

CANYON CREEK VILLAS  
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CANYON CREEK VILLAS  
DECLARATION OF COVENANTS, RESTRICTIONS, ASSESSMENTS AND  
EASEMENTS

WHEREAS, Timber Partners, LLC has executed and filed with the Register of Deeds of Johnson County, Kansas a plat of the subdivision known as "Canyon Creek Villas", which plat includes the following described lots and tracts:

Lots 1 through 61, and Tracts A through D, CANYON CREEK  
VILLAS, a subdivision in the City of Lenexa, Johnson County,  
Kansas;

WHEREAS, Developer, as the present owner and Developer of the above-described property, desires to place certain restrictions on such lots to preserve and enhance the value, desirability and attractiveness of the development and improvements constructed thereon and to keep the use thereof consistent with the intent of the Developer, and all of said restrictions shall be for the use and benefit of Developer and its future grantees, successors and assigns;

NOW, THEREFORE, in consideration of the premises contained herein, Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that the above-described lots shall be, and they hereby are, restricted as to their use and otherwise in the manner hereinafter set forth.

1. Definitions. For purposes of this Declaration of Covenants, Restrictions, Assessments and Easements, the following definitions shall apply:

(a) "Approving Party" means (i) prior to the recording of the Certificate of Substantial Completion, the Developer (or its designees from time to time), and (ii) subsequent to the recording of the Certificate of Substantial Completion, the Board (or with respect to Exterior Structures and other matters assigned to it, the Architectural Committee).

(b) "Architectural Committee" means: (i) prior to the Final Turnover Date, the Developer (or its designees from time to time), and (ii) on and after the Final Turnover Date, a committee comprised of at least not more than three members of the Board, all of whom shall be appointed by and serve at the pleasure of the Board (subject to the provisions of Section 8 below).

(c) "Board" means the Board of Directors of the Homes Association.

(d) "Certificate of Substantial Completion" means a certificate executed, acknowledged and recorded by the Developer with the Recording Office stating that every Lot in the Subdivision (as then contemplated by the Developer) has been sold by the Developer and the residences to be constructed thereon are substantially completed; provided, however, that the Developer may execute and record a Certificate of Substantial Completion or similar instrument in lieu thereof in Developer's absolute discretion at any earlier time and for any limited purpose hereunder. The execution or recording of a Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Homes Association or any other person or entity.

(e) "City" means the City of Lenexa, Kansas.

(f) "Common Areas" means (i) the Green Areas, (ii) any parking areas, entrances, monuments including a monument sign, berms, a gazebo, four benches and other similar ornamental areas and related utilities, lights, sprinkler systems and landscaping constructed or installed by or for the Developer or the Homes Association at or near the entrance of any street or along any street, and any easements related thereto, in or to the Subdivision, (iii) all walking trails, (iv) all platted landscape easements and all other landscape easements that may be granted to the Developer and/or the Homes Association, for the use, benefit and enjoyment of all owners within the Subdivision, and (v) all other similar areas and places, together with all improvements thereon and thereto, the use, benefit or enjoyment of which is intended for all of the owners within the Subdivision.

(g) "Declaration" means this instrument, as the same may be amended, supplemented or modified from time to time.

(h) "Developer" means P&L Development, LLC, a Kansas limited liability company, and its successors and assigns.

(i) "Exterior Structure" means any structure erected or maintained or proposed to be erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any animal run, deck, gazebo, greenhouse, doghouse, outbuilding, fence, patio wall, privacy screen, boundary wall, bridge, dock, patio enclosure, sport court, tennis court, paddle tennis court, swimming pool, hot tub, pond, basketball goal, flag pole, antennae, swingset, jungle gym, trampoline, sand box, playhouse, treehouse, batting cage, or other recreational or play structure, and all exterior sculptures, statuary, fountains, and similar yard decor.

(j) "Green Areas" means Tracts A through D of Canyon Creek Villas and the real property described on Exhibit A attached hereto, and all similar areas that may be platted in the Subdivision as a tract and not for use as a residential Lot (as they may be subsequently replatted and/or configured).

(k) "Homes Association" means the Kansas not-for-profit corporation to be formed by or for the Developer for the purpose of serving as the homes association for the Subdivision.

(l) "Lot" means any lot as shown as a separate lot on any recorded plat of all or part of the Subdivision; provided, however, that if an Owner, other than the Developer, owns adjacent lots (or parts thereof) upon which only one residence has been, is being, or will be erected, then (i) for purposes of determining the amount of periodic and special assessments due with respect thereto from time to time, such adjacent property under common ownership shall constitute such whole or partial number of lots as may be specified in writing by the Developer, and (ii) for all other purposes hereunder, such adjacent property under common ownership shall be deemed to constitute only one "Lot."

(m) "Owner" or "Owners" means the record owner(s) of title to any Lot, including the Developer, and for purposes for all obligations of the Owner hereunder, shall include, where appropriate, all family members and tenants of such Owner and all of their guests and invitees.

(n) "Recording Office" means the Office of the Records and Tax Administration of Johnson County, Kansas.

(o) "Shared Detention Area" means the real property described on Exhibit A attached hereto.

(p) "Shared Detention Basin" means the stormwater detention basin and related structures and improvements to be constructed on the Shared Detention Area.

(q) "Subdivision" means all of the above-described lots in Canyon Creek Villas, all Common Areas, and all additional property which hereafter may be made subject to this Declaration in the manner provided herein.

(r) "Initial Turnover Date" means the earlier of: (i) the date as of which 80% of the aggregate Lot number in the Subdivision (as then contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon, or (ii) the date the Developer, in its absolute discretion, selects as the Initial Turnover Date for all or any specific portion of this Declaration, provided that the Initial Turnover Date shall occur in any event no later than the date as of which 80% of the aggregate Lot number in the Subdivision (as then contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon; and further means the date, the occurrence upon which, the Developer shall grant substantially all duties and obligations of the Homes Association, to the Homes Association, and on which the Homes Association shall have the powers and authorities of the Home Association, as specified in the Declaration; further provided that the duties and obligations and the powers and authorities specified in the Declaration as being those of the Architectural Committee, shall remain duties and obligations and powers and authorities of the Developer until the "Final Turnover Date."

(s) "Final Turnover Date" means the earlier of: (i) the date as of which 100% of the aggregate Lot number in the Subdivision (as then contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon, or (ii) the

date the Developer, in its absolute discretion, selects as the Final Turnover Date for all or any specific portion of this Declaration

2. Use of Land. Except as otherwise expressly provided herein, no Lot may be improved, used or occupied for other than single family, private residential purposes. No trailer, outbuilding or Exterior Structure shall at any time be used for human habitation, temporarily or permanently; nor shall any residence of a temporary character, including any camper or van, be erected, moved onto or maintained upon any Lot or any Common Areas or used for human habitation; provided, however, that nothing herein shall prevent the Developer or others (including, without limitation, builders and real estate brokerage companies) authorized by the Developer from using trailers or temporary buildings or structures or any residence for model, office, sales or storage purposes during the development and build out of the Subdivision.

3. Building Material Requirements.

(a) Exterior walls of all residences and all appurtenances thereto shall be of stucco (but no stucco board or stuccato), brick, natural stone or (if specifically approved by the Approving Party) cast stone of a similar tone and form, wood shingles, masonite or wood lap siding, plate glass, glass blocks, wood trim, or any combination thereof, except as and where otherwise expressly approved in writing by the Approving Party. All front elevations shall be composed of a masonry product. Exterior concrete blocks, vinyl siding and metal siding shall not be permitted as a finished surface. No exterior walls shall be covered with materials commonly known as sheet goods that when installed have uncovered seams or seams covered with batts, such as, without limitation, 4 feet by 8 feet panels (other than smart board/hardy board). All windows and exterior doors shall be constructed of glass, wood, metal or vinyl clad, fiberglass, or any other materials specifically approved by the Developer. No windows or exterior doors may be silver or other bright finish. Roofs of residences shall be covered with a weathered wood colored composition shingle, guaranteed for a minimum of 30 years, of specific types, colors, styles, and other aesthetic factors, as approved by the Approving Party in writing. Notwithstanding the foregoing provisions of this Section 3 requiring or prohibiting specific building materials or products, any building materials or products that may be or come into general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Approving Party in its absolute discretion, shall be acceptable upon written approval by the Approving Party in its absolute discretion. In the event the City or other government agency with jurisdiction and authority requires specific building materials not authorized above or requires that Owners have additional choices of building materials not authorized above, the Approving Party shall have the right, in its absolute discretion, to establish and regulate in writing the specific types, colors and other aesthetic features of such new or additional building materials.

