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**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR BRIAR RUN ESTATES**

This First Amendment ("First Amendment") to the Declaration of Covenants, Conditions, Restrictions and Easements for Briar Run Estates ("Declaration") is made and entered into this 11 day of December, 2013, by Ed Burger, President and principal officer of the Briar Run Estates Owners Association, Inc. ("Association") pursuant to the approval and direction of two-thirds (2/3) of the members of Briar Run Estates Owners Association, Inc.

W I T N E S S E T H

WHEREAS, pursuant to the terms of the Declaration recorded in the land records of Jefferson County, West Virginia at Book 870, Page 582, *et seq.*, the lot owners of the Association may, from time to time, amend the Declaration; and

WHEREAS, this First Amendment to the Declaration is approved when owners of lots representing at least two-thirds (2/3) of the membership of the Association approved the First Amendment ("Requisite Majority") and such approval is verified by the Board of Directors; and

WHEREAS, the President, as principal officer of Association, signed a certification that lot owners composing the Requisite Majority have executed ratifications of the said First Amendment, which certification is attached hereto as Exhibit A; and

WHEREAS, the agreement of these lot owners is evidenced by the execution of ratifications that signify approval of the First Amendment to the Declaration, which are attached hereto as Exhibit B; and

NOW, THEREFORE, the foregoing recitals being incorporated herein, Association, by its President and principal officer, with the agreement of the Requisite Majority, as evidenced by the execution of written ratifications, does hereby amend the Declaration, effective immediately upon recordation of this instrument in the office of the Clerk of the County Commission of Jefferson County, WV as follows:

The first sentence of **Section D, DURATION OF COVENANTS, RESTRICTIONS, RESERVATIONS AND SERVITUDES**, which reads: "The covenants, restrictions, reservations, and servitudes herein set forth shall continue in full force and effect until January 1, 2014." is hereby deleted in its entirety.

Date

Signature

STATE OF MARYLAND
COUNTY OF WASHINGTON, to wit:

Print Name

The foregoing instrument was acknowledged before me this 11 of December, 2013 by Edward Burger, President of Briar Run Estates Owners Association, Inc.

Notary Public

My commission expires: 2-02-2014

This instrument was prepared by Briar Run Estates Owners Association, Inc.

BOOK NO. 870 JEFFERSON COUNTY**5263**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
BRIAR RUN ESTATES

This Declaration made this 25th day of APRIL, 1997, by Marcus Enterprises, Ltd., a general partnership.

WHEREAS, the undersigned is the owner of all those certain lots, pieces or parcels of land situate, lying and being in the Charles Town District, Jefferson County, West Virginia, known as Briar Run Estates, a plat of said subdivision of record in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Cabinet 14, Slide 75; consisting of Lots 1 through 37 and Parcel A and B.

WHEREAS, the present owner of said parcels of real estate has established a general plan for the improvement and development of said parcels of real estate.

WITNESSETH, that the said Marcus Enterprises, Ltd., a general partnership, its successors and assigns, does hereby establish and impose on the aforementioned subdivision the following covenants, conditions, restrictions and easements, to be observed and enforced by the said Marcus Enterprises, Ltd., a general partnership, its successors and assigns, and all purchasers of lots within said subdivision, as follows:

1. No lot shall be split, divided or subdivided by sale, resale, gift, devise, transfer or otherwise.
2. No house trailer or mobile home or any similar item shall be stored in the open on any said lot.
3. No building of a temporary nature, nor trailer, nor mobile home, nor tent, except a child's tent, shall be erected or placed on the property, except that this shall not be construed to prohibit the placing of a trailer or any other temporary structure upon the premises as an incidence to the construction of dwelling houses upon said property.
4. No temporary building, trailer, basement, tent, shack, garage, barn, outbuilding or other building in the course of construction shall be used temporarily or permanently as a residence on any lot.
5. No more than one dwelling may be erected on any one lot.
6. Garages, carports or car shelters shall be attached to and remain a part of the main dwelling structure.
7. When any dwelling structure shall be constructed on any lot, the owner thereof shall cause that portion of such lot owned by him and not improved

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by said dwelling structure, other building, appurtenance or driveway to be properly graded, seeded and suitably planted with grass, trees or shrubbery.

