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This instrument filed by
Security Land Title Company

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STATE OF KANSAS)
COUNTY OF JOHNSON) SS
FILED FOR RECORD)
1997 MAY -1 P 4: 08.1
SARA F. ULLMANN
REGISTER OF DEEDS

**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
AND HOMES ASSOCIATION DECLARATION
FOR SOUTHWOOD SUBDIVISION**

**THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS
AND RESTRICTIONS** (hereinafter the "Declaration") is made and entered into as of
the 30th day of April, 1997, by Southwood, L.C. (hereinafter the "Developer").

WITNESSETH:

WHEREAS, Developer is the record owner of that certain real property
situated in Overland Park, Johnson County, Kansas, described on Exhibit "A" attached
hereto and by reference made a part hereof which, along with improvements made
thereon, shall constitute the Community, and Developer desires to create the
Community such that it possesses superior standards of aesthetics, improvements and
quality of life; and

WHEREAS, Developer desires to submit and subject the Community, together
with all buildings, improvements, and other permanent fixtures of whatever kind now
or hereafter located thereon, and all easements, rights, appurtenances, and privileges
belonging or in any way pertaining thereto, to the covenants, conditions, restrictions,
liens, assessments, easements, privileges, and rights contained herein, all for the
purpose of enhancing and protecting the value, desirability and attractiveness of the
Community; and

WHEREAS, Developer deems it desirable, for the efficient management of the
Community, to create the Association which shall exercise the powers and functions as
are set forth herein; and

WHEREAS, the Southwood Homeowners Association, Inc., a Kansas non-
profit corporation, has been, or will be, incorporated under the laws of the State of
Kansas for the purpose of exercising such powers and functions; and

WHEREAS, Developer desires and intends that all persons or entities
hereinafter acquiring any interest in the Community, or any part thereof, shall at all
times enjoy the benefits of, and shall hold their interests subject to, the covenants,
conditions, restrictions, liens, assessments, easements, privileges, and rights hereinafter
set forth, all of which are declared to be in furtherance of a plan to promote and protect
the Community.

NOW, THEREFORE, Developer, for the purposes above set forth, declares
that all property within the Community shall hereafter be held, transferred, sold,

conveyed, leased, occupied, and used subject to the covenants, conditions, restrictions, liens, assessments, easements, privileges, and rights hereinafter set forth, all of which shall run with the land and be binding upon all property within the Community and all parties having or acquiring any right title, or interest in or to any property within the Community, or any part thereof, and shall inure to the benefit of and be a burden upon each Owner, the Association and each Association Member.

ARTICLE I Definitions

Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows:

1.1 "Additional Property" means any additional real property which is annexed to the Community, thereby becoming a part thereof and subject to this Declaration. Annexation may be accomplished by the filing of a document of record by Developer or the Association which describes the property to be annexed and recites that such property is to be subject to the terms of this Declaration.

1.2 "Amenities" means those improvements constructed by the Developer or the Association within the public right-of-way as contemplated by the Right-of-Way Agreement.

1.3 "Architectural Control Committee" means the committee provided for in Article VIII entitled "Architectural and Landscape Control."

1.4 "Assessments" shall include the following:

(a) "Regular Assessment" means the amount which is to be paid by each Association Member as such Association Member's Proportionate Share of the Common Expenses incurred by the Association pursuant to the terms hereof.

(b) "Special Assessment" means (i) a charge against a particular Association Member, an Owner or a Lot, directly attributable to such Association Member, Owner or Lot, to reimburse the Association for costs incurred in bringing the Association Member, the Owner or the Lot into compliance with the provisions of this Declaration, the Articles, Bylaws, Rules or Design Guidelines; (ii) any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws, Rules or Design Guidelines; or (iii) attorneys' fees and other charges payable by such Association Member or Owner as a Special Assessment pursuant to the provisions of this Declaration.

1.5 "Association" means the Southwood Homeowners Association, Inc., a Kansas non-profit corporation, its successors and assigns, which shall be responsible for implementing and enforcing the terms of this Declaration.

1.6 "Association Articles" means the Articles of Incorporation, as such may be amended from time to time, of the Association or of any successor thereto.

1.7 "Association Member" means every Person who holds a membership in the Association.

1.8 "Board" means the Board of Directors of the Association.

1.9 "Bylaws" means the bylaws of the Association, or of any successor thereto, adopted in accordance with the Articles, as such Bylaws may be amended from time to time.

1.10 "City" means the City of Overland Park, Kansas, a municipal corporation of the State of Kansas.

1.11 "Common Expenses" means the actual and estimated costs incurred or to be incurred by the Association in administering, maintaining, operating and conducting activities in connection with the Community for which the Association is responsible pursuant to the terms hereof. The Association shall incur all Common Expenses. The respective Association Members will bear their Proportionate Share of the Common Expenses incurred by the Association. Common Expenses contemplated hereby shall include, but not be limited to, the following:

(a) the cost of maintenance, management, operation, repair, and replacement of the various monuments located on the Monument Easements, the storm water management equipment located on Storm Water Management Easements, and any other areas within the Community which are, or shall in the future be, maintained by the Association;

(b) unpaid Assessments;

(c) the cost of maintenance by the Association of areas within the right-of-way of public streets in the vicinity of the Community as provided in this Declaration or pursuant to agreements with the City;

(d) the cost of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

- (e) the cost of any insurance obtained by the Association;
- (f) reasonable reserves for contingencies, replacements, and other proper purposes as deemed appropriate by the Association, which reserves shall be adequate to meet the costs and expenses of maintenance, repairs and replacement of the various monuments and the storm water management systems located on the Community which must be maintained, repaired or replaced on a periodic basis;
- (g) the cost of bonding any person handling the funds of the Association;
- (h) any taxes paid by the Association;
- (i) costs incurred by the Architectural Control Committee;
- (j) costs incurred by committees established by the Board, or the President;
- (k) costs of security guards, and any security systems or services installed, operated or contracted for by the Association;
- (l) other expenses incurred by the Association for any reason whatsoever in connection with any item or items designated by, or to be provided or performed by, the Association pursuant to this Declaration, the Articles, Bylaws, Rules or Design Guidelines, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.12 "Community" means that parcel of real property referred to in the recitals hereof and described in Exhibit "A" hereto and any Additional Property made subject to this Declaration by annexation, together with all buildings, improvements, and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances, and privileges belonging or in any way pertaining thereto.

1.13 "Declaration" means this instrument, as from time to time amended.

1.14 "Default Rate of Interest" means an annual rate of interest equal to the prime rate (or equivalent) as announced by NationsBank, N.A. (Mid-West) (as the rate charged to its largest and most creditworthy customers) from time to time while interest is accruing (with interest hereunder adjusted as and when said prime rate is adjusted) plus 4% per annum, but never less than 18% (so that if during any periods while interest is accruing said prime rate plus 4% per annum is less than 18%, interest shall accrue during said periods at 18% per annum). Notwithstanding anything herein to the

contrary' if, during any periods, the highest lawful rate of interest which may be paid by the Person required to pay the Default Rate of Interest hereunder, despite the provisions hereof, is less than the rate provided above, the interest payable by such Person during said period shall be the highest lawful rate. If NationsBank, N.A. (Mid-West) should cease doing business or no longer announces its prime rate as described above, the Association may compute interest hereunder upon the announced prime rate of any other bank doing business in Kansas or Missouri. If banks should cease announcing prime rates, the Association may elect to use 18% as the Default Rate of Interest, or may specify the rate, in lieu of said prime rate, for purposes of the computation hereunder which the Association would reasonably have to pay to borrow money at the time.

1.15 "Design Guidelines" means the rules, regulations, restrictions, architectural standards and design guidelines from time to time adopted by the Architectural Control Committee.

1.16 "Developer" means Southwood, L.C., its successors and assigns, or any person or entity to whom the Developer's rights hereunder are hereinafter assigned by recorded instrument, or any Mortgagee of the Developer which acquires title to or succeeds to the interest of the Developer in any Lot or other portion of the Community by reason of a foreclosure (or conveyance in lieu of foreclosure).

1.17 "First Mortgage" means the Mortgage which is the first and most senior of all Mortgages upon the same property. "First Mortgagee" means the holder of a First Mortgage.

1.18 "Lot" means a subdivided lot or a residential dwelling unit within the Community as shown on the Plat.

1.19 "Majority", where not specifically designated otherwise, means the Association Members holding more than 50% of the total votes entitled to be cast with respect to a given matter, and where designated, any specified fraction or percentage of the Association Members holding the specified fraction or percentage of the total votes entitled to be cast with respect to a given matter. A specified fraction or percentage "of all of the Association Members" means that fraction or percentage of the total votes of all Association Members other than the Developer. Unless otherwise specified, any provision herein requiring the approval of the Association Members means the approval of a Majority of such Association Members.

1.20 "Monument Easements" means those easements, as set forth on the Plat, in favor of the Association for purposes of constructing, erecting and maintaining certain entrance-way monuments for the Community.

1.21 "Mortgage" means any recorded, filed or otherwise perfected instrument given in good faith and for valuable consideration which is not a fraudulent conveyance under Kansas law as security for the performance of an obligation, including without limitation a deed of trust but not including any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.22 "Mortgagee" means the holder of a note secured by a Mortgage, including the trustee and beneficiary under any deed of trust. "Mortgagor" means the party executing a Mortgage.

