

**BILTMORE FARMS
DECLARATION OF RESTRICTIONS**

THIS DECLARATION is made as of the 26th day of March, 2008, by Catch Investments, LLC, a Kansas limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer has executed and filed with the Register of Deeds of Johnson County, Kansas, a plat of the subdivision known as "Biltmore Farms", which plat includes the following described lots and tracts:

Lots 1 through 58, and Tracts A, B, C, D and E, BILTMORE FARMS, FIRST PLAT, a subdivision in the City of Spring Hill, 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, 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 Turnover Date, the Developer (or its designees from time to time); and (ii) on and after the Turnover Date, a committee comprised of at least three members of the Homes Association, all of whom shall be appointed by and serve at the pleasure of the Board (subject to the provisions of Section 14 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 all of the Lots in the Subdivision (as then 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 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 Spring Hill, Kansas.

(f) "Common Areas" means (i) the Green Areas, (ii) any entrances, monuments, berms, street islands, 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 the Subdivision, (iii) 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 Subdivision, and (iv) 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 Catch Investments, 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 deck, gazebo, greenhouse, doghouse, outbuilding, fence, patio wall, rock wall, landscape wall, privacy screen, boundary wall, bridge, 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, B, C, D and E of Biltmore Farms, First Plat 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 such adjacent property under common ownership shall be deemed to constitute only one "Lot."

(m) "Owner" means the record owner(s) of title to any Lot, including the Developer, and for purposes of 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 Register of Deeds of Johnson County, Kansas or such other governmental office in which deeds, mortgages and other instruments relating to real property in Johnson County, Kansas are to be recorded to give public notice thereof.

(o) "Subdivision" means all of the above-described Lots in Biltmore Farms, First Plat, all Common Areas, and all additional property which hereafter may be made subject to this Declaration in the manner provided herein.

(p) "Turnover Date" means the earlier of: (i) the date as of which 95% of all of the Lots 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 Turnover Date for all or any specific portion of this Declaration.

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 be used for human habitation; provided, however, that the Developer or others (including, without limitation, builders and real estate brokerage companies) authorized by the Developer shall have the right to use trailers or



temporary buildings or structures or any residence on any Lot 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 in writing by the Developer) cast stone of a similar tone and form, wood shingles, smart board or wood lap siding, plate glass, glass blocks, smart board or wood trim, or any other materials specifically approved by the Developer in writing. 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 may not be installed on any exterior front wall but may be installed on the side and rear exterior walls with the specific written consent of the Developer. Concrete blocks shall not be permitted as an exterior finished surface. 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 in writing. No windows or exterior doors may be silver or other similar finish. Roofs of residences shall be covered with wood shingles, wood shakes, concrete tiles, clay tiles, slate, or high quality composition shingles, all of the specific types, colors, styles, dimensions and other aesthetic factors specifically approved by the Developer 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 to or located on the front of any residence. No window air conditioning or heating units shall be permitted.

(d) All driveways and sidewalks shall be concrete, patterned concrete, bomanite, interlocking pavers, brick or other permanent stone finishes. Crushed gravel, asphalt and natural driveways and sidewalks along the street or from the driveway to the front door are prohibited. No driveway shall be constructed in a manner as to permit access to a street across a rear property line.

(e) All residences shall have at least a two-car garage. No car ports are permitted.

4. Minimum Floor Area. No residence shall be constructed upon any Lot unless it has a total finished floor area of at least: 1,300 square feet on the main floor for a ranch style residence (including a so-called reverse one and one-half story); 1,400 square feet for a two story residence with at least 700 square feet on the main floor; and 1,300 square feet for a one and one-half story residence with at least 900 square feet on the main floor. Finished floor area shall exclude any finished attics, garages, basements and similar habitable areas. The Developer, in its absolute discretion, may allow variances from the minimum square footage requirement.

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 8 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.

(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 completed by the Owner in connection with construction of the residence and 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 of any Lot shall be made by or for the Owner 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 lot grading plan or for the Developer not requiring a lot grading plan 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 the Lots which the Developer or any engineer or other party may approve or supply shall be sufficient or adequate or that the Lots 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 and until the Lot is completely established with grass, the Owner, at its expense, shall install and properly maintain hay bales, silt fencing and such other erosion and silt control devices as are necessary to prevent stormwater runoff from the Lot depositing silt or other debris onto adjacent Lots, 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 the Developer, including, without limitation, preparation of inspection reports, and the Owner shall be responsible for 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 the Owner or builder. All removed trees and excavated rock, etc., shall be removed from the Subdivision and shall not be spoiled within the Subdivision, except as expressly approved by the Developer. All excess dirt shall be spoiled within the Subdivision or other location as directed by the Developer and no dirt shall be removed from the Subdivision, except as expressly approved by the Developer.

(f) All building plans and plot plans shall be designed to minimize the removal of any existing trees.

(g) 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.

(h) 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 the 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 a 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(s).

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 (meaning digging of the foundation) within three (3) months following the date of delivery of a deed from the Developer to the first 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 three (3) 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, free and clear of all mortgages, mechanic's liens and similar liens, for an amount equal to 90% of the sale price of the Lot from the Developer to the first 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, insurance, interest or other expenses paid or incurred by or for such Owner and all taxes and installments of special assessments shall be prorated between Developer and the Owner as of the closing of the repurchase by Developer.

8. 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, lot grading plans, 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. 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 subsection (b) 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 fence and privacy screen plans must be approved by the Approving Party and (where required) the City prior to installation. No fence shall be installed without a permit from the City (where required) and compliance with all applicable laws and codes. Only wood or wrought iron (or similar) fences (which may include stone, masonry or wood posts) or privacy screens in the specific styles, materials and colors approved by the Developer shall be permitted on the Lots. The Developer expresses a preference that there be no wood fences on Lots along 199th Street or along Skyview Lane and shall have the right to prohibit wood fences on any such Lot. All fences, retaining walls and privacy screens shall be ornamental and shall not disfigure the property or the neighborhood or interfere with drainage. All fences and privacy screens shall be constructed with a finished side facing outward. No chain link, wire or similar fence shall be permitted. Unless and until otherwise specifically approved in writing by the Approving Party, (A) no fence or privacy screen shall exceed five feet in height, (B) no fence or privacy screen 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, (C) no fence 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 to abut the residence and except for fences around swimming pools, hot tubs and patio areas, (D) all fences (except for fences around swimming pools, hot tubs and patio areas) must be joined to or abutting any previously existing fences on adjacent Lots, (E) all perimeter fences shall be stair-stepped to follow the grade of the Lot, and (F) each wood fence shall be stained with a color approved by the Developer.

(ii) Underground electric pet fences must be approved by the Approving Party and (where required) the City prior to installation.

