DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND DISCLOSURES FOR STONEBRIDGE

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND DISCLOSURES FOR STONEBRIDGE ("Declaration") is made effective the 18th day of April, 2008, by FLKS Land Development, LLC, a Kansas limited liability company (hereinafter referred to as the "Declarant").

WITNESSETH, THAT:

WHEREAS, Declarant wishes to accept and establish covenants, conditions and restrictions for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision (as hereinafter defined); and

WHEREAS, Declarant hereby establishes binding easements, covenants, conditions and restrictions applicable to the Subdivision for the proper development thereof, adequate maintenance and government of the Common Area (as hereinafter defined), and to specify the rights and obligations of the Declarant and the Owners (as hereinafter defined); and

WHEREAS, the Association (as hereinafter defined) will be incorporated for the purpose of exercising certain powers and functions hereunder; and

WHEREAS, Declarant will convey title to all of the Subdivision, subject to the covenants, conditions and restrictions hereinafter set forth.
NOW, THEREFORE, Declarant hereby covenants, agrees and declares that the Subdivision shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are hereby declared to be for the benefit of all of the Subdivision described herein and the Owners thereof, their successors and assigns.

ARTICLE I

DEFINITIONS

The following terms used in these covenants, conditions and restrictions shall be applicable to this Declaration and are defined as follows:

1.1 “Articles” shall mean the Articles of Incorporation of the Association which shall be filed in the office of the Secretary of State of Kansas, as such Articles may be amended from time to time.

1.2 “Association” shall mean and refer to the Stonebridge Homeowners’ Association (or such other corporate name as Declarant shall hereafter select), a nonprofit corporation, incorporated under the laws of the State of Kansas, its successors and assigns.

1.3 “Board” shall mean and refer to the Board of Directors of the Association.

1.4 “Bylaws” shall mean the Bylaws of the Association as such Bylaws may be amended, modified, supplemented and restated from time to time.

1.5 “Common Area” shall mean those portions of the Subdivision for the common use and enjoyment of the Members of the Association, as follows as the same may be modified from time to time by additions or removals as permitted hereunder:

Reserves A, B, C, D, E and F, Stonebridge 2nd Addition, Sedgwick County, Kansas.

1.6 “Declarant” shall mean FLKS Land Development, LLC, a Kansas limited liability company, and its successors and assigns. If Declarant assigns less than all of its rights, obligations and interests to one or more entities, the term “Declarant” as used herein shall thereafter refer to both the Declarant and all successor developers unless the context clearly means otherwise.

1.7 “Design Committee” shall mean and refer to the Design Committee which shall be responsible for all matters pertaining to fences; certain drainage matters; and for construction and modifications of Structures, all as referenced in Article VIII hereof, together with other rights and responsibilities as provided elsewhere herein.

1.8 “Lot” shall mean and refer to each platted Lot within the Subdivision upon which there may be constructed a residence; provided, that where land has been attached to or detached from any Lot, the enlarged or diminished Lot shall be deemed to be a Lot hereunder; provided, if
two or more Lots are combined into a single residential site assessments or charges hereunder shall continue to be assessed or changed for each platted Lot.

1.9 "Member" shall mean and refer to every person or entity who or which is an Owner of a fee or undivided fee interest in any Lot, but not including any Owner who has sold his interest in a Lot under an executory contract and no longer has possession of his Lot. During the time any such executory contract is in force, the contract vendee shall be considered to be the Member rather than the contract seller. When more than one person holds an interest in a Lot, all such persons shall be Members.

1.10 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, but excluding those who have sold their interests under an executory contract and no longer have possession of their Lots and those having such interest merely as security for the performance of an obligation.

1.11 "Structure" shall mean and include any thing or device, the placement of which upon any Lot may affect the drainage or appearance of such Lot, including, by way of illustration and not limitation, any building, garage, gazebo, porch, shed, greenhouse, bathhouse, covered or uncovered patio, screening materials, swimming pool, tennis court, light pole, clothesline, sandbox, radio or television antenna, fence, flag pole, water fountain, playground, playhouse, curbing, paving, wall, satellite dish, signboard, mailbox and related structure, or any temporary or permanent improvement to such Lot. "Structure" shall also include any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the flow of surface water from, upon or across any Lot, in accordance with the master drainage and grading plan for the Subdivision as referenced below, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot, and any change in the grade of any Lot other than in accordance with drainage guidelines, standards and plans established by the Declarant, the Design Committee, the municipality having jurisdiction over the Subdivision or the Lot-specific drainage plan, whichever are most stringent.

1.12 "Subdivision" shall mean and refer to all of the property described as follows, together with such other land as may be added and excluding land removed hereunder by the terms of this Declaration:

Stonebridge 2nd Addition, Sedgwick County, Kansas

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

2.1 Membership. The Association shall have as Members only Owners. All Owners shall, upon acquiring a Lot, be deemed automatically to have become Members, (whether or not any Owner is occupying a residence on his Lot), and there shall be no other qualification for membership. There shall be only one membership per Lot. If any Lot is owned by more than one person or entity, all co-owners shall share the privileges of such a membership, subject to all provisions hereof, and in the Bylaws. The membership rights of any Owner which is not a
natural person, may be exercised by any officer, director, partner or trustee, or by individual designated from time to time by the Owner in a written instrument provided to the Association. Membership shall be appurtenant to, and shall not be separated from, the ownership of any Lot.

2.2 Voting Rights. All Members, so long as they shall qualify under this Article II, shall be entitled to vote on each matter submitted to a vote at a meeting of Members. There shall be only one (1) vote for each Lot owned by the Member, subject to the following exceptions and conditions:

A. When any such Lot is owned or held by more than one (1) Member as tenants in common, joint tenancy or any other manner of undivided, joint or common ownership or interest, such Members shall collectively be entitled to only one (1) vote relative to such Lot, and if such Members cannot jointly agree as to how that vote should be cast, no vote shall be allowed with respect to such Lot. Fractional votes shall be permitted, but in no event shall more than one vote be cast with respect to any Lot.

B. Any Member who is in violation of this Declaration (including, but not limited to, the failure to timely pay assessments or other sums due hereunder), as determined by the Board, shall not be entitled to vote during any period in which such violation continues. The Board shall be the sole judge of the qualifications of each Member to vote and the right to participate in meetings and proceedings of the Association.

C. Notwithstanding the foregoing, Declarant shall be entitled to ten (10) votes for each single Lot owned by it.

D. The Board shall adopt such Bylaws, consistent with the terms hereof, the Articles and the laws of the State of Kansas, as it deems advisable for any meeting of Members with regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, voting by proxy and such other matters concerning the conduct of meetings and voting as it shall deem proper. In the event of any conflict between the terms of the Declaration and the Bylaws, the terms hereof shall control.

2.3 Formation. At such time as it deems appropriate, or as otherwise required hereby, the Declarant shall form the Association and shall convey legal title to the Common Area to the Association. Declarant shall convey the Common Area to the Association by quitclaim deed, in an “AS IS” condition.

2.4 Initial Operation. Notwithstanding the provisions of this Declaration, the rights, powers and operations of the Association and the Board shall be within the absolute and exclusive control of the Declarant until such time as Declarant fully and completely transfers it rights pursuant to Section 6.1 M below, written notice of which transfer shall be given to the Association by Declarant. During the initial operation of the Association and the Board by Declarant, Declarant may perform and exercise any and all rights and obligations hereunder related to the Association and the Board and Declarant shall appoint and remove in its discretion
the members of the Board and the officers of the Association. Each Owner, by acceptance of a
deed to a Lot, vests Declarant with the authority to fully exercise its rights under this Section 2.4
and in Sections 6.1.M and 8.2 hereof. Further, the appointment of the members of the Design
Committee, pursuant to Section 8.2 hereof, shall be made by Declarant until such time as
Declarant specifically assigns such right of appointment by written instrument, in accordance
with Section 8.2, separately and apart from the transfer of Declarant’s rights under Section 6.1.M
hereof.

2.5  Board of Directors. All actions of the Association shall be taken on its behalf by
the Board, or committees established thereunder, except for (a) when a vote of the Members is
specifically required by this Declaration, the Articles, or the Bylaws, and (b) the initial operation
thereof by Declarant as referenced herein.

ARTICLE III

MATTERS CONCERNING THE COMMON AREA; MAINTENANCE

3.1  Members’ Enjoyment. Except as otherwise provided in this Article III, every
Member shall have a nonexclusive license to use the Common Area, and such easement shall be
appurtenant to and shall pass every Lot, subject to the following provisions and to the other
provisions of this Declaration:

A.  The right of the Board to establish rules and regulations regarding the
activities on or uses of the Common Area and to restrict or eliminate some or all types of
activities or uses thereof;

B.  The right of the Board to limit the number of guests of Members;

C.  In addition to borrowing money and mortgaging the Common Area by the
Declarant and/or the Association pursuant to Section 9.2 below, the right of the Board to
borrow money on behalf of the Association for the purpose of improving the Common
Area and facilities and to mortgage the Common Area in connection therewith; provided
that the rights of such mortgagees shall be subordinate to the rights of the Members;

D.  The right of the Board to suspend the use of the Common Area and any
recreational facilities thereon by a Member and his family for any period during which
any assessment against his or her Lot remains unpaid and delinquent, and for a period not
exceeding sixty (60) days from the date such infraction occurs or is corrected, for any
single infraction of the rules and regulations of the Association. The Board shall have the
right to employ third parties on behalf of the Association and to delegate to such parties
the right to determine whether violations of this Declaration or rules or regulations have
occurred with regarding to the Common Area;

E.  The right of the Board to charge reasonable admission and other fees for
the use of any recreational facilities situated on the Common Area;
F. The right of the Board, on behalf of the Association, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by the Board; and

G. The covenants and restrictions contained herein.

3.2 Extension of Rights. A Member's right of enjoyment in the Common Area shall automatically extend to all members of his or her immediate family residing on the Lot with such Member. No guests shall be entitled to exercise such right of enjoyment or to any use of the Common Area except as provided in, and subject to, such regulations as may be promulgated by the Board.

3.3 Waiver of Use. No Member may exempt himself or herself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him or her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by the failure to occupy or the abandonment of his or her Lot.

3.4 Alteration of the Common Area. Notwithstanding anything to the contrary provided herein, the Declarant or the Association may convey, eliminate, reduce, alter or reconfigure portions of the Common Area from time to time by replatting, lot split, boundary shift or other subdivision procedures or deeding land, for the purpose of adding land to, or removing land from, the Common Area. Automatically, without the necessity of amending this Declaration, upon the completion of any such elimination, reduction, alteration or reconfiguration, any land (a) removed from such area shall cease to be Common Area, and, thereupon, no Member shall have any license or right of use or access thereto by reason of Section 3.1 above or the plat of the Subdivision and (b) added to the Common Area shall become a part thereof, and thereupon each Member shall have a nonexclusive license and right of use or access thereto as provided in Section 3.1 above.

