner (and the Patio Home Association and the Association) for the maintenance, use and enjoyment of the Party Wall and roof structure to enable the adjoining Lot Owner to maintain, repair, rebuild and re-shingle the Dwelling roof, the Party Wall, and all the structural components thereof. If, by reason of the location, construction, settling or shifting, a Party Wall now

encroaches or shall hereafter encroach upon any other Lot, then in such event, an easement shall likewise be deemed to exist and run to the adjoining Lot Owner, the Patio Home Association and the Association for the maintenance, use and enjoyment of such Party Wall.

iii. **Maintenance.** Each Lot Owner who shares a Party Wall or Walls shall share equally in the maintenance, repair and replacement of the Party Wall or Walls and the shared roof. Each Lot Owner shall repair any defect occurring to any portion of the Dwelling on his Lot which, if not repaired, might adversely affect the Property. No Owner who shares a Party Wall or roof structure shall make any alterations or additions which would affect the Party Wall(s) serving the Owner's Dwelling or the roof of the Owner's Dwelling without the prior written approval of the Patio Home Association and the Association. No Owner shall modify, alter, destroy or remove any portion of any Party Wall or shared roof structure without the prior written consent of the adjoining Lot Owner, the Patio Home Association, and the Association. Except for lawns and landscaping situated on a Lot within Section E which shall be maintained by the Patio Home Association as herein provided, in addition to the foregoing requirements of this Paragraph 3(F)(iii), each Lot Owner shall at all times repair and maintain and shall immediately replace as necessary Owner's Dwelling, including without limitation the roof structure covering Owner's Dwelling and the Party Wall(s) separating the Owner's Dwelling from the adjoining Owner's Dwelling, and any Outbuilding and/or Building Accessory on Owner's Lot, which repairs, maintenance and/or replacements shall, at a minimum, satisfy the requirements of Paragraph 3(N) of the Master Restrictions, as well as all of the other requirements of the Master Restrictions and these Restrictions. Notwithstanding any of the other provisions of these Restrictions to the contrary, with respect to repair, maintenance and/or replacements, all materials and supplies used shall be the same as the original materials and supplies used (including without limitation the same color scheme, finish, design, proportions, shape, height, type, and/or appropriateness); provided, however, that to the extent that such materials or supplies are no longer available, Owner shall submit specifications for equal or better substitute materials and/or supplies and a request for approval thereof to the Architectural Control Committee, which approval request shall be handled, to the extent applicable, pursuant to the provisions of Paragraph 9 of the Master Restrictions.

iv. **Insurance.** Each Owner, at Owner's expense, shall be obligated to obtain and shall be solely responsible to maintain hazard insurance, underwritten by an insurance carrier that is not objected to by the Patio Home Association or the Association, affording fire and extended coverage insurance on the Dwelling and any Outbuilding or Building Accessory on the Owner's Lot, including without limitation the roof structure covering Owner's Dwelling and the Party Wall(s) separating the Owner's Dwelling from the adjoining Owner's Dwelling in the amount of 100% of the total replacement cost thereof. Each Owner shall be solely responsible for loss or damage to (i) Owner's Party Wall(s), (ii) the roof structure covering all of the Dwelling on Owner's Lot, (iii) the Dwelling and any Outbuilding or Building Accessory on the Owner's Lot, and (iv) the contents of the Dwelling located on Owner's Lot, however caused, and neither the Patio Home Association nor the Association shall have any liability to the Owner for loss or damage to the contents of any Owner's Dwelling, Outbuilding and/or Building Accessory on an Owner's Lot. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary. Each Owner shall cause the Patio Home Association and the Association to be named as sole joint primary loss payees ("Primary Loss Payee") on all hazard insurance purchased pursuant to the requirements of this Paragraph 3(F) and Owner shall, immediately upon initially effecting such insurance coverages and from time to time upon renewing such insurance, cause the insurance carrier providing such coverages to furnish each of the Patio Home Association and the Association with evidence of the required hazard insurance in the form of a standard property insurance certificate of the coverages in force and such insurance certificates shall contain revised cancellation provisions stating that such insurance coverage shall not be cancelled, non-renewed or

modified to reduce coverage until each of the Patio Home Association and the Association have been provided with at least 30 (thirty) days advance notice of any such cancellation, non-renewal or modification. Notwithstanding the foregoing insurance provisions of this Paragraph 3(F)(iv), the Primary Loss Payee rights of the Patio Home Association and the Association are hereby subordinated to the lien of any first mortgage placed on Owner's Dwelling, including without limitation the roof structure covering Owner's Dwelling and any Party Wall(s), Outbuilding and/or Building Accessory on Owner's Lot.

