

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
OF  
THE BRANCHES**

THIS DECLARATION is made as of the \_\_\_\_ day of \_\_\_\_\_, 2008, by Larkin Homes, Inc. ("Declarant").

WITNESSETH:

WHEREAS, Declarant or Declarant's successors have executed and filed with the Register of Deeds of Leavenworth County, Kansas, a final plat of the Subdivision known as "The Branches"; and

WHEREAS, such plat creates the Subdivision of The Branches, composed of the following described property:

A tract of land in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian in the City of Leavenworth, Leavenworth County, Kansas, described as follows:

Commencing at the Southwest corner of said Northwest Quarter; thence on a Kansas State Plane North zone bearing of North 88°10'08" East, along the South line of said Northwest Quarter, a distance of 660.01 feet to the point of beginning; thence North 01°15'39" West, 660.00 feet; thence South 88°10'08" West, along a line parallel with the South line of said Northwest Quarter, 406.82 feet; thence North 01°49'52" West, 180.00 feet; thence North 88°10'08" East, 48.61 feet; thence North 01°15'41" West, 359.01 feet; thence North 22°14'15" East, 109.10 feet; thence North 43°03'53" East, 161.00 feet; thence North 63°04'43" East, 109.46 feet; thence North 88°44'19" East, 606.94 feet to a line described to be 1501.50 feet West of the East line of said Northwest Quarter; thence South 02°02'31" East, along a line described to be 1501.50 feet West of and parallel with the East line of said Northwest Quarter, 492.37 feet; thence South 39°36'20" West, 27.40 feet; thence South 42°50'55" West, 589.61 feet; thence South 01°15'39" East, 520.87 feet to the South line of said Northwest Quarter; thence South 88°10'08" West, along

the South line of said Northwest Quarter, 80.00 feet to the point of beginning. Containing 694,531 square feet or 15.944 acres, more or less and has a mathematical closure ratio of 1:217,560. (Note: The foregoing metes and bounds description includes Lots 1, 12, 34, 35, 36, 37, 38, 39, 41, 42, 43, and 46 in the Subdivision, which have been sold by Declarant prior to the date of this Declaration, but are nevertheless made subject to this Declaration pursuant to the executed Elections, which are attached hereto.)

WHEREAS, Declarant, as the present owner and developer of the above-described property, except Lots 1, 12, 34, 35, 36, 37, 38, 39, 41, 42, 43, and 46, desires to create and maintain a residential neighborhood and to place certain restrictions on such property 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 Declarant, and all of the restrictions shall be for the use and benefit of Declarant and its grantees, successors and assigns;

WHEREAS, Derrick Carl Robinson and Evelyn Robinson, as the present owners of Lot 1, desire to include Lot 1 in the residential neighborhood established by this Declaration, and have elected to subject Lot 1 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, NAK Construction, Inc., as the present owner of Lot 12, desires to include Lot 12 in the residential neighborhood established by this Declaration, and has elected to subject Lot 12 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, Michael J. Shumway and Janet C. Shumway, as the present owners of Lot 34, desire to include Lot 34 in the residential neighborhood established by this Declaration, and have elected to subject Lot 34 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, Clyde A. Griggs and Mildred F. Griggs, as the present owners of Lot 35, desire to include Lot 35 in the residential neighborhood established by this Declaration, and have elected to subject Lot 35 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, Larkin Construction, L.L.C., as the present owner of Lots 36, 37, 38, and 39, desires to include Lots 36, 37, 38, and 39 in the residential neighborhood established by this Declaration, and has elected to subject Lots 36, 37, 38, and 39 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, Darrell M. Gray and Karen C. Gray, as the present owners of Lot 41, desire to include Lot 41 in the residential neighborhood established by this Declaration, and have elected to subject Lot 41 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, Jana L. Harris, as the present owner of Lot 42, desires to include Lot 42 in the residential neighborhood established by this Declaration, and has elected to subject Lot 42 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, Jamie M. Griggs, as the present owner of Lot 43, desires to include Lot 43 in the residential neighborhood established by this Declaration, and has elected to subject Lot 43 to this Declaration, as evidenced by the Election attached hereto;

WHEREAS, David E. Griggs, as the present owner of Lot 46, desires to include Lot 46 in the residential neighborhood established by this Declaration, and has elected to subject Lot 46 to this Declaration, as evidenced by the Election attached hereto;

NOW, THEREFORE, in consideration of the premises contained herein, Declarant, for itself and for its grantees, successors and assigns, hereby agrees and declares that all of the above-described property shall be, and it hereby is, restricted as to its use and otherwise in the manner hereinafter set forth and subject to the covenants, charges, assessments, and easements hereinafter set forth.