(b) All applicable exterior components (excluding roofs, brick, stone, and similar components) shall be covered with a workmanlike finish of paint or stain. No residence or Exterior Structure shall stand with its exterior in any unfinished condition for longer than five months after commencement of construction. All exterior basement foundations and walls which are exposed in excess of 12 inches above final grade shall be painted the same color as the residence or shall be covered with siding compatible with the structure.

(c) No air conditioning apparatus or unsightly projection shall be attached or affixed to the front of any residence.

(d) No metal or other pipe shall be exposed on the exterior of any fireplace or fireplace flue (other than a minimal amount of exterior metal or piping from a direct vent fireplace). All fireplace flues in chimneys shall be capped with a black or color-conforming metal rain cap.

(e) Except as otherwise permitted by the Approving Party in writing, all residences shall have a house number plate in the style(s) approved by the Approving Party, which plate shall be located adjacent to the front door or, where not practical, at another location approved by the Approving Party.

(f) All driveways and sidewalks shall be concrete, patterned concrete, bomanite, interlocking pavers, brick or other permitted stone finishes, as approved by the Approving Party. Crushed gravel, asphalt and natural driveways and sidewalks are prohibited. No driveway shall be constructed in a manner as to permit access to a street across a rear property line.

(g) All residences shall have at least a two-car garage. No basement garages shall be constructed in the front of the residences. No car ports are permitted.

(h) The Developer, in its absolute discretion, may allow variances from the foregoing requirements of this Section 3.

4. Minimum Floor Area. Every residence erected on any Lot shall contain a minimum of 1,800 square feet of enclosed floor area. Additionally, no residence shall be constructed upon any Lot unless it has a total finished floor area of at least 1,250 square feet on the main floor, if a story and a half plan or a reverse story and a half plan; and at least 1,800 square if a ranch plan (excluding any finished attics, garages, basements and similar habitable areas). No residence constructed upon any Lot shall be more than a story and a half in height.

5. Approval of Plans; Post-Construction Changes; Grading; Erosion Control.

(a) Notwithstanding compliance with the provisions of Sections 3 and 4 above, no residence or Exterior Structure may be erected upon or moved onto any Lot unless and until the building plans, specifications, exterior materials, location, elevations, plot plan, lot grading plan, general landscaping plan, and exterior color scheme (all as and when may be required by the Developer for each particular stage of construction) have been submitted to and approved in writing by the Developer or, in the case of Exterior Structures to the extent provided in Section 9 below, the Architectural Committee, in each case as to architectural consistency and other aesthetic factors. No change or alteration in such building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans or exterior color scheme shall be made unless and until such change or alteration has been submitted to and approved in writing by the Developer or the Architectural Committee, as the case may be. All building plans and plot plans shall be designed to minimize the removal of existing trees.

(b) Following the completion of construction of any residence or Exterior Structure, no significant landscaping change, significant exterior color change or exterior addition or alteration shall be made thereto unless and until the change, addition or alteration has been submitted to and approved in writing by the Architectural Committee. All replacements of all or any portion of a completed structure because of age, casualty loss or other reason, including, without

limitation, roofs and siding, shall be of the same materials, location and elevation as the original structure unless and until the changes thereto have been submitted to and approved in writing by the Architectural Committee.

(c) All final grading of each Lot shall be in accordance with any master grading plan approved by the City, any related grading plan furnished by the Developer for the development phase containing the Lot and any specific site grading plan for the Lot approved by or for the Developer. No landscaping, berms, fences or other structures shall be installed or maintained that impede the flow of surface water. Water from sump pumps shall be drained away from adjacent residences (actual and future). No changes in the final grading for any Lot shall be made without the prior written approval of the Approving Party and, if necessary, the City. The Developer shall have no liability or responsibility to any builder, Owner or other party for the failure of a builder or Owner to final grade or maintain any Lot in accordance with the master grading plan or any approved grading plan for any Lot or for the Developer not requiring a grading plan for any Lot or compliance therewith or for the quality or composition of any soil or subsurface material. The Developer does not represent or guarantee to any Owner or other person that any grading plan for any Lot that the Developer or any engineer or other party may approve or supply shall be sufficient or adequate or that any Lot will drain properly or to any Owner's or other person's satisfaction.

(d) During the construction of the residence and improvements on such Lot, the Owner, at its expense, shall install and properly maintain, until the Lot is completely sodded, hay bales, fencing and such other erosion and silt control devices as are necessary to prevent stormwater runoff from the Lot that deposits silt or other debris onto adjacent any Lot, Common Areas and streets. In connection therewith, the Owner shall comply with all Federal, state and local governmental laws, regulations and requirements, with all applicable permits, and with all requirements imposed by Developer, including, without limitation, preparation of inspection reports, and the Owner shall be responsible for and timely pay any and all governmental fines and assessments that may be levied or assessed as a result of a failure of the Owner to so comply.

(e) All site preparation, including, but not limited to, tree removal, excavation, grading, rock excavation/removal, hauling, and piling, etc., shall be at the sole expense of and paid by the Owner or builder.

(f) Approval of plans or specifications by the Developer, or any other Approving Party is not, and shall not be deemed to be, a representation or warranty that such plans or specifications comply with good engineering/architectural practices or any governmental requirements.

(g) Each Owner acknowledges that neither the sale of a Lot by the Developer to a particular builder nor the inclusion of a particular builder on a list of builders building in the area or on a list of approved builders constitutes a representation, endorsement or guaranty by Developer or any real estate broker/salesperson of the financial stability, qualifications, work or any other matter relating to such builder. Neither the Developer nor any real estate broker/salesperson guarantees or warrants the obligations or construction by any builder.

6. Set Backs. No residence, or any part thereof (exclusive of porches, porticoes, stoops, balconies, bay and other windows, eaves, chimneys and other similar projections), or

Exterior Structure, or any part thereof, shall be nearer the street line than the building set back lines shown on the recorded plat for such Lot; provided, however, that the Approving Party shall have (i) the right to decrease, in its discretion, the set back lines for any specific Lot, to the extent they are greater than the minimum set backs required by the City, by filing an appropriate instrument in writing in the Recording Office, and (ii) the right to increase, in its discretion, the setback lines for a specific Lot.

7. Commencement and Completion of Construction. Unless the following time periods are expressly extended by the Developer in writing, construction of the residence on a Lot shall be commenced within four months following the date of delivery of a deed from the Developer to the purchaser of such Lot and shall be completed within 12 months after such construction commencement. In the event such construction is not commenced within such four month period (or extension thereof, if any), the Developer shall have, prior to commencement of construction, the right (but not the obligation) to repurchase such Lot from the Owner at the sale price of the Lot from the Developer to the initial purchaser thereof. If such repurchase right is exercised by the Developer, the Owner of the Lot in violation of this construction commencement provision shall not be entitled to reimbursement for taxes, interest, insurance, or other expenses paid or incurred by or for such Owner.

8. Architectural Committee.

(a) No more than three members of the Board shall serve on the Architectural Committee at any time. The positions on the Architectural Committee may be divided by the Board into two classes with staggered two-year terms. The foregoing provisions of this subsection (a) shall not apply until the Final Turnover Date. Until the Final Turnover Date, the Developer or its designees shall be the Architectural Committee.

(b) The Architectural Committee shall meet as necessary to consider applications with respect to any Exterior Structures that require the approval of the Architectural Committee as provided in Section 9 below and to consider any other matters within the authority of the Architectural Committee as provided in this Declaration. The Architectural Committee may specify a form of application that must be used by applicants. A majority of the members of the Architectural Committee shall constitute a quorum for the transaction of business at a meeting and every act or decision made by a majority of the members present at a meeting at which a quorum is present shall be regarded as the act or decision of the Architectural Committee.