(iii) All basketball goals shall be permanently installed (except as provided below), free standing and not attached to the residence. All backboards shall be transparent and all poles shall be black or a neutral color. There shall be only one basketball goal per Lot. The Board 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. Portable basketball goals shall be permitted only if stored in the garage at night.

(iv) All recreational or play structures must be approved in advance by the Approving Party and (if allowed) (A) shall be made of materials approved in

writing by the Approving Party, (B) (other than basketball goals) shall be located behind the rear corners (as determined by the Approving Party) of the residence and (C) (other than basketball goals) shall be located at least 12 feet from each side boundary and 10 feet from the rear boundary of the Lot.

(v) No aboveground type swimming pools shall be permitted. All swimming pools shall be fenced and all hot tubs shall be fenced or otherwise adequately screened, all in accordance with City requirements and the other provisions of the Declaration. All pools and hot tubs shall be kept clean and maintained in operable condition at all times.

(vi) All outside dog houses shall be located in the back yard in the patio area, shall be painted or stained (where appropriate) the same color of the residence, and shall have roofs that are the same as the residence.

(vii) The following Exterior Structures shall be prohibited on the Lots: animal runs, tennis courts, tree houses, batting cages, detached greenhouses and other detached outbuildings.

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

(c) 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.

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 or occupant from maintaining an office area or operating a home-business occupation 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, except as may be otherwise expressly permitted by this Declaration.

(c) Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. The exterior portions of the residence and all Exterior Structures on the Lot 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).

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

(e) Overnight parking of motor vehicles, boats, trailers, buses, campers, or similar apparatus 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. Except as provided in subsection (g) below, no vehicle (other than an operable passenger automobile, passenger van or small truck), commercial truck or van, bus, boat, jet-ski, trailer, camper, mobile home, or similar apparatus shall be left or stored overnight on any Lot, except in an enclosed garage.

(f) 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.

(g) Recreational motor vehicles, buses, boats, trailers, campers and similar apparatus of any type or character are prohibited except:

(i) When stored in an enclosed garage;

(ii) When temporarily parked 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.

(h) 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 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 all of the Lots. 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.

(i) 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.

(j) 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. All exterior landscaping lighting must be approved in advance by the Approving Party.

(k) No garage sales, sample sales, estate sales or similar activities shall be held within the Subdivision without the prior written consent of the Board.

(l) 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.

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

(n) 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).

(o) 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 screened with materials and in the manner approved by the Approving Party as otherwise authorized herein.

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

(q) 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 and/or three feet wide may be maintained offering the residence for sale or lease. 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 and/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. Prior to the filing of the Certificate of Substantial Completion, no sign offering a residence for sale shall be allowed in the Subdivision (other than signs of the Developer-approved realtor for 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 the 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 Homes 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 or other rights, or otherwise. If these limitations on the use of signs, or any part thereof, are determined to be unlawful, the Board shall have the right to regulate the use of signs in a manner not in violation of law.

(r) 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.

(s) No trash, refuse, or garbage can or receptacle (other than construction dumpsters during construction) 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.

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

(u) No residence or part thereof shall be rented or used for transient or hotel purposes, which are defined as: (i) rental of less than six months 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, 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) Each of the Developer and the Homes Association may enforce the foregoing restrictions and other provisions of this Declaration by establishing, levying and collecting fines and other enforcement charges, having vehicles, trailers or other apparatus towed away at the Owner's expense, or taking such other lawful actions as the Developer or the Homes Association, in its sole discretion, deems appropriate.

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 (a) they are not raised, bred, kept or maintained for commercial purposes, (b) they do not constitute a nuisance, (c) there are no more than two dogs older than one year for any residence, and (d) the City ordinances and other applicable laws are satisfied. Pit bulls or other types of pets with vicious propensities (as determined by the Board) are prohibited. 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 Lots owned by others.

11. 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 the 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 on a Lot 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 (which shall include, but not be limited to, a minimum expenditure of \$500.00 on foundation plantings in the front yard, plus at least one hardwood tree of two inch or more caliper in the front yard (in addition to any trees planted by the Developer)). All landscaping shall be installed in accordance with the landscaping plans approved by the Developer and shall be maintained by the Owner in good condition at all times.

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 when weather permits.

All vegetable gardens shall be located behind the rear corners of the residence (as determined by the Approving Party) 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.

Each Owner shall keep the lawn of the Lot in good condition at all times and uniformly mowed and clipped with a length of grass not to exceed four inches and reasonably free from weeds.

The Developer shall have the right (but not the obligation) to install one or more trees on each Lot. The type(s) and location(s) of tree(s) and timing of planting shall be selected by the Developer in its absolute discretion. 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).

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 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.

The 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.

13. Common Areas.

(a) The Developer shall have the right (but not the obligation) to provide Common Areas 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 determined by the Developer in its absolute discretion.

(b) 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.

(c) 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 12 above.

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

(e) Owners of Lots adjacent or nearby the Common Areas shall prevent erosion and pollutant discharges and runoff onto the Common Areas.

(f) 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 Lots adjacent to the Green Areas may have access to the area from their respective Lots (where applicable).

(g) Each of the Developer and the Homes Association shall have reasonable access through Lots adjacent to the Common Areas for the purposes of maintenance and improvement thereof, but any party exercising such right 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, 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 (but only 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.

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 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 Turnover Date. Until the 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 8 above 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, lot grading plans, 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 25 days after the date on which it is filed shall be deemed to have been approved.

(d) After the 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, lot grading plans, 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.

15. No Liability for Approval or Disapproval; Indemnification.

(a) Neither the Developer, the Homes Association, nor any of their officers, directors, managers, representatives or agents, 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) ~~If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Homes Association, the Board, the Architectural Committee, any other committee, or any individual, director, officer or committee member, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Homes Association, the Board, committee or individual director, officer or committee member 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. Such recovery right shall constitute a lien against the Owner's Lot and shall be enforceable against such Lot.~~

(c) 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.

16. Potential View Obstruction. No Owner has any right to an unobstructed view beyond the boundaries of the Owner's Lot. No Owner shall be entitled to prevent the construction or location of any structure, trees, landscaping or other item on any other part of the Subdivision, where otherwise permitted by this Declaration, because such structure, trees, landscaping or other item obstructs any view from the affected Lot.

17. No Liability for Power Lines. By acceptance of a deed to a Lot, all Owners acknowledge that there are above-ground high voltage electric transmission lines located in or near the Subdivision. Each Owner, for himself, the members of his family, his guests, tenants, and invitees, acknowledges and accepts all health, safety and other risks and hazards associated therewith. The Developer and the Homes Association shall have no liability or responsibility to any Owner or other party with respect to such electrical lines.

