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Douglas County Register of Deeds  
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## WESTWOOD HILLS TOWNHOMES AREA HOMES ASSOCIATION DECLARATION

This Area Homes Association Declaration (the "Declaration"), made effective the 17<sup>th</sup> day of July, 2006 (the "Effective Date"), by Westwood, L.L.C., a Kansas limited liability company (the "Developer").

WHEREAS, Declarant and the Owners are the owners of the Real Estate (the "Real Estate") described as follows:

Lot 2, Block One, Westwood Hills 3<sup>rd</sup> Plat, a subdivision in the City of Lawrence, Douglas County, Kansas.

WHEREAS, Declarant desires to create and maintain a homes association for the purpose of enhancing and protecting the value, desirability, attractiveness and maintenance of the Real Estate and the development located thereon known as "Westwood Hills Townhomes;" and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of Kansas The Westwood Hills Townhomes Homeowners Association, Inc., a not for profit corporation, for the purpose of exercising the functions of a homeowners association as set forth hereinafter for the benefit of said Real Estate and all additions thereto.

### DECLARATION

NOW, THEREFORE, Declarant declares that the Real Estate is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens described in this Declaration, for the purposes of (i) enhancing and protecting the value, desirability and attractiveness of the Real Estate, (ii) encouraging and assisting the orderly economic development of the Real Estate, (iii) increasing the public benefit to be derived from the Real Estate, (iv) preserving the amenities and for the maintenance of the same located on the Real Estate, (v) promoting the efficient development of the Real Estate, and (vi) protecting the owners, lessees and sublessees of property against incompatible uses of surrounding property, and (vii) promoting safety to life, health and property in the area. These easements, covenants, restrictions and conditions shall run with the Real Estate and shall be binding upon all parties having or acquiring any right, title or interest in the Real Estate, or any part thereof, and shall inure to the benefit of each Owner thereof.

### ARTICLE ONE DEFINITIONS

The following words when used in this Declaration or any supplemental declaration shall have the following meanings:

1. "Association" shall mean and refer to The Westwood Hills Townhomes Homeowners Association, Inc., a non-profit corporation, formed or to be formed pursuant to the non-profit corporation laws of the State of Kansas, by Articles of Incorporation filed with the Secretary of State of the State of Kansas from time to time.

2. "Board of Directors" shall mean the Board of Directors of the Association elected in accordance with the Association Articles of Incorporation and bylaws.

*mail Lawrence Landscape  
600 Lincoln Street  
Lawrence KS 66044*

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3. "Bylaws" shall mean the bylaws of the Association adopted by the Board of Directors, as amended from time to time.

4. "Common Area" shall mean that part of the Real Estate and all improvements located thereon owned by the Association for the common use and enjoyment of the residents of Westwood Hills Townhomes, and shall include the following:

- a) All real estate owned in fee simple by the Association evidenced by a deed or deeds to the Association, recorded in the office of the Register of Deeds of Douglas County, Kansas;
- b) Any structures, area markers, signage, landscaping, lighting equipment, decorative equipment or other improvements owned by the Association;
- c) All easements, rights, and appurtenances belonging thereto necessary to the existence, maintenance, and safety of the Residential Units and the Common Area;
- d) Any street not maintained by the City of Lawrence (a "Private Street"); and
- e) All personal property owned by the Association, if any, intended for use by the Association in the exercise of its powers as set forth in this Declaration.

5. "Common Expenses" shall mean and include the following:

- a) Expenses of administration; insurance expenses; and expenses incurred in the maintenance, operation, repair, and replacement of the Common Area and the portions of the Real Estate to be maintained by the Association; and
- b) Expenses determined by the Board of Directors to be Common Expenses and assessed against the Owners.

6. "Lot" shall mean and refer to each portion of the Real Estate upon which an individual Townhome Unit is situated (or to be situated), as shown on the Plat. The term "Lot" shall not mean, and shall not include, any portion of the Common Area.

7. "Member" shall mean and refer to each Owner of a Lot.

8. "Mortgagee" shall mean and refer to any person, persons, or entities holding a first mortgage secured by a Lot and improvements thereon.

9. "Owner" shall mean and refer to the record owner or any contract purchaser, whether one or more persons, of the fee simple title to a single family unit, other than Declarant. The term "Owner" shall not mean any mortgagee, unless and until such mortgagee has acquired fee simple title to a Lot or Townhome Unit pursuant to foreclosure or by any proceeding in lieu of foreclosure.

10. "Person" shall mean a natural individual, corporation, partnership, limited liability company, trustee, or other legal entity capable of holding title to real property.

11. "Plat" shall collectively mean and refer to the final development plan of Westwood Hills Townhomes for the Real Estate, which was recorded on July 18, 2003, in plat book 17, at pages 578-79, in the

Office of the Register of Deeds of Douglas County, Kansas, and the final plat of Westwood Hills 3<sup>rd</sup> Plat, a subdivision in the City of Lawrence, Douglas County, Kansas, which was recorded on October 21, 2002, in plat book 17 at page 490, in the Office of the Register of Deeds of Douglas County, Kansas.

12. "Submitted Land" shall mean and refer to the Real Estate described above which is hereby submitted to the provisions of this Declaration. All easements, rights and appurtenances belonging thereto necessary to the existence, maintenance and safety of Lots, including all easements of ingress and egress.

13. "Townhome Unit" shall mean and refer to each individual single family townhouse.

**ARTICLE TWO  
PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO;  
RECORDATION OF DECLARATION AND LEGAL DESCRIPTION**

1. **Submitted Land and Plat.** The Submitted Land shall be held, transferred, sold, conveyed, and occupied subject to this Declaration and the Plat.

2. **Merger or Consolidation.** Upon a merger or consolidation of the Association with another not-for-profit corporation (such as a homeowners' association formed to operate and maintain adjacent real estate which might at a future time be developed as a compatible and harmonious residential development) the Association's properties, rights, and obligations may by operation of law be transferred to another surviving or consolidated not-for-profit corporation, or, alternatively, the properties, rights, and obligations of another not-for-profit corporation may by operation of law be added to the properties, rights, and obligations of the Association as the surviving not-for-profit corporation pursuant to a merger. The surviving or consolidated not-for-profit corporation may administer the covenants, conditions, and restrictions established by this Declaration for the existing property, together with the covenants and restrictions established upon any other property as one project. No such merger or consolidation, however, shall affect any revocation, change, or addition to the covenants, conditions, and restrictions established by this Declaration for the existing property.