3.5 Common Area and Arterial Street Rights-of-Way, Amenities, Improvements and Maintenance. Declarant shall pay for or finance pursuant to amenity financing arrangements referred to in Section 9.2 below, the cost of constructing or installing the original improvements and amenities to the Common Area, or fence and wall easements and the arterial street right-of-way green space areas adjacent to the Subdivision (but not streets within the Subdivision) to the extent listed on Exhibit "A" attached hereto; provided, Declarant and/or the Board on behalf of the Association may install additional amenities or improvements as either elects from time to time. Declarant, the Association, their respective contractors and any subcontractors, and the employees thereof shall have a perpetual, nonexclusive easement and right of access upon the Common Area for the inspection, construction, installation, maintenance, repair, replacement and/or modification of Common Area improvements and amenities. The Association shall, subject to the Declarant's obligation for construction and installation specified on Exhibit "A" hereto, be solely and fully responsible for all costs of owning, maintaining and operating the Common Area, and improvements therein such as walls or fences, the aforesaid street rights-of-way, and improvements thereon, including, but not limited to, all fertilizing, watering and replacement of lawns, shrubs, flowers, plantings and trees following the initial planting thereof, the mowing of lawn areas, payment of taxes and assessments, payment of liability and property
insurance premiums, and lakes and swimming pool operations, utility costs, maintenance, repairs and replacements of the improvements, if applicable.

3.6 Water For Irrigation. Declarant may drill a well or wells for water to irrigate the Common Area. If Declarant is unsuccessful in obtaining appropriate permits or authorizations for such well(s) or is unable to complete a satisfactory well or wells, then water from the municipality in which the Subdivision is located may be used for such irrigation, at a higher cost.

ARTICLE IV

COVENANTS CONCERNING ASSESSMENTS AND LIENS

4.1 General Assessments. For the purpose of providing funds for the operation of the Association, and for the operating, maintaining, caring, insuring, improving and conducting such other activities and taking such other actions pertaining to the Common Area as the Association shall deem appropriate, and to afford the Association the means and resources necessary to carry out its rights, duties and functions, the Board shall have the right, in each year, but subject to the exemptions provided below, to assess against each Lot and each Owner thereof, a general assessment, which general assessment shall subject each Lot to a lien to secure payment thereof. The general assessment may be paid quarterly or monthly as specified by the Board from time to time. The Board (or Declarant) will notify all Owners stating the amount of the assessment and when payment is due; provided, in no event shall payment be due sooner than thirty (30) days following the notice of such assessment is mailed by the Board or Declarant. The obligation of any Owner to pay such assessments shall commence upon the purchase of a Lot (or such later date as may be designated by Declarant) and is not dependent upon there being improvements erected thereon. Suspension of the right to use the Common Area or voluntary non-use thereof shall not relieve any Owner of any obligation to pay assessments. Subject to the exemptions specified herein, the obligation of each Owner to pay assessments hereunder shall commence on the date title is conveyed to such Owner and is not dependent upon there being a residence erected thereon.

4.2 Basis of Assessment; Exemption; Transfer Assessment; Proration.

A. All general assessments shall be made against the Owners on an equal basis for each Lot or fraction thereof owned by the Owner or Owners, except that in view of the substantial expenditures incurred by Declarant in connection with the Common Area, Declarant, and any properly licensed general contractor owning a Lot for the purpose of constructing a residence thereon and offering the same for sale, shall be exempt from imposition of any assessment, whether general or special, with respect to any Lot so long as Declarant or such contractor holds legal title thereto (provided, the assessment exemption for such general contractors shall not extend beyond twelve (12) months from the date an applicable Lot is conveyed to such contractor and shall cease if the contractor occupies the same as a residence).

B. At any time legal title to a Lot transfers, the transferee shall pay at the time of the closing of such transfer to the working capital of the Association a fee equal to
Two Hundred Dollars ($200.00); provided the requirement to pay such a fee shall not apply to either:

i. the transfer by Declarant to an affiliated entity, or the transfer of Declarant’s interest as developer of the Subdivision; or

ii. the transfer of title to any Lot to a properly licensed general contractor for purposes of constructing a residence thereon for the purpose of offering the same for sale.

4.3 Special Assessments. In addition to general assessments, the Association may, from time to time, at a regular meeting or a special meeting called upon notice for such purpose, establish a special assessment to be levied equally against each Lot for the purpose of providing additional funds (when funds through general assessments are insufficient) to carry out its duties and other functions and purposes contemplated hereunder; to perform maintenance, repairs or replacements; and/or to make improvements to the Common Area. No such special assessment shall be valid except upon the approval of Members holding at least a majority of the votes represented, in person or by proxy, at the meeting duly called for the purpose of approving the same. Further, the Board shall have the authority to establish and fix a special assessment on any Lot to secure the liability of the Owner of such Lot to the Association for any breach by such Owner of any of the provisions of this Declaration, which breach results in an expenditure by the Association for repair or remedy of such breach. Any special assessments shall be payable in full (unless a schedule for payment in installments is specified) on the first day of the second calendar month next following the date that the same shall be established by the Association.

4.4 Collection and Expenditures. The Association shall have the sole authority to collect and enforce the collection of all general and special assessments provided for in this Declaration, and may, in addition to such assessments, charge and assess costs and expenses, including reasonable attorneys’ fees, and penalties and interest for the late payment or nonpayment thereof. The Association shall have the authority to expend all monies collected from such assessments, costs, penalties and interest for the payment of expenses and costs in carrying out the duties, rights and powers of the Association as provided for in this Declaration and the Articles and Bylaws of the Association. However, the Association shall not be obligated to spend in any year all the sums collected in such year by way of general assessments, or otherwise, and may carry forward, as surplus or in reserves, any balances remaining; nor shall the Association be obligated to apply any such surpluses or reserves to the reduction of the amount of the assessments in the succeeding year, but may carry forward from year to year such surplus as the Board, in its absolute discretion, may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.5 Assessments and Liens: Delinquency. Thirty (30) days after any general or special assessment shall be due and payable, and unpaid or otherwise not satisfied, the same shall be and become delinquent and shall automatically constitute a lien on the applicable Lot and shall so continue until the amount of said charge and assessment, together with all costs, late fees, fines, penalties and interest as herein provided, has been fully paid or otherwise satisfied. The Association may cease to provide all and any of the services provided by or through the
Association with respect to any Lot during any period that an Owner is delinquent in the payment of any sum due under this Declaration, or due to any other default hereunder, and no such cessation of services shall result in reduction of any amount due from the Owner before, during or after such cessation. No claim of the Association for assessments or other charges due hereunder shall be subject to setoff's or counterclaims made by any Owner.

4.6 Notice of Delinquency. At any time after any general or special assessment against any Lot has become a lien and delinquent, the Association may record in the office of the Register of Deeds, Sedgwick County, Kansas, a Notice of Delinquency as to such Lot, which Notice shall state therein the amount of such delinquency and that it is a lien, and the interest, costs (including attorneys' fees and expenses) fines and late fees, which have accrued thereon, a description of the Lot against which the same has been assessed, and the name of the Owner thereof, and such Notice shall be signed by an officer of the Association. Upon payment or other satisfaction of said assessment, interest, late fees, fines and costs and expenses in connection with which notice has been recorded, the Association shall record a further notice stating the satisfaction and the release of the lien thereof.

4.7 Right of Association to Enforce Payment of Assessment. By the acceptance of title to a Lot, each Owner shall be held to vest in the Association the right and power to prosecute all suits, legal, equitable, or otherwise, which may be necessary or advisable for the collection of assessments, charges or fines, and the Association shall have the right to sue for and collect a reasonable sum to reimburse it for its attorneys' fees and any other expenses reasonably incurred in enforcing its rights hereunder. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration or documentation associated therewith (whether such liens are now in existence or are created at any time in the future) 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.

4.8 Enforcement of Liens. Each lien established pursuant to the provisions of this Declaration and which is specified in a Notice of Delinquency as hereinabove provided, may be foreclosed in like manner as a mortgage on real property as provided by the laws of Kansas. Each current and future Owner hereby consents to the foreclosure procedures specified in this Article. In any action to foreclose any such lien, the Association shall be entitled to its costs and expenses, including reasonable attorneys' fees, and expenses, and such late fees, fines and accrued interest for delinquent charges and assessments as shall have been established by the Association. The Declarant and/or the Association shall have the right to bid on a Lot at the foreclosure sale. The foreclosure proceedings with respect to liens established pursuant to this Declaration, may be foreclosed at anytime within fifteen (15) years following the filing of the Notice of Delinquency; provided, if at the expiration of such fifteen (15) year period suit shall have been instituted for collection of the assessment, the lien shall continue until payment in full or termination of the suit and sale of the applicable Lot.

4.9 Subordination of Assessment Lien. Each and every assessment and lien, together with any costs, penalties and interest reserved under this Declaration, shall be subordinate to the lien of any valid bona fide first mortgage which has been, or may hereafter be, given in good
faith and for value by any bank, savings and loan association or other institution in the business of regularly conducting residential lending on a Lot. Any subsequent Owner of any Lot purchased at foreclosure shall be bound by the restrictions, assessments and liens set out in this Declaration, not including, however, any assessment or lien arising prior to the foreclosure sale. Such unpaid assessments shall be deemed to be common expenses collectible from general assessments made to all Lots. Nothing contained herein shall release a person or entity from his or its personal liability for any assessments assessed when such person or entity owned a Lot which becomes delinquent prior to any such foreclosure.

4.10 Personal Liability. In addition to the covenants and agreements heretofore set forth herein, each Owner of each Lot, by the acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to have agreed to be personally liable for the payment of each general and special assessment, late fee, interest and fine levied against such Lot during the period of ownership and for all other payment obligations specified in this Declaration.

4.11 Late Fee and Interest on Delinquent Assessments. In the event assessment charges (general or special), fine or other sums due under this Declaration shall remain due and unpaid thirty (30) days after the same are due the Owner shall be charged a late fee of five percent (5%) of the unpaid amount and the unpaid amount shall bear interest at the rate of fifteen percent (15%) per annum, or such other rate as may be established from time to time by the Board; provided, however, that such interest rate shall never exceed the maximum allowed by law.

4.12 Fines. The Board shall have the authority to assess fines for any violation of this Declaration by an Owner, which fines shall be determined in the sole discretion of the Board; provided, a fine may not exceed Fifty Dollars ($50.00) per day of violation unless unanimously approved by all members of the Board. Prior to assessing such fine, the Board shall mail written notice to the last address known to the Board concerning the noncompliant Owner, specifying the violation. If the noncompliant Owner fails to cure the violation within twenty (20) days following the mailing of such notice by the Board, or if there is a reoccurrence of the violation during such twenty (20) day period, then in addition to any other liability or obligation arising under the Declaration, the Board may assess a fine against the noncompliant Owner and his Lot in an amount determined by the Board to be appropriate in its discretion, which shall be paid within ten (10) days following the date notice thereof is given to such Owner by written notice deposited in the mail to the Owner’s address last known to the Board, or personal delivery thereof to the residence of such Owner. Until paid in full, the amount of such fine shall constitute a lien on the noncompliant Owner’s Lot, and shall be subject to enforcement and foreclosure in the same manner as an assessment under this Article IV.