18. No liability for Swimming Pool or Playground Equipment. By acceptance of a deed to a Lot, all Owners acknowledge and accept the inherent risks and hazards

(whether foreseeable or not) associated with use of any swimming pool and any diving board and/or slide and any playground equipment that may be installed as part of the Common Areas. The Developer and the Homes Association and the officers, directors, managers, representatives, and agents of the Developer and the Homes Association shall have no liability or responsibility to any Owner or other party with respect to such inherent risks and hazards. Each Owner, for himself, the members of his family, his guests and invitees, shall be deemed to have released and agreed never to make a claim against the Developer, the Homes Association and/or any officer, director, manager, representative or agent of the Developer or the Homes Association for any personal injury or death that may be suffered or incurred by any of such releasing parties in connection with use of the swimming pool area or any playground area, and each of them shall be deemed to have waived any and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.

19. 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 the Lots, each future grantee of any of the Lots 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.

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 pursuing an action at law for damages. To the maximum extent permitted by law, if the Developer or the Homes Association 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.

20. 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.

21. Release or Modification of Restrictions.

(a) The provisions of this Declaration shall remain in full force and effect until December 31, 2037, 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 Subdivision as then constituted may release the Subdivision from all or part of such provisions as of December 31, 2037, 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, 2037, or to a subsequent expiration date, whichever is applicable. The provisions of this Declaration also 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 60% of the Lots within the

Subdivision as then constituted and (ii) if prior to the recording of the Certificate of Substantial Completion, the Developer, or if after the recording of the Certificate of Substantial Completion, the Homes Association under express authority and action of the Board. After the recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be amended, modified or terminated, 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, modification or termination 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 Owners owning at least 60% of the Lots.

(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) any of 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, (iv) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision or (v) until December 31, 2010, to make any other amendment the Developer may determine to be appropriate. No such amendment by the Developer shall require the consent of any Owner 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.

22. Extension of Subdivision. The Developer shall have, and expressly reserves, the right, from time to time, to add to 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 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.

23. 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.

24. 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:

CATCH INVESTMENTS, LLC

By: [Signature]
Don Dusselier, Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on March 26, 2008 by Don Dusselier, as a member of Catch Investments, LLC, a Kansas limited liability company.

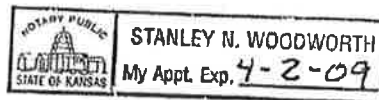
My Commission Expires:

4-2-09

[SEAL]

[Signature]
Notary Public in and for said County and State

Print Name: Stanley N. Woodworth



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BILTMORE FARMS
HOMES ASSOCIATION DECLARATION

THIS DECLARATION is made as of the 26th day of March, 2008, by Catch Investments, LLC, a Kansas limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer has executed and filed with the Register of Deeds of Johnson County, Kansas, a plat of the subdivision known as "Biltmore Farms", which plat includes the following described lots and tracts:

Lots 1 through 58, and Tracts A, B, C, D and E, BILTMORE FARMS, FIRST PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

WHEREAS, Developer, as the present owner and developer of the above-described property, desires to create and maintain a residential neighborhood and a homes association for the purpose of enhancing and protecting the value, desirability, attractiveness and maintenance of the property within the subdivision;

NOW, THEREFORE, in consideration of the premises contained herein, Developer, for itself and for its successors and assigns, and for its future grantees, hereby subjects all of the above-described lots to the covenants, charges, assessments and easements hereinafter set forth.

ARTICLE I. DEFINITIONS

For purposes of this Declaration, the following definitions shall apply:

- (a) "Board" means the Board of Directors of the Homes Association.
- (b) "Certificate of Substantial Completion" means a certificate executed, acknowledged and recorded by the Developer with the Recording Office stating that all of the Lots in the Subdivision (as then 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 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.

(c) "City" means the City of Spring Hill, Kansas.

(d) "Common Areas" means (i) Tracts A, B, C, D and E of Biltmore Farms, First Plat and any Pool Area, (ii) any entrances, monuments, berms, street islands, and other similar ornamental areas and related utilities, lights, sprinkler systems, trees 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 the Subdivision, (iii) 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 (iv) 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.

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

(f) "Developer" means Catch Investments, LLC, a Kansas limited liability company, and its successors and assigns.

(g) "Homes Association" means the Kansas non-profit corporation to be formed by or for the Developer for the purpose of serving as the homes association for the Subdivision.

(h) "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."

(i) "Owner" means the record owner(s) of title to any Lot, including the Developer.

(j) "Pool Area" has the meaning set forth in Article XIV below.

(k) "Recording Office" means the Office of the Register of Deeds of Johnson County, Kansas or such other governmental office in which deeds, mortgages and other instruments relating to real property in Johnson County, Kansas are to be recorded to give public notice thereof.

(l) "Subdivision" means collectively all of the above Lots in Biltmore Farms, First Plat, all Common Areas, and all additional property which hereafter may be made subject to this Declaration in the manner provided herein.

(m) "Turnover Date" means the earlier of: (i) the date as of which 95% of all of the Lots 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 Turnover Date for all or any specific portion of this Declaration.

ARTICLE II. HOMES ASSOCIATION MEMBERSHIP

Until the 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 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 annual assessments as provided in clause (c) of Section 2 of Article IV below and to vote on any special assessments as provided in clause (III) of Section 1(b) of Article V below.

After the Turnover Date, there shall be only one class of membership which shall consist of the Owners of the Lots 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 shall be the sole judge of the qualifications of each Owner to vote and to participate in its meetings and proceedings of the Homes Association.

ARTICLE III. POWERS AND DUTIES OF THE HOMES ASSOCIATION

1. 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 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:



(a) 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 of the Lots 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 from enforcing any building, use or other restrictions in its or his own name.

(b) 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.

(c) To maintain public liability, worker's compensation, fidelity, property 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.

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

(e) 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.

(f) 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.

(g) 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, operating and maintaining Common Areas, and planning and coordination of activities.

(h) To engage the services of a security guard or security patrol service.

(i) 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.

(j) 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.

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

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

2. In addition to the duties required by other portions of this Declaration and by law, the Homes Association shall have the following duties and obligations with respect to providing services to all Owners within the Subdivision:

(a) To the extent not provided as a service by any governmental authority, the Homes Association shall provide for the collection and disposal of rubbish and garbage for each residence one day per week (which day, if possible, shall be the same for all residences). The Homes Association, however, shall not be obligated to provide any recycling services.

(b) The Homes Association shall at all times, from and after its date of formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas (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.

(c) The Homes Association shall satisfy its obligations with respect to any Pool Area, as set forth in Article XIV 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 Section 2. Neither the Developer, the Homes Association, nor any of their officers, directors, managers, representatives or agents 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.

