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THE PRESERVE AT STRATTON OAKS

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

OLATHE, KANSAS

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THE PRESERVE AT STRATTON OAKS

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OLATHE, KANSAS

THIS DECLARATION is made this 21st day of January, 2005 by PULTE HOMES OF GREATER KANSAS CITY, INC., a Michigan corporation (hereinafter referred to as "**Declarant**").

RECITALS:

A. Declarant is the owner of certain real property located in Olathe, Kansas, which is more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference ("**Property**").

B. The Property shall be conveyed to third parties, subject to certain protective easements, restrictions, covenants, conditions, reservations, liens and charges as hereinafter set forth in this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the Property described in **Exhibit A** hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, reservations, liens and charges, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property and be binding on and shall inure to the benefit of all parties having any right, title or interest in the described Property or any part thereof, including their heirs, successors and assigns.

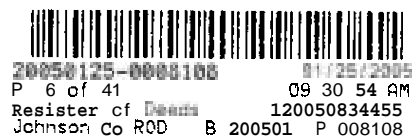
ARTICLE 1.
DEFINITIONS

SECTION 1.1. "**Additional Land**" shall have the meaning ascribed to such term in Section 12.1.

SECTION 1.2. "**Appearance Control Committee**" shall have the meaning ascribed to such term in Article 10 hereof. Prior to the formation of the Committee and during any periods of time after such formation that the Committee no longer exists, all consents and approvals reserved to the Committee shall be made solely by the Declarant.

SECTION 1.3. "**Articles of Incorporation**" shall mean the Articles of Incorporation for the Association.

SECTION 1.4. "**Assessments**" shall mean collectively the Base Annual Assessments, Special Assessments and Capital Contributions and any other assessment or charge that the



Association is authorized to levy under this Declaration, together with assessments or charges levied by the Master Association under the Master Association Declaration.

SECTION 1.5. "**Association**" shall mean The Preserve at Stratton Oaks Homes Association, a Kansas not-for-profit corporation, its successors and assigns. Prior to the formation of the Association and during any periods of time **after** such formation that the Association no longer exists, all consents and approvals reserved to the Association shall be made solely by the Declarant.

SECTION 1.6. "**Base Annual Assessments**" shall have the meaning ascribed to such term in Section 5.2 hereof.

SECTION 1.7. "**Bylaws**" shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

SECTION 1.8. "**Capital Contributions**" shall have the meaning ascribed to such term in Section 5.4 hereof.

SECTION 1.9. "**City**" shall mean the City of Olathe, Kansas.

SECTION 1.10. "**City Property**" shall mean all real property, and all improvements or fixtures thereto, and all real property infrastructure improvements conveyed or dedicated by the Declarant to the City, City Property at the time of recording of this Declaration, all Dedicated Rights-of-way and all sanitary sewer lines and water mains (except for sewer service lines from the street stub to the Residence and water service lines from the service box to the Residence, which shall be maintained by the Association).

SECTION 1.11. "**Common Area**" shall mean all real property and all improvements and fixtures thereto and all personal property owned by the Association for the common use and enjoyment of the Owners. Common Area includes, but is not limited to, any parks, green space, landscaping within the island areas and located within street rights-of-way and landscaping features; playgrounds, swimming pools, jogging and bicycling trails and other recreational areas; sidewalks and walkways; special and decorative lighting; signs, monuments, bridges; median strips and islands in streets; ponds, streams, creeks and drainage and retention facilities; streets and street lighting; and any fencing around the perimeter of the Property; (b) any land deeded to the Association by or at the direction of Declarant; (c) any easements, leases, licenses and other interests in real property and rights of use granted to the Association by or at the direction of Declarant, and the land or other property which is the subject thereof; (d) all outdoor furniture, benches, fences and playground equipment; and (e) all buildings, structures and other improvements, fixtures and equipment and other tangible personal property installed by or at the direction of Declarant or the Association and located on, or used in connection with or forming a part of any of the foregoing; **PROVIDED, HOWEVER**, the foregoing does not constitute a representation or warranty that any Common Area so enumerated will exist within the Property.

SECTION 1.12. "**Declarant**" shall mean and refer to Pulte Homes of Greater Kansas City, Inc., a Michigan corporation and its successors and assigns.



SECTION 1.13. "**Dedicated Right-of-Way**" shall mean and refer to the public rights-of-way depicted on any Plat of Subdivision.

SECTION 1.14. "**Lot**" shall mean a plot of land upon which a Residence is constructed or to be constructed. A Lot shall be a subdivision lot created by the recording of a Plat of Subdivision, or a portion of a subdivision lot.

SECTION 1.15. "**Master Association**" shall mean **Stratton** Oaks Homes Association, a master community association governing both the Property and the adjacent **townhome** development which comprise the **Stratton** Oaks community together with all Additional Land and other annexed land, if any. The Property shall, in addition to this Declaration, be subject to the terms of the Declaration of **Stratton** Oaks Homes Association, recorded as Document No. _____ in the Register of Deeds Office (the "**Master Association Declaration**"). The Master Association shall hold title to and administer, and levy additional Assessments for, those Common Areas which serve the entire community, including the swimming pool and related Common Areas, all in accordance with the Master Association Declaration. Prior to the formation of the Master Association and during any periods of time after such formation that the Master Association no longer exists, all consents and approvals reserved to the Master Association shall be made solely by the Declarant.

SECTION 1.16. "**Member**" shall mean and refer to every person or entity who holds a membership in the Association, including Declarant and any beneficiary of a trust holding legal title to one or more Lots.

SECTION 1.17. "**Owner**" shall mean and refer to the record owner, whether one or more natural persons or entities, of fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation, such as secured lenders.

SECTION 1.18. "**Plat of Subdivision**" shall mean a final plat of subdivision recorded against the Property, or any part thereof, with the Register of Deeds Office and any amended or additional plat of subdivision or re-subdivision expressly made subject to the terms of this Declaration by appropriate amendment hereto.

SECTION 1.19. "**Property**" shall mean and refer to that certain real property described on **Exhibit A**, attached hereto and incorporated herein by this reference, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the written amendment of this Declaration, as provided under Section 12.1.

SECTION 1.20. "**Residence**" shall mean one single-family home.

SECTION 1.21. "**Register of Deeds Office**" shall mean the Office of the Register of Deeds of Johnson County, Kansas.

SECTION 1.22. "**Special Assessments**" shall have the meaning ascribed to such term in Section 5.3 hereof.

ARTICLE 2.
MEMBERSHIP IN THE ASSOCIATION

SECTION 2.1. Membership. Every Owner, including Declarant, shall be a Member of the Association, and each Owner, by acceptance of a deed for his Lot, covenants and agrees to be a Member of the Association, whether or not it shall be so expressed in any such deed or other conveyance. Ownership of a Lot shall be the sole qualification for membership, and there shall be only one (1) membership per Lot.

SECTION 2.2. Transfer of Membership. Membership held by any Owner of a Lot is an appurtenance to such Lot and shall not be transferred, alienated, or pledged in any way, except upon the sale or encumbrance of such Lot, and then only to the purchaser of such Lot. Any attempt to make such a transfer except by the sale or encumbrance of a Lot is hereby deemed to be null and void. Reference to the transfer of membership need not be made in an instrument of conveyance or encumbrance of such Lot for the transfer to be effective, and the same shall automatically pass with title to the Lot. Members are required to provide the Association written notification upon the transfer, alienation or sale of their Lot to a new Owner.

ARTICLE 3.
VOTING RIGHTS IN THE ASSOCIATION

SECTION 3.1. Membership Classes. The Association shall have two (2) classes of voting membership, as follows:

- (a) Class A: Class A Members shall be all Owners of Lots with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required by Section 2.1 for membership, except that there shall be only one (1) vote per Lot.
- (b) Class B: Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required by Section 2.1 for membership. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:
 - (i) Ten (10) years from the date of this Declaration;
 - (ii) One hundred twenty (120) days after the date by which seventy-five percent (**75%**) of the Lots have been conveyed by Declarant to Owners. For purposes of this Section 3.1(b)(ii), the foregoing **75%** threshold shall be determined as follows: (x) if the Declarant has not started construction of any dwelling unit on a phase of the Additional Land that has not yet been annexed to the Property within the said 120 day period, then on the basis of only those Lots that have been submitted to this Declaration either as a part of the original Property or as Additional Land or as a phase thereof annexed to the Property, or (y) if Declarant has started construction of a dwelling unit on any Lot in a phase of the Additional Land that has not yet been annexed to the Property within such one



hundred twenty (120) day period, then on the basis of the combined total of the Lots then comprising the Property and those contained in such phase of the Additional Land that is thereafter annexed to the Property. For purposes hereof, the term "started construction" shall mean the excavation of a building site on one Lot within the boundaries of a phase; or

- (iii) The date on which Declarant voluntarily withdraws as the Class B Member by executing and recording with the Register of Deeds Office, a written declaration of intent to withdraw, which shall become effective in the manner specified in such declaration of intent.

Anything contained in the Articles of Incorporation or the Bylaws of the Association notwithstanding, so long as Declarant is a Class B Member, it shall have the absolute right to appoint and remove any member of the Board of Directors and/or officers and agents of the Association.

SECTION 3.2. Exercise of Voting Rights among Co-Owners. When more than one (1) person (other than Declarant) holds an interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they determine among themselves and advise the Association's Secretary in writing prior to any such vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one (1) person seeks to exercise it. In no event shall more than one (1) vote be cast with respect to any Lot not owned by Declarant.

ARTICLE 4.
DUTIES AND POWERS OF THE ASSOCIATION

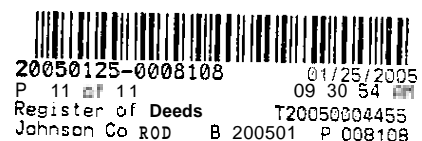
SECTION 4.1. General. The Association shall have the power and duty to

- (a) pay any real property taxes and other charges assessed against Common Area;
- (b) grant easements where necessary for public utilities over Common Area to serve Common Area or Lots;
- (c) adopt reasonable rules and regulations (including fines or other charges) for (i) controlling and limiting the use of Common Area or any improvements thereto, and (ii) supplementing the use restrictions contained in Article 8 or any other restrictions or provisions contained in this Declaration;
- (d) maintain such policy or policies of insurance, including, but not limited, to those described in Article 16, at all times as the Board of Directors deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members, officers and directors;
- (e) employ a manager or other persons and contract with independent contractors, managing agents, collection agents and others to perform and effectuate all or any part of the duties and powers of the Association, if deemed necessary by the Board of Directors;

- (f) enforce any easements or restrictions which may be set forth herein;
- (g) establish such reserves as may be required hereunder or as the Board of Directors shall from time to time deem necessary to fulfill and further the purposes of the Association;
- (h) exercise any other right or powers given to the Association under this Declaration or under the general corporation laws of the State of Kansas.