ARTICLE V
USE, OCCUPANCY AND CONDUCT RESTRICTIONS

5.1 General. The Subdivision is subject to the conditions, covenants, restrictions, reservations and easements hereby declared to ensure the best use and the most appropriate
development and improvement of each Lot; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of the Subdivision; to preserve, so far as practicable, the natural beauty of the Subdivision; to guard against the erection thereon of poorly designed or proportioned improvements and improvements built of improper or unsuitable materials; to ensure the best development of the Subdivision; to encourage and secure the erection of attractive homes of appropriate size and appearance thereon, with appropriate locations thereof on building sites; to secure and maintain proper setback from streets and adequate free spaces between Structures; and, in general, to provide adequately for proper drainage from each Lot onto adjacent Lots and Common Area.

5.2 Construction Requirements. Unless approval is otherwise approved in writing by the Design Committee as a variance, the following construction guidelines shall be complied with by each Owner concerning each Lot at all times:

A. Materials: Size; Basement and Roof. As to all Lots, but subject to such waivers or modifications as are permitted by the Design Committee, the applicable construction requirements shall be as follows:

Exterior walls and facings of all buildings, Structures and appurtenances thereto constructed on any Lot shall be of brick, stone, stucco, wood siding, glass, glass blocks, approved fiber cement siding, other siding material approved by the Design Committee or any combination thereof. Any residences constructed on a Lot shall, unless otherwise approved in writing by the Design Committee, not contain less than 1,900 square feet of finished floor area, exclusive of the basement, porch and garage. The siding material for the front exterior of each residence shall be exclusively brick, stone, or stucco, except as otherwise approved by the Design Committee.

The minimum number of square feet specified herein is merely a guideline for the Design Committee and may be reduced on a Lot-by-Lot basis at any time by such Design Committee in its discretion. Each residence shall, unless otherwise approved by the Design Committee, include a full basement. All roofs on all building improvements on any Lot shall be wood, tile or Approved Composition as approved by the Design Committee. As used in this Declaration, “Approved Composition” shall mean such forty (40) year life composition roofing materials as are approved in writing by the Design Committee from time to time.

B. Flat Roofs and Windows. No flat roof shall be permitted, except with the written permission of the Design Committee. Window frames shall be wood, metal, vinyl, or vinyl clad or other composition materials as approved from time to time by the Design Committee.

C. Initial Policy Guidelines. The following initial policy guidelines have been established for the Lots and the same shall be complied with by the Owners of each Lot, provided, any such guideline may be waived, changed or revoked from time to time.
by the Design Committee but without the necessity of filing any formal amendment to this Declaration. Accordingly, inquiry should be made of the Design Committee to determine current policy guidelines.

i. Front yard areas, exclusive of improvements, shall be at least eighty percent (80%) grass.

ii. In the event of the construction of any retaining walls the plan and materials utilized must be previously approved in writing by the Design Committee.

iii. All basketball backboards shall be either white or glass and shall be placed or installed only in the rear yard, unless otherwise approved by the Design Committee. All basketball backboards and supports shall be approved by the Design Committee prior to installation. *No temporary or moveable basketball pole/backboard/goals, or other recreation and play equipment, shall be placed or allowed to the front of the residence, whether on the driveway, street, or patio area or in the yard.*

iv. All vegetable gardens in Lots shall be in the back yards only and may not utilize more than 15% of the ground area in a back yard and shall be established at a location approved by the Design Committee and not interfere with the drainage from the Lot.

v. No dog runs may be constructed on a Lot.

vi. All exterior wood surfaces on homes (excluding decking) must be painted, or stained and sealed.

vii. Any temporary covering of a swimming pool, tennis court, patio, or otherwise, of a rigid or “bubble” type shall be deemed a Structure that is subject hereto.

viii. No window shall contain any reflective material such as aluminum foil.

ix. Except as provided below, detached outbuildings, garages, pool buildings, gazebos, sheds, storage facility, playhouse or other improvement may be constructed within any rear or side yard area applicable to a Lot, if so approved by the Design Committee as to design, materials and location on the Lot; provided, that the same shall not exceed one story in height and are allowed by applicable building codes. The exterior of detached outbuildings constructed on a Lot shall be constructed with the same material as the residence.

x. All firewood stacks in excess of two cords of wood shall be screened from view from neighboring Lots, and no stack shall exceed six feet (6') in height.
xi. All forms of sculpture or "yard art" must first be approved by the Design Committee.

xii. As soon as practicable, but in any event, no later than the planting season immediately following completion of a dwelling on a Lot, except as otherwise approved in writing by the Design Committee, the Owner thereof shall plant a lawn and at least eight (8) perennial shrubs and/or bushes on the Lot, with a minimum of three (3) trees being planted in the front yard of the Lots and the trunk of each tree being a minimum of three inch (3") caliper in size. Two (2) of the three (3) trees to be planted in the front yard of a Lot shall be planted at locations along the adjoining roadway as required by the Design Committee and shall be Autumn Blaze Maple trees; provided, on corner Lots and other Lots which have more frontage than the normal Lot, the Design Committee may require the Owner of a Lot to plant more than two (2) trees in the front yard along the adjoining roadway(s). The Autumn Blaze Maple trees which are required to be planted in the front yards of Lots shall be acquired at competitive, market prices by each Owner, to the extent of availability thereof, from an affiliate of Declarant specified by the Design Committee.

xiii. Pad elevations and all exterior drainage shall be verified by the Declarant's engineering firm for the Subdivision (initially Baughman Engineering Co., P.A. 316-262-7217), at the cost of Owner and any deviation therefrom and any resulting liability, damage, or costs incurred as a result thereof, shall be the responsibility of the Owner.

xiv. Trash and refuse container storage areas shall be installed at a location approved by the Design Committee and shall be screened in a manner approved by the Design Committee.

5.3 Rules and Regulations. Each Owner shall obey and comply with all applicable public laws, ordinances, rules and regulations, and all rules and regulations now or hereafter promulgated, as provided for in this Declaration. No activity which may be or become a nuisance to the neighborhood shall be carried on upon the Subdivision.

5.4 Damage to Common Area, Etc., Prohibited. No Owner shall do or allow to be done any act which causes or threatens to cause any damage, encroachment or disrepair to the Common Area, street rights-of-way, the residence or Lot of any other Owner. Specifically, each Owner shall repair any damage sustained to any other Lot, Common Area or street right-of-way in connection with the construction of Structures on such Owners' Lot, including, but not limited to, damage to lawn areas, landscaping and sprinkler systems as a result of the installation of sanitary sewer or heat pump lines or other construction or excavation activities. Owners are hereby advised that DIG SAFE (a service which may be consulted in advance of excavation to locate existing utility lines) does not identify sprinkler system lines or other underground electrical or plumbing lines which have been installed.
5.5 **Residences.** No building shall be erected, altered, placed or permitted to remain on any Lot, other than one new single-family residence for private use, with a private garage and other Structures incidental to residential use, which are approved by the Design Committee as specified herein. No prefabricated or modular buildings will be permitted to be constructed or installed on any Lot without the prior written approval of the Design Committee.

5.6 **No Excavations.** No excavations, except such as are necessary for the construction of a residence or improvements, shall be permitted on any Lot without written permission of the Design Committee.

5.7 **No Storage; Trash.** No trash, ashes, dirt, rock or other refuse may be thrown or dumped on any Lot or building site. No building materials of any kind or character shall be placed or stored upon any building site more than thirty (30) days before the commencement of construction of a residence or improvements, and then such materials shall be placed within the property lines of the building site upon which they are to be erected and shall not be placed in the street or between the curb and property line.

5.8 **No Businesses Allowed.** Except as otherwise specified in this Declaration or as authorized herein in writing or by the Board, no retail, wholesale, manufacturing or repair business of any kind; group home (that is, any licensed residential facility occupied or intended to be occupied by persons with a disability [as defined under Kansas law], or one or more staff residents, none of whom need be related by blood); group residence (a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family on a weekly or longer basis); correctional placement residence; or bed and breakfast inn shall be permitted to be conducted on any Lot or in any residence or appurtenant Structure erected thereon, even though such activity does not include the employment of any additional person or persons in the performance of such services. The following home occupations are hereby approved: Amway, Avon and similar sales representatives; child daycare (providing the Board may limit the number of children); and realtors, so long as insubstantial traffic (that is, except in circumstances otherwise determined by the Board to be appropriate due to applicable parking limitations, no more than four vehicles parked at the residence by visitors in relation to such business activity at any one time) is associated with such activities. This Section shall not apply to any activity conducted by the Declarant, and builder or contractor within the Subdivision.

5.9 **Temporary Buildings.** Except as authorized by the Board, no basement of a partially completed residence, tent, shack, garage, barn or outbuilding erected on a Lot covered by this Declaration shall at any time be used for human habitation, temporarily or permanently, nor shall any Structure of a temporary character be used for human habitation.

5.10 **Used Houses.** No used, secondhand or previously erected house or building of any kind can be moved or placed, either in sections or as a whole, upon the Subdivision.

5.11 **Animals.** No birds, animals or insects, except dogs, cats or other household pets, shall be kept, bred or maintained on any Lot except a reasonable number of commonly accepted household pets approved from time to time by the Board. Under no circumstances shall any
commercial or agricultural business enterprise involving the use or breeding of animals be conducted on the Subdivision without the express written consent of the Board. The Board may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on any Lot, and the Owners shall strictly comply therewith. Dogs, cats and all other pets or animals shall be confined at all times to the Lot and must be kept on a leash when outside the Lot. No dogs or other animals shall be continually or regularly staked or chained on any Lot. All domestic pets must be properly immunized as required by applicable ordinances, codes and laws. Owners must prevent such animals from barking or making other noises at any time which the Board determines are annoying or a nuisance to neighbors or those using the Common Area.

5.12 Signs. Except as authorized by the Board, and except for those installed by Declarant, its marketing representatives or builders or contractors as authorized by Declarant, no signs, advertisements, billboards or advertising Structures of any kind may be erected or maintained on any of the Lots; provided, however, that permission is hereby granted for the erection of unlighted, temporary, standard sized signs by real estate firms for the sole and exclusive purpose of advertising for sale or lease the Lot and residence upon which it is erected and improvements thereon, if any, and during the one hundred twenty (120) day period prior to any election, political signs may be placed in yards. Such political signs shall be removed no later than seven (7) days following the applicable election.

5.13 Sight Lines. No fence, masonry wall, hedge or mass planting shall be permitted to extend beyond the minimum front building setback lines established on the plat of the Subdivision. No hedge, shrub, mass planting or tree shall be allowed by the Owner to obstruct sight lines at any Lot corner. Trees, shrubs and other plants which die shall be promptly removed from the Subdivision.

