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STATE OF KANSAS } ss
COUNTY OF JOHNSON }
FILED FOR RECORD

**NOTTINGHAM BY THE GREEN
DECLARATION OF RESTRICTIONS**

1992 SEP -2 P 4: 30.1

SARA B. BISHOP
REGISTER OF DEEDS

THIS DECLARATION is made as of the 24 day of August, 1992, by Hanover Development Company II, a Kansas general partnership.

WITNESSETH:

WHEREAS, Hanover Development Company II, has executed and filed with the Register of Deeds of Johnson County, Kansas a plat of the subdivision known as "Nottingham By The Green"; and

WHEREAS, such plat creates the subdivision of Nottingham By The Green, composed; in part, of the following described lots, to-wit:

All of Lots 1 through 31 of Block 1; Lots 1 through 3 of Block 2; Lots 1 through 21 of Block 3; NOTTINGHAM BY THE GREEN, a subdivision of land in City of Overland Park, Johnson County, Kansas, according to the recorded plat thereof;

WHEREAS, Hanover Development Company II, as the present owner and developer of the above-described lots, desires to place certain restrictions on such lots to preserve and enhance the values, 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 Hanover Development Company II, and its future grantees, successors and assigns;

NOW, THEREFORE, in consideration of the premises contained herein, Hanover Development Company II, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of 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, the following definitions shall apply:

(a) The term "Lot" shall mean any lot as shown as a separate lot on any recorded plat of all or part of the District; provided, however, that if an Owner, other than the Developer, owns all or part of one or more adjacent lots upon which only one residence has been, is being, or will be erected, then such adjacent property under common ownership shall be deemed to constitute only one "Lot."

(b) The term "District" shall mean all of the above-described lots in Nottingham By The Green, all

Common Areas, and all additional property which hereafter may be made subject hereto in the manner provided herein.

(c) The term "Developer" shall mean Hanover Development Company II, a Kansas general partnership, and its successors and assigns.

(d) The term "Owner" shall mean 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.

(e) The term "Common Areas" shall mean (i) any entrances, monuments, berms and other similar ornamental areas and related utilities, lights, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any easements related thereto, (ii) all 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 District, and (iii) 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 District, whether or not any "Common Area" is located on any Lot.

(f) The term "Homes Association" shall mean 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 District and, if applicable, other nearby subdivisions.

(g) The term "Exterior Structure" shall mean any structure erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck, gazebo, greenhouse, doghouse or other animal shelter or run, outbuilding, fence, patio wall, privacy screen, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, basketball goal, swingset, trampoline, sand box, playhouse, treehouse or other recreational or play structure.

(h) The term "Certificate of Substantial Completion" shall mean a certificate executed, acknowledged and recorded by the Developer stating that all, or at the Developer's discretion, substantially all, of the Lots in the District (as then composed or contemplated by the Developer) have 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 its discretion at any time and for any limited purpose hereunder.

(i) The term "Approving Party" shall mean (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 Homes Association (or with respect to Exterior Structures and other matters assigned to it, the Architectural Committee).

(j) The term "Board" shall mean the Board of Directors of the Homes Association.

(k) The term "Architectural Committee", with respect to the District or any portion thereof as may be designated by the Developer, shall mean (i) prior to July 1, 1994, the Developer (or its designees from time to time) and (ii) on and after July 1, 1994, a committee comprised of at least three members of the Homes Association residing in the District (or designated portion thereof), all of whom shall be appointed by and serve at the pleasure of the Board (subject to the term limitations and other provisions of Section 14 below).

2. Use of Land. Except as otherwise expressly provided herein, none of the Lots 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 be erected, moved onto or maintained upon any of the Lots 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 sales agencies) authorized by the Developer from using temporary buildings or structures or any residence or clubhouse for model, office, sales or storage purposes during the development of the District.

3. Building Material Requirements. Exterior walls of all residences and all appurtenances thereto shall be of stucco, stucco board, brick, stone, wood shingles, wood siding, batt siding, wood paneling, plate glass, masonite, glass blocks, or any combination thereof, except as otherwise approved in writing by the Developer. All windows shall be constructed of glass, wood, metal clad and wood laminate, or any combination thereof; provided, however, that storm windows may be constructed of colored metal (other than silver). All exterior doors and louvers shall be constructed of wood, metal

clad and wood laminate, colored metal (other than silver) and glass, or any combination thereof. Roofs with a pitch of three inches or more per foot shall be covered with wood shingles or wood shakes. Flat roofs, or roofs with a pitch of less than three inches per foot, shall be covered with tin, built up asphalt, wood shingles or wood shakes. Notwithstanding the foregoing provisions of this Section 3 requiring 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 shall be acceptable upon written approval by the Developer. All wood exteriors, except roofs and shake side walls, shall be covered with a workmanlike finish of two coats of high quality 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 covered with siding compatible with the structure. No air conditioning apparatus or unsightly projection shall be attached or affixed to the front of any residence.