(c) At each meeting, the Architectural Committee shall consider and act upon written and complete applications that have been submitted to it for approval in accordance with this Declaration. In making its decisions, the Architectural Committee may consider any and all aspects and factors that the individual members of the Architectural Committee, in their discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Subdivision, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, grading plans for any Lot, landscaping plans and use of any proposed Exterior Structure. All decisions of the Architectural Committee shall be in writing and delivered to the applicant, who shall be responsible for keeping the same. The Architectural Committee may establish in advance and change from time to time certain procedural and substantive guidelines and conditions that it intends to follow in making its decisions. Any written application complete with all required drawings and other information that is not acted upon by the Architectural Committee within 35

days after the date on which it is filed shall be deemed to have been approved.

(d) After the Final Turnover Date, any applicant or other person who is dissatisfied with a decision of the Architectural Committee shall have the right to appeal such decision to the Board provided such appeal is filed in writing with a member of the Board within 30 days after the date the Architectural Committee renders its written decision. In making its decisions, the Board may consider any and all aspects and factors that the individual members of the Board, in their discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Subdivision, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, grading plans for any Lot, landscaping plans and use of any proposed Exterior Structure. Any decision rendered by the Board on appeal of a decision of the Architectural Committee shall be final and conclusively binding on all parties and shall be deemed to be the decision of the Architectural Committee for all purposes under this Declaration. The Board from time to time may adopt, amend and revoke rules and regulations respecting appeals of decisions of the Architectural Committee, including, without limitation, requiring payment to the Homes Association of a reasonable fee by the appealing party.

#### 9. Exterior Structures.

(a) No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except (i) strictly in accordance with and pursuant to the prior written approval of the Architectural Committee as to the applicable building plans, specifications, exterior materials, location, elevations, grading plans for any Lot, landscaping plans and exterior color scheme, and (ii) in compliance with the additional specific restrictions set forth in subsections (b) and (c) below or elsewhere in this Declaration. Notwithstanding the foregoing sentence, the approval of the Architectural Committee shall not be required for (I) any Exterior Structure erected by or at the request of the Developer or (II) any Exterior Structure that (A) has been specifically approved by the Developer prior to the issuance of a temporary or permanent certificate of occupancy as part of the residential construction plans approved by the Developer, and (B) has been built in accordance with such approved plans. Compliance with the specific requirements or restrictions set forth in subsections (b) and (c) below or elsewhere in this Declaration shall not automatically entitle an Owner to install or maintain any specific Exterior Structures, and the Approving Party, in its discretion, shall always have the right to additionally regulate, prohibit, condition or otherwise restrict any Exterior Structure notwithstanding such otherwise compliance.

(b) (i) All exterior colors and sidings must be approved in advance by the Approving Party. Unless specifically approved by the Approving Party, such colors will be consistent with the color palette on file with the Approving Party and the City.

(ii) Notwithstanding compliance with the approved color palette, no adjacent residences shall use identical colors schemes or an identical predominate color.

(iii) Where color schemes on adjacent homes or on a series of homes on the same side of the same street, are proposed to be similar but not identical, the Approving Party reserves the right in its sole discretion to require more dissimilar color schemes, or require the inclusion of architectural elements or new building accent materials so as to create distinction.

(iv) Identical front elevations on adjacent homes shall be prohibited. No identical

floor plans can be built next to each other without written Approving Party approval. The Approving Party may allow use of the same basic plan on adjacent lots, however, different architectural features such as entry treatment and/or location of garages shall be required.

(v) As development of the neighborhood and approval of plans progresses, the Approving Party reserves the right to require more of or less of certain architectural elements or orientations where necessary to avoid monotony. For instance, differentiation in roof pitch ratios, orientation of gables and entry porch elements may be required in the event that the Approving Party determines that the neighborhood as a whole would benefit.

(vi) Throughout the neighborhood as a whole, the Approving Party encourages and may require differentiation with respect to the design, treatment and prominence of garages, driveway, front walks and front yard landscaping — 3 to 4 plans will be made available to select from or written approval from the Approving Party will be needed. Driveway and front walk landscaping shall be required on at least one side of the driveway and will be heavily encouraged on both sides of drive.

(c) (i) All fence and privacy screen plans must be approved by the Approving Party and (where required) the City prior to installation. Only heavy gage wrought iron fences, installed by a professional, Lenexa licensed contractor, shall be permitted on any Lot. All fences shall be ornamental and shall not disfigure the property or the neighborhood or interfere with drainage. No chain link, wood, wire or similar fence shall be permitted. No fence shall be installed without a permit from the City (where required) and complying with all applicable laws and codes. Each gate must be at least four feet in width, and all fences shall have one gate large enough to allow a commercial mower to pass through it and shall allow access by a commercial mower to any enclosed back yard. No fence may be installed in any landscape easement unless installed by or for the Developer or the Homes Association. Unless and until otherwise specifically approved in writing by the Approving Party, (A) no fence shall exceed four feet in height, (B) no fence shall be constructed or maintained on any Lot nearer to the front street than the rear corners (as determined by the Approving Party) of the residence or nearer to the side boundaries of the Lot than the side corners (as determined by the Approving Party) of the residence, and (C) no fence shall be constructed or maintained on any Lot that encloses more than 150 square feet of space.

(ii) All outside doghouses shall be located in the back yard in the immediate vicinity of the patio area, within 6 feet of the back of the residential dwelling, shall be painted or stained (where appropriate) the same color of the residence, and shall have roofs that are the same as the residence.

(iii) The following Exterior Structures shall be prohibited: animal runs, trampolines, basketball goals, play structures, swimming pools, tennis courts, sport courts, tree houses, batting cages, detached greenhouses and other detached outbuildings.

(iv) No Exterior Structure that is prohibited under Section 11 below shall be permitted under this Section 9.

(d) No fence, wall or other Exterior Structure installed by or for the Developer or Homes Association anywhere in the Subdivision may be removed or altered by any Owner or other person without the prior written consent of the Approving Party.

10. Homes Association Membership. Until the Initial Turnover Date, the Homes Association shall have two classes of membership, namely Class A and Class B. The Developer shall be the sole Class A member. Each Owner of a Lot, including the Developer as an Owner, shall be a Class B member. Until the Initial Turnover Date, all voting rights shall be held by the Class A member, except that the Class B members shall have the sole right to vote on increases in monthly assessments as provided in subsection (e) below and to vote any special assessments as provided in subsection (h)(ii) below .

After the Initial Turnover Date, there shall be only one class of membership which shall consist of the Owners of any Lot in the Subdivision and every such Owner shall be a member.

Where voting rights exist based on Lot ownership, each member shall have one vote for each Lot for which he is the Owner; provided, however, that when more than one person is an Owner of any particular Lot, all such persons shall be members and the one vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Lot. During any period in which a member is in default in the payment of any assessment levied by the Homes Association under this Declaration, the voting rights of such member shall be suspended until such assessment has been paid in full.

Subject to the foregoing, the Homes Association, acting through the Board, shall be the sole judge of the qualifications of each Owner to vote and their rights to participate in its meetings and proceedings.

(a) The Board initially shall be the one or more persons named as the initial Director(s) by the Developer, or such other person or persons as may from time to time be substituted by the Developer. As soon as possible after the Initial Turnover Date, the Homes Association shall hold a meeting of its members, and all members shall elect five Directors to replace all of those Directors earlier elected or designated by the Developer. The terms of the five Directors shall be staggered so that the terms of two or three of the Directors will expire and successors will be elected at each annual meeting of the Homes Association. Thereafter, at such annual meetings, successors to the Directors whose terms then expire shall be elected to serve two-year terms. Notwithstanding the foregoing, after the Initial Turnover Date, the members, by the vote of members exercising not less than a majority of the voting power of members, may, from time to time, change the number and terms of Directors, provided, that in any such event the terms of at least one-third of the Directors shall expire annually.