3. **Additions to Property Subject to Declaration.** Developer, its successors and assigns, shall have the right, but not the obligation, at any time and from time to time, to bring additional lands within the plan and scope of this Declaration in future stages of development regardless of whether said additional lands are presently owned by Developer. Such proposed additions, if made, shall become subject to all of the provisions of this Declaration. Under no circumstances shall this Declaration or any Supplemental Declaration bind Developer, its successors and assigns, to make any proposed additions or preclude Developer, its successors and assigns, from conveying additional lands owned or acquired by it but not having been made subject to this Declaration, free and clear of this Declaration of any Supplemental Declaration.

(b) Such additions authorized under this provision shall be made by filing of record in the office of the Register of Deeds of Douglas County, Kansas, a supplemental declaration ("Supplemental Declaration") executed by Developer, its successors and assigns, with respect to the additional property which shall extend the plan and scope of this Declaration to such property, and the Owners, including Developer, in such additions shall immediately be entitled to all privileges and subject to all burdens of this Declaration. The consent of Owners shall not be required for any such addition, and Developer, its successors and assigns, may proceed with such expansion at Developer's sole option.

(c) The Developer or its assigns shall have, and expressly reserves, the right (but not the obligation), from time to time, to add to the existing Real Estate and to the operations of the provisions of this Declaration other adjacent or nearby lands by executing, acknowledging and recording in the Office of the Register of Deeds of Douglas County, Kansas a written instrument subjecting such additional property

to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof.

(d) No person other than Developer, its successors and assigns, shall have the right to subject additional lands to this Declaration without the prior written consent of Developer, or Developer's successors and assigns.

### ARTICLE THREE MEMBERSHIP

1. **Membership and Voting Rights in the Association.** Every person or entity who is an Owner of fee simple interest in one or more Lots or Townhome Units shall be a member of the Association. Ownership of a Lot or Townhome Unit shall be the sole qualification for membership.

2. **Type of Membership in the Association.** The Association shall have two (2) classes of voting membership:

a) **Class A.** Class A members shall be all Owners except Declarant. Class A members shall be entitled to one (1) vote for each Lot or Townhome Unit in which they hold the interest required for membership as provided by Article Three, Paragraph 1. When more than one (1) person holds such interest in any Lot or Townhome Unit, all such persons shall be members and the vote for such unit shall be exercised as they, among themselves, determine; but in no event shall more than one (1) vote be cast with respect to any one unit.

b) **Class B.** Each Class B membership shall be issued to Declarant. The total number of Class B memberships shall at all times equal the total number of Lots and Townhome Units owned by Declarant, multiplied by four (4). Declarant shall be entitled to one (1) vote for each Class B membership (i.e., Declarant shall be entitled to four votes for each Lot or Townhome Unit owned by Declarant).

c) **Termination of Class B Membership.** All Class B memberships may be surrendered by Declarant for cancellation, at the sole option of Declarant, when not less than seventy percent (70%) of the residential Lots subject to this Declaration have been sold. All Class B memberships shall be surrendered by Declarant to the Board of Directors for cancellation, on the happening of any of the following events, whichever occurs first: (i) When all residential Lots subject to this Declaration have been sold; (ii) June 1, 2016; or (iii) Declarant's voluntary surrender of Class B memberships. Upon surrender of said Class B memberships, Declarant shall have no right, title or interest in the Association provided, however, that Declarant shall be permitted to become a Class A member, entitled to all of the same rights of other Class A members, if Declarant is an Owner of any Townhome Unit or Lot.

3. **Quorum, Proxies, Voting.**

a) The quorum requirements for meetings of the Association's members shall be as described in the Bylaws.

b) At all meetings of the Association, members may vote in person or by proxy executed in writing by such members. Such proxies shall be filed with the Secretary of the Association before or at the time of a meeting. No proxy shall be valid after twelve (12) months from the date of its execution.

4. Articles of Incorporation and Bylaws. Except as specifically set forth in this Declaration, all provisions applicable to notice, voting and quorum requirements for all actions to be taken by the Association shall be as set forth in its Articles of Incorporation and Bylaws. In any event, if any provision set forth in this Declaration applicable to notice, voting, and quorum requirements are in conflict with any provisions of Kansas law applicable to not-for-profit corporations on the date of this Declaration, or at any time after such date, the applicable provisions of Kansas law shall control.

#### ARTICLE FOUR COMMON AREAS AND FACILITIES - RIGHTS OF OWNERS

1. Enjoyment. Subject to Article Three above, each Owner shall have a right and easement of enjoyment and such easements shall be appurtenant to and shall pass with the title to each Lot and Townhome Unit. The membership of each Owner in the Association shall be deemed to be conveyed or encumbered with the deed or mortgage applicable to each Lot, even though such interest is not expressly mentioned or described in the conveyance, mortgage or other instrument. Each Owner may use the Common Area in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of other Owners.

2. Delegation of Rights. Any Owner may delegate the Owner's right of enjoyment of Common Area to the members of the Owner's immediate family, the Owner's tenants, or contract purchasers who reside in the Owner's Townhome Unit.

3. Regulations and Suspension of Rights. The rights and easements of enjoyment created hereby shall be subject to the following:

- a) The right of the Board of Directors to prescribe rules and regulations and fees governing the use, operation and maintenance of all Common Area.
- b) The right of the Association to dedicate or transfer part of the Common Area to any public agency, authority or any public utility to provide necessary utility services to the Owners.
- c) The right of the Board of Directors to fix penalties for the violation of rules and regulations including, without limitation, the right to establish and impose monetary fines; the right to suspend the voting privileges of an Owner and the privilege of an Owner to use the Common Area for any period during which any assessment against the Owner's Townhome Unit provided for in this Declaration remains unpaid; and to suspend such voting and use privileges for a reasonable period of time for any infraction of this Declaration, the bylaws, or rules and regulations of the Association.
- d) The right of the Association to borrow money for the benefit of the Association and the owners; provided, however, that the repayment of such loans shall not be or become the personal obligation of the Owners, except to the extent the repayment of such loans shall be made by the Association from assessments levied in accordance with Article Five of this Declaration.