ARTICLE IV. ANNUAL ASSESSMENTS AND INITIATION FEE

1. For the purpose of providing a general fund to enable the Homes Association to exercise the powers, render the services and perform the duties provided for herein, all Lots in the Subdivision, other than Lots then owned by the Developer and lots owned by a builder prior to occupancy of the residence as a residence, shall be subject to an annual assessment to be paid to the Homes Association by the respective Owners thereof as provided in this Article IV. The amount of such annual assessment per Lot shall be fixed periodically by the Board, subject to Section 2 below, and, until further action of the Board, shall be \$250.00 per year; provided, however, that if and when the swimming pool portion of the Pool Area contemplated in Article XIV below is substantially completed and ready for use (as determined by the Developer), such annual amount shall automatically increase by \$200.00.

2. The rate of annual assessment upon each assessable Lot in the Subdivision may be increased:

(a) By the Board from time to time, without a vote of the members, by up to 10% over the rate of annual assessment in effect for the preceding year for each of 2009 through 2011;

(b) After 2011, by the Board from time to time, without a vote of the members, by up to 5% over the rate of annual assessment in effect for the preceding year; or

(c) At any time by any amount by a vote of the members (being for this limited purpose solely the Class B members prior to the 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 increase by an affirmative vote for the proposed increase.

Notwithstanding the foregoing limits on annual assessments, the Board, without a vote of the members, shall always have the power to set, and shall set, the rate of annual assessment at an amount that will permit the Homes Association to perform its duties as specified in Section 2 of Article III above.

3. The annual assessments provided for herein shall be based upon the calendar year (commencing in 2008) and shall be due and payable on January 1st of each year; provided, however, that:

(a) The first assessment for each Lot shall be due and payable only upon the initial occupancy of the residence on the Lot as a residence and shall be prorated as of the date thereof (with an adjustment to reflect a proper portion of the dues associated with the costs of the Pool Area for the remainder of the year, as determined by the Board); and

(b) Any increase that occurs under the proviso in Section 1 above shall be effective as of the date such swimming pool is substantially completed and ready for use



(with an adjustment to reflect a proper portion associated with the costs of the Pool Area for the remainder of the year, as determined by the Developer).

If the effective date of any increase in the rate of assessment is other than January 1st, a proper portion (as determined by the Board (or by the Developer under Section 3(b)) of the amount of such increase for the remainder of such year shall be due and payable on such effective date. No Lot or its Owner shall be entitled to receive any services to be provided by and through the Homes Association until such time as the first annual assessment has been paid with respect to the Lot.

4. An initiation fee of \$250.00 shall be payable by the new 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) The initial occupancy of the residence on the Lot as a residence after the residence is constructed (which initiation fee is in addition to the first regular annual assessment, as it may be prorated); and

(ii) Each subsequent transfer of ownership of the Lot for value.

ARTICLE V. SPECIAL ASSESSMENTS

1. In addition to the annual assessments provided for herein, the Board:

(a) shall have the authority to levy from time to time a special assessment against any Lot and its Owner to the extent (I) a fine has been assessed by the Homes Association against the Owner or (II) 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; and

(b) 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 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 Section 2 of Article III 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 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 votes 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.



2. In the event an Owner fails properly to 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.

3. If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Homes Association, the Board of Directors, or any committee, or any individual director, officer or committee member of the Homes Association, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Homes Association, Board of Directors, committee, or individual director, officer or committee member 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 against the Owner and the Owner's Lot.

4. Each special assessment shall be due and payable by the Owner of the Lot upon the Homes Association giving written notice of the special 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.

ARTICLE VI. DELINQUENT ASSESSMENTS

1. 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 5% of the unpaid amount and the unpaid amount shall bear interest at the rate of 10% per annum, compounded monthly (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, without limitation, 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.

2. 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, as provided below. 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.

3. 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 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 \$250.00, 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 December 31, 2009.

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

5. The Homes Association may cease to provide any or all of the services (including, without limitation, use of Common Areas and trash services) 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 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 by declining any services provided through the Homes Association.

6. No claim of the Homes Association for assessments and charges 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.

7. Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Lots and the Subdivision, and are necessary for the continued provision of services, and, accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

ARTICLE VII. LIMITATION ON EXPENDITURES

Except for matters contemplated in Section 2 of Article III above, the Homes Association shall at no time expend more money within any one year than the total amount of the assessments 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 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 Section 2 of Article III above.

ARTICLE VIII. NOTICES

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

2. 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.

ARTICLE IX. EXTENSION OF SUBDIVISION

The Developer shall have, and expressly reserves, the right (but not the obligation), from time to time, to add to 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) (regardless of whether the additional property is part of the property platted as Biltmore Farms or is known by a name other than Biltmore Farms) by executing, acknowledging and recording in the Recording Office a written instrument subjecting such additional property to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; 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.

ARTICLE X. AMENDMENT AND TERMINATION

1. This Declaration may be terminated, amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by (a) the Owners of at least 60% of the Lots within the Subdivision as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion, the Developer. After recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be terminated, amended or 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, modification or termination 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 by the members of the Homes Association at a duly held meeting of the members of the Homes Association (called in whole or in part of that purpose) by the affirmative vote of Owners owning at least 60% of the Lots.

2. Anything set forth in Section 1 of this Article 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, 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) any of the Veteran's Administration, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, 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) in the opinion of the Developer, a typographical or factual error or omission needs to be corrected, (iv) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision or (v) until December 31, 2010, to make any other amendment the Developer may determine to be appropriate. No such amendment by the Developer shall require the consent of any Owner or the Homes Association.

3. 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.

ARTICLE XI. ASSIGNMENT

1. The Developer shall have the right and authority, by written 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 any or all such purposes be the Developer hereunder with respect to the rights, benefits, powers, reservations, privileges, duties and responsibilities so assigned. 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 hereunder.

2. The Homes Association shall have no right, without the written consent of the Developer, to assign, convey, or transfer all or any part of its rights, benefits, powers, reservations, privileges, duties and responsibilities hereunder.

ARTICLE XII. COVENANTS RUNNING WITH THE LAND

1. All provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon all subsequent grantees of all parts of the Subdivision. By accepting a deed to any of the Lots, each future grantee of any of the Lots shall be deemed to have personally consented and agreed to the provisions of this Declaration as applied to the Lot owned by such Owner. The provisions of this Declaration shall not benefit nor be enforceable by any creditor of the Homes Association (other than the Developer) in such capacity as a creditor.

2. No delay or failure by any person or entity to exercise any of its rights or remedies with respect to a violation of or default under 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 or default.

3. No waiver of any violation or default 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.

ARTICLE XIII. GOVERNING LAW AND SEVERABILITY

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

2. 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.