1.23 "Occupant" means any Person, other than an Owner, in rightful possession of a Lot, whether as a guest, tenant, or otherwise.

1.24 "Owner" means the record owner, whether one or more Persons, of fee simple title, whether or not subject to any Mortgage, to any Lot which is a part of the Community, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. In the case of Lots the fee simple title to which is vested of record in a trustee, legal title shall be deemed to be in the trustor.

1.25 "Person" means an individual, corporation, partnership, trustee, or other entity capable of holding title to real property, and their respective heirs, successors, and assigns.

1.26 "Plat" means the plat of subdivision of the Community as first recorded in the official records of Johnson County, Kansas, and as thereafter from time to time amended or supplemented, together with all subsequent plans of subdivision for real property annexed to the Community.

1.27 "President" means the duly elected or appointed president of the Association.

1.28 "Proportionate Share" means that fraction wherein the numerator equals the number of square feet in the Lot(s) owned by an Association Member (or giving rise to such membership) and the denominator equals the number of square feet in all Lots owned by Association Members (or giving rise to such memberships) then required to pay any particular Assessment.

1.29 "Record" or "Recording" means an instrument of record in, or the act of recording an instrument with, the office of the Register of Deeds for Johnson County, Kansas.

1.30 "Right-of-Way Agreement" means that certain Right-of-Way Maintenance Agreement entered into between the Developer and the City providing for the maintenance of the Amenities.

1.31 "Rules" means the rules and regulations adopted by the Association pursuant hereto.

1.32 "Screen" means to partition in a manner such that one cannot see through the partition. "Screening" means the material or structure utilized to Screen.

1.33 "Storm Water Management Easement" means any easements, as set forth on the Plat, in favor of the Association for the purposes of constructing, erecting and maintaining a storm water management system according to the provisions of the City's storm water management policy, as may be amended from time to time.

1.34 "Supplemental Declaration" means a declaration of covenants, conditions, and restrictions, or similar instrument, annexing additional real property to the Community and subjecting such real property to this Declaration.

1.35 "Tract" means an area on the applicable plat designated with an alphabetical letter and which is owned or to be owned by the Association.

ARTICLE II

The Declaration

Developer hereby establishes the Community and this Declaration to govern the use and occupancy of Lots within the Community.

ARTICLE III

Association

3.1 Purpose of Association. The Association has been, or will be, incorporated as a non-profit corporation to administer and delegate responsibility for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Community, the assessment of expenses, payment of losses, disposition of casualty insurance proceeds, and other matters as provided in this Declaration, the Articles, Bylaws, Rules or Design Guidelines and to serve as the supervising and coordinating body for all of the Association Members.

3.2 Membership in Association.

(a) The members of the Association shall consist of the Developer and all of the Owners; provided, however, until such time as one hundred percent (100%) of all Lots within the Community (including Lots made a part thereof from time to time by annexation) have been sold to third parties, the Developer shall have the controlling vote. Each Owner shall be entitled to one Association membership and one vote in the Association so long as he is the Owner of his Lot, and such Owner shall specify in writing to the Association the name of the individual who will hold the Association membership. In the absence of such written specification, Assessments shall nevertheless be charged against the Lot and Owner thereof, but there shall be no right to vote the membership. The Association Member must be an individual who, is either an Owner, or if the Owner is or includes a Person other than an individual, the Association Member may be an individual who is a partner, if the Owner is or includes a partnership, or an officer of a corporation, if the Owner is or includes a corporation, or a beneficiary of the trust, if the Owner is or includes a trust, or an Owner of the entity, if the Owner is or includes a Person other than an individual, a partnership, a corporation, or a trust.

(b) Once an Association Member has been specified by an Owner of a Lot, a new Association Member may only be specified for that Lot by the Owner upon the written approval of the President of the Association, which approval shall not be unreasonably withheld.

(c) A membership in the Association shall not be transferred, pledged, or alienated in any way, except as herein expressly provided. Association membership shall automatically be transferred to the new Owner upon the transfer of the Lot to which it appertains (and then only to such transferee), whether by sale, intestate succession, testamentary disposition, foreclosure of a Mortgage or other legal process transferring fee simple title to such Lot.

3.3 Pledge of Voting Rights. Notwithstanding the foregoing, in the event that an Owner has granted an irrevocable proxy or otherwise pledged the voting right appurtenant to his Association membership with respect to his Lot to a Mortgagee as additional security, the vote of such Mortgagee will be recognized only if a copy of such proxy, or other instrument pledging such vote, has been filed with the Association. In the event that more than one such instrument has been filed, the Association shall recognize the rights of the first Mortgagee to so file, regardless of the priority of any two or more Mortgages.

3.4 Assignment of Developer's Voting Rights. If any lender to whom the Developer has assigned, or hereafter assigns, as security all or substantially all of its rights under this Declaration succeeds to the interests of the Developer by virtue of said assignment the absolute voting rights of the Developer as provided in Section 3.17 shall not be terminated thereby, and such lender shall hold the Developer's memberships and voting rights on the same terms as they were held by the Developer pursuant hereto.

3.5 Association Board of Directors.

(a) The affairs of the Association shall be conducted by its Board as herein provided and in accordance with the Articles and Bylaws. Except for directors elected by the Developer, each director shall be an Association Member or the spouse of an Association Member. If a director shall cease to meet such qualifications during his or her term, he or she will thereupon cease to be a director and his or her place on the Board shall be deemed vacant.

(b) The Developer shall have the sole and absolute power and right to appoint and remove the members of the Board until 100% of the Lots in the Community, as it shall exist from time to time, have been sold to third parties. After that date, the members of the Association shall have the power and right to appoint and remove the members of the Board as provided in the Articles and Bylaws.

(c) When any member of the Board may be removed from office, by action of the Association Members, the following procedures shall be followed: upon the presentation to the President of a petition duly executed by 10% or more of all of the Association Members in favor of the removal from office of the member or members of the Board therein named, a referendum of the Association Members shall be promptly held to determine whether such member or members of the Board should be removed from office. Upon the affirmative vote of two-thirds of all of the Association Members to remove such member or members of the Board from office, such member or members shall be deemed removed from office. Any vacancy on the Board created by the removal of a member of the Board as herein provided shall be filled by an election of all of the Association Members in the manner provided in the Articles or Bylaws for the election of directors.

3.6 Duties and Powers of the President of the Association.

(a) To the extent not prohibited by law, or as otherwise herein expressly limited, including without limitation subparagraph 3.6(b), the President of the Association shall be empowered to exercise control over the affairs of the Association and to act on behalf of, and bind, the Association in every instance wherein the Association is required or permitted to take any action. The action of the President shall at all times be subject to the review of the Board.

(b) Notwithstanding anything in subparagraph 3.6(a) to the contrary, the President shall not have the power to borrow any funds on behalf of the Association, make any expenditures on behalf of the Association which are, in the aggregate, more than 5% in excess of the total amount of the Association's budget, or increase the amount of or levy any Assessment (except a Special Assessment), without the prior approval of the Board.

(c) The President may appoint such assistants as he deems necessary and appropriate. No compensation shall be paid to any assistant except as provided in the budget of the Association or as otherwise approved by the Board.

(d) Any right or power herein given or delegated to the President which cannot be exercised by the President, whether by reason of law, or otherwise, shall be deemed to be a right or power to be exercised by the Board.

3.7 President's Determination Binding. In the event of any dispute or disagreement between any Owners, Association Members, or any other Persons subject to this Declaration, relating to the Community, or any question of interpretation, or application of the provisions of this Declaration, the Articles, Bylaws, Association Rules, or any Design Guidelines, the determination thereof by the President shall be final and binding on each and all of such Owners, Association Members or Persons. The President may, at his or her election, delegate the resolution of such dispute or disagreement, to the Board, or to a committee appointed by the President.

3.8 Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration, or the Articles or Bylaws, any provision of the foregoing which requires the vote or written assent of the Association Members shall be deemed satisfied by the following:

(a) The vote in person, or by proxy, of the specified percentage of Association Members at a meeting duly called and noticed pursuant to the provisions of the Articles or Bylaws, dealing with annual or special meetings of the Association Members.

(b) Written consents signed by the specified percentage of Association Members as provided in the Bylaws.

3.9 Additional Provisions in Articles and Bylaws. The Articles and Bylaws may contain any provision relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents, and members not inconsistent with law, or this Declaration.

3.10 Rules. The Board shall be empowered to adopt, amend, or repeal such rules and regulations as it deems reasonable and appropriate which shall be binding upon all Persons subject to this Declaration and shall govern the use and/or occupancy of any part of the Community. The Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments or otherwise. The Rules shall govern such matters in furtherance of the purposes of the Association; provided, however, that the Rules may not unreasonably or unlawfully discriminate among Owners and Association Members, and shall not be inconsistent with this Declaration, the Articles, Bylaws or Design Guidelines. A copy of the Rules, as they may from time to time be adopted, amended or repealed, or a notice setting forth the adoption, amendment or repeal of specific portions of the Rules, shall be delivered to each Owner and Association Member in the same manner established in this Declaration for the delivery of notices. Upon completion of the notice requirements, said Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners, Association Members and all other Persons having any interest in, or making any use of, the Community, whether or not actually received thereby. The Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner, Association Member or other Person reasonably entitled thereto, upon request. In the event of any conflict between any provision of the Rules and any provisions of this Declaration, or the Articles, Bylaws or Design Guidelines, the provisions of the Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles, Bylaws or Design Guidelines to the extent of any such conflict.