#### ARTICLE FIVE COVENANT FOR MAINTENANCE FEES OR CHARGES

1. Master Annual Assessment. Each Owner (excluding GD Holdings, L.C., GD Development, L.C., and David Clemente Construction, Inc.), by acceptance of the deed therefor, whether or not it shall be so expressed in any such deed of conveyance for each Lot owned, hereby covenants and agrees, and shall be deemed to covenant and agree to pay to the Association or its nominee an annual assessment (the "Master Annual Assessment") in the amount of \$900.00 per year. The Master Annual Assessment may be increased:

- a) For each of years 2007 through 2008, by the Board of Directors from time to time, without a vote of the members, by up to 20% over the rate of the Master Annual Assessment in effect for the preceding year;
- b) After year 2008, by the Board of Directors from time to time, without a vote of the members, by up to 10% over the rate of the Master Annual Assessment in effect for the preceding year; or
- c) At any time by any amount by a vote of the members (which, for purposes of this subparagraph, shall be all Class B members until the surrender of Class B stock) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when a majority of the members present at such meeting and entitled to vote thereon authorize such increase by an affirmative vote for the proposed increase.

Notwithstanding the foregoing limits on Master Annual Assessments, the Board of Directors, without a vote of the members, shall always have the power to set, and shall set, the rate of Master Annual Assessment at an amount that will permit the Association to perform its duties as specified in this Declaration.

2. **Payment of Master Annual Assessment.** The Master Annual Assessment shall be due and payable in twelve equal installments, on the first of each month, provided that the first assessment for each Lot shall be due and payable only upon the initial occupancy of the Owner on the Lot and shall be prorated as of the date thereof. If the effective date of any increase in the rate of Master Annual Assessment is other than January 1<sup>st</sup>, a proper portion (as determined by the Board of Directors) of the amount of such increase for the remainder of such year shall be due and payable on such effective date. No Lot shall be entitled to use any Common Areas or received any services to be provided by and through the Association until such time as the first Master Annual Assessment has been paid with respect thereto.

3. **Transfer Fee.** A transfer fee of \$100.00 shall be payable by the new Owner to the Association, for use part of the general funds of the Association, upon each transfer of ownership of the Lot for value (other than the transfers to and from the Developer or the other entities identified in paragraph 1 of this section, above).

4. **Supplemental Fee.** Each Townhome Unit, other than Townhome Units exempt under the terms of paragraph 14 of this Article, shall be subject to a supplemental monthly assessment ("Supplemental Monthly Assessment") to be paid to the Association by the respective Owners of the Townhome Units. The amount of such Supplemental Monthly Assessment shall be fixed by the Board of Directors each year. The initial rate of Supplemental Monthly Assessment shall be set by the Developer. The rate of such Supplemental Monthly Assessment upon each Townhome Unit may be:

- (a) increased by the Board of Directors from time to time, without a vote of the Owners of the Townhome Units, by up to 20% over the rate of Supplemental Monthly Assessment in effect on the preceding January 1<sup>st</sup>; or
- (b) at any time by any amount by a vote of the members associated with the Townhome Units (being for this limited purpose solely the Class B members associated with the Townhome Units if prior to the date Class B memberships are surrendered or terminated) at a meeting called (in whole or in part) for that purpose and of which notice is duly given and if the Owners of a majority of the Townhome Units present at such meeting and entitled to vote thereon authorize such increase by an affirmative vote therefor.

Notwithstanding the foregoing limits on monthly assessments, the Board of Directors, without a vote of the Owners of the Townhome Units, shall always have the power to set, and shall set, the rate of Supplemental Monthly Assessment at an amount that will permit the Association to perform its duties as described in this Declaration.

5. **Payment of Supplemental Fee.** The first full Supplemental Monthly Assessment for each Townhome Unit shall be due and payable only upon the earlier of the installation of sod on the Lot or the occupancy of a resident on the Lot and shall be prorated as of the date thereof.

6. **Purpose of Fees or Charges.** The fees or charges levied by the Association shall be used for the following purposes:

- a) Care and maintenance of lawn areas, trees and shrubs (except in enclosed patio areas), designated plant beds, and Common Area including, without limitation, the Private Street;
- b) Care and maintenance of subdivision monuments and signage, including, without limitation, repair, maintenance and payment of electricity costs for any entryway lighting, area markers, gates, perimeter fencing, lighting, and improvements located in the Private Street;
- c) Snow removal of the Private Street, drives and walks;
- d) Maintenance and repair of sprinkler systems;
- e) Management (including legal and accounting expenses of the Association);
- f) Such other purposes that the Board of Directors may from time to time determine necessary or desirable to meet the purpose of the Association as stated in its Articles of Incorporation, Bylaws, and this Declaration;
- g) Such insurance as the Association may purchase as hereinafter provided as set forth in Article Six of this Declaration;
- h) Exterior maintenance of Townhome Units (including, without limitation, painting and exterior maintenance), and interior and exterior maintenance of Common Area improvements (including, without limitation, any clubhouse);
- i) To accumulate reserves necessary to address the above-referenced purposes.

7. **Additional Fees and Charges for Insurance.** The fee or charge for each month does not include premiums for liability and casualty insurance applicable to each Lot or Townhome Unit, which shall be the responsibility of each individual Owner.

8. **Special Fees or Charges for Capital Improvements.** In addition to the fees or charges authorized above, the Board of Directors may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction or reconstruction and estimated repairs or replacement of any capital improvements located upon the Real Estate and personal property owned by the Association. Such special assessment shall require an affirmative vote of not less than fifty-one percent (51%) of the Class A memberships and all of the Class B memberships who are present and voting in person or by proxy at a special meeting called for the purpose of considering the special assessment after not less than thirty (30) days notice in writing to each member of the Association, stating the time, purpose and place of said meeting. Such special assessments shall be due and payable at the time and in the manner as approved by not less than fifty-one percent (51%) of the Class A membership and all of the Class B memberships voting at said meeting.

9. **Uniform Rate of Fees or Charges.** Both monthly and special fees or charges must be fixed by the Board of Directors for all Lots and Townhome Units.