5.14 Antennas. Except as authorized by the Design Committee, there shall not be erected any external television or radio antennas or permanent clothesline structures, and no Owner shall erect any Structures, either permanently or temporarily, upon the Lots; provided, notwithstanding the foregoing, an Owner may install within his or her Lot a television satellite dish having a diameter of not more than twenty-four inches (24"), so long as the location of such dish is satisfactory to the Design Committee. Should any part or all of the restrictions set forth in this Section be unenforceable because the same violate a statute or the First Amendment or any other provision of the United States Constitution, the Design Committee shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections within the Subdivision and any such rules and regulations shall be binding upon all of the Lots and the Owners thereof.

5.15 Vehicles and Trailers. Except as authorized by the Board, no automobile, truck, motorcycle, motorbike, boat, house trailer, boat trailer or trailer or any other vehicle of any type or description may be stored upon any of the Common Area, nor may any boat, boat trailer, house trailer, camper, recreational motor vehicle, camper trailer or similar items be stored or permanently, continually or regularly parked on any street, driveway or in the open on any Lot; provided, persons visiting any Owner may park a camper or recreational motor vehicle within
such Owner's driveway for a period not to exceed seven (7) consecutive days. Nothing in this Section 5.15 (or elsewhere in this Declaration) shall prohibit the Declarant, or its marketing firm, from placing a sales office trailer or other temporary office on a Lot or within the Common Area.

5.16 No Joyriding. Except as otherwise authorized by the Board, motor scooters, minibikes or similar vehicles shall be operated for transportation only, and no joyriding on the streets, any Lot or the Common Area shall be allowed except on a designated bike or cycle trail.

5.17 Requirement to Keep Lot in Good Order and Repair. Each Owner, other than Declarant (provided it shall cause all Lots owned by it to be mowed periodically), shall keep all Lots owned by it, and all improvements therein or thereon, in good order and repair, including, but not limited to, the seeding, watering by an underground water sprinkler system and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management in relation to a quality residential neighborhood such as will exist in the Subdivision. If any portion of the Common Area is deeded to the Owner of an adjoining Lot, the Owner of such Lot shall maintain such area in the same manner as the Lot. Except as may be otherwise approved by the Design Committee, each Owner of a Lot which is contiguous to a street right-of-way (other than an arterial street right-of-way on the perimeter of a portion of the Subdivision) shall seed, water, install and operate an underground water sprinkler system, mow and otherwise maintain in good, sightly condition, a lawn area between the boundary of such Lot and the adjoining street within such right-of-way. If, in the opinion of the Board, any Owner fails to perform the duties imposed by this Section, the Board, after approval by a two-thirds (2/3) decision of the Board, and after fifteen (15) days written notice to Owner to remedy the condition in question, shall have the right, through its contractors and representatives, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot or such improvements, and such Owner shall pay the Association for the cost thereof, together with additional amount equal to twenty percent (20%) of such cost, within ten (10) days following demand therefor, which payment shall be a binding personal obligation of such Owner, and the Board may establish a special assessment and lien on such Lot for such cost and charge, together with interest thereon at the rate of fifteen percent (15%), and enforce the same as provided in Article IV hereof. The lien established as a result of this Section shall be superior to all other items or encumbrances which may thereafter arise, excepting items for taxes and other public charges as are by applicable law made superior.

5.18 Division of Lots Prohibited. Except as authorized by the Design Committee or the Declarant, no platted Lot shall be split or divided into more than one Lot or building site, but more than one Lot may be used as a building site for one dwelling.

5.19 No Disturbances of Streams. No lake, pond, stream or water drainage facilities, natural or erected within the Common Area shall be disturbed other than by Declarant or the Board.

5.20 Boating: Lake Use. Except as permitted by the rules adopted by the Board from time to time, no motorized raft, canoe or surfboard shall be operated within the Common Area.

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Any use of any lake, pond or other body of water shall be strictly in compliance with the rules and regulations adopted from time to time by the Board.

5.21 **Fishing.** Fishing in any body of water, if any, within the Common Area will be permitted at such times and at such places to the extent, permitted by the rules adopted by the Board from time to time concerning such use.

5.22 **Fences.**

A. Declarant may, and hereby reserves the right to, in its sole discretion, construct and install a fence, "living fence" (a combination of trees and other fencing or wall materials), wall or entrance treatment of a style and of materials satisfactory to the Declarant, in its sole discretion, within any of the fence or wall easement areas, any entry areas shown on the plat of the Subdivision, within other easement areas established by other easement instruments, or within Common Area. With respect to any Lot on which Declarant has constructed an entry monument, fence "living fence" or wall, the Owner(s) may not install or construct any fence or wall which is visible from adjacent streets without the approval of the Declarant or the Design Committee.

B. Except as provided in subparagraph A immediately above and immediately below, all Lots shall only contain fences made of black wrought iron, black aluminum, or tubular steel in accordance with a design approved by the Design Committee; provided, the same shall not exceed six feet (6') in height. No wood fences shall be constructed or maintained on a Lot except for privacy fences immediately adjacent to patios which are appurtenant to a residence. Fencing may not be installed to the front of a residence constructed on a Lot.

C. All fences shall be approved by the Design Committee prior to construction or installation on any Lot.

5.23 **Model Homes and Real Estate Offices.** Notwithstanding anything to the contrary appearing elsewhere in this Declaration, any Lot owned by Declarant, or any person or entity so authorized by Declarant, may be used for a model home or for a real estate or administrative office pertaining to the development of the Subdivision (including temporary, mobile, modular, prefabricated or a permanent Structure) until all the Lots have been sold to consumers for construction of residences thereon.

5.24 **Drainage.** From and after the date of commencement of construction of improvements on a Lot, the Owner of such Lot shall cause such Lot to be graded so as to strictly comply with the master drainage and grading plan relating to the Lot. Declarant has caused its engineering firm to prepare a master drainage and grading plan for the Lots, which plan may be revised by such firm from time to time. Each Owner shall strictly comply with the master drainage and grading plan and the Lot Grading Plan referred to below, along with any requirements of any applicable governing body, whichever is more restrictive. No Owner shall place or install any Structures, including, but not limited to, trees, shrubbery, landscaping, sand boxes, gardens, retaining walls, playgrounds, or playhouses in any drainage easement or channel.
Prior to the commencement of construction of the initial residential improvements and landscaping on a Lot, the Owner shall hire, at its expense, the subdivision’s engineering firm (initially Baughman Engineering Co., P.A. 315-262-7271) to prepare a Lot Grading Plan specifically for the Lot and comply with the same. Promptly following the pouring of a basement or foundation of a residence on a Lot, the Owner thereof shall hire such engineering firm to measure the top of the basement/foundation and the lowest opening in the basement to determine that the same are in compliance with the Lot Grading Plan, and if not, the Owner or Builder shall forthwith cause the same to be brought into compliance. Each Owner shall provide a copy of the Lot Grading Plan pertaining to such Owner’s Lot to any person installing a lawn, landscaping, fencing or other lawn improvements and require them to maintain the grade levels shown therein. Promptly, following the completion of construction of the initial residential improvements on a Lot, the Owner or Builder shall hire the above-referenced engineering firm to re-determine the grading of the Lot and to complete a subdivision lot plan certification in a form as required by Declarant. If at the time of such re-determination, the Lot is found to not comply with the Lot Grading Plan, in any respect, the Owner or Builder shall promptly cause the Lot to be brought into compliance.

Declarant, and the Association, shall have no liability or responsibility to any Owner due to the failure of the builder which constructs improvements on the Lot (whether or not such builder is a participant in the Builder’s Program for the development), or of adjoining property Owner(s), to comply with the aforementioned grading and drainage requirements, or for any resulting affect on the Lot, Owner or Owner’s improvements.

The Design Committee or persons designated by the Design Committee shall have the right to enter upon any Lot upon reasonable advance notice to the Owner thereof for the purpose of determining whether the Lot is in compliance with the drainage guidelines, standards and plans and the Lot Grading Plan which each Owner is to have prepared by the Subdivision’s engineering firm (initially Baughman Company, P.A.) as referred to above. A determination by the Design Committee concerning whether or not a Lot is in compliance with such guidelines, standards and plans, shall be final and binding on all Owners. In the event at any time the Design Committee determines that a Lot is not in compliance with the aforesaid guidelines, standards and plans, the Design Committee shall give notice to the Owner thereof and demand that such corrective action be taken as is necessary to achieve compliance. If fifteen (15) days after the notice of such violation, or such additional time as may be specified by the Design Committee, the Owner of such Lot has not taken reasonable steps to correct the same, the Board, on behalf of the Association, shall have the right, through its agents and contractors, to enter the Lot and to take such steps that may be necessary to bring the same into compliance. The Owner of the Lot so corrected shall reimburse the Association for the costs of such compliance and pay the Association a fee equal to twenty percent (20%) of such amount. In the event such Owner fails to pay such reimbursement in full within ten (10) days following demand thereof, the Board may thereafter establish a special assessment applicable to such Lot for the costs thereof and enforce the same as provided in Article IV hereof. Declarant recommends that any time a Lot is surveyed by an Owner, whether in connection with mortgage financing or otherwise, that the surveyor verify that the grading and drainage pins located in the rear of the Lot are at the elevations required by the master and Lot Grading Plan referred to above. It is not the Declarant’s
responsibility or obligation to enforce compliance with the master drainage and grading plans. The Design Committee and the Declarant shall have no liability or responsibility to any builder, Owner or other party for the failure of a builder or any Owner to final grade or maintain any Lot in accordance with the master drainage and grading plan or any approved lot drainage and grading plan or for the Design Committee or the Declarant not requiring a lot drainage and grading plan or compliance therewith or for the quality or compaction of any soil. The rights of the Design Committee, the Board and the Association hereunder are cumulative and in addition to any rights and remedies otherwise available at law or equity.

5.25 Water Encroachment: Flood Insurance. Notice is hereby given to anyone acquiring a Lot that due to the grading and drainage of such Lot (which is necessary to enhance the views from residences, particularly those with “walk-out” or “view-out” basements), at times following considerable amounts of rainfall, water may encroach into the yard areas within such Lot. Water may accumulate in areas of the Lot which has been graded at lower elevations to provide drainage, or if the Lot is adjacent to a lake, stream or other waterway, water from such areas may spill over into the Lot as a result of such rainfall. Depending upon how much water accumulates on the Lot and how long it remains, damage could occur to the residence, yard, trees, vegetation, fences, gazebos, patios, playground equipment or other improvements or installations of Structures within the Lot. Some Lots may have previously been located in a designated flood plain, in which situations the Declarant, or another party, has caused the same to be removed from the flood plain by increasing the elevation thereof with fill as required by the City of Wichita, the Kansas Department of Water Resources, the Federal Emergency Management Agency and any other agency having jurisdiction thereof. Prior to construction of a residence or other structures on any such Lot, the Owner thereof is encouraged to verify, through its contractor, compliance with the requirements of such County and the other applicable agencies, consider inherent risks and determine whether to obtain and maintain flood insurance. Neither Declarant nor the Association, building contractor or brokers involved in the development of the residential area, sale of the Lot, or construction of a residence on a Lot, shall have any liability or responsibility for any such damage resulting from such water encroachment.