SECTION 4.2. Maintenance of Common Area. The Association shall maintain, repair, and replace, all to the extent deemed by the Board of Directors to be beneficial and convenient, Common Area together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration or any supplement or amendment hereto, which shall include, but need not be limited to, the following:

- (a) Common Area and its elements, including but not limited to grass, trees, shrubs, plantings, and other landscaping located within Common Area, and lighting, gazebos and other structures and improvements located within or upon Common Area;
- (b) detention ponds, swales and wetlands recharge areas located on Common Area within the Property, together with any improvements thereto.
- (c) pathways designed to accommodate bicycle and/or pedestrian traffic and installed by the Declarant or the Association, whether located on Common Area or within Dedicated Rights-of-way within the Property, but expressly excluding any such pathways located on City Property;
- (d) private streets for vehicular use and access not dedicated to the City and located within the Property, as depicted on the Plat of Subdivision, together with any improvements thereto;
- (e) fences installed by the Declarant or by the Association on Common Area.
- (f) entryway signs and/or monuments identifying any portion of Stratton Oaks development, whether located on Common Area or within Dedicated Rights-of-Way within the Property;
- (g) landscaping located within Dedicated Rights-of-way within the Property, including any landscaping located in the islands of cul-de-sacs within the Property;
- (h) sewer service lines **running** from the street stub to the Residence and water service lines from the service box to the Residence, whether located on Lots, Common Area or within Dedicated Right-of-way, to the extent and in the locations customarily required by the applicable utility provider and municipal regulations, with Lot Owners remaining responsible for the maintenance and

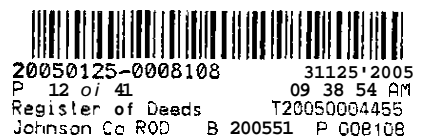


repair of the remaining portion(s) of such lines serving their individual Residences; and

- (i) stormwater lines within the Property, whether located on Lots, Common Area or within Dedicated Right-of-way, to the extent and in the locations customarily required by the applicable utility provider and municipal regulations, with Lot Owners remaining responsible for the maintenance and repair of the remaining portion(s) of such lines serving their individual Residences.

SECTION 4.3. Property and Lot Maintenance. Prior to completion of the development of the entire Property and construction of a Residence on each Lot, all vacant Lots and undeveloped portions of the Property shall be kept mowed and free of trash and construction debris by the Owner thereof. From and after the completion of construction of a residence on a lot, the Owner and occupant of each Lot shall cultivate an attractive ground cover or grass on all areas visible from the street, shall maintain all areas in a sanitary and attractive manner and shall edge the street curbs that run along the property line and the sidewalks and driveway located on the lot. Grass, weeds and vegetation on each Lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. All bushes, trees and shrubs must be maintained and kept reasonably trimmed. No vegetables shall be grown in any yard that faces a street unless completely screened from public view by fences which comply with the provisions of this Declaration. No Owner shall permit weeds or grass to grow to a height of greater than six (6) inches upon his or her Lot. Upon failure of the Owner of any Lot to maintain such Lot (whether or not developed), the Association may, at its option, have the grass, weeds and vegetation cut as often as necessary in its judgment, and the owner of such lot shall be obligated, when presented with an itemized statement, to reimburse the Association for the cost of such work. In the event the Association shall fail to exercise its right granted under the preceding sentence within ten (10) days following written notice to the Association from the City stating the City's intent to exercise such right, the City shall have the right, in lieu of the Association, to have the grass, weeds and vegetation cut as provided above, and upon exercise of such right, the Owner of such undeveloped property or the Owner of the Lot in question shall be obligated, when presented with an itemized statement, to reimburse the City for the cost of such work. These provisions shall be construed to create a lien in favor of the performing party against such property for the cost of such work or the reimbursement sought for such work performed on such property.

SECTION 4.4. Maintenance of Improvements. Subject to the provisions of this Article, each Owner shall maintain the exterior of all buildings, fences, walls and other improvements on his lot in good condition and repair, shall replace worn and rotten parts, shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate. Upon failure of the Owner of any Lot to maintain the exterior of all buildings, fences, walls and other improvements on his or her Lot, the Association may, at its option, perform such maintenance as often as necessary in its judgment, and the owner of such Lot shall be obligated, when presented with an itemized statement, to reimburse the Association for the cost of such maintenance work. These provisions shall be construed to create a lien in favor of the performing party against such lot for the cost of such work or the reimbursement sought for such work performed on such Lot.



SECTION 4.5. Watering. The Association shall have the right, but shall not be required, to water any grass, landscaping and plant materials located on Common Area or within any Dedicated Rights-of-way. All watering on any Lot shall be provided by the Owner thereof.

SECTION 4.6. No Maintenance of City Property. Except as expressly set forth herein, City Property shall be owned and maintained by the City. The Association shall have no responsibilities relative to the City Property once the City Property is conveyed to the City by dedication and/or deed, subject to the provisions of this Declaration.

ARTICLE 5.
COVENANT FOR ASSESSMENTS

SECTION 5.1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefor or possession thereof (whether or not it shall be so expressed in any such deed or other conveyance), is deemed personally and individually to covenant and agree to pay to the Association the Assessments authorized under this Declaration. In addition, Declarant hereby covenants and agrees for each Lot owned by Declarant within the Property to pay to the Association the Assessments authorized under this Declaration, subject to the provisions set forth in Sections 5.8 and 5.9. All such Assessments shall be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, attorneys' fees and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment falls due. This personal obligation shall pass to each Owner's successors in title accepting a deed to or assignment of beneficial interest in any trust holding title to an Owner's Lot.

SECTION 5.2. Base Annual Assessments. The Association is authorized to levy Base Annual Assessments equally against all Lots subject to assessment, which shall be paid by the Owners of all Lots within the Property, to fund common expenses for the general benefit of all Owners. Base Annual Assessments shall be used for the following purposes:

- (a) maintenance, repair, replacement and improvement of Common Area and Lots, and improvements thereon, to the extent such are the responsibility of the Association to maintain under the terms of this Declaration;
- (b) maintenance, repair and replacement of any landscaping located within Dedicated Rights-of-way that are the responsibility of the Association to maintain under the terms of this Declaration;
- (c) maintenance, repair and replacement of private streets within the Property;
- (d) maintenance, repair and replacement of stormwater lines within the Property, whether located on Lots, Common Area or within Dedicated Right-of-way;
- (e) payment of premiums on insurance maintained by the Association pursuant to this Declaration; and

- (f) to provide funds for the Association to carry on its duties or exercise its rights set forth herein or in its Articles of Incorporation or Bylaws or under the general corporation laws of the State of Kansas.

SECTION 5.3. Special Assessments. The Association is authorized to levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted, for the following purposes:

- (a) defraying in full or in part the cost of any construction, reconstruction, repair or replacement of any improvement on Common Area or any improvements which are the responsibility of the Association, including the necessary fixtures, personal property or landscaping located on or related to Common Area, and all landscaping or other improvements thereon; and
- (b) defraying in full or in part the cost of, and providing of funds to the Association, for carrying on any of its duties set forth in this Declaration or in its Articles of Incorporation or Bylaws or under the general corporation laws of the State of Kansas.

Any Special Assessments shall have the assent of a majority of the votes of the Members that are subject to such Special Assessment voting in person or by proxy at a meeting duly called for such purpose, at which a quorum is present, written notice of which shall be sent to all such Members in accordance with the Bylaws, setting forth the purpose of the meeting. Unless the Special Assessment specifies that it shall be applicable to a specified number of years, it shall be applicable only to the year enacted. In the event a Special Assessment is to be levied on less than all of the Lots located within the Property, such Special Assessment may, by the action described herein, be levied against only those Lots which benefit by such Special Assessment, in proportion to their benefit, and not against the other Lots in the Property.

SECTION 5.4. Capital Contributions. The Association is authorized to levy Capital Contributions against all Lots as provided herein. At the times of: (i) the initial sale of each Lot from Declarant to any Owner; and (ii) any subsequent sale of each Lot to a subsequent Owner, such Owner shall pay to the Association a Capital Contribution, which shall be a sum equal to a one-half year payment of the Base Annual Assessment then in effect. The Capital Contributions shall be used by the Association to cover operating expenses and other expenses incurred by the Association pursuant to this Declaration and the Bylaws.

SECTION 5.5. Basis for and Maximum Amount of Base Annual Assessments. Until December 31st of the year in which occurs the conveyance of the first Lot to an Owner, the maximum Base Annual Assessment shall be Two Hundred Fifty Dollars (\$250.00).

SECTION 5.6.

- (a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum Base Annual Assessment may be increased effective January 1st of each year by the Board of Directors of the Association (at any meeting of the Board of Directors duly convened at least



thirty (30) days prior to said January effective date) without a vote of the membership, so long as Declarant is a Class B Member

- (b) Beginning as of January 1st of the first year in which Declarant is no longer a Class B Member, and during all subsequent years, the maximum Base Annual Assessment may be increased effective January 1st of each year by the Board of Directors of the Association (at any meeting of the Board of Directors duly convened at least thirty (30) days prior to said January effective date) without a vote of the membership, provided that any such increase shall not be greater than a ten percent (10%) increase over the maximum Assessment permitted for the year immediately preceding for such type of Assessment.
- (c) Notwithstanding the 10% increase limitation set forth in Subsection 5.5(b) above, the Base Annual Assessment may be further increased for any year by the Board of Directors of the Association at any time, over the maximum Base Annual Assessment permitted for the year immediately preceding, without the vote of the membership, if the same is necessary to pay the costs of (i) any increases in real estate taxes for Common Area over the prior year; or (ii) any increases in the maintenance of Common Area or any improvements thereon over the prior year; or (iii) any increases in premiums for insurance procured by the Association over the prior year.
- (d) Notwithstanding the 10% increase limitation set forth in Subsection 5.5(b) above, the maximum Base Annual Assessment may also be further increased for the coming assessment year only for all succeeding assessment years effective January 1st of each year by the Board of Directors at any meeting of the Board of Directors (duly convened at least thirty (30) days prior to said January 1st effective date) in an amount greater than provided in subsections (a) or (b) hereof for the coming assessment year, provided that any such change shall have the assent of the majority of the votes of the Members voting in person or by proxy, at a meeting duly called for such purpose, at which a quorum is present, written notice of which will be sent to all Members that pay such Assessments not less than five (5) days nor more than forty (40) days in advance of the meeting, setting forth the purpose of the meeting.
- (e) After consideration of **future** needs and expected expenditures of the Association, the Board of Directors may fix either type of Assessment in lesser amounts than the maximum Assessments permitted or may, in its discretion, require no Assessment of either type whatsoever for any year, but such action shall not limit or prohibit the Board of Directors from fixing such Assessments for any year(s) following on the basis of increases to the maximum Assessments permitted hereunder rather than the assessments so fixed.