10. Duties of the Board of Directors with Respect to Fees or Charges. On or before January 1<sup>st</sup> of each calendar year, the Board of Directors shall, by resolution, determine the amount of the monthly fee or charge. Written notice of such monthly fee or charge shall be given to each Lot Owner or Townhome Unit Owner. Failure of the Association to give written notice of any monthly fee or charge for any one year, or of any increase in the monthly fee or charge, shall not affect the right of the Association's Board of Directors to do so for any subsequent year, and a monthly payment in an amount equal to the monthly fee or charge required for the preceding year shall be due from each Lot Owner upon each subsequent payment date until changed by new regular fees and charges established by the Board of Directors.

The Board of Directors shall upon demand at any time furnish to any Owner liable for fees or charges hereunder a certificate in writing signed by the President or Secretary of the Association setting forth whether all fees or charges have been paid to date. A reasonable charge may be made by the Board of Directors for the issuance of such certificate. Such certificate may be recorded in the office of the Register of Deeds for Douglas County, Kansas, and upon recording shall constitute conclusive evidence of payment of any fee or charge for the period stated in the certificate.

The Association, acting by its Board of Directors, shall enforce payment of the fees or charges.

11. Effect of Non-Payment of Fees or Charges, the Personal Obligation of the Owner; the Lien; Remedies of Association; Maintenance and Enforcement of Lien of Association.

- a) If any fee or charge or any part thereof is not paid on the date when due, then the unpaid amount of such fee or charge shall become delinquent and shall thereupon be a continuing lien on the Lot or Townhome Unit of the non-paying Owner, and shall bind such property in the hands of the then Owner, his or her heirs, executors, administrators, successors and assigns. No Owner may waive, have waived, or otherwise escape liability for the fees or charges provided herein by non-use of any benefit provided by the Association or lack of development of a Lot or by abandonment by Owner of their Lot or Townhome Unit. The Association may, but shall not be required to, file a certificate in the office of the Register of Deeds of Douglas County, Kansas, setting forth the amount due and the lien hereof in favor of the Association, which certificate may state that it covers unpaid fees or charges occurring after the date thereof. In addition to the lien hereof, all such unpaid fees or charges, together with interest and any costs of collection incurred by the Association and Board of Directors (including attorneys' fees and costs), shall also be the personal obligation of the person who was the Owner of such Lot at the time such fee or charge became due, and shall also bind such Owner's heirs, executors, administrators, successors, and assigns.
- b) If any fee or charge or part thereof is not paid within thirty (30) days after the due date, the same shall bear interest thereon at the greater of the maximum interest rate permitted by Kansas law, or ten percent (10%) per annum, until paid in full, and shall be a lien on the Owner's Lot, together with all expenses incurred by the Association and Board of Directors in attempting to collect such fee or charge (including attorney's fees and costs).
- c) The Association, acting by its Board of Directors, may, by resolution, elect to commence an action in the District Court of Douglas County, Kansas, against the Owner personally obligated to pay the same, and the Owner of record of any Lot or Townhome Unit, to enforce payment of delinquent fees or charges and to foreclose the lien against the Lot or any Townhome Unit thereon. Notwithstanding any such suit, the lien against any Lot or Townhome Unit shall continue until paid or satisfied by foreclosure action.



12. **Homestead Waiver.** Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration or documentation associated herewith (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.

13. **Subordination of the Lien of Mortgagees.** The lien of the fees or charges, regular and special, provided for herein shall be subordinate and inferior to the lien of any first mortgage or deed of trust now or hereafter placed upon any Lot or Townhome Unit subject to fees or charges; provided however, that such subordination shall apply only to the fee or charge which becomes due and payable prior to the sale, whether public or private, of such unit, pursuant to a decree of foreclosure of any such mortgage or pursuant to the terms and conditions of any such deed of trust. Said sale shall not relieve such unit from liability for the amount of any fees or charges thereafter becoming due, nor from the lien of any such subsequent fee or charge.

14. **Exempt Property.** The following property subject to this Declaration shall be exempted from the fees, charges, and liens created herein: (i) all property dedicated to and accepted by any municipality or public utility for exclusive public use purposes, (ii) all Common Area property owned by the Association, and (iii) any property owned by the Developer or any Owner described in paragraph 1 of this Article V.

#### ARTICLE SIX INSURANCE

1. **Insurance.** The Board of Directors shall obtain and maintain for the benefit of all owners, their mortgagees, and the Association, as their interests may appear, the following policies of insurance:

- a) **Liability Insurance.** Public liability insurance, in such amounts and in such forms as may be considered appropriate by the Board of Directors, including, but not limited to, legal liability, hired automobile, non-owned automobile, liability for property of others, and any and all other liability incident to the ownership and/or use of the Common Area, respectively. Each such policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or the Owners.
- b) **Workers' Compensation Insurance.** Worker's compensation insurance to the extent deemed necessary by the Board of Directors to comply with any and all applicable laws.
- c) **Other Insurance.** Such other policies of insurance, including casualty insurance on the Common Area, as the Board of Directors shall from time to time determine to be necessary or desirable for the Association and the Owners.

Premiums for all insurance obtained and maintained by the Association pursuant hereto shall be Common Expenses of the Association. All such insurance shall be for the benefit of the Association, the Owners and their mortgagees, but such insurance shall be written in the name of the Association as trustee for such benefitted parties and may contain such reasonable deductibles and the Board of Directors shall determine from time to time. The Board of Directors shall attempt to secure insurance policies that will provide for a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests.