5.26 No Rights Beyond Subdivision. Notwithstanding the proximity of lakes or other amenities to the Common Area and/or Subdivision, no Owner shall have any right of access, use or enjoyment of any lakes or other amenities outside the Subdivision.

5.27 Boat Docks. No boat docks, piers, moorings, boathouses, slips or similar Structures may be constructed within any Common Area or Lot, except upon the prior written approval of the Design Committee.

5.28 Artificial Vegetation. No artificial flowers, trees or other vegetation shall be permitted on the exterior of any residence or in the yard.

5.29 View. No Owner has any right to an unobstructed view beyond the boundaries of the Owner’s Lot. No Owner shall be entitled to prevent the construction or location of any Structure, planting material or other item on any other part of the Subdivision, which is permitted by this Declaration, because such Structure, planting material or other item obstructs any view from such Owner’s Lot.
5.30 Erosion; Water Pollution Control Permit and Related Matters; Compliance With Laws. Each Owner shall comply strictly with any law or ordinance regarding erosion or runoff, including, if applicable, a Stormwater Pollution Prevention Ordinance, the Kansas Water Pollution Control General Permit And Authorization To Discharge Stormwater Run-Off From Construction Activities Under the National Pollutant Discharge Elimination System or similar ordinance or law adopted by the city or other governing body having jurisdiction over the Subdivision. Such permit, laws, and regulations, together with laws and ordinances of the city and county in which the Subdivision is located, require that erosion and sediment control measures be implemented in connection with construction activities on such Lot, including, but not limited to, site work such as clearing, excavating, and grading the Lot, in order to eliminate or substantially reduce stormwater discharge, the discharge of pollutants and water quality violations. Significant penalties may be imposed in the event activities on any Lot are not conducted in full compliance with the aforementioned permit, laws, regulations and ordinances. Each Owner agrees to conduct activities, including construction activities, on his or her Lot strictly in accordance with this Declaration, all laws, rules, regulations, and ordinances now or hereafter in effect, including, but not limited to, those referenced above, by reason of the aforesaid permit, regulations, rules and ordinances and shall indemnify and defend Declarant and the Association from any consequences of such Owner's, or his contractors' or subcontractors', failure to so comply, including but not limited to all damages, liabilities, fines, penalties and costs and expenses, including reasonable legal fees and expenses.

5.31 Water Levels in Lakes and Ponds. There is no assurance that lakes, ponds and other bodies of water within the Subdivision, if any, shall continue in the future to contain water levels consistent with the levels existing on the date hereof and, in fact, such lakes, ponds and bodies of water may at some point in the future become dry or substantially empty of any water. Neither Declarant, the Association, the Board, any real estate marketing company, broker or agent nor any officer or employee of Declarant, any such real estate marketing company, or the Association shall have any liability or responsibility to Owners for any change in the water levels in any such lakes, ponds, or bodies of water, including if such bodies of water become dry or substantially empty of water.

5.32 Approved Builder; Marketing Fee. Any Owner desiring to construct the initial residence and related improvements on a Lot must obtain Declarant's written approval concerning the building contractor constructing such residence and related improvements, which approval shall be made in Declarant's sole discretion based on the experience and history of the contractor in connection with construction of residences within subdivisions of comparable quality with the Subdivision; such contractor's financial condition; and such other factors as Declarant shall deem appropriate. Moreover, Declarant may from time-to-time establish a program of a limited number of building contractors that shall be the exclusive building contractors approved for the construction of residences within the Subdivision, and in such circumstance, no other building contractors shall be permitted to construct a residence within the Subdivision. Initially, the Declarant has established a builders program for the Subdivision. Each Owner is hereby informed that, among other things, an approved builder is required to pay a marketing fee (the "Marketing Fee") to the Declarant's marketing representative in the amount of six percent (6%) of the value of the
initially completed residence, related improvements and the Lot upon the earlier to occur of the substantial completion of such residence and related improvements; a minimum of five (5) business days prior to the date of the initial occupancy thereof; or five (5) business days following the issuance of the occupancy permit for the residence and related improvements. The "value" referenced in the prior sentence shall be determined in Declarant's sole discretion to be either: (i) the amount of money required to be paid to the building contractor thereof by the initial purchaser of the completed residence, improvements and Lot; or (ii) the fair market value determined by an independent appraisal obtained by Declarant, at its expense, of the initially completed residence, related improvements and the Lot, provided, in the case of both (i) and (ii) above, if the Lot is initially sold by the Declarant, or its successor, to a person other than a building contractor participating in Declarant's builders program so that a sales commission is paid to the marketing representative at the time of such sale, then the "value" referenced above shall not include the original purchase price of the Lot. The appraiser selected by Declarant shall have a minimum of eight (8) years of experience performing residential appraisals in Wichita, Kansas. If such builder fails to pay the same within fifteen (15) days following the date the same is due, the Owner of the Lot and residence shall be required to pay the delinquent amount within ten (10) days following written notice thereto specifying such delinquency. Each approved builder shall be required to execute, along with the applicable Lot Owner(s), an agreement regarding the Marketing Fee on terms satisfactory to Declarant prior to commencement of construction. The specific party or parties to be paid the Marketing Fee shall be designated by the Declarant. If the Marketing Fee is not paid when due, it shall accrue interest at the rate of fifteen percent (15%) per annum (not to exceed the maximum rate allowed by law) until the Marketing Fee, with accrued interest, are paid in full. The obligation to utilize an approved builder and the obligation to pay any portion of the Marketing Fee not paid by the approved builder for the purposes described herein shall be binding on and/or inure to the benefit of the Declarant and the Lot Owners and their respective heirs, successors and assigns (including successor owners of the Lot). The building contractor, or such Lot Owner(s), shall upon demand, reimburse Declarant and the Marketing Representative(s) for all legal costs and reasonable attorney's fees incurred as a result of such failure to pay the Marketing Fee, including any proceeding to enforce collection of the Marketing Fee and foreclosure of the lien referenced below, which costs and fees shall accrue interest at the rate specified above until paid in full. If the Marketing Fee is not paid in full within fifteen (15) days following the date the same is due and payable hereunder, the unpaid portion of the Marketing Fee and all other costs and fees hereunder shall automatically constitute a lien against the Lot which shall so continue until the Marketing Fee and all costs and expenses referenced hereunder, together with interest at the rate specified above, have been fully paid or otherwise satisfied. The Declarant may record in the office of the Register of Deeds in which the Lot is located a Notice of Delinquency, which notice shall state the amount of the delinquent Marketing Fee and accrued expenses and other costs and expenses; it is a lien; the interest accruing thereon; a description of the Lot; the name of the Owner(s) of the Lot; and such notice shall be signed on behalf of the Declarant or the Marketing Representative (without the necessity of it being executed by the Lot Owner). Such lien shall be foreclosed in a like manner as a mortgage on real property as provided by the laws of Kansas. The foreclosure proceeding with respect to such lien may be commenced anytime within fifteen (15) years following the filing of the Notice of Delinquency, including reasonable attorney's fees and accrued interest. Any
Owner, or prospective Owner, desiring further information concerning a Lot should contact the marketing representative for the Subdivision.

5.33 **Off Street Parking.** Each of the Lots shall provide four (4) off-street parking spaces for each residence within the garage and driveway areas.

5.34 **Laundry.** No clothing or any other household fabric shall be hung in the open on any Lot, except with specific written approval of the Association.

5.35 **Odors; Burning.** No activity (other than reasonable and customary construction activity) which emits foul or obnoxious odors, fumes, dust, smoke, or pollution outside the Lot or which creates noise, unreasonable risk of fire or explosion, or other conditions which are a nuisance shall not be conducted within a Lot. No outside burning of trash, leaves, debris or other materials shall be permitted on a Lot.

5.36 **Loudspeaker; Noise.** The use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Lots, except alarm devises used exclusively for security purposes is hereby prohibited.

5.37 **Clippings; Debris.** Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any storm sewer, drainage ditch, any other component of the storm drainage system serving the Subdivision, or any stream, pond, or lake, or elsewhere within the Subdivision is prohibited.

5.38 **Safety and Security.** Each Owner and occupant of a Lot, and the respective guests and invitees thereof, shall be responsible for their own personal safety and the security of their property in the subdivision within the Subdivision. The Association may, but shall not be obligated to, maintain or support certain activities in the subdivision within the Subdivision designed to enhance the level of safety or security which each person provides for himself and his property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the subdivision within the Subdivision, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the subdivision within the Subdivision, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing all occupants of a Lot that the Association, its Board and committees, and Declarant are not guarantors of security or safety and that each person or entity using the subdivision in the Subdivision assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots improvements thereon, resulting from acts of third parties.

5.39 **No Removal of Hedgerow Trees.** Without the prior written approval of the Design Committee, which shall only be granted in the event of a diseased, severely
damaged, or "dead" tree or other limited circumstance, no Owner shall directly or indirectly, cause any tree within the hedgerow near any of the boundaries of the Subdivision to be removed, pruned excessively or intentionally damaged and each such Owner shall use good faith efforts to maintain such trees in good condition. Generally, such hedgerow is located all around the perimeter the Subdivision.

5.40 Possibility of Abandoned Wells. In the past, oil and gas wells were drilled in the area of the Subdivision. It is possible wells were drilled and abandoned within the Subdivision and each Owner shall investigate such possibility to the extent it deems appropriate and Declarant shall have no liability or responsibility therefor.

5.41 Removal of Trees and other Vegetation; Replacement of Trees. No tree, bush or shrub having a trunk diameter of one inch (1") or more (measured from a point two feet (2') above ground level) or a drip line or overall diameter of at least four feet (4') shall be removed from any Lot or trimmed or otherwise altered without the express written authorization of the Declarant or the Design Committee. No ground cover, shrubbery or other vegetation shall be removed or altered along areas adjacent to lakes, streams, or any other common areas or areas designated by the Design Committee as "natural" areas. Section 5.2C.xii. requires Owner to plant at least two (2) Autumn Blaze Maple trees (which minimum number of trees may be increased by the Design Committee as provided in Section 5.2 C. xii above) in the front yard of such Owner's Lot at locations along the adjoining roadway required by the Design Committee. Such trees are important for the appearance of the Subdivision. In the event any Autumn Blaze Maple tree dies or is substantially damaged on a Lot, the Owner thereof shall promptly replace the same with a tree which meets or exceeds the requirements of such Section 5.2C.xii. and upon such Owner's failure to do so, the Association may cause a contractor to install a replacement tree selected in discretion of a representative of the Association on such Lot and the cost of the tree and such installation shall be specially assessed by the Association to such Owner under Article IV hereof.