v. **Casualty and Restoration.** In addition to the covenants and restoration obligations set forth in Paragraph 3(U) of the Master Restrictions, each Owner shall also be solely responsible for repairing or replacing, the Party Wall, if any, and roof structure on Owner's Lot in the event of a casualty. Each adjoining Owner shall be deemed to have waived their right of subrogation against the adjoining Lot Owner to the extent an Owner receives insurance proceeds for the repair or replacement of any Party Wall or shared roof structure.

vi. **Special Assessments for Owner's Failure to Comply.** In the event an Owner fails to comply with this Paragraph 3(F) or Paragraphs 3(N) or 3(U) of the Master Restrictions, the Association or the Patio Home Association, determined in the Association's absolute discretion, shall, following sixty (60) days written demand to Owner, be authorized (but not obligated in any way) to undertake the purchase of insurance for, perform maintenance and/or to make the repairs to, or commence the reconstruction or replacement of the Owner's Dwelling, including without limitation the roof structure covering Owner's Dwelling and the Party Wall(s) separating the Owner's Dwelling from the adjoining Owner's Dwelling, and any Outbuilding and/or Building Accessory on Owner's Lot on such terms as the Association or the Patio Home Association, as applicable, shall determine in its/their sole discretion. All costs incurred by the Association and/or the Patio Home Association in enforcing Owner's obligations under this Paragraph shall constitute an assessment against Owner as provided in Paragraph 5 of these Restrictions.

vii. The provisions of this Paragraph 3(F) shall not apply to any Parcel upon which is located a free-standing unattached single family Dwelling.

**G. Docks, Steps, Walkways, Mooring, Anchorage or other Structures.** Unless constructed and/or installed by Declarant and/or the Association, construction and/or installation of docks, steps, walkways, mooring systems, anchorage systems, and/or other similar devices or other structures from or on Parcels or Lots to, near, in or on a Lake or Lake Areas shall not be permitted. This Paragraph 3(G) is supplemental to, and not a replacement of, the provisions of Paragraph 7(E) of the Master Restrictions, which shall remain in full force and effect.

**H. Garbage and Other Refuse.** The requirements of Paragraph 4(C) of the Master Restrictions are incorporated in this Paragraph 3(H) by this reference. In addition, the Association or the Patio Home Association, as determined by the Association at its sole discretion, shall designate a garbage collection company, which company may be changed from time to time at the sole discretion of the Association, to provide weekly garbage collection services for Section E and each Owner shall enter into a contract with such garbage collection company for weekly service to remove garbage and other refuse from the Owner's Parcels and/or Lots; the Owner, at Owner's expense, shall pay for such garbage collection service and all related costs.

**I. Storage Units on Parcel 21.** Parcel 21 as shown on the Patio Home Plat is excluded from these restrictions because Declarant may construct one or more structures on Parcel 21, which structures shall



contain storage units that may be leased or sold by Declarant. Declarant hereby reserves the right to retain title to Parcel 21 or to convey title to said Parcel to any third party, the Patio Home Association or the Association, as Declarant may hereafter determine in its sole discretion.

#### **4. PATIO HOME ASSOCIATION.**

**A. Transfer of Patio Home Common Areas.** Declarant has caused to be formed the Patio Home Association, and Declarant hereby conveys the Patio Home Common Areas to the Patio Home Association. The Patio Home Association will then maintain the Patio Home Common Areas and perform such other responsibilities as are set forth in these Restrictions or as are otherwise conveyed or assigned to it. The conveyance of the Patio Home Common Areas by Declarant shall be subject to the terms, conditions, provisions and limitations of these Restrictions and shall further be subject to any additional provisions or limitations placed upon the property representing the Patio Home Common Areas and the Patio Home Association shall have the right to collect the Lot assessments and fees herein provided. The Patio Home Common Areas shall not be mortgaged or conveyed to any public or quasi-public agency or authority or any utility or cable television system, other than the conveyance of easements, rights-of-way, licenses, permits and other use rights there over, without the consent of two thirds (2/3) of the members of the Association, and (ii) the Declarant for so long as Declarant owns any Lot in the Subdivision.