1. Definitions. The terms used in this Declaration and in its exhibits shall have the following meanings:

(a) “Association” shall mean The Branches Homes Association, Inc., and its successors and assigns. The Association will be incorporated as a Kansas not-for-profit corporation.

(b) “Owner” shall mean the record owner(s) of any Lot, including Declarant, and for purposes of all obligations of the Owner hereunder, shall include, where appropriate, all family members and tenants of such Owner, the Owner’s successors and assigns, and all guests and invitees.

(c) “Property” shall mean that certain real property identified as the The Branches Subdivision as legally described above, Lots 1, 12, 34, 35, 36, 37, 38, 39, 41, 42, 43, and 46 of The Branches Subdivision, and such additions thereto as may hereafter be brought within the jurisdiction of this Declaration in the manner hereinafter provided. Declarant shall have, and expressly reserves, the right (but not the obligation), from time

to time, to add to the existing Property and to the operation of the provisions of this Declaration such other adjacent or nearby lands as it may now or hereafter acquire, by executing, acknowledging, and recording an appropriate written declaration or agreement 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 Declarant in its absolute discretion. Declarant hereby reserves the right (but not the obligation), from time to time, to eliminate and release from the operation of the provisions of this Declaration any amount of the real estate described above, upon the filing with the Register of Deeds office of Leavenworth County, Kansas, of an appropriate deed of release.

(d) “Lot” shall mean any lot as shown on any recorded plat of all or part of the Property; provided, however, that if an Owner, other than the Declarant, owns adjacent Lots (or parts thereof) upon which a total of only one Home has been built, then such adjacent property under common ownership shall be deemed to constitute only one “Lot”.

(e) “Home” shall mean a single-family dwelling built on any Lot.

(f) “Declarant” means, Larkin Homes, Inc., a Kansas corporation.

(g) “Declaration” means this instrument.

(h) “Common Area and Facilities” shall mean that part of the Property and all improvements located thereon owned by the Association for the common use and enjoyment of the residents of the Property, and shall include the following:

(i) All real estate owned in fee simple by the Association evidenced by warranty deed or deeds from the Declarant to the Association, recorded in the office of the Register of Deeds of Leavenworth County, Kansas;

(ii) Any structures, roads, trees, landscaping, lighting equipment, recreational equipment, playground equipment, picnic areas, decorative equipment, ponds, or other improvements owned by the Association and located upon the Property, including any entrance structures, plantings, and street markers or signs that may

be constructed by the Association or the Declarant for the Association or the Property;

(iii) All easements, rights, and appurtenances belonging thereto necessary to the existence, maintenance, and safety of the Homes and the Common Areas and Facilities; and

(iv) All personal property owned by the Association intended for use by the Association in the exercise of its powers as set forth in this Declaration.

(i) “Common Expenses” mean and include:

(i) Expenses of administration, insurance expenses, and the expenses of maintaining Common Areas and Facilities, including but not limited to: the pond, recreational equipment, playground equipment, all Property identification signs, landscaping, and sprinkler systems;

(ii) Expenses declared common expenses by the Association or by the Declarant; and

(iii) Any valid charge against the Property as a whole.

(j) “Person(s)” means one or more natural individuals, corporations, partnerships, trustees, limited liability companies, limited partnerships, limited liability partnerships, or other legal entities capable of holding title to real property.

(k) “Plat” means each plat or survey of the Property filed in the Office of the Register of Deeds of Leavenworth County, Kansas.

(l) “Exterior Structure” means any structure erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck, gazebo, greenhouse, doghouse, outbuilding, fence, patio wall, privacy screening, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, pond, basketball goal, flag pole, swing set, trampoline, sandbox, playhouse, tree house or other recreational or play structure, and all exterior sculptures, statuary, fountains, and similar yard décor.