3.11 Indemnification. To the fullest extent permitted by law, every director and every officer of the Association created pursuant hereto, and the members of the Architectural Control Committee, and the Developer (to the extent a claim may be brought against the Developer by reason of its appointment removal, or control over members of the Board or Architectural Control Committee) shall be indemnified by the Association and every other person serving as an employee, or direct agent of the Association, or on behalf of the Association as a member of a committee or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him or her in connection with any proceeding or any settlement thereof to which he may be a party, or in which he or she may become involved, by reason of his or her being or having served in such capacity on behalf of the Association (or in the case of the Developer by reason of having appointed, removed, or controlled or failed to control members of the Board or Architectural Control Committee) whether or not he or she is a director, officer or member of the Architectural Control Committee, or serving in such other specified capacity at the time such expenses are incurred; provided, however, that prior to agreeing to any such indemnification, the Board shall determine, in good faith, that such officer, director, member of the Architectural Control Committee, other Person or the Developer, did not act, fail to act, or refuse to

act willfully, or with gross negligence, or fraudulent, or criminal intent in the performance of his or her duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such persons may be entitled at law or otherwise.

3.12 Non-Liability of Officials. To the fullest extent permitted by law, neither the Developer, the President, any Board members, any Architectural Control Committee member, any other members of committees of the Association nor any officers of the Association, shall be liable to any Association Member, Owner, Occupant, the Association or any other Person for any damage, loss, or prejudice suffered or claimed on account of any decision, approval, or disapproval of plans or specifications (whether or not defective), course of action, inaction, omission, error, negligence, or the like made in good faith and which the Developer, the President, Board member or such committees or persons reasonably believed to be within the scope of their respective duties.

3.13 Easements. In addition to the blanket easements granted in Section 4. 1, the Association is authorized and empowered to grant upon, across, or under real property owned, or controlled by the Association such permits, licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private utility purposes, roadways or other purposes as may be reasonably necessary and appropriate for the orderly maintenance, preservation, and enjoyment of all or any part of the Community, or the preservation of the health, safety, convenience, and welfare of the Owners and Association Members, provided that any damage to any Lot resulting from such grant shall be repaired by the Association at its expense.

3.14 Accounting. The Association at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally accepted accounting principles, and shall have available for the inspection of all Association Members and Owners, at reasonable times during regular business hours, books which shall specify in reasonable detail all expenses incurred and funds accumulated from Assessments or otherwise.

3.15 Records. The Association shall, upon reasonable written request and during reasonable business hours, make available for inspection by each Association Member, the books, records, and financial statements of the Association together with current copies, as amended from time to time, of this Declaration and the Articles, Bylaws, Rules and Design Guidelines. The Developer shall be under no obligation to make its own books and records available for inspection by the Association, any Owner, Association Member or other Person.

3.16 Managing Agent. Any powers, duties, and rights of the Association created pursuant hereto, or of the President, or Board, as provided by law and herein, may be delegated to a managing agent under a management agreement; provided, however, that no such delegation shall relieve the Association of its obligation to perform any such delegated duty. Any agreement for professional management or any other contract providing for services, shall not exceed a term of three years, which term may be renewed by agreement of the parties for successive one-year periods, and shall further provide for termination by either party with or without cause and without payment of a termination fee upon 90 days' written notice.

3.17 Developer's Control of Association. Notwithstanding anything in this Declaration to the contrary, the Developer shall maintain absolute control over the Association and the Architectural Control Committee, including appointment of the President and members thereof, until 100% of the Lots in the Community (as it exists from time to time) have been sold to third parties. Until such time, only the Developer will be entitled to cast the controlling vote with respect to the election of directors to the Board, removal of directors from the Board, or any other matter requiring the vote or approval of members of the Association. The Developer voluntarily may, but shall not be required to, permit the members of the Association to assume control of the Association at any time. Such transfer of control shall be effectuated by way of a document executed by Developer and placed of public record in the official records of the Johnson County, Kansas Register of Deeds. Such document shall set forth the legal description of the Community.

ARTICLE IV Easements

4.1 Creation of Easements. There is hereby created a blanket easement, upon, across, over, and under the Community for (a) ingress and egress (over existing roadways); (b) installing, constructing, replacing, repairing, maintaining, and operating all utilities, including but not limited to water, sewer (both sanitary and storm), gas, telephone, electricity, television cable, security systems and communications lines and systems; and (c) constructing and maintaining subterranean structures, footings and supports, drainage and storm water detention facilities, entrance-way monuments and above-ground protrusions which do not unreasonably interfere with the surface use of any Lot; and (d) for the use of emergency vehicles of all types. By virtue of the foregoing blanket easement, it shall be expressly permissible for a providing utility company to erect (including without limitation underground installation) and maintain all necessary facilities, wires, circuits, conduits, cables, and related appurtenances, facilities and equipment within the Community. Notwithstanding anything to the contrary contained in this Section, no easements shall be created or utilized nor shall any sewers, electrical lines, water lines, or other facilities for utilities be installed or

relocated except as initially created or approved by the Developer, or thereafter created, or approved by the Association which in any material way adversely affect the Community. This provision shall in no way affect any other recorded easements on the Community. In addition, once an improvement has been constructed upon any area included in the Community and an easement contemplated hereby has been specifically located and established by an appropriate document of record, the blanket easement associated therewith shall cease to have any force and effect.

4.2 Developer Easement. There is hereby created an affirmative, nonexclusive easement in favor of Developer, and appurtenant to the property described on Exhibit "A" hereto, for ingress and egress over all of the Community and for the right to go over, under, and across and to enter and remain upon all of the Community for all purposes consistent with development and maintenance of the Community.

ARTICLE V Creation of Lien and Personal Obligation

Each Owner and Association Member, by acceptance of a deed or other conveyance of an interest in a Lot or by acceptance of his membership, is deemed to covenant and agree to pay any or all of the Regular Assessments, Special Assessments or other amounts due hereunder to the Association or Developer in accordance with the terms hereof. Such Assessments shall be collected from time to time as provided in this Declaration. The Assessments and all other amounts due under the terms hereof, together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon such Owner's or Association Member's Lot against which the Assessments are made or in connection with which such other amounts are due. Such lien shall attach immediately and automatically when any Assessment is due and payable. Each Assessment and other amounts due, together with such interest and other costs, shall also be the personal obligation of the Association Member and/or Owner to whom such Assessment relates. The personal obligation for delinquent payments shall not pass to an Owner or Association Member's successor unless expressly assumed by him. The obligation of an Association Member, and the Owner of the Lot to which such membership appertains, for the payment of Assessments and other amounts shall be joint and several.

5.1 Purpose of Assessments. The Assessments levied by the Association shall be used: (a) to promote the recreation, health, safety, and welfare of Owners and Association Members; (b) to enhance the value of the Community; (c) to pay the costs of administration of the Association; (d) to pay all other Common Expenses; or (e) to

otherwise further the interests of the Community. Maintenance of each Lot shall be the sole responsibility of its Owner.

5.2 Regular Assessments.

(a) Except as otherwise specifically provided herein, each Association Member shall pay as its Regular Assessment such member's Proportionate Share of the Common Expenses of the Association. Except as otherwise specifically provided herein, Payment of Regular Assessments shall be in such amounts and at such times as may be provided in the Articles and Bylaws, or as determined by the Association.

(b) Not later than 60 days prior to the beginning of each fiscal year of the Association, the Association shall make available for review by each Owner and Association Member at the Association's office, during reasonable times, a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred by the Association for such fiscal year. The Association shall at that time determine the amount of the Regular Assessment to be paid by each Association Member and notify the member thereof. Each Association Member shall thereafter pay to the Association its entire Regular Assessment on or before the beginning of the Association's fiscal year, which date shall be set forth in the written notice sent to members.

(c) If the Association created pursuant hereto subsequently determines that the total Regular Assessments for the current year are, or will become, inadequate to meet all Common Expenses for whatever reason, including Common Expenses in excess of the estimated Common Expenses used in preparation of the Association's budget for that year, the President shall then immediately determine the approximate amount of such inadequacy and, with the consent of the Board, issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessments to be paid by each Association Member for the balance of the year, and the date or dates when due. Each Association Member shall be notified of the additional amount required to be paid and the due date of such Payment. If the estimated total Regular Assessments for a current year prove to be excessive in light of the actual Common Expenses experienced by the Association, the Association may, at the discretion of the Board, retain such excess as additional working capital or reserves, or reduce the amount of the Regular Assessments for the next fiscal year. No reduction or abatement of Regular Assessments because of any such anticipated surplus may diminish the quantity, or quality, of services upon which the Common Expenses for the year in question are based, and if supplemental assessments are required, they shall be made as set forth above.