Notwithstanding the foregoing, the Developer shall have the right at any time to waive its right to select one or more Directors or to vote in an election of Directors.

The Board, from time to time, may suspend the right of a member to vote with respect to his, her, or its Lot for failure to pay assessments when due, or for failure to observe other of the terms of the Declaration and pursuant to rules and regulations duly adopted by the Board from time to time.

(b) In addition to the powers granted by other portions of this Declaration or by law but subject to all of the limitations set forth in this Declaration, the Homes Association, acting through the Board, shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by the Board to carry out and effectuate the purposes of this Declaration, including, without limitation:

(i) To enforce, in the Homes Association's name, any and all building, use or other restrictions, obligations, agreements, reservations or assessments which have been or hereafter may be imposed upon any Lot or other part of the Subdivision; provided, however, that this right of enforcement shall not serve to prevent waivers, changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the Homes Association or other parties having the right to make such waivers, changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth or otherwise by law. The expense and cost of any such enforcement proceedings by the Homes Association shall be paid out of the general funds of the Homes Association, except as herein provided. Nothing herein contained shall be deemed or construed to prevent the Developer or any Owner, if specifically reserved to Owners, from enforcing any building, use or other restrictions in its or his own name.

(ii) To acquire and own title to or interests in, to exercise control over, and to improve and maintain the Common Areas, subject to the rights of any governmental authority, utility or any other similar person or entity therein or thereto.

(iii) To maintain public liability, worker's compensation, fidelity, fire and extended coverage, director and officer liability, indemnification and other insurance with respect to the activities of the Homes Association, the Common Areas and the property within the Subdivision.

(iv) To levy the assessments and related charges which are provided for in this Declaration and to take all steps necessary or appropriate to collect such assessments and related charges.

(v) To enter into and perform agreements from time to time with the Developer and other parties regarding the performance of services and matters benefiting both the Developer or other parties and the Homes Association and its members, and the sharing of the expenses associated therewith.

(vi) To enter into and perform agreements with the Developer, other developers, other homes associations and other parties relating to the joint use, operation and maintenance of any recreational facilities and other similar common areas, whether in or outside the Subdivision, and the sharing of expenses associated therewith.

(vii) To have employees and otherwise engage the services of a management company or other person or entity to carry out and perform all or any part of the functions and powers of the Homes Association, including, without limitation, keeping of books and records, operation and maintenance of Common Areas, and planning and coordination of activities.

(viii) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the Subdivision; and to do any other things necessary or desirable in the judgment of the Board to keep any property in the Subdivision neat in appearance and in good order.

(ix) To exercise any architectural, aesthetic or other control and authority given and assigned to the Homes Association in this Declaration or in any other deed, declaration or plat relating to all or any part of the Subdivision.

(x) To make, amend and revoke reasonable rules, regulations, restrictions and guidelines (including, without limitation, regarding the use of Common Areas) and to provide means to enforce such rules, regulations, restrictions and guidelines, and the recorded declarations, by levying fines and other enforcement charges and taking such other lawful actions as the Homes Association, in its discretion, deems appropriate.

(xi) To exercise such other powers as may be set forth in the Articles of Incorporation or Bylaws of the Homes Association.

(c) In addition to the duties required by other portions of this Declaration and by law, the Homes Association, acting through the Board, shall have the following duties and obligations with respect to providing services to all Owners within the Subdivision:

(i) To the extent not provided as a service by any governmental authority, the Homes Association shall select a trash service company for the collection and disposal of rubbish and garbage for each residence one day per week, on a day selected by the Homes Association (which day, if possible, shall be the same for all residences). Each Owner of a Lot shall utilize such trash service company and shall pay for the expense of the same.

(ii) The Homes Association shall at all times, from and after its date of formation and at its expense, be responsible for properly providing lawn care to, mowing, weeding, fertilizing, repairing, replacing, controlling, maintaining, and operating, as applicable, all Common Areas and each Lot (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by or for the Developer or the Homes Association), subject to any control thereover maintained by any governmental authority, utility or other similar person or entity.

(iii) The Homes Association shall at all times, from and after the date of its formation and at its expense, be responsible for snow removal from the streets, driveways, and sidewalks of the Subdivision, after any snowfall accumulating to 2 inches or more, subject to any control thereover maintained by any government authority, utility or other similar person or entity. Each Lot Owner shall remove from the driveway and sidewalk on their Lot any snow fall accumulating to less than 2 inches, within 24 hours of such snowfall.

(iv) The Homes Association shall satisfy its obligations with respect to the Shared Detention Area and Shared Detention Basin, as set forth in subsection (v) below.

The Board shall have the right to further determine the scope and timing of the foregoing services and shall have the right (but not the obligation) to establish, maintain and expend reserve funds for the improvements on the Common Areas and the services to be provided by the Homes Association under this subsection (c). Neither the Developer, any director nor the Homes Association shall be liable to any Owner or other party for any failure to establish or maintain any such reserves or if any such reserves are inadequate.

(d) For the purpose of providing funds to enable the Homes Association to exercise the powers, render the services and perform the duties provided for herein, each Lot in the Subdivision (other than any Lot then owned by the Developer and any Lot then owned by a builder prior to the earlier of initial occupancy of the residence thereon as a residence or the sodding of the yard) shall be subject to a monthly assessment to be paid to the Homes

Association by the respective Owners thereof as provided in this Section 10. The amount of such annual assessment per Lot shall be fixed periodically by the Board, subject to subsection (e) below, and, until further action of the Board as set forth herein, shall be \$100.00 per month, due the 1<sup>st</sup> day of each month (with a \$25.00 penalty per month, and the unpaid amount shall bear interest at the rate of 10% per annum (or, if lower, the maximum amount permitted by law) from the delinquency date until paid, when not paid by the 1<sup>st</sup> day of the month).

(e) The rate of monthly assessment upon each assessable Lot in the Subdivision shall be and remain \$100.00 per month for each of years 2015 through 2017, and thereafter may be increased as to and for each calendar year: After year 2017, by the Board from time to time, upon a vote of the members, both Class A and Class B, at a meeting of the members duly called and held for that purpose in accordance with the Bylaws, when 75% the members present at such meeting and entitled to vote thereon authorize such increase by an affirmative vote for the proposed increase, by up to (but not more than) \$25.00 per month over the rate of monthly assessment in effect for the preceding calendar year; or

Notwithstanding the foregoing limits on monthly assessments, the Board, without a vote of the members, shall always have the power to set, and shall set, the rate of monthly assessment at an amount that will permit the Homes Association to perform its duties as specified in subsection (c) above.

(f) The monthly assessments provided for herein shall be based upon the calendar year (commencing in 2015) and shall be due and payable on the first day of each month; provided, however, that the first full assessment for each Lot shall be due and payable only upon commencement of occupancy of the residence on the Lot as a residence and shall be prorated as of the date thereof.

(g) Additional fees shall be payable by each Owner to the Homes Association, for use as part of the general funds of the Homes Association, upon each of the following events with respect to each Lot:

(i) An initiation fee of \$150.00 shall be payable upon the initial occupancy of the residence on the Lot after the residence is constructed (which initiation fee is in addition to the first regular monthly assessment, as it may be prorated);

(ii) A mailbox fee of \$150 shall be payable upon the purchase of each Lot (which mailbox fee is in addition to the first regular monthly assessment, as it may be prorated); and

(iii) A transfer fee of \$200.00 shall be payable upon each subsequent transfer of ownership of the Lot for value.

(h) In addition to the monthly assessments and other fees provided for herein, the Board:

(i) shall have the authority to levy from time to time a special assessment against any Lot and its Owner to the extent the Homes Association expends any money (for services, materials, and legal fees and expenses) to correct or eliminate (by enforcement, self-help or otherwise) any breach by such Owner of any agreement, obligation, reservation or restriction contained in any deed, declaration or plat covering such Lot (including, without limitation, to maintain or repair any Lot or improvement thereon); and

(ii) shall levy from time to time special assessments against each and every Lot (other than any Lot then owned by the Developer or by a builder prior to the earlier of the initial occupancy of the residence thereon as a residence) in an equal amount that is sufficient, when aggregated, to enable the Homes Association (I) to perform its duties as specified in subsection (b)(2) above that require any expenditure during any period in an amount in excess of the general and reserve funds of the Homes Association available therefor, (II) to pay the costs of any emergency expenditures deemed necessary by the Board and (III) to pay the costs of any capital improvements approved by a vote of the members (being for this limited purpose solely the Class B members prior to the Initial Turnover Date) 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 (in person or by proxy) and entitled to vote thereon authorize such special assessment for the proposed capital expenditure by an affirmative vote.