ARTICLE XIV. COMMON AREAS

1. The Developer shall have the right (but is not obligated) to construct and erect a swimming pool, parking lot, cabana and/or other recreational facilities ("Pool Area") in a place within the Subdivision or on property near the Subdivision and to make such facilities available for use by residents of the Subdivision. The size, location, nature and extent of the improvements and landscaping of the Pool Area, and all other aspects of the Common Areas that are provided by the Developer, shall be determined by the Developer in its absolute discretion.

2. If the Pool Area is so constructed and made available for use by residents of the Subdivision, the following shall apply:

(a) Following substantial completion and opening for use (as determined by the Developer), the Developer shall convey, without charge and free and clear of all mortgages, security interests, and mechanic's liens, title to the Pool Area (or the completed portion thereof) to the Homes Association. Such title transfer shall be by special warranty deed. Thereafter, the Homes Association shall cause adequate property and liability insurance to be continuously maintained on the Pool Area and, so long as Developer owns any Lots in the Subdivision, cause the Developer to be named as an additional insured on such insurance coverage.

(b) The Homes Association shall pay (i) all operating expenses (as defined below) and (ii) all post construction capital expenditures (as defined below) relating to the Pool Area. The Homes Association shall pay the amounts due from it under this subsection out of the assessments collected from the Owners of the Lots subject to this Declaration.

(c) For purposes hereof, the "operating expenses" of the Pool Area generally has the meaning attributed thereto under generally accepted accounting principles, consistently applied, but shall not include (i) any costs of the Developer of acquiring, developing, improving, constructing or erecting the Pool Area or the site on which such facilities are located, (ii) any depreciation or amortization of the costs described in clause (i) above, or (iii) any financing or debt service expenses related to the costs described in clause (i) above.

(d) For purposes hereof, "post construction capital expenditures" means any expenditures to be made or incurred after the initial completion (as specified by the Developer) of the Pool Area for equipment, furniture, or other capital assets, including the expansion, addition or replacement of any equipment or facilities, and any other expenditures that would be capitalized under generally accepted accounting principles, consistently applied. All post construction capital expenditures shall be made by and at the discretion of the Homes Association.

(e) By acceptance of a deed to a Lot, all Owners acknowledge and accept the inherent risks and hazards (whether foreseeable or not) associated with use of a swimming pool and any diving board and/or slide and any playground equipment that may be installed as part of the Pool Area. The Developer and the Homes Association and their respective officers, directors, representatives and agents shall have no liability or responsibility to any Owner or other party with respect to such inherent risks and hazards. Each Owner, for himself, the members of his family, his guests and invitees, shall be deemed to have released and agreed never to make a claim against the Developer or the Homes Association or any of their respective officers, directors, representatives or agents for any personal injury or death that may be suffered or incurred by any of such releasing parties in connection with use of the Pool Area, and each of them shall be deemed to have waived any and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.

3. Subject to Section 2 above and Section 4 below, 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 solely a landscape easement or 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, 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.

4. 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, 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 (but only with the City's consent) title to or easements over all or any part of the Common Areas so that they become public areas maintained by the City.

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

THE DEVELOPER:

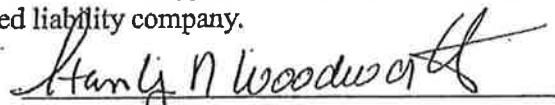
CATCH INVESTMENTS, LLC

By: 

Don Dusselier, Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on March 26, 2008 by Don Dusselier, as a Member of Catch Investments, LLC, a Kansas limited liability company.



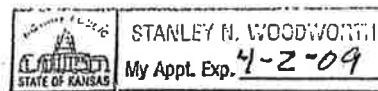
Notary Public in and for said County and State

My Commission Expires:

4-2-09

[SEAL]

Print Name: Stanley N. Woodworth



AMENDED AND RESTATED
BYLAWS OF
BROOKWOOD FARMS HOMES ASSOCIATION, INC.

ARTICLE I
OFFICES

1.1 Name. The name of the corporation is Brookwood Farms Homes Association, Inc. It is incorporated under the laws of the State of Kansas as a not-for-profit, non-stock corporation. The corporation is the homes association referenced in the Declaration (as defined below).

1.2 Location. The principal office of the corporation shall be located in Spring Hill, Kansas, but, except as otherwise required by law, meetings of members and directors may be held at such other places in Johnson County, Kansas as may be designated by the Board of Directors from time to time in accordance with applicable law.

ARTICLE II
DEFINITIONS

2.1 "Association" means Brookwood Farms Homes Association, Inc., its successors and assigns.

2.2 "Subdivision" means all of the property which is now or hereafter within the jurisdiction of the Association as provided in the Declaration.

2.3 "Common Areas" has the meaning set forth in the Declaration.

2.4 "Lot" has the meaning set forth in the Declaration.

2.5 "Owner" has the meaning set forth in the Declaration.

2.6 "Developer" means the "Developer" (or its assignee) under the Declaration.

2.7 "Turnover Date" has the meaning set forth in the Declaration.

2.8 "Declaration" means, collectively, the following documents: (i) Biltmore Farms Homes Association Declaration recorded in Book 200803 at Page 008557 in the Office of the Register of Deeds of Johnson County, Kansas (the "Recording Office"), as such may be amended and supplemented from time to time, (ii) Biltmore Farms Declaration of Restrictions recorded in Book 200803 at Page 008558 in the Recording Office, as such may be amended and supplemented from time to time; and (iii) (to the extent applicable) any additional declarations as may be recorded from time to time with the Recording Office which relate to the subdivision in Spring Hill, Kansas commonly known as "Brookwood Farms", or any other subdivision under the jurisdiction or coverage of the Association from time to time.

2.9 "Bylaws" means these Amended and Restated Bylaws, as may be amended from time to time in accordance with the provisions hereof.

ARTICLE III **MEMBERSHIP**

3.1 Membership Generally. Except for the Developer as provided in the Declaration, membership in the Association shall be limited to persons or entities who are the Owners of the fee interest in any Lot which is now or hereafter within the jurisdiction of the Association. Persons or entities (other than a contract seller) who hold an interest merely as security for the payment or performance of an obligation shall not be members. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

3.2 Suspension of Membership. During any period in which a member shall be delinquent in the payment of any assessment levied by the Association as provided in the Declaration, the voting rights of such member shall be automatically suspended for matters involving assessments and fees (and for no other matters) until such assessment has been paid. In addition, the Board of Directors may, in accordance with applicable law, suspend the rights of the member to receive services provided by the Association and the right to use any Common Areas in or available to the Subdivision until such assessment has been paid. Such rights of a member may, in accordance with applicable law, be suspended by the Board of Directors, after notice and hearing, for a period not to exceed 90 days, for violation of any of the rules and regulations established by the Board of Directors pursuant to the Declaration or these Bylaws.