5.3 Special Assessments. Special Assessments shall be levied by the Association against an Association Member and/or an Owner and his Lot to reimburse the Association for:

(a) Costs incurred in bringing an Association Member or an Owner and his Lot into compliance with the provisions Of this Declaration, or the Articles, Bylaws, Rules or Design Guidelines;

(b) Any other charge designated as a Special Assessment in this Declaration, or the Articles, Bylaws, or Rules;

(c) Fines levied or fixed by the Board as provided herein; and

(d) Attorneys' fees, interest, and other costs or charges provided to be paid as, or which are incurred in connection with, a Special Assessment in accordance with this Declaration or the Articles, Bylaws, Rules or Design Guidelines.

In the event the Association undertakes to provide materials or services which benefit individual members or Lots and which can be accepted or not by individual members, such members, in accepting such materials or services agree that the costs thereof shall be a Special Assessment.

5.4 Uniform Assessment. All Regular Assessments shall be uniformly based on Proportionate Shares for each Association Member.

5.5 Exempt Property. All properties owned by the Developer as set forth in Section 5.14, or dedicated to and accepted by, or otherwise owned or acquired by, a public authority shall be exempt from the Assessments created herein.

5.6 Date of Commencement Regular Assessments. The Regular Assessments shall commence as to each particular member of the Association, on the date of conveyance to the Owner of the Lot to which the Association membership appertains.

5.7 Time and Manner Payment; Late Changes and Interest. Assessments shall be due and payable by the respective members in such manner and at such times as the Association shall designate in accordance with the terms hereof. If not paid within ten (10) days after its due date, each such Assessment shall have added to it a late charge equal to 10% of the amount of Assessment and thereafter bear interest at the Default Rate of Interest until paid. The Association may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A delinquent member shall, to the extent allowed by then applicable law, be liable for attorneys' fees and other

related costs incurred by the Association as a result of such delinquency, and if any suit, action, or proceeding is brought to collect any such Assessment or charge, then there shall be added to the amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment or award rendered thereon. The delinquency of a Association Member shall be deemed to also constitute the delinquency to which such membership appertains.

5.8 No Offsets. All Assessments shall be payable in the amount specified in the Assessment or notice of Assessment and no offsets against such amount shall be allowed for any reason, including, without limitation, a claim that the Association, Board, President, or the Developer is not properly exercising its duties and powers as provided in this Declaration or any documentation associated herewith or that Assessments for any period exceed Common Expenses.

5.9 Homestead Waiver. Each Owner and Association Member, to the extent permitted by law, to the extent of any liens created pursuant to this Declaration or any documentation associated herewith (whether such liens are now in existence or are created at any time in the future), waive the benefit of any redemption, homestead or exemption laws of the State of Kansas now in effect, or in effect from time to time hereafter.

5.10 Reserves. Reserves included in any budget for Common Expenses which are collected as part of Regular Assessments shall be deposited by the Association in a separate bank account to be held in trust for the purposes for which they are budgeted and are to be segregated from and not commingled with any other funds of the Association, except to the extent that the Association's regularly employed accountant deems it desirable to do otherwise on the basis of standard accounting principles in similar contexts or the laws (tax or otherwise) of the State of Kansas or the United States relating to non-profit corporations, or homeowners associations. Such reserves shall be deemed a contribution to the capital account of the Association by its members. The responsibility of the Board (whether while controlled by the Developer or the Association Members) shall be only to provide for such reserves as the Board in good faith deems reasonable, and neither the Developer, the Board, or any member thereof shall have any liability to any Owner or member, or Association, if such reserves prove to be inadequate.

5.11 Subordination of Lien. Any lien which arises against a Lot by reason of the failure or refusal of an Owner, or Association Member, to make timely payment of any assessment shall be subordinate to the lien of a prior recorded First Mortgage (together with any interest cost; reasonable attorneys' fees and any late charges related thereto) on the Lot acquired in good faith and for value, except for the amount of the unpaid Assessment which accrues from and after the date on which a First Mortgagee comes into possession of, or acquires title to the Lot, whichever occurs first. If any

lien for unpaid Assessments which accrued prior to the date the First Mortgagee comes into possession of or acquires title to the Lot has not been extinguished by the process by which such First Mortgagee came into possession of or acquired title to the Lot, such First Mortgagee shall not be liable for unpaid Assessments arising prior to the aforesaid date and, upon written request by such First Mortgagee to the Association, such lien shall be released in writing by the Association. Any unpaid Assessments which are extinguished pursuant to the foregoing sentence shall continue to be the personal obligation of the delinquent Owner and Association Member and may also be re-allocated by the Association among all Association Members as part of the Common Expenses.

5.12 Certificate of Non-Payment. Upon request, any Person acquiring an interest in any Lot shall be entitled to a certificate from the Association setting forth the amount of due but unpaid Assessments relating to such Lot, if any, and such Person shall not be liable for, nor shall any lien attach to the Lot in excess of, the amount set forth in the certificate, except for Assessments which occur, or become due, after the date thereof and any interest, costs, attorneys' fees, and any late charges related to such Assessments.

5.13 Enforcement of Lien. Any lien provided for in this Article V may be foreclosed by the Association in any manner provided, or permitted, for the foreclosure of realty mortgages or homes association liens in the State of Kansas.

5.14 Exemption of Unsold Lots. Notwithstanding anything in this Article V to the contrary, no Assessment shall be levied upon, or be payable with respect to, any Lot owned by the Developer, or an affiliate of the Developer to whom the Lot has been distributed by the Developer or any trustee for any of the aforesaid Persons, until such Lot has been conveyed by the Developer (or said affiliate or trustee) to a non-affiliated purchaser thereof.

ARTICLE VI Insurance

6.1 Authority to Purchase. The Association may purchase and maintain such insurance, and in such types and amounts as its Board shall determine from time to time. Such policies, and endorsements thereon, or copies thereof, shall be deposited with the Association and shall be available to the Association Members and Owners upon reasonable request.

6.2 Non-Liability of Association/Board/President. Neither the Association nor any Board member nor the President nor the Developer shall be liable to any Owner, Association Member, Mortgagee, or other Person, if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner and Association Member to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner or Association Member may desire.

6.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Lot, or its appurtenances, by an Owner or Association Member, shall be assessed against that particular Lot, Owner or Association Member in a Special Assessment.

6.4 Insurance Claims. The Association is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The President has full and complete power to act for the Association in this regard and may, at his discretion, appoint an authorized representative, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Association.

6.5 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of, and any proceeds of insurance received by the Association, or any insurance trustee, shall be held or disposed of in trust for the Association, the Owners and the Association Members, as their interests may appear.

ARTICLE VII Maintenance, Repairs and Replacements

7.1 Owner's Responsibility. Except as may otherwise be provided for herein, each Owner, at his own expense, shall furnish and be responsible for all of the maintenance, repairs and replacements of any improvements upon his own Lot.

7.2 Maintenance of Monuments. Except as otherwise provided herein to the contrary, maintenance, repairs and replacements of the monuments shall be furnished by the Association as part of the Common Expenses and shall be subject to the Bylaws and Rules. If, due to the act or neglect of an Owner or Association Member, or the

invitee, guest, or other authorized visitor of either, or an Occupant of such Owner or Association Member's Lot, damage shall be caused to the monuments or maintenance, repairs, or replacement shall be required which would otherwise be a Common Expense, then to the extent not covered by the Association's insurance, such Owner or Association Member shall pay for the damage and for such maintenance, repairs and replacements as may be determined necessary or appropriate by the Board. Such obligation shall be collected by way of a Special Assessment, the payment of which shall be secured by the lien provided for in Article V.

7.3 Right of Access. An authorized representative of the Association and all contractors, repairmen or other agents employed or engaged by the Association, shall be entitled to reasonable access to each of the Lots as may be required in connection with maintenance, repairs or replacements of or to the monuments, or any equipment, facilities or fixtures affecting or serving same, or to perform any of the Association's duties or responsibilities hereunder.

ARTICLE VIII

Architectural and Landscape Control

8.1 Architectural Control Committee. The Association shall have an Architectural Control Committee consisting of not less than three nor more than five persons, as specified from time to time by the Developer during periods in which the Developer has the right to appoint the members of the Architectural Control Committee, and thereafter, by resolution of the Board. The Developer shall initially appoint the members of the Architectural Control Committee. The Developer shall retain the right to appoint, augment or replace all members of the Architectural Control Committee for the Community until 100% of all Lots within the Community have been sold to third parties. Thereafter, members of the Architectural Control Committee for the Community shall be appointed by the Board. Persons appointed to the Architectural Control Committee, other than those persons appointed by the Developer, must be Association Members or satisfy such other requirements as may be set forth in the Design Guidelines. The Developer voluntarily may (but shall not be required to) permit Association Members to appoint one or more members of the Architectural Control Committee at any time.