(m) “Board” means the Board of Directors of the Association.

(n) “Hazardous Substances” means and includes all regulated, hazardous and toxic substances (including without limitation petroleum and petroleum products), pesticides, metals or heavy metals, infectious wastes, solid, liquid or gaseous wastes or materials, any pollutants or contaminants (including, without limitation, PCBs, asbestos and materials or components which include hazardous constituents), or any other similar substances, or materials which are included under or regulated by any local, state or federal law, statute, ordinance, rule or regulation pertaining to environmental protection, regulation, contamination or clean-up, toxic waste, underground storage tanks and hazardous substance or material handling, treatment, storage, use, transportation or disposal, including without limitation the Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”), the Resource Conservation and Recovery Act (“RCRA”), state lien or environmental clean-up statutes, all as exist from time to time.

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. Notwithstanding the foregoing, an Owner is permitted to operate a business from a Home, provided, however, that such business does not have employees and does not involve having customers on the premises at any time. Operation of a daycare business within the Property is specifically prohibited. No trailer, or improvement other than a Home, shall at any time be used for human habitation, temporarily or permanently; nor shall any residence of a temporary character be erected, moved on to, or maintained upon any of the Lots used for human habitation; provided, however, that nothing herein shall prevent the Declarant or others (including, without limitation, builders and real estate sales agencies) authorized by the Declarant from using temporary buildings or structures, or any residence for model, office, sales, or storage purposes during the development of the Property.

3. Easements and Utilities.

(a) Association Easement. An easement is hereby created in favor of the Association, permitting it to enter upon any Lot for the purpose of performing its powers and duties as delineated herein, and in the Articles of Incorporation and Bylaws of the Association. The right established in this paragraph shall be exercised in a reasonable manner. In addition, each Owner covenants that the Declarant and the Association and their respective designees shall have an easement in, on, across, over, and under such Owner’s property to permit the Declarant and the Association to carry out their respective rights, powers, and duties hereunder, including, without limitation, to effect any desired or necessary maintenance or repairs to any Lot or Home, or the installation of such items as are common to all Owners.

(b) Easements for Public Utilities. The Association and Declarant shall have, and there is hereby reserved, 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 mains and lines, electric and telephone lines, cable television lines and other utilities (collectively the "Utilities"), over, under, upon and through all easements and rights-of-way shown on the recorded Plats of the Property as approved by the Board. All utility easements and rights-of-way shall inure to the benefit of all utility companies for purposes of installing, maintaining or moving any Utilities and shall inure to the benefit of all Owners and the Association as a cross easement for Utilities or service thereof. In addition, the Association and each Owner (as to the Utilities serving such Owner's Lot) shall have, and there is hereby reserved, a right and easement over, under, upon and through every Lot and any improvement thereon for such portion of said Utilities, if any, installed on, in or through any other Owner's Lot or any improvements as of the date of recording of the Plat. No Owner shall unreasonably deny access to any such Utilities to the Association, any utility company or any Owner whose Lot is served by such Utilities, or the agents or contractors of any of them, for purposes of maintenance, repair and replacement of such Utilities; provided, however, that the Owner whose Lot is served by such Utilities, shall repair all damage incurred in connection with such maintenance, repair or replacement and shall indemnify and hold harmless any Owner whose Lot is burdened by such Utilities for any loss or damage incurred in connection with such maintenance, repair or replacement. Each Owner understands that within the rights-of-way set forth on the Plat and within the utility easements set forth herein, the Association may install street lights and associated electrical wiring to service the Property. Each Owner acknowledges that although the Property underlying the easement area shall remain Property owned by the Owner, any street lights, electrical wiring or other personal property placed within any utility easements on the Property shall be the property of either the public utility installing the same, or the Association, and shall not be owned by the Owner as a result of the transfer of any Lot.

(c) Easement for Platting and Construction Errors. There is reserved for the benefit of each Lot, as the dominant tenement, such portion of the Property and each other Lot, jointly as the servient tenement, as shall be encroached upon, used, and occupied by the Owner of the dominant tenement, and which does not materially interfere with the quiet enjoyment of the servient tenement and its use as a single-family residence, as a result of any construction errors, errors in survey, errors in platting, or the movement or subsidence of any improvement.

