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Jefferson County Clerk's Office

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**INST # 2017089344**

**BATCH # 71928**

**JEFFERSON CO, KY FEE \$16.00**

PRESENTED ON: 04-14-2017 7 11:05:49 AM

LODGED BY: BARDENWERPER, TALBOTT & ROBERTS

RECORDED: 04-14-2017 11:05:49 AM

BOBBIE HOLSCLAW

CLERK

BY: JOLENE CARDWELL

RECORDING CLERK

**BK: D 10865**

**PG: 902-906**

**SECOND AMENDMENT AND DECLARATION OF ANNEXATION TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
SUMMIT GARDEN SUBDIVISION  
NOW PHASES I, II AND III  
JEFFERSON COUNTY, KENTUCKY**

**SUMMIT GARDENS SUBDIVISION, PHASE 3  
Plat and Subdivision Book 56, Page 48-49  
JEFFERSON COUNTY, KENTUCKY**

**THIS SECOND AMENDMENT AND DECLARATION OF ANNEXATION TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SUMMIT GARDENS SUBDIVISION** ("Declaration of Annexation") is made, imposed and declared as of this 14<sup>th</sup> day of April, 2017, by **KITTY DEVELOPER, LLC**, a Kentucky limited liability company, with an address of 16218 Shelbyville Road, Louisville, Kentucky 40245 (hereinafter referred to as "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant is the developer of that certain residential subdivision known as "SUMMIT GARDENS SUBDIVISION PHASE I" as shown on plat of same of record in Plat and Subdivision Book 54, Page 80, in the Office of the Clerk of Jefferson County, Kentucky; and that certain residential subdivision known as "SUMMIT GARDENS SUBDIVISION PHASE II" as shown on plat of same of record in Plat and Subdivision Book 55, Page 22, in the Office aforesaid; and pursuant to that certain Declaration of Covenants, Conditions and Restrictions for Summit Gardens Subdivision of record in Deed Book 10302, Page 968; as amended pursuant to that certain First Amendment and Declaration of Annexation to Declaration of Covenants, Conditions and Restrictions for Summit Gardens Subdivision of record in Deed Book 10492, Page 673; all in the Office aforesaid ("Declaration");

**WHEREAS**, Declarant desires to annex certain additional real property known as Phase III and more particularly described below ("Phase III" or the "Annexed Property") into the Subdivision and subdivision regime and to subject Phase III to the Declaration, as amended herein, pursuant to the provisions of Article I, Section 1.02 of the Declaration; and

**WHEREAS**, Declarant desires to exempt Lots 1004, 1005 & 1006, which lots are open space lots, from certain restrictions concerning use, maintenance fees, and building size;

**WHEREAS**, Declarant desires to amend Section 2.04 of the Declaration to add a fine provision for failure to clean up after pets pursuant to Section 5.03 of the Declaration;

**NOW, THEREFORE**, in accordance with the foregoing preambles, which are hereby incorporated herein, the Declarant hereby declares as follows:

1. The Annexed Property consists of the lots numbered 88 through 129 and open space lots 1004, 1005 & 1006 inclusive, as shown on Record Plat of **SUMMIT GARDENS PHASE III**, filed simultaneously with the recording of this Declaration of Annexation, of record in Plat and Subdivision Book 56, Page 48-49 in the Office of the Clerk aforesaid.

2. Phase III is hereby annexed to SUMMIT GARDENS SUBDIVISION and the scheme set forth in the Declaration shall be and hereby is extended to include the Annexed Property as more particularly described as:

**BEING** Lots 88 through 129 and Open Space Lots, 1004, 1005 & 1006, inclusive, as shown on Record Plat of Summit Gardens Phase III Subdivision, prepared by Heritage Engineering, LLC dated March 27, 2012, and approved by the Louisville Metro Planning Commission on March 31, 2017 Docket #17MINORPLAT1005 the original of which is shown on the Plat of record in Plat and Subdivision Book 56, Page 48-49 in the Office of the Clerk of Jefferson County, Kentucky.