8.2 The Design Standards.

(a) Street Obstructions. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways will be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the

intersection of the street lines extended. The same sight line limitations will apply on any Lot within 10 feet of the intersection of a street property line with the edge of a driveway or alley pavement. No tree will be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

(b) Landscaping. Each Lot, when first improved for occupancy, shall utilize at least \$2,000.00 in the construction and planting of landscaping. This amount shall be in addition to amounts spent in connection with the cost of trees required below, grading, sod and irrigation systems. Landscaping on all Lots shall include Red Oak Trees (*Quercus rubra*) located near the street and placed at approximate intervals of 40 feet. All Lots that are not naturally wooded shall include at least three (3) shade trees planted in the front yard of each Lot and one (1) shade tree planted in the back yard of each Lot. All such trees shall be of a least 2 inches in caliper. An in-ground irrigation system shall be installed to maintain all turf areas on each Lot. Approval by the Architectural Control Committee of any landscaping plan shall be required.

In addition to the foregoing, the following shall apply to all Lots:

(1) Written permission is required from the Architectural Control Committee before removing any trees 4 inches or over in caliper. Appropriate construction procedures shall be followed to protect and preserve trees, shrubs and other landscaping which may exist on the construction site or on adjacent or nearby sites. Attractive, mature vegetation should, whenever practical, be saved to give the Community an established feeling. All disturbed ground areas of a building site shall be sodded, covered with plants or mulched with approved landscape materials. Landscape improvements as approved by the Architectural Control Committee shall be installed within sixty (60) days after completion of the residence; provided, however, said 60-day period shall be subject to reasonable extension on account of inclement weather.

(2) Plantings for Lots shall reinforce the natural meadow and woodland character of the Community. Cleared areas should be landscaped with trees, shrubs and lawns designed to compliment the architectural character of proposed buildings.

(c) Sidewalks. All Lots shall have a 4 feet wide concrete sidewalk located parallel to all streets and within the street right-of-way. All such sidewalks shall be constructed in accordance with City requirements.

(d) Hard Surfaces. All paved surfaces shall be of high quality finish such as brick, concrete or other permanent material approved by the Architectural Control Committee. A maximum of 50% hard surface materials will be allowed within the front yard areas of any Lot, with the approval of the Architectural Control Committee.

(e) Construction Period Requirements. During the period that construction is being undertaken on a Lot, the following minimum measures will be required to minimize disturbance to adjacent sites:

(1) No dumping of construction materials, waste or trash shall occur in the Community.

(2) Each Lot shall be maintained in a clean and orderly manner during construction. Erosion shall be controlled on each Lot in a manner approved by the Architectural Control Committee while it is in a disturbed condition.

(f) Residence Design.

(1) The design of each residence shall be subject to the approval of the Architectural Control Committee and, without limiting the foregoing, shall comply with the following criteria: (i) appropriateness of form, color and materials to design style; (ii) relationship of window to wall and wall to total form well designed massing); (iii) appropriateness of detailing to form, style and massing; and (iv) the proportions of roofs shall be consistent with the proposed architectural style.

(2) Colors, materials, finishes and building forms shall be in conformity with the requirements hereof and integrated with the particular landscape and topographical character of each site.

(3) The site dimensions must be adequate to accommodate the proposed improvements, including the house, parking, drives and Screening.

(4) Finished grades and elevations must be compatible with neighboring sites, particularly with regard to drainage and views.

(5) No turbines or solar panels shall be permitted which can be seen from any street.

(6) Exterior decks and porches shall be painted or stained to match the exterior color of the residence or as otherwise approved by the Architectural Control Committee;

(7) All playground equipment shall be subject to approval by the Architectural Control Committee; consideration of placement, color, design and landscaping/Screening shall be made by the Architectural Control Committee.

(8) All exposed surfaces of fireplace chimneys shall be constructed of or faced with stucco, brick or stone.

(g) Exterior Materials and Colors. Residences shall be faced on all sides with quality materials such as brick, wood shingles, stone, stucco/EIFS, or certain woods as approved by the Architectural Control Committee. Exposed concrete block, batt and board, certain types of hardboard and lava rock will not be allowed. Simulated brick or stone must be approved by the Architectural Control Committee. All exterior materials and the color of all exterior materials, including the color of decks and porches, shall be subject to the approval of the Architectural Control Committee.

Exposed foundations shall be painted and those exceeding twelve inches (12") shall be covered with the same quality material as the residence.

Roofs shall be cedar shake (medium or heavier, hand split or milled), wood shingles, slate, tile or such other material approved by the Architectural Control Committee. In any event, no composition asphalt shingles shall be permitted.

(h) Garages. Each residence must have an attached, fully enclosed side or front-entry garage for not less than two nor more than four vehicles, unless the Architectural Control Committee shall consent to capacity for a greater number of vehicles; provided, however, if the features unique to the Lot shall not reasonably permit a side or front-entry garage, the Architectural Control Committee may (but shall not be obligated to) approve a rear-entry garage. Garages shall have the same architectural treatment and be constructed of the same materials as the house. Garages shall remain closed except when vehicles are entering or exiting. No garage will be permitted to be enclosed for living or used for purposes other than storage of vehicles and related uses.

(i) Construction, Location and Size Limitations.

(1) No exterior alterations of any existing building or structure shall be permitted without the prior approval of the Architectural Control Committee.

(2) No excavation will be made except in conjunction with construction of an improvement. When such improvement is completed, all exposed openings will be back filled and graded.

(3) Once commenced, construction will be diligently pursued to completion and it may not be left in a partly finished condition for more than 30 days without written approval from the Architectural Control Committee.

(4) A residence destroyed by fire or other casualty shall be removed from the Lot and new construction begun within three months after the date of such destruction, and thereafter such construction shall be performed with due diligence through completion.

(5) Minimum square footage requirements for residences shall be as follows:

(i) 2 story residences—2,750 square feet with no less than 1,400 square feet on the first floor;

(ii) 1½ story—2,750 square feet with no less than 1,600 square feet on the first floor;

(iii) 1 story—2,000 square feet;

(iv) reverse 1½ story—2,750 square feet with no less than 2,000 square feet on the ground floor.

In calculating the foregoing minimum square footage requirements, basements, porches, decks and garages shall not be considered.

(6) All residences and other improvements shall be located on each Lot as approved by the Architectural Control Committee and in full compliance with any setback lines or restrictions shown on the applicable Plat.

(j) HVAC. No window air conditioning or heating units will be permitted.

(k) Patios. No Screening of a patio or other recreation area will be installed without the written approval of the Architectural Control Committee.

(l) Swimming Pools, Tennis Courts and Spas. All swimming pools and pool areas, spas, tennis courts, equipment associated therewith (including lighting) and Screening therefor shall be subject to approval of the Architectural Control Committee. No above-ground or above-grade swimming pools shall be allowed; provided, however, that in the event topographical features of the Lot, in the opinion of the Architectural Control Committee, require a swimming pool to be partially above-grade, the Architectural Control Committee shall have the right to approve such partial above-grade construction. No external or outdoor hot tubs or spas shall be above-ground or above-grade or otherwise allowed without the prior approval of the Architectural Control Committee and shall provide appropriate Screening.

All fencing and walls (including, without limitation, the composition and location thereof) shall be subject to the approval of the Architectural Control Committee. No chain link or wire fencing shall be permitted, and only wrought iron, cedar or redwood shall be considered by the Architectural Control Committee. No fencing shall exceed five feet (5') in height unless required by the City for Screening of pool, hot tub or spa areas. Retaining or Screening walls shall be made of natural materials or faced with quality materials approved by the Architectural Control Committee.

8.3 Review Process. Signed, written approval by the Architectural Control Committee is required prior to the undertaking of any site improvements, construction or installation, including clearing, grading, paving, signs, structures, landscaping and building additions or alterations. Review shall be coordinated with the required governmental approvals. Submission to the City for building permits or site plan approval shall not be made until final plans have been approved by the Architectural Control Committee. All submissions to the Architectural Control Committee are to be made within the time periods established by the Architectural Control Committee and shall be in a format approved by the Architectural Control Committee. The review of each complete Submission by the Architectural Control Committee will be completed within thirty (30) working days from the date of such Submission, and notification of recommendations or approval will be provided in writing to the Owner within such time.

8.4 Interpretation and Waiver. The Architectural Control Committee's interest in reviewing site and building designs is to assure that a high quality of compatible development is consistently achieved. In order to meet special situations that may not be foreseen, it may be desirable from item to time for the Architectural Control Committee to allow variances of certain requirements; such variances shall not be considered precedent setting. All approvals and consents of the Architectural

Control Committee shall be in writing, and oral approvals or consents shall be of no force or effect.

8.5 Architectural Control Committee Authority and Limits of Liability.

(a) No residence, fence, wall or other structure or improvement of whatever type shall be commenced, erected or maintained within the Community, nor shall there be any addition to or change to the exterior of any residence or other structure or improvement upon a Lot, or the landscaping, grading or drainage thereof, including, without limitation, the painting (other than painting with the same color of paint as previously existed) of exterior walls, patio covers and fences, except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Control Committee. The Architectural Control Committee may reject plans and specifications, without citing specifics, for the following reasons, among others: (i) insufficient information to adequately evaluate the design or its intent; (ii) low design quality; (iii) incompatible design elements; (iv) inappropriate design concepts or design treatment; and (v) a design found to have an adverse effect on the character of the Community or its residents. In recognition of the fact that the overall impact of improvements on any Lot involves issues of taste and judgment that cannot be completely described in Design Standards, the Architectural Control Committee shall also have the right to reject plans and specifications otherwise conforming to the Design Standards if the Architectural Control Committee finds that the overall aesthetic or other impact of any proposed improvement addition, alteration or change is detrimental to the Community.