(i) In the event an Owner fails to properly maintain, repair, repaint, or replace any improvements on the Owner's Lot, the Homes Association, acting through the Board and after giving adequate notice to the Owner of the need for the maintenance, repair, repainting, or replacement, may enter onto the Lot and perform such maintenance, repair, repainting, or replacement. The Homes Association's costs thereof, plus a reasonable overhead and supervisory fee, shall be payable by the Owner of the Lot and shall be a special assessment against the Owner and the Owner's Lot.

(j) If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Developer, Homes Association, the Board (or any committee thereof), the Architectural Committee, or any individual member director, officer or employee thereof, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Developer, Homes Association, Board, Architectural Committee, or individual, sued by such Owner shall be entitled to recover from such Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees and court costs. Such recovery right shall constitute a special assessment and lien in favor of said Developer, Homes Association, Board, Architectural Committee, or individual against the Owner and the Owner's Lot, and shall be enforceable against the Owner and the Owner's Lot.

(k) Each special assessment shall be due and payable by the Owner of the Lot upon the Homes Association giving notice of the assessment to the Owner of the Lot, shall be a lien on the Lot until paid in full, and shall be enforceable as provided in this Declaration.

(l) Each assessment regarding a Lot shall be a charge against the Owner and shall become automatically a lien in favor of the Homes Association on the Lot against which it is levied as soon as the assessment becomes due. Should any Owner fail to pay any assessment with respect to the Owner's Lot in full within 30 days after the due date thereof, then such assessment shall be delinquent, the Owner shall be charged a late fee of \$25.00 per month, and the unpaid amount shall bear interest at the rate of 10% per annum (or, if lower, the maximum rate permitted by law) from the delinquency date until paid, which late fee and interest shall become part of the delinquent assessment and the lien on the Lot. Should the Homes Association engage the services of an attorney to collect any assessment hereunder, all costs of collecting such assessment, including court costs and reasonable attorneys' fees, shall, to the extent permitted by applicable law, be added to the amount of the assessment being collected and the lien on the Lot. Each assessment, together with late fees, interest thereon and collection costs, shall also be the personal obligation of the Owner(s) of the Lot, jointly and severally, at the time when the assessment became due.

(m) All liens on any Lot for assessments provided for herein shall be inferior and subordinate to the lien of any valid purchase money first mortgage now existing or which may hereafter be placed upon such Lot. A foreclosure sale or deed in lieu of foreclosure thereunder shall automatically extinguish the lien hereunder for such assessments to the extent applicable to periods prior to the earlier of (i) the entry of the order allowing such foreclosure, or (ii) the execution of a deed in lieu thereof, but shall not release such Lot from liability for any assessment applicable to periods thereafter. If the Owner subsequently redeems the Lot from the foreclosure sale, the lien hereunder shall automatically be reinstated retroactively in full.

(n) Payment of a delinquent assessment with respect to a Lot may be enforced by judicial proceedings against the Owner personally and/or against the Lot, including through lien foreclosure proceedings in any court having jurisdiction of suits for the enforcement of such liens. The Homes Association may file certificates of nonpayment of assessments and/or fees in the Recording Office, and/or the office of the Clerk of the District Court for Johnson County, Kansas, whenever any assessment is delinquent, in order to give public notice of the delinquency. For each certificate so filed, the Homes Association shall be entitled to collect from the Owner of the Lot described therein a fee of \$200.00, which fee shall be added to the amount of the delinquent assessment and the lien on the Lot and which fee amount may be increased by the Board from time to time to reflect cumulative increases in an appropriate consumer price index (as selected by the Board) after April 1, 2015.

(o) Such liens shall continue for a period of five years from the date of delinquency and no longer, unless within such period suit shall have been instituted for collection of the assessment, in which case the lien shall continue until payment in full or termination of the suit and sale of the property under the execution of judgment establishing the same.

(p) The Homes Association may cease to provide any or all of the services (including, without limitation, use of Common Areas) to be provided by or through the Homes Association with respect to any Lot during any period that the Lot is delinquent on the payment of an assessment or fee due under this Declaration, and no such cessation of use privileges or services shall result in a reduction of any amount due from the Owner before, during or after such cessation. No Owner may waive or otherwise avoid liability for any assessment by not using any Common Areas or declining any services provided through the Homes Association.

(q) No claim of the Homes Association for assessments and fees shall be subject to setoffs or counterclaims made by any Owner. To the extent permitted by law, each Owner hereby waives the benefit of any redemption, homestead and exemption laws now or hereafter in effect, with respect to the liens created pursuant to this Declaration.

(r) Assessments and fees shall run with the land, are necessary to continue the care, repair and maintenance of each Lot and the Subdivision, and to continue to provide service, and, accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

(s) Except for matters contemplated in subsection (c) above, the Homes Association shall at no time expend more money within any one year than the total amount of the assessments and fees for that particular year, plus any surplus and available reserves which it may have on hand from prior years. The Homes Association shall not have the power to enter into any contract which binds the Homes Association to pay for any obligation out of the assessments and fees for any future year, except for (i) contracts for utilities, maintenance or similar services or matters to be performed for or received by the Homes Association or its members in subsequent years, and (ii) matters contemplated in subsection c above.

(t) The Homes Association shall designate from time to time the place where payment of assessments and fees shall be made and other business in connection with the Homes Association may be transacted.

(u) All notices required or permitted under this Declaration shall be deemed given if deposited in the United States Mail, postage prepaid, and addressed to the Owner at the address of the Lot. Notice to one co-Owner shall constitute notice to all co-Owners.

(v) (i) Pursuant to the terms and conditions of a Detention Area Agreement between the Developer and Canyon Creek, LLC, which has been recorded in the Recording Office, the Shared Detention Basin is to be constructed in the Shared Detention Area for the use and benefit of the Subdivision and two adjacent or nearby commercial tracts (the "Commercial Tracts"). The Detention Area Agreement is hereby incorporated into this Declaration by this reference.

(ii) From and after the installation of the Shared Detention Basin, the formation of the Homes Association and the transfer of title to the Shared Detention Area to the Homes Association by the Developer, the Home Association shall be the "Owner of the Timber Tract" under the Detention Area Agreement and shall be responsible for complying with all of the duties, obligations and responsibilities of the "Owner of the Timber Tract" under the Detention Area Agreement.

(iii) Each of the Developer and the owner(s) of the Commercial Tracts shall be third-party beneficiaries of all provisions of this Declaration relating to the Shared Detention Area, and each of the Developer and the owner(s) of the Commercial Tracts shall have the continuing right (but not obligation) to enforce all restrictions, obligations and other provisions regarding the Shared Detention Area.

#### 11. Buildings or Uses Other Than for Residential Purposes; Noxious Activities; Miscellaneous.

(a) Except as otherwise provided in Section 2 above, no residence or Exterior Structure, or any portion thereof, shall ever be placed, erected or used for business, professional, trade or commercial purposes on any Lot; provided, however, that (i) no day care center shall be operated on any Lot, and (ii) this restriction shall not prevent an Owner or occupant from maintaining an office area or operating a home-business occupation (other than a day care center) in his residence in accordance with the applicable ordinances of the City so long as the residential character of the area is maintained.

(b) No illegal, noxious or offensive activity shall be carried on with respect to any Lot; nor shall any trash, ashes or other refuse be thrown, placed or dumped upon any Lot or Common Area; nor shall anything be done which may be or become an annoyance or a nuisance to the

Subdivision, or any part thereof. Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. Each residence and Exterior Structure on a Lot (including, without limitation, any fence that may have been installed by or for the Developer) shall be kept and maintained by the Owner in good condition and repair at all times. Each residence exterior shall be repainted by the Owner every five years or less, as needed. Any exterior color change must be approved in advance in accordance with Section 5(b).