4. Minimum Floor Area. No residence shall be constructed upon any Lot unless it has a total finished floor area of at least 2,600 square feet, excluding any finished attics and basements and similar habitable areas. The Developer, in its discretion, may allow variances from the minimum square footage requirement.

5. Approval of Plans and Post-Construction Changes.

(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, lot grading plans, general landscaping plans, and exterior color scheme have been submitted to and approved in writing by the Developer or, in the case of Exterior Structures to the extent provided in Section 8 below, the Architectural Committee. 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 and shall designate those trees to be removed.

(b) Following the completion of construction of any residence or Exterior Structure, no general 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 the master grading plan approved by the City of Overland Park, Kansas. No changes in the final grading of any Lot shall be made without the prior written approval of the Approving Party and, if necessary, the City.

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 Developer or the Architectural Committee, as the case may be, shall have the right to decrease, from time to time and in its absolute discretion, the set back lines for a specific Lot, to the extent they are greater than the minimum set backs required by the City of Overland Park, Kansas, by filing an appropriate instrument in writing in the office of the Register of Deeds of Johnson County, Kansas.

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 six months following the date of delivery of a deed from the Developer to the purchaser of such Lot and shall be completed within six months after such commencement. In the event such construction is not commenced within such six 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 such purchaser at its original sale price. 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 or other expenses paid or incurred by or for such Owner.

8. Exterior Structures.

(a) No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except (i) with and pursuant to the prior written approval of the Architectural Committee as to the applicable building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans and exterior color scheme and (ii) in compliance with the additional specific restrictions set forth in subsection (b) below or elsewhere in this Declaration; provided, however, that 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.

(b) (i) All fences, boundary walls and privacy screens shall be ornamental and shall not disfigure the property or the neighborhood. All fences and privacy screens shall be constructed with the finished side out. All fences and privacy screens shall be constructed of cedar wood or wrought iron or other ornamental materials approved by the Developer or the Architectural Committee, as the case may be. No chain link or similar fence or privacy screen shall be permitted. Unless and until otherwise specifically approved in writing by the Developer or the Architectural Committee, as the case may be, (i) no fence, boundary wall or privacy screen shall exceed five feet in height, (ii) no fence, boundary wall or privacy screen shall be constructed or maintained on any Lot nearer to the street than the rear corners (as defined by the Developer) of the residence, (iii) no fence or boundary wall shall be constructed or maintained on any Lot more than one foot from the property line of the Lot, except to the extent necessary for such fence or boundary wall to abut the residence, (iv) all fences and boundary walls must be joined to any previously existing fences or boundary walls on adjacent Lots and (v) no fence or boundary wall (other than one erected by or for the City of Overland Park, Kansas or the Developer) shall be permitted on or near the common property line between any Lot and the golf course that is adjacent to the District or on or near the right-of-way for 127th Street or Quivira Road.

(ii) All basketball goals shall be free standing and not attached to the residence unless the Architectural Committee determines that there are compelling reasons for

the basketball goal to be attached to the residence. All backboards shall be clear or painted white and all poles shall be a neutral color. There shall be only one basketball goal per Lot. The Architectural Committee shall have the right to establish reasonable rules regarding the hours of use of basketball goals and any such rules shall be binding upon all of the Lots and the Owners.

(iii) Except where specifically authorized by the Developer or the Architectural Committee in writing, all recreational or play structures (other than basketball goals) shall be located behind the back building line of the residence.

(iv) No above-ground swimming pools shall be permitted. All pools shall be fenced and all hot tubs shall be fenced or otherwise adequately screened, all in accordance with the other provisions of the Declaration. All pools and hot tubs shall be kept clean and maintained in operable condition at all times.

(v) All outside doghouses shall be located in the back yard, shall be up against or within two feet of the residence, shall be painted (where appropriate) the same color as the residence and shall have roofs (where appropriate) that are compatible with the residence. No other animal shelters or runs shall be permitted.

(vi) No Exterior Structure that is prohibited under Section 9 below shall be permitted under this Section 8.