ARTICLE IV **VOTING RIGHTS**

4.1 Voting. Except as otherwise provided in the Declaration for the period prior to the Turnover Date, each member shall have one vote for each Lot in which he or she is the Owner; provided, however, when more than one person is the Owner of a 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 any such Lot. The vote of a Lot must be cast as a single lot, and fractional votes of such Lot's allocated vote shall not be allowed. Any one of the joint Owners of a Lot may cast their vote on the matter in question. In the event that differing votes are cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

4.2 Representatives. Where a Lot is owned by a corporation, partnership or other entity, such entity shall designate a person who is entitled to vote respecting such Lot and to serve, if elected or appointed, as a director of the Association. Such designation shall be made by filing a written instrument to that effect with the Association.

ARTICLE V **USE OF COMMON AREAS**

5.1 Common Areas. The Owners of Lots within the Subdivision shall have the non-exclusive right to the use of all Common Areas for their intended purposes.

5.2 Rules and Regulations. The Association shall have the right and the power to make and enforce reasonable rules and regulations which shall govern the use of the Common Areas.

ARTICLE VI BOARD OF DIRECTORS

6.1 Number.

(a) Prior to the Turnover Date, the affairs of the Association shall be managed by a Board of Directors composed of two (2) directors.

(b) After the Turnover Date, the affairs of the Association shall be managed by a Board of Directors composed of five (5) directors. The directors elected or appointed after the Turnover Date shall, by means decided upon by the directors, divide into two groups of three (3) and two (2), respectively, for the purpose of initiating a staggered election of the Board of Directors. Each member of the first group of three (3) so chosen by the Board of Directors shall hold office for the initial term of two years or until his or her earlier resignation or removal. Each member of the second group of two (2) shall hold office for the initial term of one year or until his or her earlier resignation or removal. Thereafter, at the annual meeting to elect directors for the positions with terms expiring in that year, each individual elected as a director shall serve for a term of two years.

(c) Each individual elected as a director shall serve until the next applicable annual election and until his or her successor is duly elected and has commenced his or her term of office or until his or her earlier resignation or removal.

6.2 Qualification. After the Turnover Date, each director must be and remain a member (or designated representative of an entity that is a member) of the Association in good standing in order to be elected and remain as a director.

6.3 Removal. Except as provided by applicable law, any director may be removed from the Board of Directors, with or without cause, by a majority vote of the members of the Association entitled to vote on the election of such director. In the event of death, resignation or removal of a director, his or her successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his or her predecessor, or, if earlier, until the next regularly scheduled election of directors.

6.4 Compensation. No director shall receive compensation for the service he or she may render to the Association as a director. However, any director may be reimbursed for his or her reasonable out-of-pocket expenses incurred in the performance of his or her duties.

6.5 Newly Created Directorships. Newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, unless it is otherwise provided in the Articles of Incorporation or these Bylaws, and the directors so chosen shall hold office until the next annual election of directors and until their successors are duly elected and

qualified, or until their earlier resignation or removal. If there are no directors in office, then an election of directors may be held in the manner provided by statute.

ARTICLE VII

MEETING OF DIRECTORS

7.1 Annual Meetings. Annual meetings of the Board of Directors shall be held within 15 days following the annual meeting of the members. Such annual meetings shall be held at such place as may be fixed by the Board in accordance with applicable law.

7.2 Regular Meetings. Regular meetings of the Board of Directors may be held at such place and time as may be fixed from time to time by the Board of Directors.

7.3 Special Meetings. Special meetings of the Board of Directors shall be held at such place and time as may be specified by and when called by the president of the Association or by any director.

7.4 Notice of Meetings. Written notice stating the time, date, place and agenda of a meeting of the Board of Directors and, for any special meeting, the purpose or purposes for which the meeting is called, shall be delivered to each director and (unless the meeting was included in a schedule of Board meetings previously given to the members or is called to deal with an emergency) to the members, not less than five (5) days before the date of the meeting, either by hand delivery, by mail or by e-mail, by or at the direction of the person(s) calling the meeting; provided that notices may be sent by e-mail only to directors or members who have provided a written consent to the Association indicating their desire to receive notices at a specific e-mail address. Such notice shall be deemed to be delivered when deposited in the United States mail addressed to the director or member at his or her address as it appears on the records of the Association, with postage thereon prepaid, or when e-mailed to the director or member at his or her designated e-mail address.

7.5 Quorum and Vote Requirements. Unless otherwise required by law, a majority of the total number of directors shall constitute a quorum for the transaction of business. Except as otherwise required by law, every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

7.6 Adjournment. If a quorum shall not be present at any such meeting, the directors present shall have the power successively to adjourn the meeting, without notice other than announcement at the meeting, to a specified date. At any such adjourned meeting at which a quorum shall be present any business may be transacted which could have been transacted at the original session of the meeting.

7.7 Meetings by Conference Telephone or Similar Communications Equipment. Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment whereby all directors, members and other persons participating in the meeting can hear each other, and participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

7.8 Action Taken Without a Meeting. To the extent permitted by applicable law, any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if written consent thereto is signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board or committee.

7.9 Meetings Open to Members. All meetings of the Board of Directors and committees thereof shall be open for attendance by all members of the Association to the extent required by law.

7.10 Conduct of Meeting. Meetings of the Board of Directors shall not be required to be conducted in accordance with Robert's Rules of Order Newly Revised.

ARTICLE VIII **NOMINATION AND ELECTION OF DIRECTORS**

8.1 Nomination. After the Turnover Date, nomination for election to the Board of Directors may be made in writing by any member delivered to the secretary of the Association in advance of the annual meeting or from the floor at the annual meeting of the members.

8.2 Election. After the Turnover Date, election to the Board of Directors shall be by written ballot. At any such election, the members entitled to vote or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of Article IV hereof. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

8.3 Commencement of Term of Office. A director shall be deemed elected at the time of his or her election, but he or she shall not be deemed to have commenced his or her term of office or to have any of the powers or responsibilities of a director until the time he accepts the office of director either by a written acceptance or by participating in the affairs of the Association at a meeting of the Board of Directors.

ARTICLE IX **POWERS OF THE BOARD OF DIRECTORS**

The Board of Directors shall have the power to:

9.1 Scope. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by law or by other provisions of these Bylaws, the Articles of Incorporation or the Declaration.

9.2 Rules and Regulations. In accordance with applicable law, adopt reasonable rules and regulations governing the use of the Common Areas and the personal conduct of the members and their guests thereon and governing other matters within the authority of the Association, and to establish, levy and enforce fines and penalties for the infraction thereof; provided, however, that the Board of Directors may not, in any event, revoke or suspend in any way the right of any Owner to use and enjoy any street for ingress and egress.