(c) Unlicensed or inoperative motor vehicles are prohibited, except in an enclosed garage.

(d) Overnight parking of motor vehicles, boat or other trailers, or similar apparatus of any type or character in public streets, Common Areas or vacant lots is prohibited. Motor vehicles, including operable passenger automobiles, passenger vans or small trucks, shall be parked overnight in garages or on paved driveways only. Except as provided in subsection (f) below, no vehicle (other than an operable passenger automobile, passenger van or small truck), commercial truck or van, bus, motorcycle, boat, jet-ski, trailer, camper, mobile home, or similar apparatus shall be left or stored over night on any Lot, except in an enclosed garage.

(e) Trucks or commercial vehicles with gross vehicle weight of 12,000 pounds or over are prohibited in the Subdivision except during such limited time as such truck or vehicle is actually being used in the Subdivision during normal working hours for its specific purpose.

(f) Recreational motor vehicles and boats of any type or character are prohibited except:

(i) When stored in an enclosed garage;

(ii) Temporary parking on the driveway for the purpose of loading and unloading (maximum of one overnight every 14 days); or

(iii) With prior written approval of the Approving Party.

(g) No television, radio, citizens' band, short wave or other antenna, satellite dish (in excess of 39 inches in diameter as provided below), solar panel, clothes line or pole, or other unsightly projection shall be attached to the exterior of any residence or Exterior Structure or erected in any yard. Should any part or all of the restriction set forth in the preceding sentence be unenforceable because it violates a statute or the First Amendment or any other provision of the United States Constitution, the Approving Party 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 on the Subdivision, and all parts thereof, and any such rules and regulations shall be binding upon every Lot. Notwithstanding any provision in this Declaration to the contrary, small satellite dishes (maximum 39 inches in diameter) may be installed, with the prior written consent and in accordance with the requirements of the Approving Party, so as to render the installation as inoffensive as possible to other Owners.

(h) No artificial flowers, trees or other vegetation shall be permitted on the exterior of any residence or in the yard. Sculptures, bird baths, fountains, yard art, and similar decorative objects are allowed on the exterior of the residence or in the yard only with the specific written approval of the Approving Party.

(i) Exterior holiday lights shall be permitted only between November 15 and January 31. Except for such holiday lights, all exterior lighting shall be white (clear) and not colored.

(j) No garage sales, sample sales or similar activities shall be held within the Subdivision without the prior written consent of the Homes Association.

(k) No speaker, horn, whistle, siren, bell or other sound device shall be located, installed or maintained upon the exterior of any residence or in any yard, except intercoms, devices used exclusively for security purposes, and stereo speakers used in accordance with any rules specified by the Board.

(l) All residential service utilities shall be underground, except with the approval of the Developer.

(m) In the event of vandalism, fire, windstorm or other damage, no residence or Exterior Structure shall be permitted by the Owner to remain in damaged condition for longer than three months (except with the specific written consent of the Approving Party).

(n) No shed, barn, detached garage or other storage facility shall be erected upon, moved onto or maintained upon any Lot. No storage shall be permitted under a deck.

(o) No outside fuel storage tanks of any kind shall be permitted (except standard propane tanks for outdoor grills).

(p) Except for signs erected by or for the Developer or its approved real estate brokerage company for the Subdivision, no sign, advertisement or billboard may be erected or maintained on any Lot, except that:

(i) One sign not more than three feet high or three feet wide may be maintained offering the residence for sale. For newly constructed homes offered for sale, only a real estate brokerage company sign (which may include a rider identifying the builder), and not also a separate sign for the builder, may be used if a real estate brokerage company is involved.

(ii) One garage sale sign not more than three feet high or three feet wide is permitted on the Lot when a permitted garage sale is being held, provided such signs are erected in accordance with City code and are installed no more than two hours before the start of the sale and are removed within two hours after the close of the sale.

(iii) One political sign per candidate or issue not more than three feet high or three feet wide is permitted on the Lot for up to three weeks before the election but must be removed within 24 hours after the election.

No signs offering a residence for lease or rent shall be allowed in the Subdivision. Without limiting the foregoing, no sign shall be permitted which (A) describes the condition of the residence or the Lot, (B) describes, maligns, or refers to the reputation, character or building practices of Developer, any builder, or any other Owner, or (C) discourages or otherwise impacts or attempts to impact a party's decision to acquire a Lot or residence in the Subdivision. In the event of a violation of

the foregoing provisions, the Developer and/or the Association shall be entitled to remove any such offending sign, and in so doing, shall not be subjected to any liability for trespass, violation of constitutional rights, or otherwise.

(q) No sign (other than community marketing signs approved by the Developer) shall be placed or maintained in any Common Area without the approval of the Approving Party.

(r) No trash, refuse, or garbage can or receptacle shall be placed on any Lot outside a residence, except after sundown of the day before or upon the day for regularly scheduled trash collection and except for grass bags placed in the back or side yard pending regularly scheduled trash collection.

(s) Garage doors shall remain closed at all times except when necessary for ingress and egress.

(t) The drying or hanging of clothes so as to be visible from the street or from another Lot is prohibited.

(u) No residence or part thereof shall be rented or used for transient or hotel purposes, which is defined as: (i) rental of less than one month duration or under which occupants are provided customary hotel services such as room service for food and beverages, maid service, and similar services; or (ii) rental to roomers or boarders, (i.e., rental to one or more persons of a portion of a residence only). No lease may be of less than an entire residence. Each lease shall be in writing, shall require that the tenant and other occupants acknowledge the existence of this Declaration and agree to comply with all provisions of this Declaration, shall provide that the lease shall be subject in all respects to the provisions of this Declaration and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of this Declaration or such rules and regulations shall be a default under the lease. In the event a tenant fails to comply with the terms of this Declaration or such rules and regulations, the Owner shall, if so directed by the Board and subject to any applicable landlord and tenant laws, terminate the lease and evict the tenant. Prior to the commencement of the term of a lease, the Owner shall notify the Board, in writing, of the name or names of the tenant or tenants and the time during which the lease term shall be in effect. Notwithstanding the existence of a lease, the Owner shall remain liable for all obligations under this Declaration with respect to the Lot and the improvements thereon and the use thereof and the Common Areas and the Owner shall cause the rented property to be maintained to the same general condition and standards as then prevailing for the Owner-occupied residences in the Subdivision.

(v) The Developer and the Homes Association may enforce the foregoing restrictions and other provisions of this Declaration by establishing and levying fines and other enforcement charges, having vehicles, trailers, campers or other apparatus towed away at the Owner's expense, or taking such other lawful actions as it, in its sole discretion, deems appropriate.

12. Animals. No animals of any kind shall be raised, bred, kept or maintained on any Lot except that dogs, cats and other common household pets may be raised, bred, kept or maintained so long as (a) they are not raised, bred, kept or maintained for commercial purposes,

(b) they do not constitute a nuisance and (c) the City ordinances and other applicable laws are satisfied. All pets shall be confined to the Lot of the Owner except when on a leash controlled by a responsible person. Owners shall immediately clean up after their pets on all streets, Common Areas and any Lot owned by others.

13. Lawns, Landscaping and Gardens. Within 60 days after the issuance of any permanent or temporary certificate of occupancy for the residence, all lawns, including all areas between each residence and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, sidewalk or right-of-way line, shall be fully sodded and shall remain fully sodded at all times thereafter; provided, however, that the Owner of a Lot may leave a portion of the Lot as a natural area with the express written permission of the Approving Party. No lawn shall be planted with zoysia or buffalo grass.

Within 60 days after the issuance of any permanent or temporary certificate of occupancy for the residence, the Owner thereof shall landscape the Lot to the same standards as that generally prevailing throughout the Subdivision and as provided in the approved landscaping plan. Except as expressly approved by the Developer, no foundation plantings shall extend beyond three feet on the sides of the residence or five feet on the front and back of the residence. All landscaping shall be maintained by the Owner in good condition at all times.