**B. Membership.** The membership of the Patio Home Association shall consist of the Owners of the Lots in Section E and each Lot shall be entitled to one vote, the voting rights of any member being subject to suspension for non-payment of assessments.

**C. Management.** All matters concerning management of the Patio Home Association and the rights of the members of the Patio Home Association, including the time within which and the manner in which notice of meetings shall be given to members, and the quorum required for the transaction of business at such meetings, shall be as specified in the By-Laws of the Patio Home Association.

**D. Intent.** It is the intention of these Restrictions to establish as the sole and only members of the Patio Home Association, the Owners of a fee simple title to each Lot in Section E, so that there shall be one vote for each Lot now or in the future owned in Section E.

**E. Powers and Duties.** The Patio Home Association shall have such powers as are set forth in these Restrictions, the By-Laws and the Articles of Incorporation of the Patio Home Association, if any, together with all other powers that belong to it by law. The Patio Home Association shall be responsible for the duties given it herein and for the general management, maintenance, operation, and administration of the affairs of the patio home development in Section E which shall include, without limitation, the following:

- i. Subject to the rights of Declarant and the Owners set forth in this Declaration, maintenance and management of (a) any Patio Home Common Areas, and (b) the lawns and landscape on each Lot;
- ii. Promulgating, publishing and enforcing rules and regulations governing Section E;
- iii. Mediation of disagreements between (a) Owners in Section E, and (b) the Patio Home Association and the Association. All such duties shall be carried out as the Association shall from time to time determine;

iv. Purchasing liability and/or hazard insurance (a) on the Patio Home Association, (b) on the Patio Home Common Areas, and, where possible (c) on the Dwellings (including without limitation shared roof structures covering each applicable Owner's Dwelling and the Party Wall(s), if any, separating each applicable Owner's Dwelling from the adjoining Owner's Dwelling) and any Outbuilding or Building Accessory on each applicable Owner's Lot if a Lot Owner fails to insure pursuant to the requirements of these Restrictions; provided, however, the Patio Home Association may, but shall not be obligated, to purchase such insurance that a Lot Owner fails to purchase.

v. Enforcing the terms of these Restrictions including Owner's obligation to rebuild or repair following damage to a Dwelling on the Property; and

vi. Borrowing funds for the purpose of defraying the reconstruction or replacement costs associated with the Patio Home Association's enforcement of Owner's obligations to maintain, rebuild or repair Owner's Dwelling, including without limitation, any Party Walls and shared roof structures.

Notwithstanding any of the provisions of these Restrictions to the contrary, the Association, in its absolute discretion, may itself perform or require the Patio Home Association to perform the duties set forth in Paragraphs 4(E)(iv), 4(E)(v), and/or 4(E)(vi).

**F. Membership.** Each Owner of a Lot within Section E shall, upon becoming an Owner of such Lot, be a member of both the Patio Home Association and the Association. The Association shall have and maintain full control over the management and operation of (i) the Common Areas shown on the Plat, (ii) Common Areas as defined in the Master Restrictions, (iii) "Common Area A" through "Common Area H" and "Lift Station Lot," as shown on the Patio Home Plat, and (iii) the Patio Home Common Area Facilities. The Patio Home Association shall have full control over the management and operation of the Patio Home Common Areas.

**G. Mergers.** Upon a merger or consolidation of the Patio Home Association with the Association, its properties, rights and obligations may, as provided in its articles of incorporation, by operation of law be transferred to another surviving or consolidated corporation or, alternatively, the properties, rights and obligations of the Patio Home Association may by operation of law be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by these Restrictions together with the covenants and restrictions evidenced by the Master Restrictions as one scheme. No other merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by these Restrictions within Section E except as hereinafter provided.

## **5. ASSESSMENTS.**

**A. Creation of the Lien and Personal Obligation Assessments.** Each Lot in Section E is subject to a lien and permanent charge in favor of the Association, for the assessments set forth in this Paragraph 5. This assessment is in addition to the annual assessment of the Association. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a permanent charge and continuing lien upon the Lot against which it relates, and shall also be the joint and several personal obligation of each Owner of such Lot at the time the assessment fell due, and each such Owner hereby covenants, and by acceptance of a deed or other conveyance therefore, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay the same to the Patio Home Association as and when due.