SECTION 5.7. Reasonable Reserves. The Association shall establish and maintain from Base Annual Assessments collected hereunder reasonable reserves for the costs of the maintenance, repair and replacement of those items which are the responsibility of the Association. The Association may establish and maintain such other reasonable reserves as the

Board of Directors deems necessary and convenient which are consistent with the powers and duties of the Association.

SECTION 5.8. Uniform Rate of Assessment. Base Annual Assessments must be fixed at a uniform rate for all Lots subject thereto. Base Annual Assessments may be collected on a quarterly basis or such other periodic basis as set by the Board of Directors.

SECTION 5.9. Assessment for Lots Owned by Declarant Notwithstanding the foregoing provisions, Base Annual Assessments and Special Assessments for any Lots while (i) owned by Declarant and improved with a completed Residence, but unoccupied by any tenant of Declarant, or (ii) owned by any party but occupied by Declarant and used as a model or a sale office, shall be limited to 25% of the amounts fixed with respect to such type of Lots owned by Owners other than Declarant. Prior to the completion of a Residence on any Lot, (which shall mean the issuance of a certificate of occupancy therefor by the City), such Lot shall be exempt from payment of any and all Assessments.

SECTION 5.10. Declarant Not Liable for Association Deficits. Notwithstanding anything contained in this Declaration to the contrary, Declarant shall not be liable for any liabilities, obligations, damages, causes, causes of action, claims, debts, suits or other matters incurred by or on behalf of the Association or Lot Owners or for any deficits or shortfalls incurred or realized by or on behalf of the Association or Lot Owners in connection with the Property or this Declaration. Declarant's sole liability and obligation hereunder shall be limited to the assessments assessed against any lots owned by the Declarant, whichever applies.

SECTION 5.11. Date of Commencement of Annual Assessments: Due Dates. Base Annual Assessments provided for herein shall commence for any Lot within the Property, or any land annexed to the Property, on the day of the conveyance of the first Lot of such type in the Property and shall be prorated for the month of said conveyance. The Board of Directors shall fix the amount of such Assessments at least thirty (30) days in advance of each annual Assessment period, and in lieu thereof, the amount of each type of such Assessment for the prior year shall be the fixed amount. Written notice of any changed amount of such Assessments shall be sent to every Owner subject thereto, but failure to do so shall not invalidate the changed Assessments. Base Annual Assessments shall be payable annually or such other periodic basis set by the Board of Directors.

SECTION 5.12. Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for said Assessments, a certificate in writing signed by an officer of the Association, setting forth whether the Assessments on a specified Lot have been paid and the amount of the delinquency, if any. A reasonable charge may be made by the Board of Directors for the issuance of such certificates. Such certificates shall be conclusive evidence that any Assessment therein stated to have been paid has in fact been paid. No charge shall be made for issuing from time to time said certificates to Declarant on Lots then owned by Declarant.

SECTION 5.13. Delinquency in Payment of Assessments. Any Assessment provided for in this Declaration which is not paid when due, shall be delinquent. With respect to each Assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the Owner to pay a "late charge" in a sum to be determined by the Association

and applied uniformly. If any such Assessment is not paid within thirty (30) days after the delinquency date, the Assessment shall bear interest from the date of delinquency at the lesser of (a) such rate as may be approved by the Board, or (b) the highest rate permitted by Kansas law, and the Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien (provided for in Section 5.1 hereof) against the Lot, and there shall be added to the amount of such Assessment the late charge, the "**Delinquency Costs**" (which may include, without limitation, any costs incurred by Declarant or the Association in connection with the delinquency, whether or not legal proceedings are initiated), the costs of preparing and filing a Complaint in such action and reasonable attorneys' fees, and in the event a judgment is obtained, such judgment shall include all Assessments accrued from date of suit to judgment, increased by such late charges, Delinquency Costs, plus interest. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosures against such Owner for the collection of such delinquent assessments

SECTION 5.14. Suspension of Voting Rights Due to Unpaid Assessments. The Association is authorized to suspend the voting rights of an Owner for any period during which any Assessment against such Owner's Lot remains unpaid and delinquent, and for any period during which an Owner is in breach of any non-financial provision of this Declaration or the published rules and regulations of the Association, provided that any suspension of such voting rights, except for failure to pay Assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the Bylaws or rules and regulations of the Association. The foregoing shall not apply to unfunded deficiency contributions of the Declarant under Section 5.9.

SECTION 5.15. Waiver of Use. No Member may exempt himself from personal liability for Assessments duly levied by the Association nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of Common Area or by abandonment of his Lot.

SECTION 5.16. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage or trust deed. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a mortgage or trust deed or any proceeding or deed in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

ARTICLE 6. **PROPERTY RIGHTS**

SECTION 6.1. Members' Easements over Common Area. Every Member shall have a right and easement for ingress and egress over and across, and for use of and enjoyment in and to, Common Area and the improvements thereon, and such easements shall be appurtenant to and shall pass with the title to every Lot. Said right of easement for ingress and egress over and across, and of enjoyment in and to, Common Area and improvements located thereon shall be subject to the following provisions:



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- (a) The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purposes of improving or reconstructing Common Area and improvements thereto and in aid thereof to mortgage said Common Area (or a portion thereof).
- (b) The right of the Association to declare or grant easements and licenses and to dedicate or transfer all or any part of Common Area to any public agency, authority, or public or private utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument has been recorded, signed by the Association and authorized by the assent of at least sixty-seven percent (67%) or more of the votes of each class of Members present in person or by proxy and entitled to vote at a meeting duly called for such purpose at which a quorum is present, written notice of which is mailed to all Members not less than five (5) days nor more **than** forty (40) days in advance of the meeting, setting forth the purposes of the meeting.
- (c) The right of the Association to establish **uniform** rules and regulations (including fines) pertaining to the use of Common Area; provided, however, that the Association shall not limit or prohibit the public use of pathways located within the Property.
- (d) The right of the Association to suspend an Owner's right to use any improvements located within Common Area (i) for any period during which any charge against such Owner's Lot remains delinquent; and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of this Declaration or the rules and regulations of the Association after **written** notice thereof.
- (e) The right of Declarant and its designees (and their respective sales agents and representatives) to (1) non-exclusive use of Common Area (as may be amended by annexation from time to time) in connection with the sale of Residences within the Property (including any of the Additional Land annexed thereto); and (2) the use of any improved Residence on any of the Lots as a sales office until the last Lot within the Property is improved with a Residence and conveyed to a third party purchaser.
- (f) Such other rights as are reserved or created by this Declaration.

SECTION 6.2. Delegation of Use. Any Member may delegate in accordance with the Bylaws of the Association, such Member's right of enjoyment to Common Area and the improvements located thereon to the members of his family, and the occupants residing on such Member's Lot.

SECTION 6.3. Association's Access to Lots. The Association and its respective agents, employees and independent contractors shall have the right and license to enter upon any Lot to the extent necessary to exercise any right or responsibility of the Association as set forth in this

Declaration, as to the Lot or the dwelling unit or other improvements situated thereon, or to the extent necessary to enforce any covenants or restrictions set forth herein and shall not be guilty of trespass.

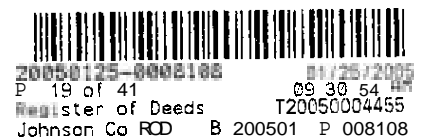
SECTION 6.4. Access to Adjoining Lots. Every Owner of a Lot and also the Association, and their respective agents, employees and independent contractors, shall have and is hereby granted the right and license to enter upon the adjoining Lot to the extent necessary for the purpose of maintaining, repairing, replacing or adding to the improvements situated on or near the boundary of such Owner's Lot and shall not be guilty of any trespass. In the event the Owner of a Lot or the Association, or their respective agents, employees or independent contractors enter upon any such Lot for the purposes of exercising the right and license created by this Section 6.4, then such Owner, or the Association, as the case may be, shall make all necessary repairs or replacements on such Lot to correct any damage inflicted upon the same by exercise of the right and license.

ARTICLE 7. **EASEMENTS**

SECTION 7.1. Title to Common Area. Declarant hereby expressly reserves the right to convey to the Association all of its right, title and interest in and to any and all of the Common Areas, and Declarant covenants for itself, its successors and assigns, that it will convey or cause to be conveyed fee simple title to Common Area to the Association, subject to:

- (a) Covenants, conditions and restrictions and all other matters then of record;
- (b) The terms of this Declaration and the rights of Owners as herein set forth;
- (c) Certain conditions and restrictions concerning the use, management and operation of such Common Areas as are determined by the Declarant;
- (d) Zoning ordinances, development agreements and annexation agreements of record;
- (e) Current real estate taxes and installments of special assessments not yet due and payable (for which Declarant shall pay or make arrangements to pay its pro rata share);
- (f) Utility easements granted or to be granted for sewer, water, gas, electricity, telephone, cable television and any other necessary utilities;
- (g) Reservation of easement for ingress and egress; and:
- (h) Easements granted or to be granted for the construction, maintenance, repair and use of improvements to be located on Common Area.

The Association shall accept such conveyance and shall maintain all public facilities and improvements on such Common Areas.