Within 60 days after the issuance of a permanent or temporary certificate of occupancy for the residence, each Lot Owner shall have a sprinkler system installed covering all sod and landscape areas in the entire front, rear and side yards of the Lot. Each Owner shall use the sprinkler system as necessary or appropriate (as reasonably determined by the Approving Party) during the late spring, summer and early fall months. The Homes Association shall be provided with a key to the control panel by the Owner and shall have the right to operate the sprinkler system if the Owner fails or refuses to do so as directed by the Approving Party. No Owner shall water the Lot such that there is significant runoff onto any adjacent Lot or Common Area.

To the extent any of the foregoing items are not completed prior to occupancy, the Owner shall escrow funds, in an amount (if any) and manner determined by the Developer, to assure such installation as immediately as possible after weather permits.

No vegetable gardens shall be located outside of a fenced patio area.

The Developer shall install trees on each Lot as required in Section 4-1-D-2-K of the City's Unified Development Code and as in the approved landscaping plan. Each Owner shall properly water, maintain and replace all trees and landscaping on the Owner's Lot (including any trees planted by or for the Developer, but excluding those in a Common Area maintained by the Homes Association).

Maintenance of the Common Areas and landscape easements, including the monument sign, shall be the responsibility of the Homes Association. However, in the event that the Homes Association is not lawfully existing or fails to maintain these tracts, then maintenance shall be the responsibility of the Owners of all Lots within the platted area herein.

14. Easements for Public Utilities; Drainage; Maintenance. The Developer shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and use of drains, pipelines, sanitary and storm sewers, gas and water lines, electric and telephone lines, television cables and other utilities, and to give or grant rights-of-way or easements therefor, over, under, upon and through all easements and rights-of-way of record or shown on

any recorded plat of the Subdivision or any Common Area. All utility easements and rights-of-way shall inure to the benefit of all utility companies, governmental authorities, the Developer and the Homes Association, for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of the Developer, all Owners and the Homes Association as a cross easement for utility line service and maintenance.

The Developer shall have and does hereby reserve for itself and its successors and assigns and the Homes Association and its successors and assigns an easement over and through all unimproved portions of each Lot in the Subdivision for the purpose of performing the powers and duties of the Homes Association and maintaining any Common Area. The Developer shall have the right to execute and record, at any time, an easement with respect to specific areas utilized as provided above.

The Developer and the Homes Association, through its authorized representative(s), may at any reasonable time enter any Lot, without being deemed guilty of trespass, for the purpose of inspecting the Lot and any improvements thereon to ascertain any compliance or noncompliance with the requirements and terms of this Declaration and/or any plans approved hereunder.

Developer and the builder of the residence on the Lot shall have reasonable access to each Lot for the purpose of inspecting and maintaining erosion control devices until final stabilization of the full Lot is achieved by sodding and landscaping. No Owner shall prevent or inhibit the Developer's or the builder's reasonable access for such purpose and no Owner shall remove or damage any erosion control devices installed by the Developer or the builder. Each Owner shall notify the builder and the Developer of any damage to such erosion control devices.

In the event any easement rights granted in this Section are exercised with respect to any Lot, the party so exercising such easement rights shall exercise the same in a reasonable manner so as to minimize all adverse effects on the Owners and shall promptly repair any damages to such Lot resulting from the exercise of such easement rights and restore the Lot to as near the original condition as possible.

No water from any roof, downspout, sump pump, perimeter basement drain or surface drainage shall be placed in or connected to any sanitary sewer line.

15. Common Areas.

(a) The Developer shall provide Common Areas as provided in the approved plan, for the use and benefit of the Subdivision. The size, location, nature and extent of improvements and landscaping in the Common Areas, and all other aspects of the Common Areas that are provided by the Developer, shall be as provided in the approved plan.

(b) The Developer covenants and agrees to convey, by special warranty deed, all of its rights, title and interest in the Common Areas (except any part thereof that is within any Lot or outside of the Subdivision) to the Homes Association, without any cost to the Homes Association, at such time(s) as the Developer, in its absolute discretion, may determine, but in all events not later than one month after the Developer has recorded the Certificate of Substantial Completion. Such transfer shall be free and clear of all mortgages, security interests and mechanic's liens. Notwithstanding the actual date of transfer, except as otherwise provided in Section 10 or an agreement with the Developer, the Homes Association shall at all times, from and after the date of

its formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by the Developer or the Homes Association), subject to any control thereover maintained by any governmental authority, utility or similar person or entity. Any transfer of title by the Developer shall not require the consent of the Homes Association and shall not constitute an assignment by the Developer of any of its rights, as the developer of the Subdivision, pursuant to this Declaration or any other instrument, contract or declaration. In insuring the Common Areas, the Homes Association shall cause the Developer to be named as an additional insured on the insurance coverage until the recording of the Certificate of Substantial Completion.

(c) The Developer and its successors, assigns, and grantees, the Owners, and the Homes Association shall have the right and easement of enjoyment in and to all of the Common Areas, but only for the intended and permitted use of such Common Areas. Such right and easement in favor of the Owners shall be appurtenant to, and shall automatically pass with, the title to each Lot. All such rights and easements shall be subject to the rights of any governmental authority or any utility therein or thereto.

(d) Any ownership by the Homes Association of any Common Area and the right and easement of enjoyment of the Owners in the Subdivision as to any Common Area shall be subject to the right of the Developer to convey sewage, water, drainage, pipeline, maintenance, electric, telephone, television and other utility easements over, under, upon and through such Common Area, as provided in Section 14 above.

(e) No Owner shall improve, destroy or otherwise alter any Common Area without the express written consent of the Approving Party.

(f) Owners of any Lot adjacent or nearby the Common Areas shall prevent erosion and pollutant discharges and runoff onto the Common Areas.

(g) The following rules, regulations and restrictions shall apply to the use of the Green Areas:

(i) No automobiles, motorcycles, all-terrain vehicles, or other motorized vehicles or apparatus of any kind shall be allowed in the Green Areas except for parking in any designated parking lots and except for mowing and otherwise maintaining the Green Area.

(ii) No refuse, trash or debris shall be discarded or discharged in or about the Green Areas except in designated trash bins.

(iii) Access to the Green Areas shall be confined to designated areas, except that Owners of any Lot adjacent to the Green Areas may have access to the area from their respective lots (where applicable).

(iv) There shall be no cleaning of fish at any lake or in any other Green Area.

(v) No swimming or wading shall be allowed in any lake.

(vi) Each of the Developer and the Homes Association shall have reasonable

access through any Lot adjacent to the Green Areas for the purposes of maintenance and improvement thereof, but shall be responsible for repairing any damage caused by it to adjacent Lots in connection with the use of such access right.

(h) The Developer and the Homes Association shall have the right from time to time to make, alter, revoke and enforce additional rules, regulations and restrictions pertaining to the use of any Common Area.

(i) The Developer, in its discretion, shall have the right to reconfigure and/or replat all or any part of the Subdivision then owned by it, including, without limitation, by complying with applicable City ordinances, to make part of a Common Area tract a part of a Lot, and vice versa. In addition, each of the Developer and the Homes Association shall have the right to transfer to the City, with the City's consent, title to or easements over all or any part of the Common Areas so that such become public areas maintained by the City.

16. No Liability for Approval or Disapproval; Indemnification.

(a) Neither the Developer, nor the Homes Association, nor any member of the Architectural Committee or the Board (or any committee thereof) shall be personally liable to any person for any approval, disapproval or failure to approve any matter submitted for approval, for the adoption, amendment or revocation of any rules, regulations, restrictions or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration or any other declaration or any such rules, regulations, restrictions or guidelines.

(b) To the fullest extent permitted by law, the Homes Association shall indemnify each officer and director of the Homes Association, each member of the Architectural Committee, and the Developer (to the extent a claim may be brought against the Developer by reason of its appointment, removal of or control over, or failure to control, any such other persons) (each, an "Indemnified Party") against all expenses and liabilities, including, without limitation, attorneys' fees, reasonably incurred by or imposed upon the Indemnified Party in connection with any action or proceeding, or any settlement thereof, to which the Indemnified Party may be a party or in which the Indemnified Party may become involved by reason of serving or having served in such capacity (or, in the case of the Developer, by reason of having appointed, removed or controlled or failed to control any officer or director of the Association), provided the Indemnified Party did not act, fail to act or refuse to act with fraudulent or criminal intent in the performance of the Indemnified Party's duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which any Indemnified Party may be entitled at law or otherwise.