2. **Insurance to be Obtained and Maintained by Owners.**

- a) **Casualty.** The Owner of each Lot on which a Townhome Unit has been constructed shall obtain and maintain casualty insurance, insuring all improvements against loss by fire, lightning, windstorm or other casualty and extended coverage in an amount equal to a full replacement value

(i.e., one hundred percent (100%) of replacement costs exclusive of land, foundation and excavation), respectively, with an "agreed amount" endorsement without deduction or allowance for depreciation, and the insurer shall waive any "increase of hazard" provision of its policy and any "apportionment of loss" provision of its policy in the event there is any other insurance insuring the same risk. All premiums for such insurance shall be paid by each respective Owner. Such insurance policies shall be in a form acceptable to the Board of Directors, and may contain provisions for reasonable deductibles, not to exceed One Thousand Dollars (\$1,000.00) or such other deductible amount as the Board of Directors may approve from time to time. Each Owner agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the Owner shall proceed promptly to repair or to construct the damaged Townhome Unit in a manner consistent with the original construction. In the event the structure is totally destroyed and the Owner determines not to rebuild or reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. The Architectural Committee, as defined in the Declaration of Restrictions (the "Declaration of Restrictions"), recorded in Book 852, beginning at page 1537, in the office of the Register of Deeds of Douglas County, Kansas, on May 6, 2003, as amended from time to time, may impose more stringent requirements regarding the standards for rebuilding or reconstructing a structure on a Lot, and the standard for returning the Lot to its natural state in the event the Owner determines not to rebuild or to reconstruct.

b) **Casualty Policy Provisions.** All insurance policies obtained and maintained by Owners in accordance with the terms hereof shall, to the extent available, be subject to the following minimum provisions:

(i) All policies shall be written with a company or companies licensed to do business in the State of Kansas holding a rating of A+ or better in Best's Insurance Guide, or some other equivalent insurance guide reference directory as approved from time to time by the Board of Directors.

(ii) All policies shall provide that such policies may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least thirty (30) days prior written notice to the Owner, the Association, and any first mortgagee.

(iii) All policies shall name the Association as an additional insured, and contain a waiver of subrogation by the insurer as to claims against the Association, the Board of Directors, the Owner of any Lot and/or their respective agents, employees and tenants.

c) **Individual Additional Insurance by Townhome Unit Owners.** The Owner of any Lot and Townhome Unit may obtain additional insurance at his or her own expense, including liability insurance, to cover accidents or damage to persons or property occurring within their own individual Townhome Unit.

#### ARTICLE SEVEN MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS

1. **Manager or Managing Agent.** The management of the Homeowners Association shall be the responsibility of the Board of Directors. Said Board of Directors may delegate all or any portion of its authority to a manager or managing agent. Such delegation shall be evidenced by a management contract which shall not exceed two (2) years in duration and which shall set forth such duties and responsibilities as the Board of Directors may from time to time determine.

2. **Maintenance and Repairs by the Association.** From the proceeds of fees and charges received pursuant to Article Five of this Declaration, the Association shall provide routine exterior maintenance and repair of all Lots, Townhome Units and Common Areas, including, without limitation, the following: care and maintenance of all lawn areas, trees and shrubs (except in enclosed patio areas), designated plant beds, and Common Area including, without limitation, the Private Street; care and maintenance of subdivision monuments and signage, including, without limitation, repair, maintenance and payment of electricity costs for any entryway lighting, area markers, and improvements located in the Private Street; snow removal, including the Private Street, drives and walks, provided snowfall greater than two (2) inches; maintenance and repair of sprinkler systems; exterior maintenance of Townhome Units (including, without limitation, painting and exterior maintenance), and interior and exterior maintenance of Common Area improvements (including, without limitation, any clubhouse); water mains, utility lines, sanitary and storm sewers, and street lighting, except to the extent such repair and maintenance shall be provided or furnished by the City of Lawrence, Kansas, or public utility companies; and drainage ways necessary for the flow of surface waters. The Association shall be responsible for all exterior maintenance and repair of the Townhome Units including but not limited to replacement and repair of exterior windows, roofs, and siding. The Association shall be responsible for maintaining the sprinkler systems on each Lot and landscaping on the Common Area, but shall not be responsible for irrigating any portion of the Common Area covered by sprinkler systems connected to an Owner's water meter, or any cost of such irrigation. The frequency and the materials to be used in the performance of all such routine repair, maintenance, and care shall be in the sole discretion of the Board of Directors and shall not be subject to the control of any Owner. In the event that the need for non-routine maintenance, repair or care, or for extraordinary services to any Lot, shall be caused by or through the willful act or negligence of an Owner, the Owner's family, guests, or invitees, the cost of such maintenance, repair or care, shall be added to and become an additional fee or charge, in addition to the fee or charge to which such Owner's Lot is subject, if any, and shall be paid by or on behalf of such Owner within thirty (30) days after written demand therefor from the Board of Directors, and shall be enforceable and secured by a lien as in the case of all other fees or charges.

3. **Maintenance and Repairs by Individual Owners.** The responsibility for each individual Owner shall be as follows: to maintain, repair and replace at their expense all portions of their Lot and the Townhome Unit, which are not the responsibility of the Board of Directors, including, but not limited to, all appliances, interior sewer lines, heating, interior plumbing, electrical, air conditioning, fixtures, or interior installations, and any portion of any utility services located within the Townhome Unit constructed thereon, including all decks (enclosed or open), trees, shrubs and all other improvements located within the rear yard as installed or planted by the Owner and approved by the Board of Directors. Each Owner shall be responsible for the repair, maintenance, care and replacement of all interior improvements and finishes, and all Owner' installed exterior improvements approved by the Board of Directors not designated herein as the responsibility of the Association, including, without limitation, responsibility for all breakage, damage, malfunction, painting, and ordinary wear and tear. Each Owner shall, at such Owner's expense, irrigate that portion of the Common Area covered by the sprinkler system installed on their Lot or Townhome Unit.

4. **Improvements and Alterations.** No Owner may paint or otherwise decorate or change the appearance of any exterior portion of his Townhome Unit without the prior written consent of the Architectural Committee, or in its absence, the Board of Directors.

5. **Owner's Failure to Perform Maintenance.** If an Owner fails to reasonably perform the Owner's maintenance responsibilities, the Association may perform such maintenance and assess the Owner for the cost thereof as an additional fee or charge, in addition to the fee or charge to which such Owner's Lot is subject, if any. Such cost shall be paid by or on behalf of such Owner within thirty (30) days after written demand therefor from the Board of Directors, and shall be enforceable and secured by a lien as in the case of all other fees or charges if, however, such maintenance shall not be required in an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to rectify the improper maintenance of the Owner's Lot and Townhome Unit prior to the Association's entry thereon to perform such maintenance.

**ARTICLE EIGHT  
GENERAL PROVISIONS**

1. **Amendment.** The covenants, conditions and restrictions of this Declaration shall run with and bind the Real Estate subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Townhome Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date that this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners has been recorded, agreeing to abolish said covenants, conditions and restrictions or to change said covenants, conditions and restrictions in whole or in part; provided, however, that no such agreements to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change; provided, further, that no such agreements to change shall be applicable to existing buildings on the properties.