8. Each owner shall keep all lots owned by him, and all improvements therein or thereon, in good order and repair, including, but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent.

9. No manufacturing or commercial establishment of any kind shall be erected on said property and no building erected thereon shall be used for commercial purposes, nor shall said property in any way be used for other than strictly residential, but nothing herein contained shall be construed to prevent a bona fide lease of any dwelling house erected upon said lot, for residential purposes.

10. No signs, billboards, or advertising devices of any kind, except those used in any subsequent sale of the property, shall be placed or otherwise installed on any lot or building within the subdivision, except that the Builder may use signs to promote the sale of improved or unimproved lots within the subdivision.

11. Domesticated house pets shall be allowed within the subdivision, provided such pets are contained within a fenced in area, or secured by a leash, chain or rope. No animals shall be allowed to roam freely within the subdivision. No livestock, including, but not limited to, cattle, hogs, horses, ponies, chickens, goats or fowl of any kind shall be permitted on the premises.

12. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any lot, except building materials during the course of construction of any dwelling. All trash or other refuse must be kept or stored in covered metal or plastic containers. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pick-up is to be made, at such place on the lot so as to provide access to persons making such pick-up. At all other times, such containers shall be stored in such a manner so they cannot be seen from adjacent and surrounding property. No noxious or offensive activity shall be permitted on any lot, nor anything done thereon which may become a nuisance to the neighborhood.

13. No open fires, unless state permitted, other than cooking grills,

shall be permitted on any part of the property. Outdoor fireplaces, if built, and all chimneys shall be provided with fire screens. No garbage incinerators shall be permitted on any part of the property.

14. Only legally registered automobiles, trucks, motorcycles, motorbikes or other vehicles, whether motorized or self-propelled, shall be parked or placed anywhere within the subdivision; nor shall the same be driven or ridden upon any streets, roadways, alleys or sidewalks within the subdivision, nor upon any lot, open area or trail within the subdivision. No on street parking shall be permitted of any vehicles, nor shall unlicensed or unused vehicles be parked or abandoned on any lot.

15. No motorbikes, trail bikes, motor scooters or the like, nor any snowmobile shall be driven or ridden anywhere within the subdivision. No unregistered motorized vehicle shall be operated anywhere within the subdivision.

16. No fences shall be permitted within the subdivision, except fences constructed of board, stone, hedge, wooden picket, chain link, or split rail, and provided said fences be placed along the back property line, along the side property lines to points not to exceed the rear building line, and across the lot from said points to the rear corners of the building (dwelling). Privacy fences may be erected around the perimeters of swimming pools and tennis courts. The design of all private fencing must be approved by the developer, its successors or assigns prior to construction.

17. Extreme outside lines of dwellings, including attached garage, porch or carport, shall not be less than twenty-five (25) feet from the lot right of way frontage (front lot line) nor less than twelve (12) feet from the side or twenty (20) feet from the rear lot line.

18. Dwellings must be completed before being occupied and all dwellings must be finished on exterior so as not to detract from the value of other property owners. Dwellings shall not be left with exposed cinder blocks or any type of temporary siding or sheathing. (In no instance shall any exterior be left unfinished more than 180 days from beginning of construction). If poured concrete walls are used, then they must be painted the matching color of the exterior siding; if brick or stone is used as the dwelling face, then the brick or stone must extend to grade level.

19. Outbuildings erected on each lot are to be limited to those used

related to single-family dwellings and shall be of the same material and color as the residence, and no structure shall be of unfaced concrete block or unfinished materials. Grantor or his agent shall review all such structures to determine that it shall not detract from the appearance of any home.