(b) By its approval of plans and specifications, the Architectural Control Committee shall not be deemed to have warranted or approved the same for engineering design safety, or for compliance with zoning, health and building ordinances; by approving such plans and specifications, neither the Architectural Control Committee, the members thereof, the Association, any of its members, its officers, its Board nor the Developer assumes any liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. Neither the Architectural Control Committee, any member thereof, the Association, its officers, its Board nor the Developer shall be liable to any Owner or other Person for any damage, loss or prejudice suffered or claimed on account of (i) the approval or disapproval of any plans, drawings specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or (iii) the development, or manner of development of any property within the Community.

(c) Any member or authorized consultant of the Architectural Control Committee, the Developer or its representatives, or any authorized officer, director, employee or agent of the Association may, at any reasonable time, enter, without being deemed guilty of trespass, upon any Lot, after reasonable notice to the Owner, in order to inspect improvements constructed or being constructed on such Lot to ensure that such improvements have been, or are being, built in compliance with the plans and specifications approved by the Architectural Control Committee, the Design Standards and this Declaration.

(d) The Association may promulgate such rules and regulations as it deems to be appropriate and as are not in conflict with this Declaration in order to enforce compliance with the Design Standards set forth herein. **WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE BOARD MAY FIX FINES FOR FAILURE TO OBTAIN APPROVAL FROM THE ARCHITECTURAL CONTROL COMMITTEE OR TO COMPLY WITH ANY SUCH APPROVAL.**

8.6 Authorized Builders. Developer, while in control of the Association and Board pursuant to Section 3.17, reserves the right to approve a builder intending to construct a residence within the Community. Only builders who are members of the Home Builders Association of Greater Kansas City, its successor, or similar organization approved by the Developer or Board, as the case may be, and who make a living primarily through the building of single family residences shall be eligible for consideration.

8.7 Public Approvals. All pertinent requirements of public agencies must be followed in the development of the Community, and all plans must be approved by the appropriate departments of the City. Each Owner must verify code requirements at the time of purchase and development. Although based in part on local zoning and subdivision regulations, the Design Guidelines may be more restrictive in land use, site development standards, landscape requirements, or in other matters. In every case in which this criteria is at variance with public agency requirements, the more restrictive regulations shall govern. Final legal approvals permitting development and occupancy of the property will be made by the City.

ARTICLE IX

Use and Occupancy Restrictions

9.1 Residential Use. Each Lot within the Community may be used only for residential purposes and no other. No business or commercial building may be erected on any Lot and no business or commercial enterprise, or other non-residential use, may be conducted on any part thereof. No temporary buildings, structures, or trailers may be erected, placed or maintained on any Lot except as expressly permitted by, and in

compliance with, the Design Guidelines. Nothing herein contained shall be deemed to limit the Developer's rights as otherwise set forth in this Declaration.

9.2 Violation of Law, Rule or Ordinance. No Owner or Association Member shall permit anything to be done or kept on his Lot which would be in violation of any law, rule or ordinance.

9.3 Signs. No sign of any kind shall be displayed to the public view, or on any Lot without the approval of the Association, or the Architectural Control Committee, except:

(a) such signs as may be used in connection with the development and sale of Property in the Community;

(b) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law; or

(c) such signs as may be required for traffic control and regulation of streets of the Community.

9.4 Animals. No animals, including horses or other domestic farm animals, fowl or poisonous reptiles of any kind may be kept, bred, or maintained, on any Lot, except a reasonable number of commonly accepted household pets in accordance with the Rules. No animals shall be kept, bred or raised within the Community for commercial purposes. In no event shall any domestic pet be allowed to run free, away from its Owner's Lot without a leash, or so as to create a nuisance.

9.5 Nuisances. No Owner or Member shall permit anything to be done or kept about or within his Lot or on, or about, any portion of the Community, which will obstruct or interfere with the rights of other Owners, Association Members, Occupants, or Persons, or annoy them by unreasonable noises, or otherwise, nor will he commit, or permit any nuisance, or commit, any illegal act to be committed therein. Each Owner or Association Member shall comply with the Rules, the requirements of all health authorities and other governmental authorities having jurisdiction over the Community.

9.6 Boats and Motor Vehicles. No boats, trailers, buses, motor homes, campers, or other vehicles shall be parked or stored in, or upon a Lot except within an enclosed garage. No vehicle shall be repaired or rebuilt on any Lot or upon the streets of the Community. Nothing shall be parked on the streets in the Community except in such parking areas as may be designated by the Association. The Association may remove, or cause to be removed, any unauthorized vehicle or other item prohibited hereby at the expense of the Owner thereof in any manner consistent with law.

9.7 Lights. No spotlights, flood lights, or other high intensity lighting, shall be placed or utilized upon any Lot in a manner which unreasonably interferes with the enjoyment of adjoining Lots.

9.8 Antennas. No television, radio or other antennas of any kind shall be placed on or maintained upon the roof or otherwise upon the exterior of any building or structure. Antennas, including small satellite antennas with a maximum diameter of 18 inches, may be installed in the back portion of a Lot only if its installation and/or Screening are approved in advance by the Architectural Control Committee.

9.9 Refuse. No refuse, garbage or trash shall be kept, maintained or contained in any Lot so as to be visible from another Lot. No incinerators shall be kept or maintained on any Lot. No refuse or unsightly objects shall be allowed to be placed, accumulated or remain anywhere on a Lot. Refuse shall be placed in such designated locations and containers as may be established from time to time in the Rules.

9.10 Mining. No portion of the Community shall be used in any manner to explore for or remove any water, oil or other hydrocarbons, or minerals of any kind, or earth substance of any kind.

9.11 Safe Condition. Without limiting any other provision in this Article, each owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair, and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners or Association Members of their respective Lots.

9.12 Fires. Other than outdoor cooking, in properly constructed barbecue pits or grills, and firepits in compliance with the Rules and the applicable Design Guidelines, or as otherwise expressly permitted in the Rules, no open fires shall be permitted on any Lot, nor shall any other similar activity or condition be permitted.

9.13 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities shall be provided within the buildings to be constructed on each Lot.

9.14 No Further Subdivision; Compounds. No Lot shall be divided or subdivided. An Owner may own more than one Lot. The Owner of more than one Lot will be entitled to the rights of only one membership. The Assessments attributable to each Lot shall be a lien, as provided in Article V, upon the entire combination of Lots held by the Owner.

9.15 No Obstructions to Drainage. No Owner shall erect, construct, maintain, permit or allow any fence or other improvement or other obstruction which would interrupt the normal drainage of any part of the Community, including but not limited to any area which has been intentionally contoured to facilitate drainage, except that with the prior consent of the City and the Architectural Control Committee, non-permanent structures, including fences, may be erected in those areas which contain only underground closed conduit storm drainage facilities.

9.16 Outbuildings Prohibited. No building or other detached structure may be erected on any Lot without the consent of the Architectural Control Committee.

9.17 Above-Ground Swimming Pools. Except as provided herein, no above-ground swimming pools shall be allowed on any Lot.

9.18 Storage Tanks. No exterior storage tank for fuel or anything else shall be allowed on any Lot.

9.19 Garage Doors. Garage doors shall be kept closed except when opened for the removal or the parking or replacing of a vehicle or other item from the garage.

9.20 Utilities. All utilities shall be placed underground.

9.21 Rental of Lots. An Owner who leases his Lot to any Person shall be responsible for assuring compliance by his lessee with all of the provisions of this Declaration, and the Articles, Bylaws, Rules and Design Guidelines, all as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations by his lessee thereof.

9.22 All Terrain Vehicles. The Rules may prohibit the use of All Terrain Vehicles, "go carts" and similar vehicles on the sidewalks and streets of the Community.

9.23 Solar Panels. Solar panels shall not be erected without the prior written consent of the Architectural Control Committee.

9.24 Basketball Goals. Basketball goals shall not be erected without the prior written consent of the Architectural Control Committee. No basketball goal will be attached to any building but shall be free standing.

9.25 Enforcement. The Association or its authorized agents may enter any Lot on which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses, and such fines as may be imposed pursuant to the Bylaws, Rules or Design Guidelines, shall be a Special

Assessment secured by a lien upon such Lot enforceable in accordance with the provisions of Article V hereof. All remedies described in Article XIV hereof and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, Association Member, Occupant or other Person of any provision of this Article IX.

9.26 Modification. The Association may modify or waive the foregoing restrictions or otherwise restrict and regulate the use and occupancy of the Community and the Lots by reasonable rules and regulations of general application within the Community adopted by the Board from time to time which shall be incorporated into the Rules.

ARTICLE X Amenities

10.1 The Amenities, although located within the City right-of-way, shall at all times be the responsibility of the Association and the individual Owners and not the City. The Association shall be responsible to fulfill all obligations hereunder respecting the Amenities, however, in the absence of proper action on the part of the Association the individual Owners shall be jointly (but not severally) responsible to fulfill the obligations hereunder respecting the Amenities.