2. **Amendment by Owners.** The covenants, conditions and restrictions of this Declaration may be amended during the first thirty (30) years from the date this Declaration is recorded only by an instrument signed and acknowledged by not less than seventy-five percent (75%) of the Class A members of the Association and by all Class B memberships, if said Class B memberships are still outstanding. No such amendment shall be effective until the same has been recorded in the office of the Register of Deeds for Douglas County, Kansas. Notwithstanding any other provision of this Article, until all the Lots have been sold by Declarant to third parties, Declarant reserves the right to Amend this Declaration without the approval of any Owner or other person.

3. **Enforcement.** Enforcement of these covenants and restrictions shall be by a proceeding at law or in equity against any person violating or attempting to violate any covenant, condition or restriction either to restrain violation or to recover damages and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

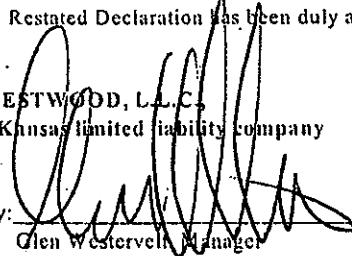
4. **Grammar.** The singular wherever used herein shall be construed to include the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

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

6. **Notices.** All notices required to be given hereunder shall be deemed to have been delivered when deposited with the United States postal services, postage prepaid certified mail, return receipt requested, addressed to the Owner at the street address assigned to his Townhome Unit by the governing body of the City of Lawrence, Kansas, or its delegate, or addressed to Declarant at 1548 N. 800 Rd., Baldwin City, Kansas, 66006-7326, provided, however, said notice may be delivered by any other means.

IN WITNESS WHEREOF, this Amended and Restated Declaration has been duly adopted and executed as of the Effective Date.

WESTWOOD, L.L.C.  
a Kansas limited liability company

By:   
Glen Westervelt, Manager

STATE OF KANSAS )  
 ) ss:  
COUNTY OF DOUGLAS )

BE IT REMEMBERED, that on this 17<sup>th</sup> day of July, 2006, before me, the undersigned, a notary public in and for the county and state aforesaid, came Glen Westervelt, Manager of Westwood, L.L.C., a Kansas limited liability company, who is personally known to me to be the same person who executed the foregoing Area Homes Association Declaration on behalf of said limited liability company.

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

Nicole A. Porter  
Notary Public

My appointment expires: 6/17/2010

G:\MSGC\Westwood Townhouses.HOA.2.wpl



**RATIFICATION OF WESTWOOD HILLS TOWNHOMES  
AREA HOMES ASSOCIATION DECLARATION**

THIS RATIFICATION is made this 17<sup>th</sup> day of July, 2006 (the "Effective Date"), by GD Holdings, L.C., a Kansas limited liability company, GD Development, L.C., a Kansas limited liability company, and David Clemente Construction, Inc., a Kansas corporation (collectively the "Companies"). The Companies are the legal and/or equitable owners of a portion of the real property located in Douglas County, Kansas, and described in and affected by the Area Homes Association Declaration to which this Ratification is attached.

NOW, THEREFORE, to submit and subject all of such property to the said Area Homes Association Declaration, the undersigned, by their signatures, hereby confirm, ratify, and adopt the Area Homes Association Declaration to which this Ratification is attached, as recorded in the Office of the Register of Deeds of Douglas County, Kansas.

GD HOLDINGS, L.C.,  
a Kansas limited liability company

By: 

Glen Westervelt, Manager

GD DEVELOPMENT, L.C.,  
a Kansas limited liability company

By: 

Glen Westervelt, Manager

DAVID CLEMENTE CONSTRUCTION, INC., a  
Kansas corporation

By: 

David Clemente, President

STATE OF KANSAS, COUNTY OF DOUGLAS ) ss:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of July, 2006, by Glen Westervelt, Manager of GD Holdings, L.C., a Kansas limited liability company, Glen Westervelt, Manager of GD Development, L.C., a Kansas limited liability company, and David Clemente, President of David Clemente Construction, Inc., a Kansas corporation, all on behalf of such respective companies.

Nicole A. Porter  
Notary Public

My Appointment Expires: 12/17/2010




Douglas County Register of Deeds  
**Book: 1010 Page: 1979**

Receipt #: 364878  
 Pages Recorded: 4  
 Cashier Initials: rec

Recording Fee: \$20.00

Authorized By: *Jay Pearson*

Date Recorded: 7/25/2006 10:28:13 AM



## WESTWOOD HILLS

### FIRST AMENDMENT TO AREA HOMES ASSOCIATION DECLARATION

This First Amendment to Area Homes Association Declaration (the "**Amendment**") is made effective the 17<sup>th</sup> day of July, 2006, by Westwood, L.L.C., a Kansas limited liability company ("**Developer**").

**WHEREAS**, the Area Homes Association Declaration (the "**Declaration**") was recorded in Book 852, beginning at page 1537, in the office of the Register of Deeds of Douglas County, Kansas, on May 6, 2003, and describes the following real property (the "**District**"):

Lots 1 through 52, of Block One, Lots 1 through 25 of Block Two, and Tracts A, B, C and D, of Westwood Hills, a Subdivision in the City of Lawrence, Douglas County, Kansas.

Lots 3 through 51 of Block One, Lots 1 through 22 of Block Two, Lots 1 through 19 of Block Three, and Tracts A and B, Westwood Hills Third Plat, a Subdivision in the City of Lawrence, Douglas County, Kansas.

**WHEREAS**, Article X of the Declaration provides that the Developer shall have the right to add to the existing District and to the operation and provisions of the Declaration other adjacent or nearby lands by executing, acknowledging and recording in the Recording Office a written instrument subjecting such additional property to all of the provisions of the Declaration as though such land had been originally described in the Declaration, provided that such instrument may contain such deletions, additions and modifications of the provisions of the Declaration applicable solely to such additional property as may be necessary or desirable, as solely determined by the Developer (and, if applicable, Additional Developer), in its absolute discretion; and

**WHEREAS**, The Developer desires to add additional property to the District as provided by Article X of the Declaration, in accordance with the terms and provisions of this Amendment.