5.42 Mailboxes. The Association shall designate the type and design of the mailboxes to be constructed on and used for all Lots. It is intended that "tandem" style mailboxes shall be installed near the common boundary between two (2) Lots, which mailboxes shall have support structures and two (2) mail boxes with one (1) mail box serving each of the adjoining Lots. The Association shall install "tandem" style mailboxes for two (2) adjoining Lots following the completion of construction of a residence on one (1) of such Lots and shall collect from the Owner(s) of each Lot served by each tandem mailbox, one-half (1/2) of the total cost for the tandem mailboxes, support structures and the installation of same at the closing for the sale of the residence. If not collected at the closing, the applicable Owner(s) shall pay such invoice within fifteen (15) days following receipt thereof or the same shall accrue interest at the rate established from time to time by the Board, but in no event less than fifteen percent (15%) per annum or the maximum rate permitted by applicable law, whichever is lower. Notice is hereby given that the United States Post Office, not Declarant or the Association, designates the location of the mailbox for each Lot.
5.43 Mowing Assessment. In addition to the general assessments hereunder, any unimproved Lot (other than a Lot owned by Declarant) shall be assessed Fifty Dollars ($50.00) for each calendar month during the mowing season between the date the same is acquired by an Owner and the commencement of construction of a residence thereon, in order to reimburse the Declarant or the Association for the cost of periodically mowing such Lot so that it remains in a sightly condition; provided, such cost may be reasonably increased or decreased from time to time by Declarant or the Association based on the actual mowing costs. An easement is hereby established to permit the Declarant, the Association and contractors of either to enter upon a Lot for mowing prior to the commencement of construction of a residence thereon.

5.44 Sex Offender Laws. Kansas law requires persons who are convicted of certain sexually violent crimes after April 14, 1994, to register with the sheriff of the county in which they reside. If any Owner desires information regarding those registrants, he may find information on the homepage of the Kansas Bureau of Investigation at http://www.Kansas.gov/kbi or by contacting the local sheriff's office.

ARTICLE VI

THE ASSOCIATION

6.1 Powers, Duties and Rights.

A. The Association shall have the rights and powers as set forth in its Articles and Bylaws and elsewhere in this Declaration, together with its general powers as a nonprofit corporation.

B. The Association shall maintain, water, fertilize, mow, and keep clean the portions of the Common Area which are to be maintained by it hereunder and the portions of the green space within the arterial public street rights-of-way adjacent to the perimeter of Subdivision. It further shall maintain, repair and/or replace the decorative entrance treatments, fence(s) and walls erected and installed by Declarant or the Association.

C. The Association shall maintain such insurance on the Common Area, and facilities thereon, and liability and other types of insurance as the Board deems necessary and advisable.

D. The Association may improve the Common Area in any manner that it shall find to be necessary, desirable or beneficial to the interest of the Common Area and the Members.

E. The Association shall have the right to create and establish reserves for the repair, restoration or replacement of the portion of the Common Area to be maintained by it hereunder and any improvements therein.

F. The Association, through the Board, shall have the right to adopt, and modify from time to time, such rules and regulations as it may deem advisable for the
maintenance, use, conservation and beautification of the Subdivision and for the health, comfort, safety, enjoyment and general welfare of the Owners and occupants of Lots and those using the Common Area.

G. The Association, through the Board, shall be empowered to determine the manner and extent of operating, maintaining, improving, restoring, mowing, trimming and keeping clean the Common Area to be maintained by it hereunder.

H. The Board shall have the authority to assess fines for any violation of the provisions contained in this Declaration. Prior to assessing any fine, the Board shall mail written notice to the last address known to the Board concerning the noncompliant Owner. If the noncompliant Owner fails to cure the violation within fifteen (15) days following the mailing of such notice by the Board or if there is a recurrence of the violation during that fifteen (15) day period, then in addition to any other liability or obligation arising under the Declaration, the Board may assess a fine against the noncompliant Owner and his or her Lot in an amount determined by the Board to be appropriate in its discretion and until paid in full, the fine shall accrue interest at the rate of fifteen percent (15%) per annum, shall constitute a lien on the noncompliant Owner’s Lot, and shall be subject to enforcement and foreclosure in the same manner as a special assessment as referenced in Article IV of this Declaration.

I. The Board shall have the right to employ on behalf of the Association, a property manager and other third parties as security and/or enforcement personnel (which personnel shall have the right to determine whether violations of rules or regulations have occurred).

J. The Board shall have the obligation to enter into, renew or refinance, and perform the borrower’s obligations under the amenity financing referred to in Section 9.2 below.

K. Since the Declarant will convey property to the Association as Common Area at no cost to the Association, the Board on behalf of the Association, shall, upon Declarant’s written request, reconvey to Declarant any portions of such Common Area which are unimproved by material building Structures, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

L. The Association, through the Board, may enforce violations of this Declaration. The decision to have the Association pursue enforcement action in any particular case shall be left to the Boards’ discretion. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association’s position is not strong enough to justify taking any or further action;
(ii) the covenant, restriction or rule being enforced is, or may be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interest, based upon hardship, expense, or other reasonable criteria to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

M. Declarant shall exclusively carry out all of the rights, duties and powers herein of the Association (including the designation of the Board members and the officers of the Association) and the Board for a period up to one (1) year after the date it no longer owns a Lot, after which time the same shall be turned over to the Association and the Board, as applicable, which shall then exercise the powers and duties herein set out; provided, however, that the Declarant may, at its option, at any earlier time, partially or wholly transfer all or any part of such duties and powers to the Association or the Board by written instrument. In the event of a transfer of a portion of Declarant's powers and duties by the Declarant to the Association or the Board, the Declarant shall retain all other powers and duties which are not so specifically transferred. The Association and Declarant shall cooperate fully in the transition of the powers and duties hereunder. No act (other than a written transfer as referenced above) or omission shall be deemed a relinquishment of Declarant's rights under this subparagraph. Relinquishment of all, or any, of its rights under this subparagraph, shall not constitute a relinquishment of Declarant's rights to designate members of the Design Committee under Section 8.2 above.

6.2 Operations and Expenses. The Association shall establish such committees as may be provided for in its Bylaws, and the Board may engage accountants, legal counsel and other consultants as may be reasonably necessary for the discharge of its duties hereunder.

6.3 Taxes and Assessments. Each Owner shall be obligated to pay the taxes or assessments assessed against such Owner's Lot and personal property located thereon prior to delinquency.

6.4 Repair and Restoration of Improvements on Common Area. Should any improvements on any portion of the Common Area, or any part or portion thereof, which is to be maintained by the Association hereunder, be damaged or destroyed by fire or other casualty or by intentional mischief, the Association shall be responsible for the cost and expense of repair and restoration, and, so long as there are sufficient insurance proceeds collected as a result of such damage or destruction, the same shall be done substantially in accordance with the original plans and specifications for the improvement of same. The repair and restoration work referred to in
this Section shall be commenced promptly after the happening of the destruction or damage occasioning the same, and once commenced, the same shall be pursued diligently to completion. Notwithstanding the foregoing, in the event that any such improvements on the Common Area shall be damaged or destroyed through the intentional misconduct or negligence of an Owner, or such Owner's family members or invitees, including, but not limited to, failing to correct faulty drainage or improper use of weed killer, such Owner shall pay on demand the full cost of replacement or repair thereof.

6.5 Providing Grading Information to Owners: Enforcement. The Association shall designate a committee of Members to meet with new Lot Owners for the purpose of informing them regarding grading and drainage matters concerning the Lots. Such educational process is vital in order to avoid water drainage problems within the Subdivision. Either before or promptly following the purchase of a Lot, each person must contact a representative of the Association and ask to be informed concerning grading and drainage matters relating to the Subdivision. The Association shall strictly enforce compliance with grading and drainage requirements provided for in Section 5.24 hereof.

ARTICLE VII
EASEMENTS AND ACCESS CONTROL

7.1 Public Utility, Floodway, and Drainage Easements Dedicated. Easements for the installation and maintenance of all public utilities and for floodway and drainage on Lots and in the Common Area are dedicated as shown on the recorded plat of the Subdivision.

7.2 Some Easements Not Shown on Plat. Owners should not rely on the plat of the Subdivision to determine the location of utility or other easements or rights-of-way. Such easements or rights-of-ways are often created by separate instruments not shown on the plat and are disclosed on each Owner's title insurance policy.

7.3 Easements in Favor of Declarant and Association. Declarant specifically reserves unto itself, its affiliated entities, designees, successors and assigns, and for the Association, and for the contractors and representatives of all of them, in connection with the use, operation, construction of improvements and amenities, and maintenance of the portions of the Common Area to be maintained by it hereunder, together with arterial street rights-of-way, as provided herein and improvements thereon or therein, a perpetual, nonexclusive easement and right-of-way over the Lots, Common Area, and such street rights-of-way, for the purpose of inspecting, constructing, maintaining, mowing, repairing, replacing and rebuilding water sprinkler systems, including water lines and related equipment, water wells, sprinkler controls, and electric meters and lines, underground pipelines, drains and/or mains for the purpose of transporting gas, water, sewerage and electricity over, across and through such Lots and Common Area, together with the right to excavate and level ditches and/or trenches for the location of said wells, lines, pipes, drains and/or mains. Additionally, Declarant specifically reserves unto itself, its successors and assigns, and for the Association, a perpetual, non-exclusive easement and right-of-way to enter upon any Lot as reasonably necessary in order to construct, install, erect, maintain, improve, repair and/or replace any entrance treatment, fence, wall, walkway, water sprinkler system
(including water wells, sprinkler controls, and electric meters and lines associated therewith), or any signage pertaining to or serving the Common Area or the residential development within any wall, utility and/or drainage easement shown on the current or any future plat of the Subdivision, or located on a Lot but, due to oversight, not actually located in the appropriate easement area. Declarant may have installed a sign advertising the residential development on a Lot or within the Common Area prior to the sale of such Lot or transfer of the Common Area to the Association. Declarant, its successors and assigns, hereby retain an easement for the placement, and replacement, of any such advertising sign until all Lots have been sold by Declarant or its successors and assigns.

7.4 Easements of Encroachment. Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than three feet (3'), as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the person claiming the benefit of such easement.

7.5 Association Inspection Easement. Declarant grants to the Association easements over the Subdivision as necessary to enable the Association to fulfill its responsibilities under this Declaration. The Association, and its contractors and representatives, shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and to enforce the Declaration, Articles, Bylaws and rules and regulations in effect from time to time. Such easements and rights may be exercised by any member of the Board and its duly authorized agents and assigns, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

7.6 Easements to Additional Land. Declarant hereby reserves for itself and its affiliates and designees, and its successors, assigns, and mortgagees, a perpetual, nonexclusive easement over the Common Area for the purposes of access, and development of additional land, whether or not such land is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing any and all utilities to such other land. Declarant or such affiliate, successor or assign shall restore any damage to the Common Area resulting from the use of such easement.

ARTICLE VIII

DESIGN COMMITTEE: ARCHITECTURAL CONTROL

8.1 Committee. The Design Committee shall have such rights and responsibilities as are provided herein, including the rights and responsibilities for the review, approval or disapproval of plans relating to the construction of Structures on each Lot, including reviewing, approving or disapproving all matters pertaining to the construction and completion of the initial
residence and related Structures on each Lot; all specifications, plans and other matters pertaining to fencing; drainage matters as referenced in Section 5.24 above and elsewhere; and (on a Lot by Lot basis) following completion of the initial residence and related Structures on a Lot, all specifications, plans and other matters for remodeling the residence and related Structures, including landscaping, and any additional new Structures to be constructed on such Lot.