(d) Easements to Run with the Land. All easements and rights established herein shall run with the land, and shall inure to the benefit of and be binding upon the Owner of any Lot in the Subdivision and any additions thereto, and their successors, heirs and assigns, whether or not such easements are mentioned or described in any deed of conveyance.

4. Membership and Voting Rights.

(a) Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Members may vote at any meeting of the Association in person or by written proxy duly filed with the Secretary of the Association 72 hours prior to the vote.

(b) The Association shall have two classes of voting membership:

(i) Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as such persons shall among themselves determine, but in no event, shall more than one vote be cast with respect to any Lot.

(ii) Class B. The Class B member shall be Declarant and shall be entitled to two votes for each Lot owned by Declarant. Upon the sale of each Lot from Declarant to an Owner, the Class B member's votes shall decrease by two votes, and such Owner shall be a Class A member entitled to exercise one vote with respect to such Lot.

(c) At such time as Class B member Declarant ceases to own at least 20% of the Lots, Declarant shall become a Class A member entitled to one vote for each Lot owned by Declarant.

(d) The Board shall have the right to suspend an Owner's voting rights (i) for any period during which any assessment against such Owner's Lot remains unpaid and (ii) for a period not to exceed 60 days for any infraction of the Association's published rules and regulations.

(e) The Association shall have such meetings as the Board shall deem necessary. Meetings of the Association shall be held at such time and place determined by the Board. At least 10 calendar days prior to any meeting, the Board shall give notice to each Owner by first class mail sent



to each Owner's residential address, as shown in the records of the Association. Such notice shall set forth the time and location of the meeting, and a brief description of the issues to be addressed at the meeting. Any Owner may waive notice of a meeting by a written instrument, or by such Owner's attendance and participation at such meeting.

5. Powers and Duties of the Association.

(a) Powers. 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 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:

(i) To fix, levy, and collect assessments, both general and special, as common costs or otherwise, against each Lot as hereinafter set forth for the purpose of performing its duties, to pay Common Expenses, to replace items on the Property when necessary pursuant to this paragraph, and to accomplish the duties set forth in subparagraph (b) below.

(ii) To enforce, in the Association's name, any and all building, use, or other restrictions, obligations, agreements, reservations, or assessments which have been or hereafter may be imposed upon any Lot or other part of the Property. The expense and cost of any such enforcement proceedings by the Association shall be paid out of the general funds of the Association, except as herein provided. Nothing herein contained shall be deemed or constructed to prevent Declarant or any Owner from enforcing any building, use, or other restrictions in its, her, or his own name.

(iii) To maintain public liability, workers' compensation, fidelity, fire and extended coverage, director and officer liability, indemnification, and other insurance with respect to the activities of the Association and the Property.

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

(v) To enter into and perform agreements, with Declarant or any other party, regarding the performance of services and matters

benefiting the Property and the sharing of the expenses associated therewith.

(vi) To enter into and perform agreements, with Declarant or any other party, relating to the joint use, operation, and maintenance of any recreational facilities and other similar common areas, whether in or outside the Property, and the sharing of expenses related thereto.

(vii) To have employees and otherwise engage the services of a management company or other person or entity to carry out and perform all or any part of the functions and powers of the Association.

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

(ix) To the extent such services are not provided by any governmental entity, to provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash, and rubbish of all kinds on the Property; and to do any other things necessary or desirable in the judgment of the Board to keep the Property neat in appearance and in good order.

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

(xi) To make, amend, and revoke reasonable rules, regulations, restrictions, and guidelines relating to the Property, and to provide means to enforce such rules, regulations, restrictions, and guidelines.

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

(b) Duties. The Association shall have the following duties:

(i) To maintain and repair the Common Areas and Facilities, and to replace items therein when necessary, all of which includes but is not limited to any structures, grassy areas, pavement, trees, landscaping, lighting equipment, recreational equipment, playground equipment, picnic areas, decorative equipment, ponds,

parts and accessories in and to such areas, or other improvements owned by the Association and located upon the Property.