**NOW, THEREFORE**, the Declaration is hereby amended and modified as follows:

1. The description of lots and tracts on page 1 of the Declaration is hereby amended to include the following described lots and tracts (the "**Additional Property**"), which Additional Property shall be included in the definition of "Lots" and "Westwood Hills," as defined on page 1 of the Declaration and shall be included in the definition of "District" in paragraph (e) of Article I of the Declaration:

*mail*  
 Lawrence Landscape  
 600 Lincoln Street  
 Lawrence 66044



Lots 1 through 9, in the Westwood Hills 4<sup>th</sup> Plat, a Subdivision in the City of Lawrence, as shown by the recorded plat thereof, in Douglas County, Kansas.

2. The definition of "Villas Lots" in Article I, subparagraph (c) is hereby amended to include the Additional Property. For purposes of this Amendment and the Declaration, the Additional Property shall be considered part of the Villas Lots.

3. Subparagraph (b) in paragraph 2, in Article III is hereby deleted in its entirety and, in lieu thereof, replaced with the following:

(b) The Homes Association shall at all times, from and after its date of formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all District Common Areas (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by or for the Developer, an Additional Developer, or the Homes Association, and except any part thereof that is lawn space adjacent to any Lot, the maintenance of which (including mowing, fertilizing and watering) shall be the responsibility of the Lot Owner), subject to any control thereover maintained by any governmental authority, utility or other similar person or entity.

4. Paragraph 3 in Article III is hereby amended to include the following additional subparagraph:

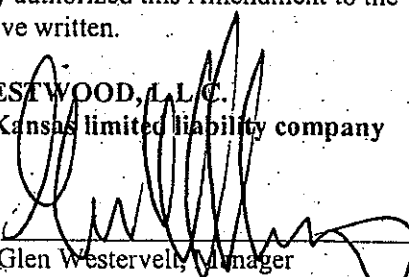
(d) Notwithstanding anything in this paragraph 3 to the contrary, an Owner of any Additional Property may, upon thirty (30) days written notice to the Homes Association, release the Homes Association from its duties and obligations under this paragraph 3, at which time such Owner shall be solely responsible for the duties and obligations described and required by this paragraph (an "Owner Opt-Out"). In the event of an Owner Opt-Out, such Owner shall not be responsible for the payment of any otherwise applicable Supplemental Monthly Assessment described in Article V of the Declaration. Notwithstanding the previous sentence, nothing in this subparagraph shall relieve an Owner of the obligation to pay any other assessment or dues or fees imposed by the Declaration or the Homes Association including, without limitation, the Master Annual Assessment described in Article IV, or any applicable Special Assessment. Any Owner in good standing with the Homes Association may revoke such Owner's Owner Opt-Out upon thirty (30) days written notice to the Homes Association. After such revocation becomes effective (i.e. thirty (30) days after its receipt by the Homes Association), the Owner shall be liable for all Supplemental Monthly Assessments described in Article V. The Homes Association reserves the right to impose a service fee upon any Owner making such a revocation, to be paid prior to the assumption by the Homes Association of its duties under this paragraph. If any Owner making an Owner Opt-Out fails, refuses or is otherwise unable to perform the duties and obligations imposed by this paragraph 3, the Homes Association may, in its sole discretion, perform

such duties and obligation on behalf of such Owner, and, in exchange for such performance, assess such Owner a service fee in an amount reasonably determined by the Homes Association. Nothing in this subparagraph shall be interpreted to create any additional duties or obligations upon the Homes Association other than those described in subparagraphs (a), (b) and (c) of this paragraph 3.

5. The Declaration is hereby amended as aforesaid, and except as amended and modified herein, is hereby ratified, affirmed and adopted by Developer.

IN WITNESS WHEREOF, Developer has duly authorized this Amendment to the Declaration, to be effective on the day and year first above written.

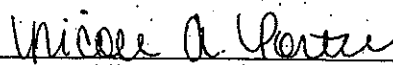
WESTWOOD, L.L.C.  
A Kansas limited liability company

By:   
Glen Westervelt, Manager

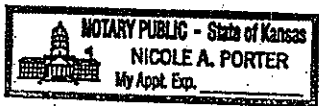
STATE OF KANSAS            )  
  ) ss:  
COUNTY OF DOUGLAS    )

BE IT REMEMBERED, that on this 17<sup>th</sup> day of July, 2006, before me, the undersigned, a Notary Public in and for the County and State aforementioned, came Glen Westervelt, Manager of Westwood, L.L.C., a Kansas limited liability company, who is personally known to me to be such manager, and who is personally known to me to be the same person who executed the above instrument of writing, and such person acknowledged the execution of the same on behalf of said limited liability company.

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

  
\_\_\_\_\_  
Notary Public

My appointment expires 6/17/2010

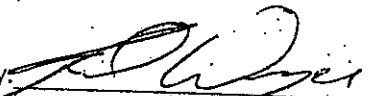


**RATIFICATION OF FIRST AMENDMENT TO  
AREA HOMES ASSOCIATION DECLARATION  
for  
WESTWOOD HILLS**

THIS RATIFICATION is made this 17<sup>th</sup> day of July, 2006 (the "Effective Date"), by Rodney A. Wenger, President of Rod Wenger, Inc., a Kansas corporation, on behalf of said corporation ("Wenger"). Wenger is the legal and/or equitable owner of a portion of the real property located in Douglas County, Kansas, and described in and affected by the First Amendment to Declaration of Restrictions to which this Ratification is attached.

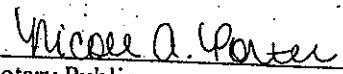
NOW, THEREFORE, to submit and subject all of such property to the said First Amendment to Declaration of Restrictions, the undersigned, by its signature, hereby confirms, ratifies, and adopts the First Amendment to Declaration of Restrictions to which this Ratification is attached, as recorded in the Office of the Register of Deeds of Douglas County, Kansas.

**Rod Wenger, Inc.,  
a Kansas corporation**

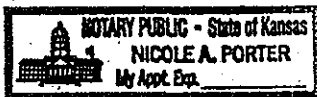
By:   
Rodney A. Wenger, President

STATE OF KANSAS, COUNTY OF DOUGLAS ) ss:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of July, 2006, by Rodney A. Wenger, President of Rod Wenger, Inc., a Kansas corporation, on behalf of said corporation.