9. 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 this restriction shall not prevent an Owner from maintaining an office area in his residence in accordance with the applicable ordinances of the City of Overland Park, Kansas.

(b) No noxious or offensive activity shall be carried on with respect to any Lot; nor shall any grass clippings, 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 District, or any part thereof. Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. All residences and Exterior Structures shall be kept and maintained in good condition and repair at all times.

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

(d) Overnight parking of motor vehicles of any type or character in public streets, Common Areas or vacant lots is prohibited. Motor vehicles shall be parked overnight in garages or on paved driveways only.

(e) Trucks or commercial vehicles with gross vehicle weight of 12,000 pounds or over are prohibited in the District except during such time as such truck is actually being used for the specific purpose for which it is designed.

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

1. Storing in an enclosed garage;
2. Temporary parking for the purpose of loading and unloading (maximum of one consecutive night);
3. With prior written approval of the Approving Party.

(g) Except as provided in subsection (f) above, no vehicle (other than a passenger automobile or van), truck, bus, boat, trailer, camper or similar apparatus shall be left or stored over night on any Lot, except in an enclosed garage.

(h) No television, radio, citizens' band, short wave or other antenna, satellite dish, 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 held by a court of competent jurisdiction to be unenforceable because it violates the First Amendment or any other provision of the United States Constitution, the Architectural Committee shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections on the District, and all parts thereof, and any such rules and regulations shall be binding upon all of the Lots.

(i) No lights or other illumination (other than street lights) shall be higher than the residence.

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

(k) No speaker, horn, whistle, siren, bell or other sound device, except intercoms and those used exclusively for

security purposes, shall be located, installed or maintained upon the exterior of any residence or in any yard.

(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 to remain in damaged condition for longer than three months.

(n) No shed, barn, detached garage or other storage facility shall be erected upon, moved onto or maintained upon any Lot. Storage shall be permitted under a deck provided such area is fenced or otherwise screened as authorized herein.

(o) No outside or underground fuel storage tanks of any kind shall be permitted.

(p) No driveway shall be constructed in a manner as to permit access to a street across a rear lot line.

(q) 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, not to exceed a total of five square feet, may be maintained offering the residence for sale or lease.

(ii) One garage sale sign not more than three feet high or three feet wide, not to exceed a total of five square feet, is permitted on the Lot when the sale is being held, provided such signs are removed within 24 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, not to exceed a total of five square feet, is permitted for up to three weeks before the election but must be removed within 24 hours after the election.

(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.

(s) Garage doors shall remain closed at all times except when necessary.

10. 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 they are not raised, bred, kept or maintained for commercial purposes and do not constitute a nuisance to the District, or any part thereof. Subject to any more restrictive law or ordinance, no more than three dogs or cats, or combination thereof, in excess of three months of age shall be kept or maintained on any Lot. All pets shall be confined to the Lot of the Owner except when on a leash controlled by a responsible person.

11. Lawns, Landscaping and Gardens. Prior to occupancy, and in all events within five months after commencement of construction of 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 or subsequently create 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 grass. Prior to occupancy, and in all events within five months following commencement of construction of the residence, the Owner thereof shall landscape the Lot to the same standards as that generally prevailing throughout the District and in accordance with the plans approved by the Developer. All vegetable gardens shall be located behind the rear corners of the residence and at least five feet away from the boundary of the Lot. No vegetable garden(s) shall exceed 100 square feet in size on any Lot except with the prior written consent of the Approving Party. The Owner of each Lot shall keep the lawn uniformly mowed and clipped with a length of grass not to exceed four inches and shall properly maintain and replace all trees and landscaping.

12. 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 shown on any recorded plat of the District or any Common Area. All utility easements and rights-of-way shall inure to the benefit of all utility companies, including, without limitation, the Johnson County Unified Wastewater District, 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 or service 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 District for the purpose of performing

the duties of the Homes Association and maintaining any Common Area.

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

13. Common Areas.

(a) The Developer and its successors, assigns, and grantees, as 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 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.

(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 District) to the Homes Association, without any cost to the Homes Association, at such time(s) as the Developer, in its discretion, may determine, but in all events not later than one month after the Developer has recorded the Certificate of Substantial Completion. Notwithstanding the actual date of transfer, except as otherwise provided in 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, 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 constitute an assignment by the Developer of any of its rights, as the developer of the District, 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 ownership by the Homes Association of any Common Area and the right and easement of enjoyment of the Owners in the District 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 12 above.

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

(e) Subject to the foregoing, 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.