(ii) To obtain and provide public liability, casualty, and other such insurance deemed necessary by the Association for the Common Areas and Facilities, as more specifically set forth herein.

(iii) To do and perform such other things as may from time to time be necessary to maintain the quality and appearance of the Common Areas and Facilities.

6. Covenant for Maintenance Assessment.

(a) Creation of the Lien and Personal Obligation of Assessments. Each Owner (except the Declarant) of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association assessments or charges to be fixed, established, levied, and collected from time to time as hereinafter set forth. The assessments, both general and special, together with interest and costs of collection thereof, shall be a charge on the land and improvements thereon, and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent payments shall not pass to an Owner's successor unless expressly assumed by such successor. All Lots owned by the Declarant shall be exempted from the provisions of this Paragraph and the payment of any assessments.

(b) Purposes of Assessment. All general assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners. General assessments shall be expended for the provision of services to the Common Areas and Facilities, including, without limitation, taxes, and insurance premiums with regard thereto; for the purchase of any insurance the Association is obligated or deems appropriate to purchase under this Declaration; for all Common Expenses; for reasonable reserves for the foregoing purposes; and for such other expenses as shall be agreed to by two-thirds of the total votes exercisable by the Members who are voting in person or by proxy at a meeting called as provided herein.

(c) Payment of Annual Assessments.

(i) Creation of Annual Budget. At or near the beginning of October of each year, the Association shall determine, as soon as is reasonably possible, all of the costs incurred in the previous year, and whether or not the costs have exceeded the previous year's budget. At or near October 31<sup>st</sup> of each year, the Association, by its Board and through its accountant, shall prepare a budget for the ensuing calendar year. Such budget shall cover the estimated costs of providing services for the Common Areas and Facilities (including a reserve, if any, for future repair and/or replacement of capital items), the costs of the duties described in this Declaration, the cost of insurance, and the cost of performing all of the Association's obligations and exercising the powers established under this Declaration. Any deficiency or excess from the previous year shall be taken into account as part of the budget for such calendar year.

(ii) On the basis of the budget prepared under the previous paragraph, the assessment for each Owner for the ensuing year shall be established by the Association on the basis that the costs as estimated under such budget shall be borne equally by each Lot owned by an Owner ("Annual Assessment"). A bill for the Annual Assessment shall be sent in writing to each Owner by December 1<sup>st</sup> of each year. The Annual Assessment shall be paid quarterly in advance, with the payments due on January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup> and October 1<sup>st</sup>. Payments shall be made to the order of the Association to its existing address as provided in the notice of assessment.

(iii) If an annual budget is not made as required, a quarterly payment in the amount required under the previous year's budget shall be due from each Owner upon each payment date until changed by new regular fees and charges established by a new budget. Any deficit resulting from the use of the prior year's monthly payment shall be made up in the first new quarterly payment.

(iv) On transfer of any Lot by an Owner, the Annual Assessments hereunder shall be prorated between such Owner and the new Owner based on the date of recording of the deed transferring the Lot.

(d) Special Assessments. In the event an Owner violates any portion of this Declaration, or fails to maintain the exterior portions of any improvements on such Owner's Lot – including, but not limited to walls, roofs, driveways, lawns, and landscaping – in a reasonable manner, and

the Board determines that the Lot or any improvements thereon are a detriment to the Property, the Board shall deliver a written notice to such Owner specifying the needed repairs and maintenance, requesting the Owner to correct the conditions within 30 days, and advising the Owner that a Special Assessment may be imposed if the Owner fails to correct the condition.

If within 30 days from receipt of the notice the Owner has not corrected conditions to the satisfaction of the Board, the Board shall deliver a second written notice to such Owner of the needed repairs and maintenance and the estimated cost of such repairs and maintenance. The Board, at its discretion, may impose a Special Assessment against such Owner at that time for violation of this Declaration and failure to correct said violation.

If within 30 days from receipt of the second notice the Owner has not made arrangements to the satisfaction of the Board for the making of such repairs and maintenance, the Board may contract for and make such repairs and maintenance and the cost of the repairs and maintenance shall be an additional Special Assessment against such Owner, shall be a lien upon the Lot and any improvements, and may be enforced in the same manner as any other assessment as provided herein.