8.2 **Membership.** The original members of the Design Committee shall be up to three (3) persons, to be appointed by Declarant. Upon the death or resignation of any member of the Design Committee, or in the event Declarant desires to remove any member, Declarant shall appoint a successor. The decision of a majority of the Design Committee shall be binding; provided, the Design Committee may delegate its rights and responsibilities hereunder to one or more of its members from time to time. Declarant may relinquish its rights under this Section by executing and recording in the real estate records a written instrument giving notice of its intent to do so, and providing a copy thereof to an officer of the Association; in such event, the Board shall have the authority of Declarant under this Section.

8.3 **Approval Required of Plans and Specifications.** Except as otherwise specifically provided in this Declaration, no Structure shall be commenced, erected, placed, moved on or permitted to remain on such Lot, altered or remodeled in any way which materially changes the exterior appearance thereof (including the exterior color scheme; no landscaping including, trees and shrubs shall be installed within a Lot; and the Lot drainage and grading shall not be changed, unless plans and specifications, grading elevations, square footage, exterior materials, exterior lighting, location, general landscaping plans, and exterior color scheme, therefor shall have been submitted to and approved in writing by the Design Committee. The plans and specifications shall be in such form and shall contain such information as may be required by the Design Committee, including, as requested by such committee, (i) a site plan of the Lot or Lots, showing the nature, exterior color scheme, kind, shape, size, height, materials and location with respect to the particular Lot or Lots (including proposed front, rear and side setbacks) of all Structures, the location thereof with reference to Structures on adjoining portions of the Subdivision, the number and location of all parking spaces and driveways on the Lot or Lots and the location of all trees, including the two (2) trees to be planted near the roadway adjoining the Lot or Lots in front of the residence per Section 5.2 C xii above, and shrubs to be planted thereon, with a listing of the sizes and types to be so planted; and (ii) a completed Lot Grading Plan as referenced in Section 5.24 above, at the Owner’s expense, in accordance with the specific Lot Grading Plan, all as more fully provided in Section 5.24 hereof. Plans and specifications shall be deemed to be submitted to the Design Committee at such time as the Owner requesting such approval shall deliver the same to a member of such committee and shall have obtained a written receipt from such member acknowledging receipt of the same. Except as otherwise specifically provided herein, the Design Committee shall have sole and full authority to determine matters of aesthetic judgment and the determination by the Design Committee as to such matters shall be final so long as exercised in accordance with the procedures set forth in this Article. No approval of the Design Committee shall be deemed or implied to have been given hereunder; actual written approval from such committee is required. **THE FAILURE OF ANY OWNER TO OBTAIN THE APPROVALS REQUIRED HEREBY SHALL BE AT SUCH OWNER’S RISK AND LIABILITY.**
8.4 Decisions; Appeals. So long as Declarant continues to designate members of the Design Committee, all decisions of such committee shall be final and conclusive. After the date Declarant has relinquished the right to designate the members of the Design Committee, in the event any Owner disputes a decision of the Design Committee under this Article VIII, such Owner may appeal such decision to the Board upon written notice given to the Board within fifteen (15) days following the date the Owner is notified of the decision of the Design Committee, with respect to which such Owner desires to appeal. At the time the Owner files a notice of appeal with the Board, such Owner shall pay to the Association a fee related to such appeal in the amount of Two Hundred Dollars ($200.00). The Board shall notify the appealing Owner at least one (1) week before the date the Board wishes to consider such appeal, and such Owner shall have the right to provide written materials and appear before the Board on such matter.

8.5 Rules and Statements of Policy. The Design Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Lots, including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Design Committee at any time, and no inclusion in, omission from, or amendment of any such rules or statements shall be deemed to bind the Design Committee to approve or disapprove any feature or matter subject to approval or to waive the exercise of the Design Committees' discretion as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver of the Design Committee's right, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any other Lot or Lots. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot, and such approval may not be revoked or rescinded thereafter; provided, that (i) the Structures or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in this Declaration, and (ii) the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all Structures on and uses of the Lot in question.

8.6 Right Of Inspection. Representatives of the Board or Design Committee or any of its agents thereof may, at any reasonable time or times, enter upon and inspect any Lot or any improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of Structures thereon are in compliance with the provisions hereof; and neither the Design Committee, the Association, nor any such agent, shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

8.7 Violation. If any Structure shall be constructed, remodeled, altered, erected, placed or maintained upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved pursuant to the provisions of this Article VIII, such construction, remodeling alteration, erection, maintenance, placement or use shall be deemed to have been undertaken in violation of this Article VIII and without the approval
required herein, and, upon written notice from the Board, any such Structure so constructed, remodeled, altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or re-altered, and any such use shall be terminated, so as to extinguish such violation. If, fifteen (15) days after the notice of such a violation, the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the violation, the Association, after approval by a two-thirds decision of the Board, shall have the right, through its agents, contractors and representatives to enter upon such Lot and to take such steps as may be necessary to extinguish such violation, and the violation and such Owner shall pay the Association for the cost thereof, together with an additional amount equal to twenty percent (20%) of such cost, within ten (10) days following demand therefor, which payment shall be a binding personal obligation on such Owner, and the Board may establish a special assessment and lien on such Lot for such cost and charge, together with interest thereon at the rate specified in Section 4.11 above, on such Lot for the cost thereof and enforce the same as provided in Article IV hereof. The lien established as a result of this Section shall be superior to all liens and encumbrances which may thereafter arise, excepting liens for taxes and other public charges which are by applicable law made superior. The rights of the Board and Association hereunder are cumulative and in addition to any other rights or remedies available at law or equity.

8.8 No Liability. Neither of the Design Committee, the Declarant, the Association, the Board, nor any officer, director, member, representative, designee, agent or employee thereof, shall be personally liable to any Owner or to any person, firm, corporation or other entity for any damages arising from any mistake in judgment, negligence, nonfeasance, performance or nonperformance of any duties, the approval, disapproval or failure to approve any matter submitted for approval, for the adoption, amendment or revocation of any rules, regulations, restrictions pursuant to this Declaration, guidelines or the Associations' Articles or Bylaws, responsibilities or functions under this Declaration, including, but not limited, to this Article and Section 5.24 hereof, or for any defect in any Structure constructed from any approved plans and specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Design Committee, the Board, or the officers, directors, members, employees, and agents of any of them to recover any of the aforesaid damages and hereby releases, quitclaims, and covenants not to sue for any claims, demands, and causes of action arising out of or in connection with any judgment, negligence, nonfeasance, performance, nonperformance, approval, disapproval or failure to approve and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

8.9 No Waiver of Future Approvals. Each Owner acknowledges that the person reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the architectural guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Structure until the Structure is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Design Committee may refuse to approve similar proposals in the future. Approval of applications or plans for any Structure completed or proposed, or in connection with any other matter requiring
approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

8.10 Variances. The Design Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; or (b) prevent the Design Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

ARTICLE IX

NOTICE OF POSSIBLE SPECIAL ASSESSMENTS: AMENITY FINANCING

9.1 Assessments. Notice is hereby given to each purchaser of a Lot that special assessments will be spread by the applicable government bodies, to Lots in the future, due to the installation of arterial streets, residential streets, lakes, ponds, sanitary and storm sewers, sidewalks, waterlines, other utilities etc. Additionally, from time to time, the Lots may become subject to special assessments by reason of work performed by the applicable government bodies, to major arterial streets in the vicinity of the Subdivision. Special Assessments may extend for a period of fifteen (15) to twenty (20) years. Each Owner must independently obtain such information as such Owner desires or deems sufficient concerning the amount of special assessments which currently, and in the future will, affect such Owner’s Lot.

9.2. Amenity Mortgage Financing. Notice is hereby given that Declarant and/or Association will obtain, and renew and refinance from time to time, mortgage secured loan or loans in order to pay the cost of installing or constructing amenities within (such as, but not limited to, the improvements listed on Exhibit “A” hereto) the Common Area for the use and benefit of the Owners. When the Declarant and/or Association initially obtains such loan(s), the Association shall continue to renew such loan(s), or obtain a different loan(s), as requested by Declarant from time to time. All or any portion of the Common Area shall be mortgaged from time to time to secure such loan(s), as required by the lender(s). Assessments or funds collected by the Association under Article IV hereof (including transfer fees) shall be utilized for repayment of the interest and principal arising from any such loan(s) in accordance with the terms of such financing. Upon obtaining such loan(s) (and the renewal and refinancing thereof from time to time), neither the Declarant nor the Association shall be required to give notice thereof to the members of the Association. The Association shall indemnify, defend and hold Declarant, and its members, harmless from any proceedings, judgments, claims, liabilities, costs and expenses, including attorney’s fees, arising out of any such loan or mortgage, and any guaranties thereof, including the failure to repay any amounts due thereunder.
ARTICLE X
ADDITIONAL LAND

Declarant may in its discretion, from time to time, during the twenty (20) year period following the date hereof, annex additional real property, including additional Common Area, into the Subdivision, and thereby subject the same to the terms, provisions and conditions of this Declaration (as provisions hereof may be changed, altered, supplemented, deleted or modified solely as to the annexed land specifically by the document annexing such additional real property), by the execution and filing for recordation with the Register of Deeds of the County in which the Subdivision is located, of an instrument expressly stating an intention to so annex and describing such additional property to be so annexed. During the twenty (20) year period commencing with the date of the recordation of this Declaration, Declarant, its successors and assigns, may annex such additional real property in its absolute discretion. From and after the expiration of such twenty (20) year period, such additional land may be annexed; provided that such annexation is approved by a majority of the Members of the Association in attendance at a special or annual meeting of the Members.

During the twenty (20) year period referenced above, Declarant reserves the right to amend this Declaration (which right of amendment shall be in addition to and not limited by Section 11.10 below) for the purpose of withdrawing and removing from the coverage of this Declaration any portion of the Subdivision which has not yet been improved with building Structures. Such amendment shall not require the consent of the Association or any Owner other than the Owner(s) of the land to be withdrawn and removed, if not the Declarant. If the withdrawn land is Common Area, the Association shall promptly take whatever action is necessary to convey such land to Declarant, free from any rights, easements or encumbrances which are not in existence at the time of the conveyance of such land by Declarant to the Association.

ARTICLE XI
MISCELLANEOUS

11.1 Provisions Binding on Grantees. The Association and each grantee hereafter of any part or portion of the Subdivision covered by this Declaration, and any purchaser under any grant, contract of sale or lease covering any part or portion of such Subdivision, accepts the same subject to all of the restrictions, liens and charges and the jurisdictional rights and powers of the Association and Declarant provided for in this Declaration.