  
Notary Public

My Appointment Expires: 6/17/2010





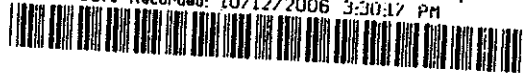
Douglas County Register of Deeds  
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Authorized By: *Sp4 Peonell*

Date Recorded: 10/12/2006 3:30:17 PM



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AMENDMENT TO WESTWOOD HILLS TOWNHOMES  
AREA HOMES ASSOCIATION DECLARATION

This Amendment to Westwood Hills Townhomes Area Homes Association Declaration (the "Amendment"), made effective the 12<sup>th</sup> day of October, 2006 (the "Effective Date"), by Westwood, L.L.C., a Kansas limited liability company (the "Developer").

WHEREAS, the Westwood Hills Townhomes Area Homes Association Declaration (the "Declaration") was recorded in Book 1009, beginning at page 4921, in the office of the Register of Deeds of Douglas County, Kansas, on July 17, 2006, and describes the following real property (the "Real Estate"):

Lot 2, Block One, Westwood Hills 3rd Plat, a subdivision in the City of Lawrence, Douglas County, Kansas.

WHEREAS, Paragraph 2 of Article Eight of the Declaration provides that the Declaration may be amended by the Developer (also referred to as "Declarant") without the approval of any Owner or other person until all the Lots have been sold by the Developer to third parties; and

WHEREAS, Developer is the owner of at least one Lot in the Real Estate; and

WHEREAS, The underground sprinkler system installed on the Real Estate were installed before the boundary lines of the Lots were fixed, which may cause parts of the sprinkler system of one Lot to encroach upon a neighboring Lot; and

WHEREAS, Developer desires to amend the Declaration to address the potential issues with respect to the sprinkler system, all in accordance with the terms and provision hereof.

NOW, THEREFORE, the Declaration is hereby amended and modified as follows:

1. **Easement for Sprinkler Systems.** A permanent easement is hereby created in favor of every Owner for the encroachment on, under, over and upon the Lots adjacent to the Lots owned by such Owner for the location, maintenance and replacement of sprinkler or irrigation systems, together with the flow of water therefrom, and together with the right of access across the Lots for the purpose of repair, maintenance and replacement of such sprinkler or irrigation systems.
2. **Right of Association to Locate Sprinkler Systems.** The Association shall have the right to locate, configure and maintain sprinkler and/or irrigation systems over, under, upon and across the Lots, without regard to the boundary lines of the Lots and without regard to whether such location or configuration causes such system to irrigate portions of the Real Estate not located on the Lot responsible for the payment of such water or irrigation.
3. **Acknowledgment.** By the acceptance of a deed or possessing of a Lot, each Owner acknowledges and agrees that the sprinkler or irrigation system located on such Owner's Lot may irrigate property not located on such Lot, at such Owner's expense, and each Owner hereby consents to such irrigation.
4. **Ratification.** The Declaration is hereby amended as aforesaid, and except as amended and modified herein, is hereby ratified, affirmed and adopted by Developer.

IN WITNESS WHEREOF, this Amendment has been duly adopted and executed as of the Effective Date.

WESTWOOD, L.L.C.,  
a Kansas limited liability company

By: [Signature]  
Glen Westervelt, Manager

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF DOUGLAS    )

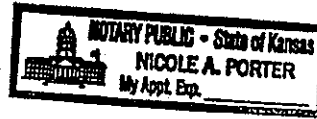
BE IT REMEMBERED, that on this 12<sup>th</sup> day of October, 2006, before me, the undersigned, a notary public in and for the county and state aforesaid, came Glen Westervelt, Manager of Westwood, L.L.C., a Kansas limited liability company, who is personally known to me to be the same person who executed the foregoing on behalf of said limited liability company.

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

Nicole A. Porter  
Notary Public

My appointment expires: 6/17/2010

G:\MSG\C\WestwoodTownhomes.HOA.amend.wpd

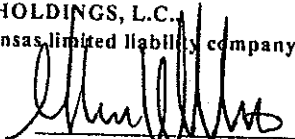


**RATIFICATION OF AMENDMENT TO WESTWOOD HILLS  
TOWNHOMES AREA HOMES ASSOCIATION DECLARATION**

THIS RATIFICATION is made this 12<sup>th</sup> day of October, 2006 (the "Effective Date"), by GD Holdings, L.C., a Kansas limited liability company, GD Development, L.C., a Kansas limited liability company, and David Clemente Construction, Inc., a Kansas corporation (collectively the "Companies"). The Companies are the legal and/or equitable owners of a portion of the real property located in Douglas County, Kansas, and described in and affected by the Amendment to Westwood Hills Townhomes Area Homes Association Declaration to which this Ratification is attached.

NOW, THEREFORE, to submit and subject all of such property to the said Amendment, the undersigned, by their signatures, hereby confirm, ratify, and adopt the Amendment to which this Ratification is attached, as recorded in the Office of the Register of Deeds of Douglas County, Kansas.

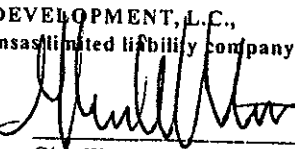
GD HOLDINGS, L.C.,  
a Kansas limited liability company

By:   
Glen Westervelt, Manager

DAVID CLEMENTE CONSTRUCTION, INC., a  
Kansas corporation

By:   
David Clemente, President

GD DEVELOPMENT, L.C.,  
a Kansas limited liability company

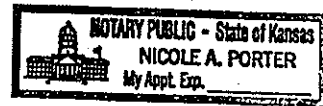
By:   
Glen Westervelt, Manager

STATE OF KANSAS, COUNTY OF DOUGLAS ) ss:

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of October 2006, by Glen Westervelt, Manager of GD Holdings, L.C., a Kansas limited liability company, and Glen Westervelt, Manager of GD Development, L.C., a Kansas limited liability company, all on behalf of such respective companies.

Nicole A. Porter  
Notary Public

My Appointment Expires: 6/17/2010



STATE OF KANSAS, COUNTY OF DOUGLAS ) ss:

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of October 2006, by David Clemente, President of David Clemente Construction, Inc., a Kansas corporation, all on behalf of such corporation.

Nicole A. Porter  
Notary Public

My Appointment Expires: 6/17/2010