SECTION 7.2. Utility Easements. Declarant hereby reserves unto itself, its successors, assigns and designees, the right (i) to create, declare and grant over, above, under and across Common Area or the Lots, at any time before or after conveyance, non-exclusive perpetual utility easements and (ii) to utilize any easement created by any Plat of Subdivision or other instruments, for the installation, construction, improvement or removal or reconstruction, replacement, substitution, and maintenance of sewer (storm and sanitary), water, gas, electricity, cable television, telephone and any other utilities as may be necessary in Declarant's sole judgment to develop, service and maintain the Property. The aforesaid easements shall include reasonable rights of ingress and egress. Furthermore, Declarant hereby declares and reserves for the benefit of all Owners, the Association, and the various public utility companies a non-exclusive public utility easement over, above and under Common Area, and those portions of Lots on which no homes are constructed, for the installation, construction, improvement, removal, reconstruction, replacement and substitution of underground service lines, wires, cables, conduits, terminals, manholes and other fixtures as the beneficiaries of the easement may from time to time require for any sewer (storm and sanitary), water, gas, electricity, cable television, telephone and other utilities which may serve the homes constructed on the Property, or other adjacent properties. It shall be the obligation of any party exercising the easement to restore any areas disturbed by the exercise of the easement in the manner and to the extent set forth in the provisions contained in the Plats of Subdivision for the Property relating to the exercise of easements.

SECTION 7.3. Easement for Installation and Maintenance of Storm Water Service Lines. Declarant hereby reserves unto itself, the Association and their respective successors, assigns and designees an easement over the Common Area and each of the Lots within the Properties for installation, maintenance and repair of underground storm water service lines on any Lot or the Common Area, including any such service line that is connected to a downspout on a Residence. Such storm water service lines so installed by Declarant, the Association or their respective successors, assigns and designees on any Residence, on any Lot or on any portion of the Common Area shall be and remain the property of the Association or its successors or assigns, and shall thereafter be maintained, replaced and repaired thereby. The aforesaid easement shall include reasonable rights for ingress and egress and shall be perpetual. No Owner of a Lot shall interfere with any downspout or storm water service line installed on his Residence or Lot, or the passing of storm water through the same.

SECTION 7.4. Ownership of Utility Lines. Declarant shall initially own all storm sewers, sanitary sewers, and water lines when situated in, over, under, along or across Common Area or easement areas designated for the installation and maintenance of such lines to the extent the same are not initially dedicated to the City, Johnson County, any public utility or any governmental or quasi-governmental authority, and Declarant shall have the right (but not the obligation) of maintenance, replacement, repair or removal thereof and reasonable access thereto. Declarant may transfer title to said storm sewers, sanitary sewers and water lines and Declarant's rights of maintenance, replacement, repair and removal thereof to any assignee deemed beneficial or appropriate by Declarant (including the Association, the City, Johnson County, any public utility, or any governmental or quasi-governmental authority), which transfer and assignment shall be effectuated by a bill of sale or other appropriate writing. In the absence of such a transfer prior to the completion of the sale of all of the Lots by Declarant to Owners

purchasing the same, the transfer shall be deemed to have been made to the Association upon the closing of the sale of the last Lot to an Owner, without further action or documentation.

SECTION 7.5. Driveway Easements. Not applicable.

SECTION 7.6. Reservation of Easements for Declarant's Benefit. **Anything** contained in this Declaration to the contrary notwithstanding, Declarant hereby reserves for itself, its agents, employees, contractors, sub-contractors, workmen, materialmen, invitees and any successor builders an easement under, over and across Common Area for the purposes of constructing, completing, repairing, maintaining, inspecting, exhibiting and selling any Lots or dwelling units then owned by Declarant or any such successor builders.

SECTION 7.7. Easements for Installation, Maintenance and Repair of Common Area. Declarant hereby reserves unto itself, its successors, assigns, and designees, and to the Association, the right and easement to come onto the Lots or Common Area for purposes of building, installing, maintaining, repairing, replacing and improving Common Area and any improvement located thereon or within Dedicated Rights-of-way within the Property.

SECTION 7.8. Easement for Access to City Property. Declarant hereby declares and reserves for the benefit of the City, its officers, employees, agents and contractors, an easement and right of ingress and egress, over, upon and across any and all portions of Common Area within the Property to the extent reasonably necessary for access to the City Property or any portion thereof for purposes of inspecting, maintaining, repairing and replacing all or any portion of the City Property.

SECTION 7.9. Easement Over Pathways. Declarant hereby declares and reserves for the benefit of all Owners and their guests and invitees an easement and right of ingress and egress, over, upon and across any pathways located on any portion of Common Area within the Property. The Association shall have the right to adopt reasonable rules and regulations governing and limiting the right and easement granted hereunder, subject to approval by the City. There is also declared and reserved for the benefit of the public an easement and right of ingress and egress over, upon and across such portions of any pathways located on any portion of Common Area as are to be usable by the public and maintained by the City, as designated on the Plat of Subdivision. Motor vehicles are prohibited on such pathways without prior written approval of Declarant or the Association.

SECTION 7.10. Easement Over Private Streets.

(a) Declarant hereby declares and reserves for the benefit of all Owners and their guests and invitees an easement and right of ingress and egress, over, upon and across any private streets for vehicular use and access not dedicated to the City and located within the Property, as depicted on the Plat of Subdivision. The Association shall have the right to adopt reasonable rules and regulations governing and limiting the right and easement granted hereunder, subject to approval by the City.

(b) Declarant also hereby declares and reserves for the benefit of the City, its agents and employees an easement and right of ingress and egress, over, upon and across any such

private streets within the Property to the extent necessary for the provision of municipal services within the Property, including but not limited to police, fire and emergency services.

SECTION 7.11. Extended Use Easement In order to create an aesthetically attractive and functional development, Residences may be positioned on Lots in such manner that the use and enjoyment thereof may reasonably require that Owners of such Residences have the right to use or have access to and across portions of adjacent Lots or adjacent Common Area. To accomplish the foregoing, Declarant hereby reserves the right to grant or reserve non-exclusive easements on any portion of a Lot (except portions occupied by dwellings) or Common Area prior or subsequent to the conveyance thereof by Declarant for the benefit of an adjacent Lot Owner for such purposes as Declarant may in its sole determination deem essential to the reasonable use and enjoyment of the Lot owned by the beneficiary of such easement.

SECTION 7.12. Rights to Reserve or Grant Specific Easements for Lots and Common Area. Declarant shall have the right to grant or reserve particular specific non-exclusive easements on any portion of any Lot (except portions occupied by dwellings) or on Common Area for the installation, maintenance and repair of improvements to the Lots or Common Area by Declarant, its successors, assigns or designees or by the Association. Such easements may be created over Lots after such Lots are conveyed to Owners only if (i) such areas are designated as such by a Plat of Subdivision, a deed, a declaration of easement or a grant of easement executed and recorded by Declarant with the Register of Deeds Office, (ii) construction of such improvement has commenced prior to conveyance of such Lot or Common Area, or (iii) such easement is necessary to correct errors in engineering plans. Such easements may be created over Common Area at any time, even after it has been conveyed to the Association. Failure to so grant or reserve any particular specific easement as provided herein shall not invalidate or adversely affect the easements reserved under Section 7.4.

SECTION 7.13. Power Coupled with an Interest. In furtherance of Declarant's rights to create easements pursuant to Section 7.11 above, a power coupled with an interest is hereby reserved to Declarant, as attorney-in-fact of the Association and of the Owners of all Lots within the Property, to grant or reserve such easements, and the giving of any deed, mortgage, or other instrument with respect to Common Area or any Lot, and acceptance thereof, shall be deemed a grant and acknowledgment of and a consent to such power of said attorney-in-fact.

ARTICLE 8.
USE RESTRICTIONS

SECTION 8.1. Residential Use. The Property is hereby restricted to residential dwellings, and ancillary and accessory uses and buildings in connection therewith, subject to the provisions of Section 8.2 and except for model homes and sales offices which may be operated by Declarant or its designees during the construction or sales period. All buildings or structures erected on the Property shall be of new construction and no buildings or structures shall be moved from other locations to the Property and no subsequent buildings or structures other than single family detached homes shall be built on any Lot. No building or structure of a temporary character, trailer, tent, shack, garage, barn, or other outbuilding shall be placed on or used on any Lot at any time as a residence either temporarily or permanently. Each Residence may be occupied by only one (1) family consisting of persons related by blood, adoption or marriage or



no more than two (2) unrelated persons living and cooking together or in the same residence as a single housekeeping unit; PROVIDED, HOWEVER, that nothing contained herein shall prevent occasional temporary occupancy by guests of the family or occupancy by full-time domestic servants or medical assistants employed by the family. No building or structure intended for or adapted to commercial, business or professional purposes, nor any apartment house, duplex, double house, lodging house, rooming house, dormitory, church, school, hospital, sanatorium, guest house, servant's quarters or multiple-family dwelling shall be erected, placed, permitted or maintained on any Lot.

SECTION 8.2. Restrictions on Commercial Activities. No commercial activities of any kind shall be conducted in any building or in any portion of the Property; provided, however, that an Owner may operate a home-based business on his Lot, but only if (i) the existence or operation of the commercial activity is not apparent or detectable by sight, sound, or smell from outside the Owner's Residence located on the Lot, (ii) the commercial activity is not prohibited by the ordinances or regulations of the City and is conducted in compliance with the City's zoning ordinances, (iii) no motor vehicle with business markings is stored or parked on the Lot, except within the garages, with the garage door shut during periods of storage, and (iv) the commercial activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Property which is noticeably greater than that which is typical of residences within the Property in which no such activity is being conducted. The foregoing restrictions shall not apply to the commercial activities of Declarant or its designees, or the use or operation of sales offices or model units on any Lots by Declarant or its designees during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

SECTION 8.3. Prohibition of Commercial Vehicles, Buses, Trucks, Limousines, Boats, Trailers and Recreational Vehicles on Lots. No commercial vehicles (with the exception of one (1) passenger-size pickup or van used by a Lot Owner in connection with his or her job), buses, semi trucks, limousines, boats, trailers, or recreational vehicles shall be parked or stored on a Lot, except for those which are stored within a garage constructed on a Lot, with the garage door shut during periods of storage. The prohibitions on parking set forth in this Section and in Section 8.4 below shall not apply to temporary parking, such as for deliveries and other commercial services.