9.3 Amend Declaration. To the extent permitted by applicable law, adopt or otherwise approve amendments to the Declaration and authorize the President and Secretary of the Association to prepare, execute, certify and record such amendments to the Declaration.

9.4 Employment. Employ (and contract with for such periods of time and on such terms as may be deemed appropriate) agents, independent contractors, managers and employees, and to prescribe their duties and responsibilities.

9.5 Records and Reports. Cause books and records of the Association and of the corporate affairs of the Association to be kept and maintained (or delegate such duties to a managing agent).

9.6 Supervision. Supervise all officers, agents and employees of the Association, and see that their duties are properly performed.

9.7 Assessments. As more fully provided in the Declaration, provide for the establishment, levying and collection of assessments against each Lot and take all actions necessary or appropriate to collect the same, in accordance with applicable law.

9.8 Certificates. Issue, or cause an appropriate officer to issue, upon request by any member, a certificate setting forth whether or not an assessment has been paid. A reasonable charge may be made by the Association for the issuance of these certificates.

9.9 Insurance. Procure and maintain liability insurance, property insurance and other insurance on property owned or controlled by and the activities of the Association, and officer's and director's liability insurance, all with such coverages and in such sums as may be deemed appropriate by the Board of Directors.

9.10 Bonding. Cause officers or employees having fiscal responsibility to be bonded, as the Board of Directors may deem appropriate.

9.11 Maintenance. Cause the Common Areas and other areas to be maintained as provided in the Declaration.

9.12 Committees. Appoint one or more committees. Any such committee shall be composed of at least one (1) director and any other individuals as the Board of Directors shall designate. Not all members of a committee need be directors unless otherwise provided in the Declaration, Articles of Incorporation or by law. A quorum of any committee so designated by the Board of Directors shall be any number of the members designated by the Board of Directors, but that quorum shall not consist of less than one-half (1/2) of the total number of members appointed to such committee. The Board may designate one (1) or more individuals as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Notwithstanding the foregoing, the Architectural Committee shall be appointed, constituted and governed as provided in the Declaration.

9.13 Indebtedness of Association. Unless otherwise prohibited by the Declaration, borrow money and incur indebtedness in the name of the Association for purposes of the Association and cause to be executed and delivered therefor, in the Association's name,

promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor.

9.14 Alternative Dispute Resolution. Require that disputes between the Association and a member(s) be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding.

9.15 Performance. Perform all acts and do all things required or permitted to be done by the Association by the Declaration or otherwise; and perform all acts and do all things permitted or required of a Board of Directors of a not-for-profit corporation or home owners association under the laws of the State of Kansas.

ARTICLE X

MEETINGS OF MEMBERS

10.1 Annual Meetings. The annual meeting of the members of the Association shall be held in November of each year, on such date and at such place and time as may be fixed by the Board of Directors. At each annual meeting, directors shall be elected, reports of the affairs of the Association shall be considered, and any other business within the powers of the membership may be transacted.

10.2 Special Meetings. Special meetings of the members may be called at any time by the president or by a majority of the Board of Directors, or upon written request of members holding at least one-tenth (1/10th) of the votes of the members.

10.3 Place and Notice of Meetings. All meetings of the members shall be held in Johnson County, Kansas at such place as may be designated in the notice of the meeting. Written notice of each meeting of the members shall be given by, or at the direction of, the person(s) duly calling the meeting, by hand delivering, by mailing or by e-mailing a copy of such notice not less than ten (10) days (two (2) days in case of an emergency) nor more than sixty (60) days prior to such meeting to each member, addressed to the member's address or e-mail address last appearing on the books of the Association or by giving such notice within such timeframe by any other method reasonably calculated to provide notice to the member; provided, however, notices may be sent by e-mail only to members who have provided a written consent to the Association indicating their desire to receive notices at a specific e-mail address. Such notice shall specify the time, date, and place of the meeting and the items on the agenda, and, in the case of a special meeting, the specific matters to be addressed at the meeting. Such notice shall be deemed to be delivered when it is hand delivered, or deposited in the United States mail with postage thereon so addressed to the member, or when it is e-mailed to the member at his or her designated e-mail address, or when it is given by any other method reasonably calculated to provide notice to the member.

10.4 Quorum and Vote Requirements. The presence at a meeting, in person, by proxy, or (if applicable) by absentee ballot, of members entitled to cast at least 20% of the total votes of the membership on the specific actions shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than

announcement at the meeting, until a quorum shall be obtained. Except as otherwise provided in these Bylaws, the Declaration or the Articles of Incorporation or by law, a majority vote of those entitled to vote and present at a meeting at which a quorum is present shall be necessary to transact any business entitled to be transacted by the members.

10.5 Proxies; Absentee Ballots. At all meetings of the members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the secretary of the Association before the start of the meeting. Every proxy shall be revocable (by giving notice of revocation) and shall automatically cease to be effective, if not sooner terminated by its terms or revoked, upon the expiration of eleven (11) months from the date of its issuance or upon conveyance by the member of his or her Lot, whichever event shall occur first. Voting by absentee ballot may be allowed if the Board of Directors specifically authorizes in advance the use of absentee ballots for a specific meeting. If absentee ballots are authorized by the Board of Directors for a specific meeting, then such absentee ballot voting will be conducted in accordance with the procedures approved by the Board of Directors in accordance with applicable law.

10.6 Conduct of Meetings. Meetings of the members shall be conducted as authorized by the Board of Directors. Meetings of the members shall not be required to be conducted in accordance with Roberts Rules of Order Newly Revised unless specified by the Board of Directors for the specific meeting of the members.

10.7 Voting Without a Meeting. The Association may conduct a vote of the members without holding a meeting of the members in accordance with the provisions of applicable law.

ARTICLE XI

OFFICERS AND THEIR DUTIES

11.1 Enumeration of Offices. The officers of the Association shall be a president, a vice president, a secretary and a treasurer. The president and vice president shall be elected from among the members of the Board of Directors. The Association may have such other officers as the Board of Directors may from time to time elect.

11.2 Election of Officers. Initially, the officers shall be elected by the Board of Directors named in the Articles of Incorporation at the first meeting of that body, to serve at the pleasure of the Board until the first annual meeting of the Board and until their successors are duly elected and qualified or until their earlier resignation or removal.

At the first and each subsequent annual meeting of the Board of Directors, the newly elected Board shall elect officers to serve at the pleasure of the Board until the next annual meeting of the Board and until their successors are duly elected and qualified or until their earlier resignation or removal.