10.2 The City is hereby released by the Developer, the Association, the Association Members and the Owners from any and all past, present or future liability for any damage that may be caused at any time to any person or to any real or personal property resulting from or related to, directly or indirectly, the City allowing the Amenities to be located in its right-of-way, or otherwise acting or failing to act with respect to the maintenance of the Amenities. The City is further released from any and all past, present or future obligations to expend any public funds or to take any other action to maintain or improve the Amenities.

10.3 The Association, or upon its failure, the Owners, shall indemnify and hold harmless the City, the Mayor, the members of the City Council and the employees and agents of the City from and against any and all losses, damages, costs and expenses, including reasonable attorneys fees, that may be incurred or suffered by any of them as a result of or in connection with any claims that may be asserted against any of them in connection with the Amenities. The Association, or upon its failure, the Owners, will promptly reimburse the City for any public funds the City may expend with respect to maintenance of the Amenities in the event the Association fails to maintain the same, although the City is under absolutely no obligation to so maintain.

10.4 Developer, Association, Association Members and Owners agree, if the City or the City's designee does damage to the Amenities, repair or replacement of the same shall not be the responsibility of the City or the City's designee.

10.5 Developer, Association, Association Members and Owners agree, that should the City determine that the Amenities are endangering the public health, safety or welfare or have become unsightly or a nuisance, or interfere in any way with the City's use of the right-of-way, then upon request of the City, the Association will remove or cause to be removed any or all Amenities from the City's right-of-way. Should the Association fail to comply with the City's removal request, the City may remove the same and the Association, or upon its failure, the Owners, shall be obligated to reimburse the City for the removal.

10.6 The Association, or upon its failure, the Owners, shall maintain adequate liability insurance to cover all reasonably insurable risks associated with the maintenance of the Amenities and the covenants related thereto.

10.7 The Developer and the City are deemed to be third-party beneficiaries of all provisions herein relating to the Amenities and the Developer and the City shall have the right to enforce all restrictions, obligations and other provisions regarding the Amenities.

10.8 The written consent of the City is required prior to the termination of this Declaration in its entirety or to any amendment, modification or termination of any provision hereto relating to the Amenities. If the Association requests such consent, it shall be made in writing to the City Clerk. The City shall have 60 days, upon receipt of the same, to rule on the request.

10.9 The Association shall be required to enter into an agreement with Developer to establish a sharing arrangement for the maintenance and other costs associated with the Amenities. Developer's obligation to contribute periodically to the Amenities maintenance fund will decrease over time and will cease once Developer transfers title to all Lots and Tracts in the Community.

ARTICLE XI

Rights of First Mortgagees

11.1 General Provisions. Notwithstanding and prevailing over any other provisions of this Declaration, the Articles, Bylaws, Rules or Design Guidelines, the following provisions shall apply to and benefit each holder of a First Mortgage upon a Lot.

11.2 Liability for Assessments. A First Mortgagee who comes into possession or becomes record Owner of a mortgaged Lot by virtue of foreclosure of the Mortgage, or through any equivalent proceedings, such as, but not limited to, the taking of a deed or assignment in lieu of foreclosure or any third-party purchaser at a foreclosure sale or trustee's sale, will not be liable for such Lot's unpaid dues, charges or Assessments which may accrue prior to the time such First Mortgagee or third-party purchaser comes into possession of such Lot, or becomes record Owner of the Lot whichever occurs first, and shall acquire title free and clear of any lien authorized by or arising out of the provisions of any declaration which secures the payment of any dues, charges or Assessments accrued prior to the time such First Mortgagee or third-party purchaser either comes into possession of such Lot or becomes record Owner of the Lot. Any such unpaid dues, charges or Assessments against the Lot foreclosed may be deemed to be a Common Expense. Nevertheless, in the event the Owner or Association Member against whom the original Assessment was made is the purchaser or redemptioner, the lien shall continue in effect and may be enforced for the respective Lot's Assessment that was due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid Assessment shall continue to exist as the personal obligation of the defaulting Association Member and the defaulting Owner of the respective Lot to the Association and the Board may use reasonable efforts to collect the same from said member and/or Owner even after he is no longer a member of the Association or the Owner of the Lot.

11.3 No Personal Liability. A First Mortgagee shall not in any case or manner be personally liable for the payment of any Assessment or charge, nor the observance or performance of any covenant, restriction, or rule and regulation of the Association, or any provision of the Articles or Bylaws, or any management agreement, except for those matters which are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as specifically provided in this Article XI.

11.4 Enforcement After Foreclosure Sale. An action to abate the breach of any of these covenants, conditions, restrictions, and reservations may be brought against the purchasers who have acquired title through foreclosure of a Mortgage and the subsequent foreclosure of trustee's sale (or through any equivalent proceedings), and the successors in interest to said purchasers, even though the breach existed prior to the time said purchaser acquired an interest in such Lot.

11.5 Exercise of Owner's Rights. During the pendency of any proceedings to foreclose a First Mortgage (including any period of redemption), the First Mortgagee, or a receiver appointed in any such action lay but need not exercise any or all of the rights and privileges of the Owner in default including, but not limited to, the right to vote as a member of the Association in the place and stead of the defaulting Owner.

11.6 Subject to Declaration. At such time as the First Mortgagee shall come into possession of or become record Owner of a Lot, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay all assessments and charges accruing thereafter, in the same manner as any other Owner.

ARTICLE XII Annexation of Additional Property

12.1 Development of the Community. Additional real property may be annexed to and become subject to this Declaration as hereinafter set forth in this Article XII at such time as the Developer or Association may elect.

12.2 Supplemental Declarations. A Supplemental Declaration shall be a writing in recordable form which annexes additional real property (the "Additional Property") to the plan of this Declaration and which incorporates by reference all of the covenants, conditions, restrictions, easements and other provisions of this Declaration and shall contain such other provisions as are necessary to designate such property. Supplemental Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Additional Property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with respect to the property already subject to this Declaration.

12.3 Annexation Without Approval of Association. If added at the election of the Developer, the Additional Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or the Association Members, provided that a Supplemental Declaration covering the Additional Property shall be recorded by the Developer. The recordation of said Supplemental Declaration shall constitute and effectuate the annexation of the Additional Property described therein, making said property subject to this Declaration and subject to the functions, powers and jurisdictions of the Association, and thereafter said Additional Property shall be part of the Community for all intents and purposes of this Declaration and all of the Owners of Lots in the Additional Property shall automatically be Owners or Association Members in accordance with the terms hereof.

ARTICLE XIII
Exemption of the Developer from Restrictions

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of the Developer, its employees, agents and subcontractors, or parties designated by it in connection with the construction, completion, sale or leasing of the Lots, or any part of the Community.

ARTICLE XIV
Remedies

14.1 General Remedies. In the event of any default by any Owner, Association Member, Occupant or other Person under the provisions of this Declaration, or any other declaration or documentation contemplated hereby, the Association or the Developer or the successors, assigns, or agents of either, shall have each and all of the rights and remedies which may be provided for in this Declaration, or any other declaration or documentation contemplated hereby, or which may be available at law or equity, and may prosecute any action or other proceedings against such defaulting Owner, Association Member, Occupant, or other Persons for an injunction, whether affirmative or negative, or for enforcement or foreclosure of the lien herein provided and the appointment of a receiver for the Lot, or for damages, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Lot and to rent the Lot and apply the rents received to payment of unpaid Assessments and interest accrued thereon, and to sell the same as hereinafter in this Article XIV provided, or for any combination of remedies, or for any other relief, all without notice and without regard to the value of the Lot or the solvency of such Owner or Association Member. The proceeds of any such rental or sale shall first be paid to discharge court costs, other litigation costs, including without limitation reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner or Association Member in a final judgment. Any balance of proceeds after satisfaction of such charges and any unpaid Assessments hereunder or any liens shall be paid to the Owner or Association Member. Upon the confirmation of the sale, the purchasers thereupon shall be entitled to a deed to the Lot and to immediate possession of the Lot and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration.

14.2 Expenses of Enforcement. All expenses of the Association, or the Developer or other Person granted rights of enforcement hereunder, in connection with any action or proceeding described or permitted by this Article XIV, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon, until paid at the Default Rate of Interest shall be charged to and assessed against such defaulting Owner or Association Member, or other Person and shall be a Special Assessment against such Owner, Association Member, or other Person and the Association, or Developer shall have a lien as provided in Article V therefor. In the event of any such default by any Owner, Association Member, or other Person, the Association, and the developer, and any permitted manager or managing agent, if so authorized, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner, Association Member, or other Person as a Special Assessment, which shall constitute a lien against the defaulting Owner or Association Member's Lot as provided in Article V. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association, or the Developer.

14.3 Legal Action. In addition to any other remedies available under this Article XIV, if any Owner or Association Member (either by his conduct or by the conduct of any Occupant of his Lot or family member, guest, invitee or agent) shall violate any of the provisions of this Declaration or any other document contemplated hereby, as then in effect, then the Association, the Developer, or any affected or aggrieved Owner or Association Member, shall have the power to file an action against the defaulting Owner or Association Member for a judgment, or injunction against the Owner or Association Member, or such other Person requiring the defaulting Owner, Association Member, or other Person to comply with the provisions of this Declaration, or any other declaration document contemplated hereby, and granting other appropriate relief, including money damages.