20. Architectural Controls

a. The exterior design and location of all improvements constructed by Grantee(s) on the Lots and all Development Plans for Lots shall be subject to review and approval by the Developer. Grantee(s) shall pre-site individual house locations and specify house models for each Lot so as to allow adequate time for architectural review, procurement of building permits, and coordination of installation of electric service. Grantee(s) shall be responsible for all on-lot grading and improvements. Grantee's on-site grading plan must designate methods for preserving trees in special situations previously specified by Developer.

b. Applications are to be submitted in duplicate. All approvals or disapprovals shall be in writing.

c. The Developer shall approve or disapprove submissions within ten (10) days of receipt. If no approval or disapproval is communicated within said ten (10) days, requests shall be deemed approved. Reasons will be stated on any disapprovals.

d. Grantee(s) shall maintain its construction site in an orderly fashion, and shall remove all debris and equipment in a timely fashion. Grantee(s) shall keep roads and pedestrian access ways around the Lots free from storage of equipment, building materials and dirt. Parking of vehicles for workmen must be provided off the publicly dedicated rights-of-way and the surface of the streets must be cleaned of mud or dust brought onto streets during construction.

21. Dwellings must have the following minimum areas of livable space (i.e. exterior dimensions). (Excluding space contained in basements, breezeways, carports, garages and porches):

- 1) Single story houses: 1000 square feet.
- 2) Split foyer houses: 1000 square feet, 75% of which must be on the first floor; unless a garage is attached to the house, in which case 65% of which must be on the first floor (exclusive of the garage).
- 3) Two-story and one and one-half story houses: 1200 square feet, one-

half of which must be on the first floor.

22. Driveways to house sites on all lots shall be constructed by the Grantee(s) at his cost with a culvert across the front of said driveway. Specifications for each culvert must be approved by the Developer or his authorized agent and must be in accordance with final plat approval.

23. The Developer reserves unto itself, its successors and assigns, a utility and/or drainage easement 10 feet in uniform width along the front, sides and rear of each lot.

24. No television, radio or other type antenna or satellite dish (larger than 24 inches in diameter) shall be erected on any portion of a lot, except behind the rear line of a residence and not more than 25 feet from the rear building line of the residence.

25. No private or public hunting shall be permitted anywhere within the developed or undeveloped lands of the subdivision.

26. No lot shall have access to any road other than those of the Subdivision.

27. No dwelling shall be constructed using a steel frame. If a dwelling is to be constructed using modular components, then said dwelling must have a minimum 5/12 roof pitch.

28. No churches or houses of worship will be permitted within the Subdivision.

B. SETBACKS AND BUILDING LINES

1. For the purpose of this paragraph, building shall mean the main residence and all projections thereof, but shall not include, bay, bow or criel windows, or exterior chimneys.

2. No fences or walls shall be constructed, nor growing hedge rows, either on the side or rear of any lots that shall exceed eight (8) feet in height from the improved grades of the lot.

C. STREETS, EASEMENTS AND RIGHTS OF WAY

1. The Grantor has not by this deed conveyed to the Grantee(s) any of the land in the platted street and has and hereby reserves all easements for utilities or drainage shown on the recorded plat and full rights of ingress and egress for itself, its agents, employees and assigns, over any part of

the property, including any part of each lot, for the purposes of installing and servicing the utilities and drains for which the easements are reserved.

2. No structures, including walls, fences, paving or planting, shall be erected upon any part of the property, which will interfere with the rights of ingress and egress provided in subparagraph (1) hereof. If a fence is constructed, a gate or opening need be installed to allow utility meter readers easy access to the premises for purposes of reading the meter.

D. DURATION OF COVENANTS, RESTRICTIONS, RESERVATIONS AND SERVITUDES

The covenants, restrictions, reservations and servitudes herein set forth shall continue in full force and effect until January 1, 2014. Any common areas cannot be mortgaged or conveyed without the consent of 2/3 or more of the lot owners. Further, absolute liability is not imposed on lot owners for damages to common areas or lots in the Development.