SECTION 8.4. Garages; Storage of Cars. The Owner of any Lot shall keep the garage door of his Residence shut at all times when it is not in use. No Owner shall park or store vehicles on public streets or on driveways within his Lot if there is capacity for storage of such vehicles in the garage on his Lot. No Owner shall utilize the space within his garage for purposes which adversely affect or limit the storage of vehicles therein to meet the designed capacity of such garage. The Association may remove or cause to be removed any non-permitted vehicle pursuant to this Section or Section 8.3 hereof at the expense of the owner thereof in any manner in accordance with applicable law.

SECTION 8.5. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except for dogs, cats and other common animals kept as household pets, but not for breeding purposes. No more than four (4) domesticated household pets will be

permitted on each Lot. The owner of any pet shall immediately remove any bodily waste deposited by its pet on any Lot, Common Area, parkways, cul-de-sac islands or streets.

SECTION 8.6. Limitations on Signs. No sign of any kind shall be displayed to the public view on or in front of any Lot or on any vehicle or equipment on or in front of any Lot except for the following: (i) one (1) sign of not more than five (5) square feet, which advertises the Lot and improvements thereon for rent or sale; (ii) signs used by Declarant or its designee to advertise the land or lots and any improvements thereon during the development, construction and sales period; and (iii) such signs as may be required by legal proceedings; and (iv) one (1) professional sign of not more than one (1) square foot which may include, without limitation, signs which promote private sales (such as "garage" sales), and signs promoting political candidates (which may be placed only 30 days before and five days after the subject election). Any such signs may not: (i) describe the condition of the Unit or Lot; (ii) describe, malign or refer to the reputation, character or building practices of Declarant or any other Lot Owner; and (iii) discourage or otherwise impact or attempt to impact anyone's decision to acquire a Lot or Unit in the Property. Declarant and Association or their respective agents shall have the right to remove all signs, billboards or other advertising structures that do not comply with this Section.

SECTION 8.7. Prohibition of Nuisances. No Owner shall permit or suffer any noxious or offensive activity, or permit anything to be done or kept about or within his or her Lot, or on or about any portion of the Property, which will obstruct or interfere with the rights of other Owners or occupants, or annoy them with unreasonable noises, or otherwise, nor shall he or she commit or permit any other nuisance or commit or suffer any illegal act to be committed thereon.

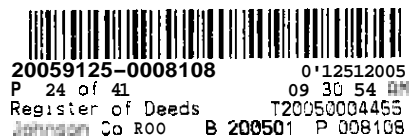
SECTION 8.8. No Clothes Drying; Screening of Equipment. The drying of clothes in public view is prohibited, and no permanent equipment for the purpose of hanging laundry thereupon shall be installed on any Lot. The Owners and occupants of any Lots at the intersections of streets or adjacent to parks, playgrounds or other facilities where the rear yard is visible to public view shall construct a suitable enclosure, subject to the other fence requirements set forth in this Declaration, to screen from public view permitted equipment which is incident to normal residences, such as yard equipment, lawn furniture, pool filtration, composting equipment and stored maintenance materials.

SECTION 8.9. Deleted.

SECTION 8.10. Prohibition of Window Air Conditioners or Window Fans. No window air conditioners or window fans shall be placed in any home constructed on the Property.

SECTION 8.11. Trash Removal. All rubbish, trash and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Each Owner shall be responsible for trash removal from his Lot. There shall be no trash piles or storage piles on the Property. The foregoing restrictions on trash piles and storage piles shall not apply to the activities of Declarant, its designees and those working for or on behalf of Declarant during the construction and sales period. All rubbish, trash and garbage shall be stored within the garage on the rear of the Lot in trash cans with sealed lids.

SECTION 8.12. Restrictions on Changes or Improvements. No awnings shall be constructed or added to any home. Any other additions, changes or improvements to any home



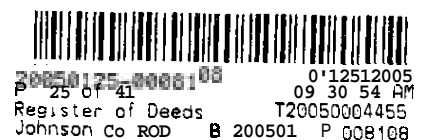
surfaces or any part thereof (including roofs, siding, doors, storm doors, windows or trim), the placement of any patios or decks on the Lot by any Owner other than **Declarant** or the planting of any trees, decorative shrubs or other permanent (as opposed to annual) landscaping or plant materials will be allowed only with the approval of the Appearance Control Committee, as provided under Article 10. The Committee shall have discretion to approve placement of decks that encroach upon rear yard set-backs as designated on any Plat of Subdivision. All improvements which require a permit from the City will only be approved subject to the issuance of such permit.

SECTION 8.13. Restrictions on Radio and TV Receiver Installations. The Board of Directors shall have discretion, to be exercised through the adoption of an appropriate rule or rules, to specify, limit or prohibit the type, size, color, number **and/or** placement of radio, television and other telecommunications receiver installations (including, but not limited to satellite dishes) on any Lot within the Property and to enact regulations regarding such installations, all to the extent the Board of Directors deems beneficial and convenient; provided, however, that any such rule or rules adopted by the Board of Directors shall (i) be enforced against Owners in a **non-discriminatory** manner and (ii) comply with the terms and conditions of applicable federal, state or local laws, ordinances, rules or regulations, as same may be amended from time to time. Notwithstanding the foregoing, no such installations by any Owner shall be permitted upon any portion of Common Area without the prior written consent of the Association, which may be withheld in its discretion (to be exercised in accordance with applicable law as aforesaid).

SECTION 8.14. Prohibition of Derricks, etc. No derrick or other structure designed for use in boring, mining, or quarrying for oil or natural gas, precious minerals, shall be erected, maintained or permitted upon any Lot in the Property, provided that nothing in this Declaration shall be construed to restrict a public utility from erecting, maintaining, and operating upon any Lot owned by it within the Property, a well, housing, and equipment for the purpose of extracting from the sub-surface **and/or** the treatment, storage and distribution of water through the system of such public utility.

SECTION 8.15. Clearance of Utilities. The Owner of a Lot, and not the Association, shall be responsible for the clearance and relocation of any utilities that must be made in connection with the installation of any improvements by the Owner on his Lot.

SECTION 8.16. Maintenance of Easement Areas. Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities over each of the Lots, and in Common Area, are reserved as shown on the recorded Plat of Subdivision or as created in accordance with this Declaration or any amendments hereof. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction in the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Sump pumps, gravity drains and other drains serving the Residence constructed on any Lot shall not **outfall** or empty into grass swales between Lots, but only into a storm sewer, a storm water service line or an underground drain pipe connecting to a storm sewer included in the storm drainage system for the Property; provided, however, that sump pumps, gravity drains and other drains serving Lots which are



adjacent to a detention pond located with Common Area may **outfall** and empty through underground drain pipes directly into said adjacent detention pond at a level not higher than the normal pool elevation of such detention pond. All such easement areas located on a Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, a private or public utility company or the Association is responsible.

SECTION 8.17. Leases of Lots. Any Owner may lease his Lot, but no lease may be for a period of less than thirty (30) days. All leases must be made expressly subject to the terms of this Declaration. In the event any Owner leases his Lot, he shall at all times keep the Association advised in writing of the address of his own current residence and any changes thereto, and of the **name(s)** of his **tenant(s)**. Notwithstanding the foregoing, Declarant and its successors and assigns shall have the right to rent any or all Residences located on Lots owned by Declarant.

SECTION 8.18. Limitation on Number of Lots Owned by One Owner. No Owner may own more than three (3) Lots within the Property at any one time, except that this limitation shall not apply to Declarant or to a mortgagee who has foreclosed on a mortgage or who has accepted a deed in lieu of foreclosure with respect to Lots.

SECTION 8.19. Right of Abatement, Correction or Removal. In addition to other rights and remedies that may be available to the Association, as provided in this Declaration, or as may otherwise be available to the Association, in the event any Owner shall violate or suffer on his Lot the violation of any of the Use Restrictions contained in this Article 8 or any rules or regulations adopted by the Association to supplement the Use Restrictions, as provided in Section 8.1, the authorized agents of the Association, upon an **affirmative** vote taken by the Board of Directors, may enter upon the Lot with no further notice than that provided by the recording of this Declaration, and may (but shall not be required to) abate, correct or remove such violation and the cost of such abatement, correction or removal, together with any other fines or penalties that may be promulgated by the Association thereof shall be paid by the Owner, and if unpaid, shall constitute a lien against the Lot, enforceable in the manner provided in Sections 5.12 and 5.13 hereof. In such event, neither the Association, its Board of Directors, nor the authorized agents of the Association shall be guilty of trespass or held liable for damages.

ARTICLE 9.

CONSTRUCTION OF IMPROVEMENTS

SECTION 9.1. General Standards. All construction in the Property shall be in accordance with the standards developed pursuant to this Article 9, unless otherwise approved by the Committee as provided herein.

SECTION 9.2. Garage Reauired. Each residence shall have a private garage suitable for parking not less than two (2), nor more than four (4), standard size automobiles and, unless otherwise permitted by the Committee, each garage shall be attached to such residence, open to the front, side or rear of the lot and conform in appearance, design and materials to the main residence. No garage shall be enclosed or otherwise altered to prevent the parking of at least two (2) conventional automobiles completely within such garage unless an additional garage is constructed which meets the standards of this Article IV, is in compliance with existing City

ordinances and is approved by the Committee. Enclosure of garages by Declarant for temporary marketing, sales, construction or office purposes is **permitted** hereby, provided such enclosures and offices are architecturally compatible with the residence and this Declaration and are used in accordance with the provisions of Section 3.4(m) hereof. If any garage is so enclosed by Declarant or a Builder, such garage shall be converted to use solely for the parking of automobiles as described in Section 9.4 hereof prior to the sale or lease of such residence to the occupying Owner.

SECTION 9.3. Driveways. All driveways shall be surfaced **with** concrete.

SECTION 9.4. Construction Specifically Regulated.

(a) No temporary dwelling, shop, trailer or mobile home of any kind nor any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos, lawn furniture and buildings as approved by the Committee for storage of lawn or pool maintenance equipment, which may be placed on a lot only in areas not visible from any street adjacent to the lot) shall be permitted on any lot except that the Declarant or its designee may have temporary dwellings, trailers or improvements (such as a sales office **and/or** construction trailer) on a given Lot. No building material of any kind or character shall be placed or stored upon the lot until the owner thereof is ready to commence **construction** of improvements thereon, and then such material shall be placed only within the property lines of the lot upon which the improvements are to be erected. No house shall be permitted to stand with its exterior in an unfinished condition for longer than nine (9) months after commencement of construction.