14. Architectural Committee.

(a) No more than two members of the Board shall serve on the Architectural Committee at any time. The positions on the Architectural Committee shall be divided into two classes with staggered two-year terms. No member of the Architectural Committee shall serve for more than two consecutive terms (a full term being defined as 18 or more months). The provisions of this subsection (a) shall not apply until after July 1, 1994. Until such date, the Developer or its designees shall serve as 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 8 above and to consider any other matters within the authority of the Architectural Committee as provided in this Declaration. Any application that is not acted upon by the Architectural Committee within 35 days of the date on which it is filed shall be deemed to have been approved. 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 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 absolute discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the District, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, general 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.

(d) After July 1, 1994, 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 seven days after the date the Architectural Committee renders its decision. In making its decisions, the Board may consider any and all aspects and factors that the individual members of the Board, in their absolute discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the District, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, general 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 of a reasonable fee by the appealing party.

15. No Liability for Approval or Disapproval. Neither the Developer, nor the Homes Association, nor any member of the Architectural Committee or the Board 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.

16. Covenants Running with Land; Enforcement. The agreements, restrictions and reservations herein set forth are, and shall be, covenants running with the land into whosoever hands any of the property in the District shall come. 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 and reservations; provided, however, that neither the Developer, the Homes Association nor any other person or entity shall be obligated to enforce any such agreements, restrictions and reservations. No agreement, restriction or reservation herein set forth shall be personally binding upon any Owner except with respect to breaches thereof committed during his seisin of title to such Lots; 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 16, 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 and reservations herein set forth, in addition to any action at law for damages.

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 office of the Register of Deeds of Johnson County, Kansas 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.

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 respecting a specific violation shall constitute and be deemed as a waiver of such violation by all other persons and entities (other than the Developer).

17. Assignment of Developer's Rights. The Developer shall have the right and authority, by appropriate agreement made expressly for that purpose, to assign, convey, transfer and set over 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.

18. Release or Modification of Restrictions.

(a) The provisions of this Declaration shall remain in full force and effect until December 31, 2022, and shall automatically be continued thereafter for successive periods of five years each; provided, however, that the Owners of at least a majority of the Lots within the District as then constituted may release the District, or any part thereof, from all or part of such provisions as of December 31, 2022, or at the expiration of any extension period, by executing (in one or more counterparts), acknowledging and recording an appropriate agreement in writing for such purpose, at least one year prior to December 31, 2022, or to a subsequent expiration date, whichever is applicable. The provisions of this Declaration may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by (i) the Owners of at least two thirds (2/3) of the Lots within the District as then constituted and (ii) prior to the recording of the Certificate of Substantial Completion, the Developer.

(b) Anything set forth in this Section 18 to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend or change any of the terms and provisions of this Declaration, all as from time to time amended or supplemented, if either the Veteran's Administration or the Federal Housing Administration or any successor agencies thereto shall require such action as a condition precedent to the approval by such agency of the District or any part of the District or any Lot in the District, for federally-approved mortgage financing purposes under applicable Veteran's Administration or Federal Housing Administration or similar programs, laws and regulations.

19. Extension of District. The Developer shall have, and expressly reserves, the right, from time to time, to add to the existing District and to the operation of the provisions of this Declaration such other adjacent (without reference to any street, golf course or right-of-way) lands as it may now own or hereafter acquire by executing, acknowledging and recording an appropriate written declaration or agreement subjecting such land to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; 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 discretion.

20. 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 any part thereof, but they shall remain in full force and effect.

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

THE DEVELOPER:

HANOVER DEVELOPMENT COMPANY II

BY: WAYNE "E" SMITH, INC, a partner

By: *Wayne E. Smith*
Wayne Smith, President

BY: VANKEIRSBILCK CONTRACTING CO., INC.
a partner

By: *Thomas VanKeirsbilck*
Thomas VanKeirsbilck, President

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on August 24, 1992 by Wayne Smith, President of Wayne "E" Smith, Inc., a Kansas corporation, and Thomas VanKeirsbilck, President of VanKeirsbilck Contracting Co., Inc., a Kansas corporation, as partners in and on behalf of Hanover Development Company II, a Kansas general partnership.

Carol J. Hamilton
Notary Public in and for
Said County and State

Print Name: CAROL J HAMILTON

My Commission Expires:

September 29, 1994

[SEAL] CAROL J. HAMILTON
NOTARY PUBLIC
STATE OF KANSAS
Expires Sept. 29, 1994