E. HOMEOWNERS ASSOCIATION

The Developer hereby dedicates the roads to the Association and owners of properties within said Subdivision, Briar Run Estates, provided however, that such dedication shall not inhibit convenient access to any lot within said Subdivision. For the purpose of maintaining roads, traffic control, general planting within roadway areas, and all common community services of every kind and nature required and desired within said subdivision for the general use and benefit of all lot owners, each and every lot owner, in accepting a deed for any lot in said subdivision, agrees to and shall be a member of and shall be subject to the obligations and duly enacted by-laws and rules of the Briar Run Estates Owners Association, Inc., a non-profit non-stock corporation. It is also understood that each lot owner in said subdivision shall be obligated to pay an equal amount beginning at One Hundred Twenty Dollars (\$120.00) Homeowners Association Fee on the first day of each year Beginning January 1, 1997, to the Briar Run Estates Owners Association, Inc., and to pay such other fees and assessments as established by the Association. The homeowners association fee may be increased at any time by a vote of the property owners, so long as such increase complies with the provisions of West Virginia Code Annotated Section 36B-1-203(2). In no event shall the annual average common expense liability of any unit, exclusive of

optional user fees, and any insurance premiums paid by the association, exceed \$300.00, as adjusted pursuant to Section 36B-1-114 of the West Virginia Code Annotated. It is the express intention that this subdivision is considered a limited expense liability planned community pursuant to Section 36B-1-203 of the West Virginia Code Annotated. In voting, a property owner shall be entitled to one vote for each lot owned. The annual homeowners association fee may be increased by vote count that equals a majority of the number of lots within the subdivision.

Any fees or assessments, together with interests and costs, shall be a personal obligation of the lot owner and shall also be a lien upon the lot against which such assessment is made. The Association shall have the right to file among the Land Records of Jefferson County, West Virginia, a duly executed and acknowledged Notice of Lien with respect to each lot and its owner for which any assessment remains unpaid. However, said assessment shall be a lien whether or not filed in said courthouse. Said lien shall be subordinate to any recorded mortgage, deed of trust, or vendor's lien to the extent the assessment is for an obligation accruing after the recordation of said mortgage deed of trust, or vendor's lien and the mortgagees are not required to collect the assessments. Failure to pay the assessment does not constitute a default of a mortgage..

F. Reservation. Marcus Enterprises, Ltd., a general partnership, hereby reserves the right for themselves, their successors and assigns to also use the roadways and access or utilities within Brian Run Estates, and specifically intends to develop additional lots which may be located in future Sections, and which will have full use and access of the roads and utilities.

G. Modifications and Expansion. Marcus Enterprises, Ltd., a general partnership, hereby reserves the right to add additional lots to be members of the Briar Run Estates Owners Association, by recording a document among the Land Records of Jefferson County, West Virginia. Said lots may have modified covenants and restrictions but will have the same voting rights and expense obligations as those in the Declaration. Additional roadways may also be added to this Declaration and will then become owned by the Association and maintained by the expanded Association.

H. Duration. These covenants, conditions, restrictions and easements are to run with the land and shall be binding on all parties and persons

WITNESS the following signatures and seals as of the date first hereinabove.

Its: MANAGING GENERAL PARTNER

COUNTY OF BERKELEY, to-wit:

Businesses, Inc. a general

 OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
KERNAL CONRAD
187 S. COUNTRY CLUB RD.
CHARLES TOWN, WV 25414
My Commission Expires February 14, 2000.

KUTU R. Conrad
Notary Public

My commission expires: 2/16/2000

psj/2/BRIAR-CR

State of West Virginia, County of Jefferson, Sct.

IN THE CLERK'S OFFICE OF THE COUNTY THE COUNTY COMMISSION:

On AUG 03 1997, at 10:45A M., the foregoing document was received in my said office and duly admitted to record.

Test,

John E. Ott
Clerk of County Commission

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