**B. Amount of Assessments.** Except for exemptions pursuant to the provisions of Section 5(C), the yearly assessments due and payable to the Patio Home Association on Lots shall be Nine Hundred Sixty Dollars (\$960.00) per year. The yearly dues may be changed by the Patio Home Association as provided by its by-laws, rules and regulations.

**C. Assessments, Due Date and Exemptions.**

i. Yearly assessments shall be due and payable on the first day of July of each year, in advance. Upon request, the Patio Home Association will furnish to any Owner liable for any such assessments a certificate in writing setting forth the status of payment of any assessment due. Such certificate shall be conclusive evidence of payment of any assessments therein stated to have been paid.

ii. All Patio Home Common Areas and Lots owned by Declarant and any Affiliate (as hereafter defined) shall be exempt from the assessments, charges and liens created herein, except with respect to any Lot owned by an Affiliate on which a Dwelling has been constructed and in which such Affiliate and/or his immediate family resides, which Lot shall be subject to yearly assessments payable by such Affiliate at the same rate as any other Owner. Although exempt from assessments as provided herein, Declarant and any Affiliate shall be entitled to be a voting member of the Patio Home Association in accordance with the By-Laws of the Patio Home Association. In exchange for Declarant's and Affiliates' exemption from assessments, Declarant shall pay any shortfall in the operating expenses of the Patio Home Common Areas from the date hereof until the date on which ninety-five (95%) of the Lots situated in Section E have been conveyed as Lots with one or more Dwellings, as applicable, to parties other than Declarant or an Affiliate (the "Shortfall Termination Date"). After the Shortfall Termination Date, Declarant shall cease to be liable for any shortfall in the operation expenses of the Patio Home Common Areas and Declarant and any Affiliate shall immediately commence payment of yearly assessments on Lots each of them own at the same rate as any other Owner.

iii. All Lots owned by an Exempt Owner shall likewise be exempt from the assessments, charges and liens created herein.

iv. The following definitions shall apply to this Paragraph 5(C):

An "Affiliate" is any person or entity holding a direct or indirect ownership interest in Declarant or any lineal descendant of any such owner.

An "Exempt Owner" is any Owner who meets the following criteria:

- a. A licensed contractor or otherwise in the business of building residential structures for the purpose of resale; and
- b. Who has constructed (or within a reasonable period of time following acquisition of title to a Parcel or Lot will construct) a Dwelling on the Parcel or Lot; and
- c. Who actively markets the Dwelling on the Parcel or Lot to the public for sale; and
- d. Who does not reside or intend to reside in the Dwelling on the Parcel or Lot.

**D. Effect of Nonpayment of Assessment, Personal Obligation of Owner and Remedies of Association.** If all or any portion of an assessment is not paid on the date when due as hereinabove provided, then such unpaid amount, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge and continuing lien on the Lot to which it relates. Each Owner shall be liable for such portion of each assessment coming due while he is an Owner of a Lot, and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore.

**E. Individual Assessments.** In addition to such other assessments as may be authorized herein or in the Master Restrictions, the Patio Home Association and/or the Association, as applicable, may levy against any Owner who fails to (i) maintain insurance on the Owner's Dwelling (including without limitation any shared roof structure covering all of Owner's Dwelling and the Party Wall separating the Owner's Dwelling from the adjoining Owner's Dwelling), and any Outbuilding and/or Building Accessory on Owner's Lot, (ii) maintain, reconstruct, replace, repair Owner's Dwelling, including without limitation the roof structure covering all of Owner's Dwelling (including without limitation any shared roof structure covering all of Owner's Dwelling and the Party Wall separating the Owner's Dwelling from the adjoining Owner's Dwelling), and any Outbuilding and/or Building Accessory on Owner's Lot or (iii) otherwise comply with the repair, maintenance and reconstruction obligations under these Restrictions and the Master Restrictions, all costs incurred by the Patio Home Association and/or the Association to purchase such insurance and/or to construct, repair, maintain or replace the Owner's Dwelling (including without limitation any shared roof structure covering Owner's Dwelling and the Party Wall separating the Owner's Dwelling from the adjoining Owner's Dwelling) and any Outbuilding and/or Building Accessory and which shall, upon written notice of the Patio Home Association and/or the Association to the Owner, constitute a special assessment against the defaulting Owner, payable immediately.