(b) No structure of a temporary character, such as a trailer, tent, shack, barn or other out-building, shall be used on any land at any time as a dwelling house; **PROVIDED, HOWEVER,** that Declarant or any builder may maintain and occupy model houses, sales offices and construction trailers.

(c) No individual water supply system (which is not part of the public water supply system serving the entire Property) shall be permitted in the Property.

(d) No individual sewage disposal system (which is not part of the public sewage disposal system serving the entire Property) shall be permitted in the Property.

(e) No air-conditioning apparatus shall be installed on the ground in front of a residence, visible from any public street or on the roof of any residence (unless screened by the roof structure in a manner approved by the Committee).

(f) No fence (except as may otherwise be permitted herein or on any exhibits hereto), wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting them at points ten (10) feet from the intersection of the street right-of-way lines, or, in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be

permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

(g) Except for children's playhouses (as approved by the Committee), no building previously constructed elsewhere shall be moved onto any lot, it being intended that only new construction be placed and erected thereon.

(h) Within platted easements on each lot, no permanent structures, paving (other than driveways, sidewalks and **flatwork** installed in compliance with all applicable codes and laws and the remaining provisions of this paragraph, planting or materials shall be placed or permitted to remain which may damage or materially interfere with the installation, operation and maintenance of utilities or change, obstruct or retard the flow of water through or within drainage channels and/or easements.

(i) After Declarant has developed the lots, the general grading, slope and drainage plan of a lot may not be altered, nor may any dams, berms, channels or swales be constructed or excavated, without the prior approval of the Committee, the City (if applicable) and other appropriate agencies having authority to grant such approval.

(j) All containers and other facilities for trash disposal must be located and screened in a manner approved by the Committee.

(k) All exterior mechanical equipment, including, without limitation, heating, air conditioning and ventilation ("**HVAC**") equipment, shall be located and screened in a manner approved by the Committee. Without limiting the foregoing, no window air conditioning units shall be permitted in any residence on any lot.

(l) All construction shall comply at all times with this Declaration and all other applicable deed restrictions, encumbrances of record, zoning ordinances and requirements, planned use and development restrictions, building codes, FHA and VA requirements and regulations and all other applicable ordinances and regulations.

(m) All roof surfaces shall have at least: (i) a six (**6**) foot to twelve (12) foot pitch or slope on the main structure; and (ii) a **four** (4) foot to twelve (12) foot pitch or slope on the garage and porches unless otherwise approved by the Declarant or Committee (if formed).

Section 9.5. Minimum Floor Area. Except with respect to any Common Facilities or other buildings or structures constructed on the Common Area (if any), the total air-conditioned habitable living area of the main residential structure on each lot, as measured to the outside of exterior walls, but exclusive of porches, garages, patios and detached accessory buildings, shall be not less than eleven hundred (1,100) square feet or the minimum habitable floor area as specified by the City, whichever is greater.

SECTION 9.6. Approved Materials.

(a) Except with respect to any Common Facilities or other buildings or structures (if any) constructed by the Declarant on the Common Area (if any), and except as otherwise approved by the Committee, the exterior of each residential structure must be faced on all sides

with either stone, brick, stucco or a siding approved by the Committee, and all exterior colors thereof must be approved by the Committee.

(b) The exterior surfaces of the chimney chases shall be fully enclosed by materials approved by the Committee.

(c) Roofing materials may be wood shingle, slate, tile or composition or asphalt roofing material, which composition or asphalt roofing material is restricted to material weighing a minimum of one hundred ninety (190) pounds per one hundred (100) square feet of area, unless otherwise approved by the Committee; PROVIDED, HOWEVER, all such roofing materials shall conform to applicable City, FHA and VA requirements.

SECTION 9.7. Side, Front and Rear Setback Restrictions. No dwelling shall be located on any lot nearer to the front or rear lot line or nearer to the side lot line than the minimum setback lines shown on the Plat or required by the City. In any event, no building shall be located on any lot nearer than twenty (20) feet to, nor **further** than forty (40) feet from, the front lot line, nor nearer than five (5) feet to any interior side lot line, nor on corner lots nearer than ten (10) feet to the side property line adjoining the street unless approved by the Committee and all applicable governmental agencies and authorities. For all purposes of this Section 9.7, eaves, steps and open porches shall not be considered as a part of the building; PROVIDED, HOWEVER, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot or to vary from any applicable City requirements.

Section 9.8. Waiver of Front Setback Requirements. With the prior written approval of the Committee and the City (if required), any building may be located **further** back from the front property line of a lot than provided in Section 9.7 where, in the opinion of the Committee, the proposed location of the building will add to the appearance and value of the lot and will not substantially detract from the appearance of the adjoining lots.

SECTION 9.9. Fences and Walls. The location and type of any fence or wall must be approved by the Committee and must be constructed of aluminum or other material approved by the Committee and must comply with all applicable governmental requirements and ordinances and all provisions of this Declaration. No fence shall exceed four (4) feet in height. Except as approved by the Committee or as otherwise set forth herein, no fence or wall shall be permitted to extend nearer to the front street than: (i) forty-five (45) feet from the front street; or (ii) the front of the house, whichever distance is further. Except as approved by the Committee or as otherwise set forth herein or on any exhibits attached hereto, no structural supports of any fence shall be visible from any public right-of-way.

SECTION 9.10. Sidewalks. All sidewalks shall conform to all applicable City, FHA and VA specifications and regulations.

SECTION 9.11. Mailboxes. Mailboxes shall be constructed of a material and design approved by the Committee and the United States Postal Service.

SECTION 9.12. Signs Advertising the Property or Lots. All signs advertising the entire land or any substantial part thereof shall be approved by the Committee. All signs shall be maintained in good condition and repair, with a neat and orderly appearance, and shall comply

with the applicable ordinances of the City. All signs advertising the Property shall be removed after all buildings to be initially constructed on the advertised lot(s) have been sold. Declarant, the Association or the Committee may remove from the Property or any surrounding area any signs which do not comply with this Section 9.12.

SECTION 9.13. Landscaping/Fencing Plans. Any person or entity (other than the Declarant) planning to landscape or fence areas in the Property (other than individual lots) shall prepare and submit to the Committee for approval, pursuant to the procedures set forth in this Declaration, a landscaping/fencing plan for such areas in the Property prior to undertaking any landscaping or fencing in the Property. Without limiting the requirement to obtain approval as noted above, such plan shall be compatible with the existing landscaping or fencing improvements and treatments, if any, in the Property, and shall be in compliance with the terms and provisions hereof.

SECTION 9.14 Destruction. Any improvements on any Lot which are fully or partially destroyed or damaged by fire, storm or any other peril shall be fully rebuilt and repaired by the Owner thereof or the debris therefrom fully removed, within a reasonable period of time not to exceed one hundred eighty (180) days after the occurrence of such destruction or damage, unless a written extension is obtained by the owner of such lot from the Association, all in accordance with plans approved in advance by the Association and Committee. No structure shall be permitted to remain with its exterior in a damaged condition longer than six (6) months. In the event that an Owner fails to comply with said 180-day time limitation, the Association shall assess liquidated damages in the amount of \$100 per day against the Owner, which shall become a lien on the Owner's Lot and be subject to collection in accordance with the provisions of this Declaration.

ARTICLE 10.
APPEARANCE CONTROL COMMITTEE

SECTION 10.1. Creation of Appearance Control Committee. There is hereby created an Appearance Control Committee (the "Committee"), which shall consist of three (3) members designated and replaced from time to time by Declarant or by the Board of Directors as provided in this Section 10.1. Declarant is hereby authorized to designate and replace members of the Committee until such time as the last Lot of the Property is developed with a home and is sold to a third party purchaser, and said power and duty of Declarant to designate and replace members of the Committee shall cease at the time the last Lot of the Property is developed with a home and is sold to a third party purchaser. Thereafter, such powers and duties shall be vested in the Board of Directors of the Association or in a committee duly appointed by such Board of Directors. No member of the Committee, nor its designated representative, shall be entitled to any compensation for such services performed pursuant to this covenant.

SECTION 10.2. Review and Approval of Plans. No (i) structure, improvement or addition (including, but not limited to, decks, patios, in-ground pools, and storm doors), or (ii) permanent (as opposed to annual) landscaping or plant materials (including vegetable gardens), or (iii) exterior painting of buildings and other improvements, shall be erected, placed or altered on any Lot within the Property (except as are installed or approved by Declarant in connection with the initial construction of the dwelling and other improvements on the Lot) until: (i) the



building plans, specifications and plot plan showing the location and proposed erection, placement or alteration of any such structure, improvement or addition; or (ii) a plan or description of any permanent landscaping or plant materials; or (iii) color scheme for exterior painting, has been approved in writing by the Committee as to conformity of external design, color and harmony with existing structures or landscaping on the Property and as to location with respect to topography and finished ground elevation. The Committee may also take into account whether and to what extent any such structure, improvement or addition or any permanent landscaping of plant material proposed to be installed on a Lot will interfere with the delivery of maintenance services under Section 4.3 hereof. The Committee shall notify an applicant of such approval or disapproval of its action within thirty (30) days after said building plans and specifications, plot plan or landscaping plan, or color scheme descriptions have been submitted to the Committee; or, in the event the Committee does not disapprove of the building plans, specifications and plot plan or color scheme as submitted, within said 30 day period, and (i) no suit to enjoin the erection, placement or alteration of such structure, or other improvement or addition, permanent landscaping, plant materials, or exterior painting to require the removal thereof has been commenced prior to the completion thereof, or (ii) no removal thereof has been undertaken by the authorized agents of the Association, as provided for herein, such approval will not be required, and this covenant shall be deemed to have been fully complied with.