14.4 Effect on Mortgage. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any other declaration document contemplated hereby, or any right of reentry by reason thereof, shall not defeat or adversely affect the lien of any Mortgage upon any Lot but, except as herein or therein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Lot whose title thereto is acquired by foreclosure, sale, deed in lieu of foreclosure or otherwise.

14.5 Limitation on the Developer's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed that Developer (including without limitation any assignee of the interest of the Developer hereunder) shall have no personal liability to the Association, any Owner, Association Member or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration, except, in the case of the Developer (or its assignee) to the extent of its interest in the Community, or any other declaration document contemplated hereby, and, in the event of a judgment against the Developer (or any assignee thereof), no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor.

ARTICLE XV Amendment

15.1 Amendments to Declaration. Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Association Members. Amendments may be adopted at a meeting of the Association Members upon the approval thereof of two-thirds of all of the Association Members, or without any meeting if all Association Members have been duly notified and if two-thirds of all of the Association Members consent in writing to such amendment. In all events, the amendment when adopted shall bear the signature of the President and shall be attested by the Secretary of the Association, who shall state whether the amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording of the Amendment to Declaration in the appropriate governmental offices.

15.2 Effect of Amendment. It is specifically covenanted and agreed that any amendment to this Declaration properly adopted will be completely effective to amend any and all of the covenants, conditions and restrictions contained herein which may be affected.

15.3 Amendment of Plat. Except as otherwise provided herein, the Plat may be amended by revised versions, or revised portions thereof, referred to and described as to effect in an amendment to this Declaration adopted as provided for herein. Copies of any such proposed amendment to the Plat shall be made available for the examination of every Association Member at the offices of the Association during reasonable times. Such amendment to the Plat shall be effective, once properly

adopted, upon recordation in the appropriate governmental office in conjunction with the Declaration amendment.

15.4 Required Approvals. Notwithstanding the provisions of the foregoing sections of this Article XV:

(a) If this Declaration or any applicable Provision of law requires the consent or agreement of additional parties, or a specified percentage thereof, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all such parties, as required by this Declaration or by said law.

(b) Until 100% of all the Lots in the Community, as it exists from time to time, have been sold to third parties, this Declaration may not be amended by the Association Members pursuant to this Article XV without the written consent of the Developer, which may be withheld for any reason.

15.5 Developer's Right to Amend. Notwithstanding any other provision of this Article XV, until 100% of all the Lots in the Community, as it exists from time to time, have been sold to third parties, the Developer reserves the right to amend this Declaration without the approval of the Board or the Association Members; provided, however, that no such amendment shall have the effect of changing the plat of an Owner's Lot without the consent of the Owner, and provided, further, that after the conveyance of the first Lot to an Owner, the Developer may not amend the provisions of Sections 3.2(a), 3.2(b), 3.3, 5.5 and 14.5 of this Declaration without the approval of the Association Members as provided in Section 14. 1.

ARTICLE XVI General Provisions

16.1 Term. This Declaration shall continue in full force and effect (subject, however, to the right to amend as herein provided) until January 1, 2020. Thereafter, unless one (1) year prior to January 2, 2020, there shall be recorded an instrument directing the termination of this Declaration signed by at least two-thirds (2/3) of all Association Members then entitled to vote, this Declaration shall be automatically continued without any further notice for an additional period of ten (10) years and thereafter for successive periods of ten (10) years each; provided that within one (1) year prior to the expiration of any such ten (10) year period, this Declaration may be terminated as set forth in this Section.

16.2 Notices. Notices provided for in this Declaration, or the Bylaws, or Rules shall be in writing and shall be addressed to the Association at the address specified in the Bylaws. The Association may designate a different address or addresses for notice by giving written notice of such change of address to all Association Members at such time. All notices to Association Members shall be to the last address shown on the records of the Association. Any Association Member may designate a different address or addresses for notices to it by giving written notice of its change of address to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgment of the receipt thereof.

16.3 Captions and Exhibits; Construction. Captions given to various Sections herein, and the Table of Contents for this Declaration, are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various appendices referred to herein are incorporated as though fully set forth where such reference is made. The provisions of this Declaration shall be literally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Community as hereinabove set forth.

16.4 Severability. If any provision of this Declaration, the Articles, Bylaws, Rules, or Design Guidelines, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration, the Articles, Bylaws, Rules, or Design Guidelines, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of this Declaration, the Articles, Bylaws, Rules, or Design Guidelines shall be construed as if such invalid part were never included therein.

16.5 Mortgage of Lots. Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages of his respective Lot. No Owner or Association Member shall have the right or authority to make, or create, or cause to be made or created any Mortgage, or other lien or security interest, on or affecting the Community or any part thereof, except only to the extent of his Lot.

16.6 Power of Attorney. Whenever the Association is granted rights, privileges or duties in this Declaration, the President shall have the authority to act for the Association, unless such right and power is hereby expressly reserved to the Board. Further, unless otherwise specifically restricted by the provisions of this Declaration, wherever the Association is empowered to take any action or do any act which may at any time be deemed to require the act of an Owner or Association Member, the Owners and Association Members and each of them hereby constitute and appoint the Association as their attorney-in-fact, as may be appropriate, for the purposes of taking such action or doing such acts including, but not limited to, executing, acknowledging

and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest and by becoming an Association Member, or by the acceptance of a deed for a Lot, or by signing a contract for purchase of a Lot, or by succeeding in any other manner to the ownership of a Lot or any interest therein, each Owner and Association Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

ARTICLE XVII Rights and Obligations

17.1 Acceptance of Declaration. Each grantee of the Developer, by the acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, or each purchaser under any agreement of sale, or each Person acquiring a membership in the Association and the heirs, successors and assigns of the foregoing Persons, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and equitable servitudes, and shall bind any Person having at any time any interest or estate in said land, and shall inure to the benefit of any such Person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or instrument evidencing or creating such interest.

17.2 Refunds to Developer. As conditions precedent to the development of the Community, Developer has been required to pay to the City and other authorities certain fees, charges and impositions for streets, parks, utilities and other off-site improvements. Each grantee of the Developer or of any Owner of a Lot by the acceptance of a deed, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each occupant of a Lot, and the heirs, successors and assigns of the foregoing persons, hereby releases the Developer, its successors, agents, officers, members, stockholders and assigns from any obligation to remit any part of such fees, charges and impositions to him, her or it in the event any of the same are declared invalid or illegal, any refund or return of same to the Developer notwithstanding; it is expressly understood that Developer shall have the sole right to make claim for and receive any such refund or return.

ARTICLE XVIII
Miscellaneous

18.1 Execution Counterparts. This Declaration may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

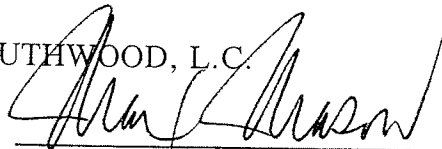
18.2 Governing Law. This Declaration shall be construed and enforced in accordance with the laws of the State of Kansas.

18.3 Recordation. This Declaration shall be filed of record in the office of the Register of Deeds of Johnson County, Kansas.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed as of the day and year first above written.

SOUTHWOOD, L.C.

By: _____



Max Mason

Administrative Member Representative

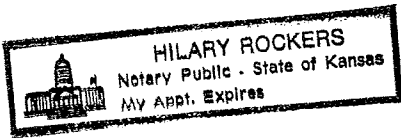
STATE OF KANSAS)
)ss
COUNTY OF JOHNSON)

On this 30th day of April, 1997, before me, the undersigned, a Notary Public within and for said County and State, personally appeared Max Mason, to me personally known, who being by me duly sworn, did say that he is the Administrative Member Representative of Southwood, L.C., a limited liability corporation, that said instrument was signed on behalf of said corporation and said Max Mason acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Olathe, the day and year last above written.

Hilary Rockers
Notary Public in and for Said County and State

Hilary Rockers
(Type, print or stamp the Notary's name below his or her signature.)



My Commission Expires:
6-11-99

EXHIBIT "A"

ALL THAT PART OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 8, TOWNSHIP 13, RANGE 25, NOW IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 8; THENCE SOUTH 2°07'49" EAST, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 8, A DISTANCE OF 806.56 FEET, TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 9, WARRINGTON ESTATES, A SUBDIVISION IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS; THENCE SOUTH 87°48'46" WEST, ALONG THE NORTH LINE AND ITS EXTENSION OF SAID WARRINGTON ESTATES, A DISTANCE OF 1090.96 FEET, TO THE NORTHWEST CORNER OF LOT 21 OF SAID WARRINGTON ESTATES, SAID POINT ALSO BEING ON THE EAST LINE OF TRACT 4, METCALF 103, A SUBDIVISION IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS; THENCE NORTH 2°07'20" WEST, ALONG THE EAST LINE OF SAID TRACT 4, A DISTANCE OF 806.55 FEET, TO THE NORTHEASTERLY CORNER THEREOF, SAID POINT ALSO BEING ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 8; THENCE NORTH 87°48'43" EAST, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 8, A DISTANCE OF 1090.84 FEET, TO THE POINT OF BEGINNING, EXCEPT THAT PART IN STREETS OR ROADS. *Now platted as Southwood.*

