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530 S MAIN ST

AKRON , OH 44311

Deed Book 12069 Pg 71
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Clerk of Superior Court Cherokee Cty, GA

After recordation, return to:
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Cross Reference:
Deed Book 9841, Page 389
Deed Book 11017, Page 124
Deed Book 11535, Page 95

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STATE OF GEORGIA

COUNTY OF CHEROKEE

**SECOND AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND
EASEMENTS FOR STONEY CREEK**

This Second Amendment to the Declaration of Covenants, Conditions, Restrictions, and Easements for Stoney Creek (hereafter referred to as the "Amendment") is made and executed this 9th day of October, 2012.

WITNESSETH:

WHEREAS, McBride & Son Homes Land Development, Inc., a Missouri corporation ("McBride Land"), recorded that certain Declaration of Covenants, Conditions, Restrictions, and Easements for Stoney Creek on September 17, 2007, in Deed Book 9841, Page 389 of the Cherokee County, Georgia land records, as amended by that certain Amendment to Declaration of Covenants, Conditions, Restrictions, and Easements for Stoney Creek recorded May 18, 2010, in Deed Book 11017, Page 124 (as amended and hereafter referred to as the "Declaration"), which Declaration includes a copy of the Bylaws of Stoney Creek Community Association, Inc. (the "Bylaws");

WHEREAS, on or about November 20, 2007, McBride & Son Homes Atlanta, L.L.C., a Missouri limited liability company (hereafter referred to as the "Declarant"), acquired fee title to multiple Lots in the Community and automatically succeeded to all rights and privileges of McBride Land as the then current "Declarant" under the Declaration pursuant to Article I, Section 1.8 of the Declaration;

WHEREAS, the Declaration, as amended by this Amendment, encumbers the property described in the Declaration;

WHEREAS, on October 6, 2011, Declarant recorded that certain Partial Surrender of Declarant's Rights to Appoint and Remove Directors Under the Declaration of Covenants, Conditions, Restrictions, and Easements for Stoney Creek in Deed Book 11535, Page 95;

WHEREAS, pursuant to Sections 3.4 and 17.2 of the Declaration, Declarant has the unilateral right to amend the Declaration from time to time without the approval of the Association until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed for residential use;

WHEREAS, as of the date of this Amendment, Declarant retains the unilateral right to amend the Declaration; and

WHEREAS, Declarant desires to amend the Declaration.

NOW THEREFORE, the Declaration is hereby amended as follows:

1. The recitals set forth above are incorporated into this Amendment by reference in their entirety.
2. The Declaration is hereby amended by inserting the following as Section 3.7 at the end of Article III:

3.7. Assignment of Declarant Rights in Connection with a Foreclosure or Deed in Lieu of Foreclosure. Notwithstanding anything to the contrary contained in this Declaration, including Section 3.6 of the Declaration, in connection with any assignment of any or all of the special rights and obligations of Declarant set forth in the Declaration or the Bylaws to a party who is not an affiliate of the Declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title following foreclosure of a mortgage or deed to secure debt, such successor may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all such Declarant rights to any person acquiring title to one or more Lots or other property within the Community owned by the successor, or until recording an instrument permitting exercise of all those rights, such successor may not exercise any such Declarant rights under this Declaration or the Bylaws other than any right to vote as a member of the Association, and any attempted exercise of such rights is void. So long as such successor may not exercise Declarant rights under this subsection except as specifically allowed herein, such successor shall not be subject to any liability or obligation as a Declarant under this Declaration.

3. All other provisions of the Declaration remain in full force and effect.

4. Capitalized words and phrases used but not specifically defined in this Amendment shall have the meaning set forth in the Declaration.

5. In the event of any conflict between the provisions of this Amendment and the provisions of the Declaration, the provisions of this Amendment shall prevail and control.

6. Declarant hereby represents and warrants that the person signing this Amendment on behalf of Declarant is duly authorized to execute and deliver this Amendment and to legally bind the party on whose behalf this Amendment is signed to all of the terms, covenants and conditions contained in this Amendment.

IN WITNESS WHEREOF, Declarant has caused these presents to be duly executed as of the day and year first written above.

DECLARANT:

Signed, sealed and delivered
in the presence of:

MCBRIDE & SON HOMES ATLANTA, L.L.C.,
a Missouri limited liability company

By: **MCBRIDE & SON HOMES, INC.,**
Managing Member

[Handwritten Signature]

Witness

By: *[Handwritten Signature: Michael D. Arri]*

Michael D. Arri, Treasurer

[Handwritten Signature: Angela Lynn Carter]

Notary Public

Commission Expiration Date:

2-25-13

(NOTARY SEAL)