SECTION 10.3. Enforcement. In the event any such structure, improvement, or addition, permanent landscaping, plant materials or exterior painting are erected, placed or altered on any Lot in violation of the provisions of this Article 10, the authorized agents of the Association, upon an affirmative vote taken by the Board of Directors, may enter onto such Lot with no further notice than that provided by the recording of this Declaration and may (but shall not be required to) remove the same and the costs of removal (including any and all fines or penalties therefore promulgated by the Association) shall be paid by the Owner, and if unpaid, shall constitute a lien against the Lot as provided in Section 5.1 and shall give rise to the remedies available to the Association provided in Sections 5.12 and 5.13. In such event, neither the Association, its Board of Directors, or the authorized agents of the Association shall be guilty of trespass or held liable for damages. In the event suit is filed or in the event the Association takes other actions to enforce this Declaration with respect to such structure, improvement, addition, landscaping or painting, including removal thereof by the authorized agents of the Association, the Owner shall be responsible for attorneys' fees and costs incurred by the Association, as provided in Section 17.1 hereof. Notwithstanding the foregoing, the City shall be authorized to enforce this Article 10 in any legal manner available in the event that the Association defaults in its obligation to enforce this Article 10 and such default by the Association remains uncured for more than thirty (30) days following written notice from the City to the Association specifying the nature of such default (unless such default cannot reasonably be cured within such 30-day period, in which event the Association shall have a reasonable period to cure such default).

ARTICLE 11.

OWNER'S OBLIGATION TO MAINTAIN

SECTION 11.1. Covenant to Maintain. Each Owner, his heirs, successors and assigns, hereby covenants and agrees at all times to maintain his Lot, and the Residence constructed thereon, in a neat and proper condition and to perform all necessary repairs thereto, to the extent

not provided for by the Association pursuant to this Declaration. The foregoing shall include the duty of each Owner to water the landscaping on such Owner's Lot, as provided in Section 4.4. The Owner of each Lot shall be solely responsible for all repair and replacement of lawn, plants, shrubs and other landscaping, which were damaged or died due to the failure of the Owner to adequately water his Lot.

SECTION 11.2. Enforcement of Owner's Maintenance Obligations. If any Owner fails to perform his or her obligations hereunder, the Association may, but shall not be required to, perform such obligations (including repair and replacement of landscaping and plant materials), and shall not thereby be deemed guilty of trespass. The Association shall be entitled to reimbursement in full from the Owner for its costs of every kind incurred in connection therewith, and any such expenditures incurred by the Association shall become the personal obligation of the Owner and a continuing lien on the Lot, recoverable with interest, costs and reasonable attorneys' fees in the same manner and to the same extent as provided under Section 5.1 and shall give rise to the remedies available to the Association provided in Sections 5.12 and 5.13.

ARTICLE 12.
ANNEXATION OF ADDITIONAL LAND

SECTION 12.1. Annexation by Declarant. Declarant may, without the consent or approval of the Association, any Members or any Owners, annex to the Property additional land, including, without limitation, any real estate contiguous thereto or contiguous to the Property (collectively, the "Additional Land") from time to time, by a written instrument signed by Declarant and recorded with the Office of the Register of Deeds Office. Should Declarant develop land within the Additional Land within ten (10) years after the date of this Declaration, such portion of the Additional Land may be annexed to the Property and made subject to this Declaration without the assent of the Class A Members; **PROVIDED, HOWEVER,** that such Supplementary Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary or appropriate to reflect the different character, if any, of the added real properties and as are not materially inconsistent with this Declaration and which do not adversely affect the concept of this Declaration. Such Additional Land, or portions thereof, may be annexed in separate phases and shall be considered annexed to said Property and subjected to the provisions of this Declaration if within such ten (10) year period Declarant executes and records an amendment or supplement to this Declaration with the Office of the Register of Deeds Office, describing the portion to be annexed to said Property and legally and specifically making said Additional Land, or portion thereof, subject to this Declaration. Any such Amendment or Supplementary Declaration shall designate Lots **and/or** Common Area and shall also update Exhibit A hereto, if necessary. In improving or causing the improvement of any additional **phases(s)**, Declarant shall keep the Property, subject to this Declaration, free of any liens or claims for liens for labor or materials provided in such improvements, pursuant to the Kansas mechanics' lien laws.

SECTION 12.2. Annexation by the Members. Annexation of any additional real estate to the Property, other than real estate annexed by Declarant as Additional Land, shall require the recording with the Office of the Register of Deeds Office of an instrument signed by the Association with the assent of not less than sixty-seven percent (67%) of the votes of Members

present in person or by written proxy at a meeting duly called for this purpose, at which a quorum is present, written notice of which shall be sent to all Members not less than five (5) days and not more than forty (40) days in advance of the meeting setting forth the purpose of the meeting.

ARTICLE 13.
AVAILABILITY OF RECORDS

Any Owner or first mortgagee of any Lot shall be entitled, upon reasonable request, to receive for inspection and for copying from the Association current copies of the Declaration, Articles of Incorporation, Bylaws, records and financial statements of the Association and such other documents as may be provided for in the inspection provisions of the Bylaws. Furthermore, any holder of a mortgage given on any Lot within the Property and any phases annexed thereto, shall be entitled to receive from the Association, without cost, a copy of the Association's financial statement, if any, and if any mortgagee shall so request in writing prior to the preparation of the annual financial statement of the Association, such financial statement shall be audited.

ARTICLE 14.
RIGHTS OF FIRST MORTGAGEES

Upon written request, any first mortgagee of a Lot shall be entitled to and shall receive from the Association notices of any of the following as shall be requested:

- (a) Any condemnation loss or casualty loss which affects a material portion of the Property and any phases annexed thereto or the Lot on which its mortgage is held;
- (b) Delinquency of assessments which remain uncured for a period of sixty (60) days or more;
- (c) Any lapse, cancellation, or modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any restoration or repair of the Property and any phases annexed thereto after partial condemnation or damage; and
- (e) Any termination of the legal status of the Property and any phases annexed thereto.

Any termination of legal status as provided in Subsection (e) above, shall require the consent of the holders of the mortgages on at least fifty-one percent (51%) of the Lots contained in the Property and any phases annexed thereto at the time thereof.

ARTICLE 15.
MUNICIPAL ORDINANCES PREVAIL

None of the covenants, conditions, restrictions or provisions of this Declaration are intended to supersede or prevail over the ordinances of general applicability of the City, and in

the event of any conflict, the applicable ordinances of the City shall supersede and prevail over the covenants, conditions, restrictions and provisions of this Declaration. However, no ordinance of the City controlling or regulating any act that is expressly limited, controlled or prohibited by the covenants of this Declaration shall operate to authorize or permit such act. The Association shall comply with all City ordinances and shall seek all necessary approvals and permits from the City and other applicable governmental entities for activities it undertakes within Common Area and Lots.

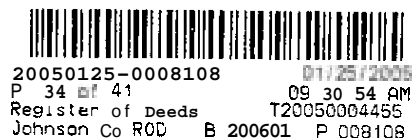
ARTICLE 16.
INSURANCE

SECTION 16.1. Casualty Insurance for Common Area. The Association shall obtain and maintain a policy or policies of insurance with respect to the damage or destruction of Common Area, any improvements located thereon and to any other tangible assets of the Association, including coverage against damage or destruction by the perils of fire, lightning and those perils contained in an all risk form, and such other perils as the Board of Directors of the Association from time to time may determine should be included in such coverage, in an amount equal to one hundred percent (100%) of the insurable replacement cost thereof, without depreciation and with an agreed amount provision. Such insurance shall name as the insured, and the proceeds thereof shall be payable to the Association, as trustee. The proceeds of such insurance shall be made available, as the Board of Directors of the Association shall reasonably determine, for the repair, reconstruction, and restoration of such portions of Common Area and other insured items subject to the rights of the first mortgagees. To the extent feasible, all such policies of insurance shall (i) provide that the insurance shall not be invalidated by the act or neglect of Declarant, the Association, its Board of Directors, its officers, any Owner or occupant, or any agent, employee, guest or invitee of any of them, and (ii) shall contain an endorsement that such policies shall not be canceled without at least thirty (30) days' prior written notice to the Association, the Owners, and all first mortgagees of the Lots.

SECTION 16.2. Liability Insurance Maintained by the Association. The Association shall obtain and maintain a policy or policies of comprehensive general liability insurance insuring on a claims-made basis the Association, its directors, officers, the Owners, and their agents and employees against claims for personal injury, including death and property damage, arising out of any occurrence in connection with the ownership, occupancy, use, supervision, operation, repair, maintenance or restoration of Common Area, any improvements located thereon and to any other tangible assets of the Association, or in connection with any act or omission of or on behalf of the Association, its Board of Directors, agents or employees within the Property. Such policies shall be in the amount of One Million Dollars (\$1,000,000) for bodily injury, including death, and property damage arising out of a single occurrence, and shall contain a provision that they may not be canceled without at least thirty (30) days' prior written notice to the Association, the Owners, and the first mortgagees of the Lots.

SECTION 16.3. Other Insurance. The Association may obtain and maintain a policy or policies of insurance with reputable insurance carriers providing the following coverage:

- (a) Directors' and officers' liability insurance;
- (b) Fidelity insurance or bonds in reasonable amounts for all officers and employees having fiscal responsibilities, naming the Association as obligee; and



- (c) Such other insurance in such limits and for such purpose as the Association may, from time to time, deem reasonable and appropriate.

SECTION 16.4. Waiver of Subrogation. To the extent feasible, all policies of insurance obtained by the Association shall contain provisions that no act or omission of any named insured shall affect or limit the obligation of the insurance company to pay the amounts of any loss sustained. So long as the policies of insurance provided for herein shall state that a mutual release as provided for in this Section shall not affect the right of recovery thereunder, and further provide coverage for the matters for which the release herein is given, all named insureds and all parties claiming under them shall, and do by these presents, mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard or source covered by any insurance procured by the Association, regardless of the cause of damage or loss.

SECTION 16.5. Insurance Premium Expense. The expense of insurance premiums paid by the Association under this Article shall be an expense of the Association to which Base Annual Assessments collected by the Association from the Owners shall be applied.