**F. Foreclosure of Lien.** Any such assessments, or portion thereof, not paid when due, as hereinabove provided, shall bear interest from the due date at the maximum legal rate allowable under Indiana law and the Patio Home Association may bring legal action against the Owner obligated to pay the same and/or foreclose its lien against the Lot to which it relates. Such lien may be foreclosed by the Patio Home Association by a suit, judgment and foreclosure in the same manner as liens for the improvement of real property. In either such event, the Patio Home Association shall also be entitled to recover from such Owner all attorney's fees and all cost of collection incurred by The Patio Home Association. Each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Patio Home Association the right and power to bring all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien in any appropriate proceeding in law or in equity. The Patio Home Association and the Association shall have the power to bid the assessment amount at any foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot following sale. No Owner may be relieved from liability for the assessments provided for herein by non-use of the Common Areas or by abandonment of his Lot, or otherwise.

**G. Notice of Lien.** For any assessment which is more than thirty (30) days past due, the Association shall be entitled to file a lien upon the public records of Clark County, Indiana indicating the amount of the past due indebtedness and the date which it became due and payable.

**H. Subordination of the Charges and Liens to Mortgages.**

- i. The lien and permanent charge of any assessment authorized herein with respect to any Lot is hereby made subordinate to the lien of any first mortgage placed on such Lot if, but only if, all such

assessments with respect to such Lot having a due date on or prior to the date of such mortgage have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to assessments or portions thereof having a due date subsequent to the date that such first mortgage is filed for record and prior to the satisfaction, cancellation or foreclosure of such mortgage or the sale or transfer of the mortgaged property pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the mortgaged property pursuant to a sale under power contained in such mortgage.

ii. Such subordination is merely a subordination of lien and shall not relieve the Owner of the Lot of his personal obligation to pay all assessments or portions thereof which come due as hereinabove provided; shall not relieve such Lot from the lien and permanent charge provided for herein (except to the extent a subordinated lien and permanent charge is extinguished as a result of such subordination as against a mortgagee or such mortgagee's assignee or transferee by foreclosure or by sale or transfer in any proceeding in lieu of foreclosure or by sale or transfer in any proceeding in lieu of foreclosure or by sale under power); and no sale or transfer of such property to the mortgagee or to any other person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure, or pursuant to a sale under power, or pursuant to sale pursuant to judicial order, shall relieve any existing or previous Owner of such property of any personal obligation, or relieve such property or the then and subsequent Owners from liability from any assessment provided for hereunder coming due after such sale or transfer.

## **6. REMEDIES.**

**A. In General.** If an Owner shall violate or attempt to violate any of the covenants herein, any party to whose benefit these Restrictions inure, the Patio Home Association, the Association, or the Declarant, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions or to recover damages or other remedies for such violation; provided, however, that neither the Patio Home Association, the Association nor the Declarant shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions. If the Patio Association, the Association, the Declarant, or any person or persons owning a Lot shall successfully prosecute in law or in equity an action pursuant to this Paragraph 6, then that party shall be entitled to receive its reasonable attorney's fees and other reasonable costs necessary to prosecute the case. In order to recover these costs, the party prosecuting the case shall give the alleged violator written notice of the violation prior to the instituting suit.

**B. Delay or Failure to Enforce.** No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

## **7. DURATION.**

Each of the Covenants set forth in these Restrictions shall continue and be binding for an initial period of thirty (30) years from the date of recording of these Restrictions with the Recorder of Clark County, Indiana, and thereafter for successive periods of twenty-five (25) years each; provided, however as follows:

**A. Amendments by Declarant.** Declarant hereby reserves the right unilaterally to amend and revise the standards and covenants contained in these Restrictions from the date hereof until the Applicable Date.

Such amendments shall be in writing, executed by Declarant, and recorded with the Recorder of Clark County, Indiana.