An officer shall be deemed qualified when he or she enters upon the duties of the office to which he or she has been elected or appointed and furnishes any bond required by the Board of Directors or these Bylaws; but the Board of Directors may also require of such person his or her written acceptance and promise faithfully to discharge the duties of such office.

11.3 Special Appointments. The Board of Directors may appoint such other officers and agents as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties consistent with these Bylaws as the Board may, from time to time, determine.

11.4 Resignation and Removal. Any officer may be removed from office by the Board of Directors whenever, in the Board's judgment, the best interests of the Association will be served thereby. Any officer may resign at any time by giving written notice to the Board (which may be by delivery to the president or the secretary). Such resignation shall take effect on the date of receipt of such notice by the Board or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

11.5 Vacancies. A vacancy in any office may be filled by the Board of Directors at any time. The officer elected to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

11.6 Multiple Offices. Any two (2) or more offices may be held by the same person.

11.7 Duties. The duties of the officers are as follows:

President. The president shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the affairs and officers of the Association. He or she shall preside at all meetings of the membership and at all meetings of the Board of Directors. He or she shall be a non-voting ex officio member of all standing committees (and may also be a voting member of any such committee, in the capacity of an official appointee, as the case may be) and shall have the general powers and duties of management usually vested in the office of president and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

Vice President. The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties and have such other powers as may be prescribed by the Board of Directors.

Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members, shall keep the corporate seal, if any, of the Association and affix it on all papers required to have the seal affixed thereto, shall keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties, and have such other powers as may be prescribed by the Board of Directors or usually vested in the office of secretary.

Treasurer. The treasurer shall have responsibility for the safekeeping of the funds of the Association, shall keep or cause to be kept full and accurate accounts of receipts and disbursements of the Association and such other books of account and accounting records as may be appropriate, and shall perform such other duties and have such other

powers as may be prescribed by the Board of Directors or usually vested in the office of treasurer. The books of account and accounting records shall at all reasonable times be open to inspection by any director.

11.8 Compensation. Officers of the Association shall not receive any compensation or salary for their services as officers, but may be reimbursed for their reasonable out-of-pocket expenses incurred in the performance of the duties of their offices.

ARTICLE XII **ASSESSMENTS AND BUDGETS**

12.1 Purpose. The assessments levied by the Association shall be used to provide funds to enable the Association to exercise the powers, maintain the improvements and render the services provided for in these Bylaws, the Declaration and the Articles of Incorporation.

12.2 Provisions Governing Assessments. Assessments shall be levied in the manner provided in the Declaration and any applicable law.

12.3 Annual Operating Budget. The Board of Directors shall prepare and adopt an annual budget covering the estimated costs of operating and administrating the Association for the following fiscal year and determine the level of assessments. Notice of any meeting of the Board of Directors at which the annual budget will be considered shall be given to the members at least ten (10) days prior to the meeting date and a copy of the proposed budget must be made available to any member who requests it. The Board shall cause the budget and notice of assessments to be levied against each Lot for the following fiscal year to be delivered to each member at least thirty (30) days prior to the beginning of the Association's fiscal year, but in all events a copy of the annual budget shall be made available, within 30 days after adoption, to each member of the Association upon the request of such member.

ARTICLE XIII **BOOKS AND RECORDS**

The Association shall maintain books and records as required by applicable law. The books and records of the Association shall, at all times during reasonable business hours and upon reasonable advance written notice, be subject to inspection by any member for proper purposes, subject to any legal right of the Association to withhold certain records.

ARTICLE XIV **CORPORATE SEAL**

If adopted by the Board of Directors, the Association shall have a corporate seal in a circular form having inscribed thereon the name of the Association and the words "Corporate Seal--Kansas". The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise attached.

ARTICLE XV
GENERAL PROVISIONS

15.1 Depositories and Checks. The moneys of the Association shall be deposited in such banks or financial institutions and shall be drawn out by checks signed in such manner as may be provided by resolution adopted by the Board of Directors from time to time.

15.2 Certain Loans Prohibited. The Association shall not make any loan to any officer or director of the Association.

15.3 Absence of Personal Liability. The directors, officers and members of the Association shall not be individually or personally liable for the debts, liabilities or obligations of the Association.

15.4 Indemnification.

(a) Indemnification and Advancement of Expenses. The directors and officers of the Association shall be indemnified to the maximum extent permitted by law. Expenses incurred by a director or officer of the Association in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it is ultimately determined that the director or officer is not entitled to be indemnified by the Association as authorized by the Kansas General Corporation Code. The foregoing right of indemnification and advancement of expenses shall in no way be exclusive of any other rights of indemnification and advancement of expenses to which any such director or officer may be entitled by agreement, vote of members or of disinterested directors, or otherwise.

(b) Continuation of Rights. All rights of indemnification and advancement of expenses under these Bylaws and under the Kansas General Corporation Code shall continue as to a person who has ceased to be an officer or director and shall inure to the benefit of the heirs, executors and administrators of such a director or officer.

(c) Indemnification Insurance. The Association may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Association against any such expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under the Kansas General Corporation Code.

ARTICLE XVI
AMENDMENT

These Bylaws may from time to time be altered, amended, or repealed, or new Bylaws may be adopted by a two-thirds (2/3) vote of the members of the Association entitled to vote who are present, in person, by proxy, or (if applicable) by absentee ballot, at a meeting at which a quorum is present, in person or by proxy. Notwithstanding the foregoing, these Bylaws may not be amended in any manner that would cause the provisions hereof to conflict with any of the

lawful provisions of the Declaration or the Articles of Incorporation or conflict with any applicable law.

ARTICLE XVII
CONFLICT

In the case of any conflict between any lawful provision of the Articles of Incorporation of the Association and these Bylaws, the Articles of Incorporation shall control. In the case of any conflict between any lawful provision of the Declaration and these Bylaws, the Declaration shall control. In the case of any conflict between these Bylaws and any applicable statute, the applicable statute shall control.

ARTICLE XVIII
FISCAL YEAR

The Board of Directors shall have power to fix and from time to time change the fiscal year of the Association. In the absence of action by the Board of Directors, the fiscal year of the Association shall end each year on the date which the Association treated as the close of its first fiscal year, until such time, if any, as the fiscal year shall be changed by the Board of Directors.


ARTICLE XIX
WAIVER OF NOTICE

Whenever any notice is required to be given under the provisions of the statutes of Kansas, or of the Articles of Incorporation or of these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the members, directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the Articles of Incorporation or these Bylaws.

* * *

The undersigned secretary of Brookwood Farms Homes Association, Inc., a Kansas not-for-profit corporation, hereby certifies that the foregoing Amended and Restated Bylaws are the bylaws of said corporation adopted by the Board of Directors as of the date below.

Dated: December 16, 2010.



Don Dusselier, Secretary