ARTICLE 17. **GENERAL PROVISIONS**

SECTION 17.1. Enforcement. Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Breach of any of the covenants shall not defeat or render invalid the lien of any mortgage or trust deed made in good faith and for value as to said Lots or property, or any parts thereof, but such provisions, restrictions or covenants shall be binding and effective against any owner of said property whose title thereto is acquired by foreclosure, trustee's sale or otherwise. The Association shall be entitled to recover from any Owner against which it initiates enforcement, "**Breach Costs**" (which may include, without limitation, any costs incurred by Declarant or the Association in connection with the breach, whether or not legal proceedings are initiated, including fines and penalties promulgated by Association and the Association's costs in connection with exercising its rights pursuant to Section 8.19 hereof), the costs of preparing and filing a Complaint in such action and reasonable attorneys' fees, and in the event a judgment is obtained, such judgment shall include all Breach Costs. In addition, Breach Costs, fees and other costs incurred by the Association against an Owner, whether or not proceedings are initiated, shall constitute a lien against his Lot which may be recovered in the manner provided in Section 5.1 hereof. Notwithstanding the foregoing, the City shall be authorized to enforce the terms and provisions of Article 11 hereof in any legal manner available in the event that the Association defaults in its obligation to enforce such terms and provisions and such default by the Association remains uncured for more than thirty (30) days following written notice from the City to the Association specifying the nature of such default (unless such default cannot reasonably be cured within such 30-day period, in which event the Association shall have a reasonable period to cure such default).

SECTION 17.2. Declarant Liability. Declarant shall have no responsibility or liability for: (i) the creation, formation, management or operation of the Association or the Committee; (ii) any actions taken or omitted to be taken by or on behalf of the Association as a result of, in connection with, under or pursuant to this Declaration or the Property; or (iii) any liabilities, obligations, debts, actions, causes of action, claims, debts, suits or damages incurred by or on behalf of or arising in connection with the Association, the Committee, the Property or the duties and obligations of the Association or Committee pursuant to this Declaration.

SECTION 17.3. Severability. Invalidation of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 17.4. Covenants Run with the Land. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, the Association, or the Owner of any Lot subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns for a period of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

SECTION 17.5. Amendment. This Declaration may be amended by Declarant without a vote of the lot owners as long as Declarant owns any lots in the Property, and may be amended by an instrument signed by Owners comprising not less than sixty-seven percent (67%) of the total votes collectively held by all classes of Members with the written consent of mortgagees holding at least fifty-one percent (51%) of the outstanding mortgages on the Property; PROVIDED, HOWEVER, until the completion of construction of residences on all lots within the Property, no such amendment shall be valid or effective without the joinder of Declarant unless such party waives its right to consent to such amendment. Any such amendment (other than amendments by Declarant) that has the effect of (i) terminating this Declaration or (ii) terminating the legal status of the Association shall require the written consent of mortgagees holding at least sixty-seven percent (67%) of the outstanding mortgages on the Property and any phases annexed thereto. Notwithstanding the foregoing, in the event Declarant desires to amend this Declaration: (x) to correct a technical or typographical error or to clarify any provisions herein which are otherwise vague, (y) for the sole purpose of causing this Declaration to comply with rules, regulation or guidelines as may be required by either the Federal Housing Administration (FHA) or the Veterans Administration (VA) to enable the sales of Lots from the Property to qualify for the insurance by either such agency of end mortgage loans made to Owners of such Lots, or as may be required to conform to the published manuals or guidelines of any governmental, quasi-governmental or private agency engaged in the business of the purchase of mortgage loans, including, but not limited to Federal Home Loan Mortgage Corporation (FHLMC) and Federal National Mortgage Association (FNMA) for the purchase of mortgage loans made on Lots in the Property, or (z) for the sole purpose of causing this Declaration to comply with the requirements of any statutes, ordinances, laws or regulations applicable thereto, Declarant shall give notice of any such amendments to all Owners and all mortgagees of Lots who have requested the same in writing. The failure to give such notice shall not affect the validity or effectiveness of such amendment. In addition, Declarant may amend this Declaration to annex the Additional Land to the Property and to ensure that the Declaration appropriately accommodates the annexation of the Additional Land, as provided in Section 12.1 hereof,

without any consents. In furtherance of the foregoing, a power coupled with an interest is hereby reserved to Declarant, as attorney-in-fact to so amend the Declaration as provided in this Section 17.5, and each deed, mortgage or other instrument with respect to a Lot and acceptance thereof shall be deemed a grant and acknowledgment of and a consent to such power to said attorney-in-fact. Any amendment must be recorded with the Register of Deeds Office.

SECTION 17.6. Quorum. Meeting quorums shall be as set forth in the Bylaws.

SECTION 17.7. Notices. A written or printed notice personally delivered or deposited in the United States mail with postage thereon prepaid and addressed to the respective Owner or to Declarant or the Association shall be deemed to be **sufficient** and proper notice pursuant to the terms of this Declaration. Notices to Declarant and to the Association should be delivered or mailed to: Pulte Homes of Greater Kansas City, Inc., 15700 College Boulevard, Suite #201, Lenexa, Kansas 66219 or to such other address or addresses as the Declarant and Association may advise from time to time.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE TO FOLLOW]



20050125-0008108 01/25/2005
P 37 of 41 09 30 54 AM
Register of Deeds '120050004455
Johnson Co ROD B 200501 P 008108

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal on the date first written above.

PULTE HOMES OF GREATER KANSAS CITY,
INC., a Michigan corporation

By: [Signature]
Name: TODD G. PSCHUTZ
Title: DIVISION PRESIDENT

By: Jaimie Macoubrie
Name: Jaimie Macoubrie
Title: Vice President of Sales


20050125-0008108 01/25/2005
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Register of Deeds 720050004455
Johnson Co ROD B 200501 P 008138

STATE OF Kansas)
COUNTY OF Johnson) SS

I, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Todd Lipschutz and Jaimie Macoubrie personally known to me to be the Division President and V.P. of Sales of PULTE HOMES OF GREATER KANSAS CITY, INC., a Michigan corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as said officers of said corporation, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

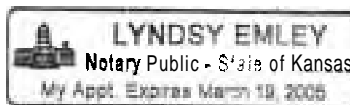
GIVEN under my hand and Notarial Seal this 21st day of January, 2005

Lyndsy Emley
Notary Public

My Commission Expires: 3/19/05

This instrument was prepared by and upon recording mail to:

Lewis, Rice & Fingersh, LC
1010 Walnut, Suite 500
Kansas City, Missouri 64106
Attn: Paul Torline



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EXHIBIT A
Legal Description of Property


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Exhibit A

All of Lots 1-82 and Tract E, STRATTON OAKS, FIRST PLAT, a subdivision in the City of Olathe, Johnson County, Kansas, according to the plat thereof, recorded October 25, 2004 in Book 200410, Page 008979 in the office of the Johnson County, Kansas Register of Deeds

together with:

All of Lots 40-47, STRATTON OAKS, SECOND PLAT (revision of Lots 40-47 from Stratton Oaks, First Plat), a subdivision in the City of Olathe, Johnson County, Kansas, according to the plat thereof, recorded January 18, 2005 in Book 200501, Page 5592 in the office of the Johnson County, Kansas Register of Deeds


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P 41 of 41 08 30 54 AM
Register of Deeds T20050004455
Johnson Co ROD B 200501 P 008108

JOHNSTON, BALLWEG & MODRCIN, L.C.
ATTORNEYS AT LAW

A.C. Cooke (1930-1990)
Ervin G. Johnston (1926-2009)

Ernest C. Ballweg
William M. Modrcin
William M. Tuley
Robert E. Johnston
Robert A. Andrews
Gregory A. Dean
David W. Hughes

DATE: April 11, 2013

TO: CLIENT Preserve@Stratton Oaks Homes Assoc.

COUNSEL _____

OTHER _____

CLERK OF THE COURT _____

RE: Resolution Re: Rules Restrictions on
Changes or Improvements

DOCUMENTS ENCLOSED:

The following enclosures are forwarded for action indicated by checkmark below.

- Sign and return
- For your records Filed + Recorded Resolution
- Please process and place file stamped copies in our Attorney Box Number 8.
- Please process and return file stamped copies in the enclosed self addressed stamped envelope.
- Other: _____

NOTICE OF DATE OF ACTION:

This is to advise you that _____
_____ has been scheduled for:

Date: _____ Time: _____

Place: _____

- Your attendance IS required.
- Your attendance is not required. This is for your information only.
- Contact us promptly to confirm receipt of this notice.
- _____

**RESOLUTION OF
THE PRESERVE AT STRATTON OAKS HOMES ASSOCIATION
BOARD OF DIRECTORS
RULES REGARDING RESTRICTIONS ON CHANGES OR IMPROVEMENTS**

WHEREAS, The Preserve at Stratton Oaks Homes Association has the authority pursuant to its Declaration of Stratton Oaks Homes Association, in its reasonable discretion, to amend the Master Association Declaration as provided in Section 10, upon written consent of the members entitled to cast at least two-thirds (2/3) of the votes of all members;

WHEREAS, the Board of Directors of the Association ("Board") finds there is need to amend The Preserve at Stratton Oaks Declaration of Covenants, Conditions and Restrictions, SECTION 8.12. Restrictions on Changes or Improvements and having the written consent of two thirds (2/3) of the members of the Preserve at Stratton Oaks Homes Association;

NOW, THEREFORE BE IT RESOLVED, that the following, which has been approved by two-thirds (2/3) of the votes of all members, the Declaration of Covenants, Conditions and Restriction is amended as follows:

SECTION 8.12. Restrictions on Changes or Improvements. No awnings shall be constructed or added to any home, except that a single awning, with no design and matching the color of the home, may be installed over the deck or patio at the rear of the home with prior application to and approval in writing from the Appearance Control Committee and in accordance with the guidelines issued by the Appearance Control Committee. Retractable awnings, whether electronic or manual, shall be allowed. All awnings will remain in the retractable position when not in use. Any other additions, changes or improvements to any home surfaces or any part thereof (including roofs, siding, doors, storm doors, windows or trim), the placement of any patios or decks on the Lot by any Owner other than Declarant or the planting of any trees, decorative shrubs or other permanent (as opposed to annual) landscaping or plant materials will be allowed only with the approval of the Appearance Control Committee, as provided under Article 10. The Committee shall have discretion to approve placement of decks that encroach upon rear yard set-backs as designated on any Plat of Subdivision. All improvements which require a permit from the City will only be approved subject to the issuance of such permit.

env: Johnston Ballweg

Board of Directors of The Preserve at Stratton Oaks Homes Association approve this Amendment this 8 day of October, 2012.

PRESIDENT:

By: S. Haribabu

Print Name: HARIBABU CONTINENTI

SECRETARY:

By: Patricia Buchta

Print Name: PATRICIA BUCHTA