**B. Amendments by Owners.** The record Owners in fee simple of the Lots in Section E may revoke, modify, amend or supplement, in whole or in part, the Restrictions contained in this Declaration and may release from all or any part of said Restrictions all or any part of the real property subject thereto, but only at the following times and in the following manner:

- i. Any such change or changes may be made effective at any time within ten (10) years from the date of recording of these Restrictions, if the record Owners in fee simple of at least three- fourths (3/4) of the Lots in Section E and Declarant consent thereto; provided, however, such change or amendment shall not be effective unless also signed by (a) Declarant if Declarant is the owner of any Lots in Section E, and (b) a duly authorized representative of the Association.
- ii. Any such change or changes may be made effective at the end of such initial thirty (30) year period or any such successive twenty-five (25) year period if the record Owners in fee simple of at least two-thirds (2/3) of the Lots consent thereto at least five (5) years prior the end of any such period; provided, however, such change or amendment shall not be effective unless also signed by a duly authorized representative of the Association.
- iii. Any such consents shall be effective only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting Owners (and Declarant or the Association, if required) and recorded in the Office of the Recorder of Clark County, Indiana.

## **8. SEVERABILITY.**

Every one of the covenants and restrictions herein contained is hereby declared to be independent of, and severable from, the rest of the covenants and restrictions, and from every combination of the same. Therefore, if any of the covenants and restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability of any other one of the covenants and restrictions.

**9. JOINDER BY PATIO HOME ASSOCIATION.** Patio Home Association joins herein solely for the purpose of disclaiming any right, title or interest that it may have, pursuant to Paragraph 4(A) of the Original Patio Home Declaration, in and to any common areas or common area facilities located on, over, below or through Section E, to the extent such common areas or common area facilities are not included in the definition of Patio Home Common Areas set forth herein, and Patio Home Association does hereby quitclaim unto Declarant all of said right, title or interest.

[Signature Line on Next Page]

IN WITNESS WHEREOF, Hughes Development, LLC, as manager of LPI Investors, LLC, has caused this document to be executed for and on its behalf by its duly authorized officer on the 30<sup>th</sup> day of June 2010.

LPI INVESTORS, LLC, an Indiana limited liability company

By: Hughes Development, LLC, manager

By: [Signature]  
Printed Name: Roger W. Denny  
Title: Secretary

QUARRY BLUFF PATIO HOMEOWNERS ASSOCIATION E, INC., an Indiana nonprofit corporation

By: [Signature]  
Printed Name: Roger W. Denny  
Title: Secretary

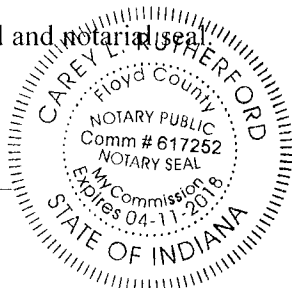
STATE OF INDIANA  
COUNTY OF CLARK

BEFORE ME, the undersigned, a Notary Public, in and for the above-named County and State, this 30<sup>th</sup> day of June, 2010, personally appeared Roger W. Denny, as Secretary of Hughes Development, LLC, in its capacity as manager of LPI Investors, LLC, an Indiana limited liability company, and acknowledged the execution of the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Quarry Bluff Estates – Section E for and on behalf of said company.

WITNESS my hand and notarial seal.

My Commission expires:

04/11/2018



Notary Public

[Signature]  
Printed Name: Carey L. Rutherford  
Resident of Floyd County

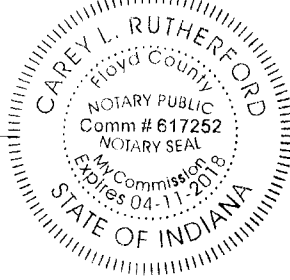
STATE OF INDIANA  
COUNTY OF CLARK

BEFORE ME, the undersigned, a Notary Public, in and for the above-named County and State, this 30<sup>th</sup> day of June, 2010, personally appeared Roger W. Denny, as Secretary of Quarry Bluff Patio Homeowners Association E. an Indiana nonprofit corporation, and acknowledged the execution of the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Quarry Bluff Estates – Section E for and on behalf of said company.

WITNESS my hand and notarial seal.

My Commission expires:

04/11/2018



Carey L. Rutherford  
Notary Public

Printed Name

Resident of Floyd County

I affirm, under the penalties for perjury, that I have taken reasonable care  
to redact each Social Security number in this document,  
unless required by law, and that this instrument prepared by:

Alan M. Applegate

**APPLEGATE FIFER PULLIAM LLC**

P. O. Box 1418

Jeffersonville, Indiana 47131-1418

(812) 284-9499