17. Covenants Running with Land; Enforcement; Waivers. The agreements, restrictions, reservations and other provisions herein set forth are, and shall be, covenants running with the land and shall be binding upon all subsequent grantees of all parts of the Subdivision. The Developer, and its successors, assigns and grantees, and all parties claiming by, through or under them, shall conform to and observe such agreements, restrictions, reservations and other provisions; provided, however, that neither the Developer, the Homes Association nor any other person or entity shall be obligated to enforce any such agreements, restrictions, reservations or other provisions. By accepting a deed to any of any Lots, each future grantee of any Lot shall be deemed to have personally consented and agreed to the agreements, restrictions and reservations set forth herein as applied to the Lot owned by such Owner. No agreement, restriction, reservation or other provision herein set forth shall be personally binding

upon any Owner except with respect to breaches thereof committed or allowed to continue during his ownership; provided, however, that (i) the immediate grantee from the builder of the residence on a Lot shall be personally responsible for breaches committed during such builder's ownership of such Lot and (ii) an Owner shall be personally responsible for any breach committed by any prior Owner of the Lot to the extent notice of such breach was filed of record, as provided in the third paragraph of this Section, prior to the transfer of ownership.

The Developer, the Homes Association and each Owner shall have the right (but not the obligation) to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of, or to enforce the observance of, the agreements, restrictions, reservations and other provisions set forth in this Declaration, in addition to any action at law for damages. To the maximum extent permitted by law, if the Developer or the Homes Association (but not the Owner) files such court action and is successful in obtaining a judgment or consent decree in such court action or otherwise obtaining compliance by the breaching party, the Developer and/or Homes Association shall be entitled to receive from the breaching party, as part of the judgment or decree or any dismissal or settlement, the actual legal fees, costs and expenses incurred by the Developer and/or Homes Association with respect to such action.

Whenever the Developer or the Board determines that a violation of this Declaration has occurred and is continuing with respect to a Lot, the Developer or the Homes Association may file with the Recording Office a certificate setting forth public notice of the nature of the breach and the Lot involved.

No delay or failure by any person or entity to exercise any of its rights or remedies with respect to a violation of this Declaration shall impair any of such rights or remedies; nor shall any such delay or failure be construed as a waiver of that or any other violation.

In addition to the specific provisions of this Declaration that allow the Developer to make certain decisions or give permission for certain matters, the Developer or the Homes Association (acting through the Board) may, under special situations or circumstances as determined by it, allow variances or waivers of the requirements or terms set forth in this Declaration. Any such variation or waiver so granted by the Developer or the Homes Association shall not constitute a waiver of such requirement or term in any other situation or under any other circumstances.

No waiver of any violation shall be effective unless in writing and signed and delivered by the person or entity entitled to give such waiver, and no such waiver shall extend to or affect any other violation or situation, whether or not similar to the waived violation. No waiver by one person or entity shall affect any rights or remedies that any other person or entity may have; provided, however, that a duly authorized, executed and delivered waiver by the Homes Association, acting upon a decision of the Board, respecting a specific violation or potential violation of this Declaration with respect to a specific Lot shall constitute and be deemed as a waiver by all other persons and entities (other than the Developer) of such violation or potential violation.

18. Assignment of Developer's Rights. The Developer shall have the right and authority, by written agreement made expressly for that purpose, to assign, convey and transfer to any person(s) or entity, all or any part of the rights, benefits, powers, reservations, privileges, duties and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for all purposes be the Developer hereunder with respect to the assigned rights, benefits, powers, reservations, privileges, duties and responsibilities. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations, privileges, duties, and responsibilities of the Developer hereunder.

19. Release or Modification of Restrictions.

(a) The provisions of this Declaration shall remain in full force and effect until December 31, 2035, and shall automatically be continued thereafter for successive periods of five years each; provided, however, that at least 75% of the Lot Owners within the Subdivision as then constituted may release the Subdivision, from all or part of such provisions as of December 31, 2035, or at the expiration of any extension period, by executing (in one or more counterparts), acknowledging and recording in the Recording Office an appropriate agreement in writing for such purpose, at least one year prior to December 31, 2035, or to a subsequent expiration date, whichever is applicable. The provisions of this Declaration also may be amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written agreement and/or amendment and/or instrument (in one or more counterparts) signed by (i) if prior to the recording of the Certificate of Substantial Completion, the Developer, who shall be entitled to amend and modify the Declaration in its absolute discretion and for any purpose, or if after the recording of the Certificate of Substantial Completion, the Homes Association under express authority and action of the Board; and (ii) if after the recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be amended and modified in whole or in part, at any time by a duly acknowledged and recorded written instrument executed by the Homes Association after the proposed amendment or modification has been first approved by the affirmative vote of 75% or more of the full number of directors on the Board of the Homes Association and then approved at a duly held meeting of the members of the Homes Association (called in whole or in part for that purpose) by the affirmative vote of at least 75% of the Lot Owners; provided that in either event, neither the Developer nor the Homes Association shall be entitled to terminate the Declaration pursuant to this sentence without City approval.

(b) Anything set forth in this Section to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend, change or add to any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording in the Recording Office a written instrument for such purpose, if (i) either the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or any successor or similar agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, (iii) a typographical or factual error or omission needs to be corrected in the opinion of the Developer, or (iv) such action is appropriate, in Developer's absolute discretion, in connection with a replat of all or any part of the Subdivision. No such amendment by the Developer shall require the consent of any Owner, the Board, or the Homes Association.

(c) If the rule against perpetuities or any rule against restraints on alienation or similar restriction is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the individual(s) signing this Declaration on behalf of the Developer and the now-living children and grandchildren of the individual(s) signing this Declaration on behalf of the Developer as of the date of such execution.

20. Extension of Subdivision. The Developer shall have, and expressly reserves, the right, from time to time, to add real estate to or delete and remove real estate from the existing Subdivision and to

the operation of the provisions of this Declaration other adjacent or nearby lands (without reference to any tract, street, park or right-of-way) by executing, acknowledging and recording in the Recording Office a written instrument subjecting such land to or removing such land from all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof or not a part hereof, whichever is the case; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable as solely determined by the Developer in its absolute discretion.

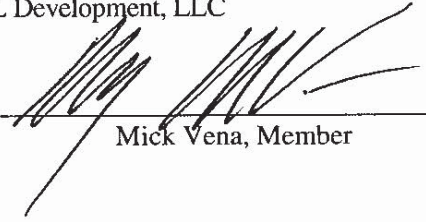
21. Severability. Invalidation of any of the provisions set forth herein, or any part thereof, by an order, judgment or decree of any court, or otherwise, shall not invalidate or affect any of the other provisions or parts.

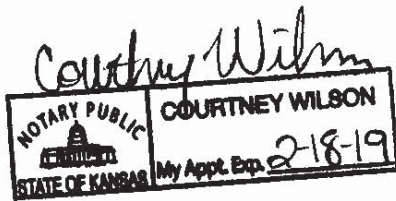
22. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of Kansas.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed the day and year first written above.

**THE DEVELOPER:**

P&L Development, LLC

By:  \_\_\_\_\_  
Mick Vena, Member



STATE OF KANSAS )  
 ) ss.  
COUNTY OF JOHNSON )

This instrument was acknowledged before me on May 7<sup>th</sup>, 2015  
by Mick Vena, as Member of P&L Development, a Kansas limited liability company.

My Commission Expires: Courtney Wilson JoCo, KS  
Notary Public in and for said County and  
State



[SEAL]

Print Name: Courtney Wilson

EXHIBIT A

LEGAL DESCRIPTION OF  
ADDITIONAL GREEN AREA

LEGAL DESCRIPTION OF SHARED DETENTION AREA