**BEING** the same property acquired by Kitty Developer, LLC by Deed dated November 14, 2013 recorded in Deed Book 10167, Page 344, in the Office of the Clerk of Jefferson County, Kentucky.

3. Declarant declares that the Additional Property shall be owned, held, used, leased, conveyed and occupied subject to the conditions and restrictions set forth herein as if these conditions and restrictions were included in and made a part of the Declaration.

4. The Open Space lots shall not be subject to any assessment under any provision of the Declaration or any amendment thereto.

5. Section 2.04 Animals. Shall be amended and restated as follows:

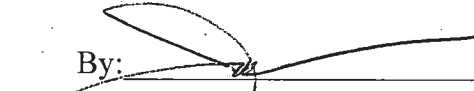
Section 2.04 Animals. No animals, including reptiles, livestock or poultry of any kind, shall be raised, bred or kept on any lot, except that dogs, cats or other household pets (meaning, domestic pets traditionally recognized as household pets in Jefferson County, Kentucky) may be kept provided that they are not kept, bred or maintained for any commercial or breeding purposes, and then only in the residence and neither overnight nor for extended periods out-of-doors, provided further that they are restrained on the owner's lot such that they are not allowed to wander onto other lots or onto the property of adjoining landowners. No dog or other pet runs are permitted on any lot, except for those the design, placement and landscaping of which have been approved in writing by the Declarant in its sole discretion. Electric dog fences shall be allowed with the prior written approval of Declarant in its sole discretion. The lot owner keeping any such pets shall keep the lot free of pet waste and feces, and any person in charge of a dog, cat or other

pet in the common areas shall dispose of any feces dropped by the pet, in a prompt and sanitary manner; provided that the foregoing shall not be construed to permit any person in charge of a pet or other animal to take the pet or animal on private property without the consent of the property owner. Failure of a lot owner to clean up after their pet, will result in fines pursuant to Section 5.01 of the Declaration. In addition to such other remedies as may be available, violation of this Section 3.04 by any lot owner or resident of the Subdivision may result in fines and result in the suspension of the voting rights of a lot owner in the Association and suspension of other rights set forth in this Declaration.

WITNESS the signature of Declarant by its duly authorized representative as of the day, month, and year first above written.

KITTY DEVELOPER, LLC  
a Kentucky limited liability company


By: Elite Homes, Inc.,  
its Managing Member

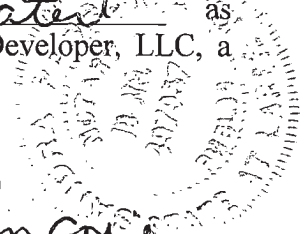
By:   
Name: JOSEPH PUSATERI  
Title: MANAGING MEMBER

COMMONWEALTH OF KENTUCKY )  
) SS:  
COUNTY OF JEFFERSON )

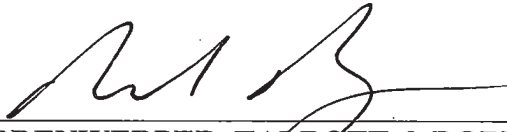
The foregoing instrument was subscribed, sworn to, and acknowledged before me this 14<sup>th</sup> day of April, 2017, by Joseph Pusateri as member of Elite Homes, Inc., as Managing Member of Kitty Developer, LLC, a Kentucky limited liability company, on behalf of the company.

My Commission expires: 9-25-17

  
Notary Public  
State at Large, Kentucky



**THIS INSTRUMENT PREPARED BY:**



**BARDENWERPER, TALBOTT & ROBERTS, PLLC**  
1000 N. Hurstbourne Pkwy., 2<sup>nd</sup> Floor  
Louisville, Kentucky 40223  
(502) 426-6688

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AMC Rev. 4/13/2017 4:03 PM

**Recorded In Plat Book**  
No. 56 Page 4849  
Part No. \_\_\_\_\_