11.2 Interpretations of Restrictions. In interpreting and applying the provisions of this Declaration, they shall be held to be minimum requirements adopted for the promotion of the health, safety, comfort, convenience and general welfare of the Owners. It is not the intent of this Declaration to interfere with any provisions of any law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the construction, use or occupancy of buildings or premises; nor is it the intention of this Declaration to interfere with or abrogate or annul covenants, covenants or other agreements between parties; provided, however,
that where this Declaration imposes a greater restriction upon the construction, use or occupancy of any residence site or upon the construction of buildings or structures, or in connection with any other matters that are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits, or by such covenants, easements and agreements, then, in that case, the provisions of this Declaration shall control.

11.3 Construction and Validity of Restrictions. All of the restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together, but if it shall at any time be held that any one or more of such restrictions, conditions, covenants, reservations, liens or charges, or any part thereof, are invalid or for any reason become unenforceable, no other restriction, condition, covenant, reservation, lien or charge, or any part thereof, shall be affected or impaired.

11.4 Assignment of Powers. Any and all rights and powers of Declarant provided for in this Declaration and any modification or amendment hereof may be delegated, transferred, assigned, conveyed or released by Declarant to any third party and/or to the Association. The Declarant’s assignee shall accept the same upon the recording of a notice thereof, and the same shall be effective for the period and to the extent stated therein. Upon the effective date of such assignment, the assigning party shall be released of any and all liabilities of whatever nature arising out of acts or omissions subsequent to the effective date of the assignment.

11.5 Waiver and Exceptions. The failure by the Association, Declarant, any Owner or any other person to enforce any of the restrictions, conditions, covenants, reservations, liens or charges to which the Subdivision or any part thereof is subject, shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant, reservation, lien or charge.

11.6 Titles. All titles used in this Declaration are intended solely for convenience of reference, and the same shall not affect that which is set forth in the terms and conditions of this Declaration nor the meaning thereof.

11.7 Singular and Plural, Masculine and Feminine. The singular shall include the plural and the plural the singular, unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter, as the context requires.

11.8 Successors-in-interest. Reference herein to either the Association or Declarant shall include its respective successor, and each such successor shall succeed to the rights, powers and authority hereunder of its predecessor, whether by appointment or otherwise.

11.9 Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Subdivision and shall inure to the benefit of and be enforceable by the Association, Declarant, and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date hereof, after which time the covenants, conditions and restrictions hereof shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed
by Owners of not less than seventy-five percent (75%) of the Lots, has been recorded, agreeing to
abolish or change these covenants, conditions and restrictions, in whole or in part.

11.10 Amendments. Amendments, including restatements, waivers, modifications,
deletions, alterations, removals, changes and additions hereto, to this Declaration may be made
by Declarant, or its successors and assigns, in its sole discretion, from time to time, so long as
Declarant (or its successors and assigns) retains ownership of a sufficient number of Lots so that
the number of votes attributable to Declarant’s Lots under Section 2.2 of this Declaration
constitutes a majority of the total authorized number of votes attributable to all Lots within the
Subdivision pursuant to such Section 2.2. Following the date Declarant, or its successors and
assigns, no longer has the right to unilaterally amend this Declaration as provided above, any
provision contained in this Declaration may be amended, restated, repealed, or additional
provisions added to this Declaration, as follows:

A. Notice. Notice of the subject matter of the proposed amendment shall be
included in a notice to the Owners of a meeting of the Association, at which the proposed
amendment shall be considered.

B. Resolution. A resolution adopting a proposed amendment may be
proposed by the Board or Declarant. Unless otherwise specified in this Declaration, any
proposed amendment must be approved by the Owners casting not less than two-thirds
(2/3) of the aggregate number of votes cast by the Owners present at such meeting. Such
votes may be cast in person or by proxy as provided for herein and in the Bylaws of the
Association.

A copy of each amendment provided for in this Section shall be filed of record in the
Register of Deeds for the County in which the Subdivision is located. With respect to
amendments, following the date the Declarant, or its successors and assigns, no longer has the
unilateral right to amend this Declaration, the Secretary of the Association shall file a certificate
along with such amendment, certifying that the meeting at which the vote was taken was either
the annual meeting of the Association or a special meeting of the Association, duly called in
accordance with the Bylaws of the Association, and that the proper number of votes approving
the amendment was obtained. Such certificate will be filed as part of or with such amendment.

Notwithstanding the foregoing, so long as Declarant, or any assignee thereof, owns one
(1) Lot, any such amendment (including, but no limited to, those modifying any “Construction
Requirements” contained in Section 5.2 above) shall require the written consent of Declarant in
order to be effective.

11.11 Mortgage Projection Clause. No breach of the covenants, conditions or
restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or
render invalid the lien of any mortgage made in good faith and for value, but all of these
covenants, conditions and restrictions shall be binding upon and effective against any Owner
whose title is derived through foreclosure sale or deed in lieu thereof.
11.12 Exclusion of Applicability. The Declarant and its assigns shall have the power at any time to waive any or all of the restrictions or covenants contained herein as to the Lots which are unimproved and under its ownership or the ownership of its assigns or licensed residential construction contractors at the time of such waiver. The Declarant specifically reserves the right to carry on its business in the Subdivision, so long as it owns a Lot, including, but not limited to, maintaining sales offices, model homes, business offices and other facilities necessarily convenient for the business of Declarant.

11.13 Twin Home; Multifamily; Commercial; Office And/Or Industrial Development. Each Owner is hereby advised that real property in the vicinity of the Subdivision may be developed and operated for twin homes, apartments and other multifamily, commercial, office or industrial purposes or purposes other than for single family residences. Each Owner is responsible to inform himself or herself concerning the possibility of such developments and no Owner shall rely on any statements made by sales persons concerning future development or uses of any such real property.

11.14 Information Concerning Zoning and Land Use; Opposition to Zoning and Other Matters. Declarant does not have any responsibility to advise the Owners of the Association concerning any actual or proposed zoning or other land use proceedings relating to any real property located within or outside of the Subdivision. The Board, any member thereof and the Members of the Association shall not express any opinion on behalf of the Board or the Association pertaining to any applications or requests concerning rezoning, community unit plan approval or amendment, variances, or other land use activity relating to any land in the vicinity of the Subdivision. This prohibition is necessary due to the fact that not all Board members or Members will have the same opinions concerning the applicable request or application. Nothing herein is intended to restrict any Member or member of the Board from expressing his or her personal opinions without indication that such opinions represent the opinion of the Association or the Board. Each Owner must independently obtain any and all information such Owner desires regarding such zoning and potential land use alternatives, including development of commercial, office, apartment or other multifamily uses within the Subdivision or the vicinity thereof.

11.15 Limitation on Liability.

A. Notwithstanding anything to the contrary contained herein, it is expressly agreed that neither the Declarant (including without limitation any assignee of the interest of Declarant hereunder) nor any member in Declarant (or any assignee) or any officer, employee, or consultant of Declarant shall have any personal liability to the Association or any Owner or other person or entity, arising under, in connection with, or resulting from (including, without limitation) any action or failure to act with respect to this Declaration, the Articles or Bylaws, the rules of the Association, the design guidelines of the Design Committee, or for any action taken, or not taken, pursuant to authority granted to Declarant, thereunder or with respect thereto. To the fullest extent permitted by law, neither the Declarant, its members, the Association, the officers, employees, consultants or directors thereof or any Design Committee member, nor any other members of committees of the Association, shall be liable to the Association or any Owner or other
person or entity for damage, loss, or prejudice suffered or claimed on account of any
decision, approval or disapproval or plans and specifications (whether or not defective),
course of action, inaction, omission, negligence or the like made in good faith and which
the Declarant or the Association, any member, director, officer, consultant or employee
thereof, or member of any such committee is reasonably believed within the scope of his
duties.

B. TO THE EXTENT ALLOWED BY LAW AND EQUITY, NEITHER
THE DECLARANT NOR THE ASSOCIATION SHALL HAVE ANY LIABILITY
HEREUNDER TO ANY OWNER, FORMER OWNER OR PROSPECTIVE OWNER
FOR CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES IN ANY EVENT.

11.16 Perpetuities; Alienation. It is expressly provided that the rule of property known
as the rule against perpetuities and the rule of property restricting unreasonable restraints against
alienation shall not be applied to defeat any provisions of this Declaration.

11.17 Former Railroad Area. Immediately north of the northern boundary of the
Subdivision is an area ("Former Railroad Area") which in the past contained a railroad track.
The use of the Former Railroad Area for railroad purposes has ceased as of the date of this
Declaration and such area may in the future be "railbanked" and be improved for access by the
public for recreational purposes. Each Owner has investigated the status of such area, and the
uses thereof, to its satisfaction and accepted the same. NEITHER THE DECLARANT NOR
THE ASSOCIATION OR THE BOARD MEMBERS OR OFFICERS THEREOF SHALL
HAVE ANY RESPONSIBILITY OR LIABILITY TO ESTABLISH ANY WALL, FENCE OR
BARRIER SEPARATING THE SUBDIVISION FROM THE FORMER RAILROAD AREA
OR TO ESTABLISH ANY ACCESS CONTROL OR SECURITY MEASURES TO LIMIT OR
PREVENT ACCESS BETWEEN THE SUBDIVISION AND THE FORMER RAILROAD
AREA. As shown on the plat of the Subdivision, a ten foot (10') contingent pedestrian access
easement has been established on the eastern five feet (5') of Lot 12, Block B, and the western
five feet (5') of Lot 13, Block B within the Subdivision to permit access to and from the
Subdivision and the Former Railroad Area has been railbanked and public improvements
allowing public access have been constructed within the Former Railroad Area.

11.18 Building Permit Requirement for Certain Lots. According to the plat of the
Subdivision, no building permit shall be issued for Lots 9-13, inclusive, Block A, and Lots 15 –
20, inclusive, Block F, within the Subdivision unless a lot specific site plan shows to the
satisfaction of the governmental authority required to issue such building permits, that the
Structure to be constructed on any such Lot will not be located within a Special Flood Hazard
Area as depicted on the current Federal Emergency Management Agency’s flood insurance rate
map or unless the lowest floor of the Structure, including the basement, can be constructed at an
elevation of three feet (3') or greater above the Base Flood Elevation.
IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

DECLARANT:

FLKS Land Development, LLC

By:

Steven R. Barrett, Member

STATE OF KANSAS )
) ss:
COUNTY OF SEDGWICK )

BE IT REMEMBERED, that on this 8th day of April, 2008, before me a Notary Public in and for the County and State aforesaid, personally appeared Steven R. Barrett, Member of FLKS Land Development, LLC, a Kansas limited liability company, personally known to me to be the same person who executed the above and foregoing instrument in writing on behalf of said limited liability company and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

My appointment expires: 8-12-09

Cynthia A. Diffenbaugh
NOTARY PUBLIC

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EXHIBIT A

Amenities to be constructed in the Common Area

1. Reserve F – Swimming Pool and related improvements; children's playground; grass/landscaping; and irrigation system.

2. Reserves A and C – Landscaping and irrigation system.

3. Reserves B, D and E – Landscaping, grass and irrigation system.