(e) Commencement of Annual Assessments. The Annual Assessments provided for in this Section shall commence as to each Lot upon the date that ownership of each Lot is transferred by Declarant to each respective Owner. The first Annual Assessment shall be adjusted according to the number of days remaining in the calendar year. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

(f) Reimbursement of Advances for Common Expenses Paid By Declarant. To alleviate the initial burden of assessments on the first Lot Owners, Declarant may advance funds for the payment of Common Expenses. It is understood that the payment of Common Expenses is for the benefit of the Association and its Members. Therefore, the Association is liable for the reimbursement to Declarant for any funds paid by Declarant for Common Expenses.

(g) Effect of Nonpayment of Assessment; Remedies of the Association. Each assessment shall be a charge against the Owner and shall automatically become a lien in favor of the Association on the Lot against which it is levied as soon as the assessment becomes due. If any assessment, or installment thereof, is not paid within 10 days after the due

date, the Owner shall be charged a late fee in the amount of \$50.00, plus \$5.00 for each additional day thereafter until the full amount of the assessment is paid in full. In the event of unusual or extenuating circumstances which prevented the Owner from making proper payment within the proper time, the Owner may submit a written request to the Board for a waiver of late fees. Such written request must be submitted to the Board within 30 days of the original due date of the unpaid assessment and must provide a detailed explanation of the nature of the events that caused the delay in payment. No daily late charges shall accrue beginning with the date the written request is received by the Board. In the event the request is denied, daily late fees will resume from the date the Owner is notified of the Board decision and shall continue until the assessment is paid in full.

Any waiver of late fees shall not be considered a waiver of the underlying assessment. The Board may waive late fees in any instance without prejudice to the enforcement of late fees in other instances.

Any late fees shall become part of the delinquent assessment and the lien on the Lot. Should the Association engage the services of an attorney to enforce any liens, or to collect any unpaid assessments, late fees, or any other charges hereunder, all costs of collection, including court costs and reasonable attorneys' fees, shall be added to the amount of the assessment being collected and the lien on the Lot. Each assessment, together with interest thereon and collection costs, shall also be the personal obligation of the Owner of the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandoning any Lot, or declining any services provided through the Association. The Association may file certificates of nonpayment of assessment in the office of the Register of Deeds of Leavenworth County, Kansas, and/or the office of the Clerk of the District Court for Leavenworth County, Kansas, whenever any assessment is delinquent, in order to give public notice of the delinquency. For each certificate so filed, the Association shall be entitled to collect from the Owner of the Lot described therein a fee of \$100.00, which fee shall be added to the amount of the delinquent assessment and the lien on the Lot. Payment of a delinquent assessment may be enforced by judicial proceeding against the Owner personally and/or against the Lot, including lien foreclosure proceedings; provided, however, that any such foreclosure proceeding shall be commenced within five years after the filing of a certificate of nonpayment. The Association may cease to provide any and all of the services to be provided by or through the Association with respect to any Lot during any period that the Owner of such Lot is delinquent on the payment of an assessment due under this Declaration, and may prohibit an Owner from using any Common Areas and Facilities, and no such cessation of

services or prohibition of use shall result in a reduction of any amount due from the Owner before, during, or after such cessation or prohibition. No Owner shall be entitled to exercise such Owner's vote as a member of the Association while any delinquency exists as to such Owner.

7. Maintenance and Repair.

(a) Owner's Liability - Common Areas and Facilities. In the event that the need for maintenance or repair of the Common Areas and Facilities is caused through the willful or negligent act or omission of an Owner, his family, guests, or invitees, the costs of such maintenance or repair shall be a Special Assessment against such Owner and any Lot or Tract owned by such Owner shall be subject to a lien as provided in this Declaration.

(b) Lot Maintenance. Each Owner of a Lot, by acceptance of a deed therefore, whether or not expressed in such deed, is deemed to covenant and agree to maintain and keep in good repair the exterior of such Owner's Lot, and all improvements thereon. Each Owner shall provide for snow and ice removal on the sidewalks and driveways on such Owner's Lot. No Owner shall do any act nor any work which has the potential to impair the structural soundness or integrity of any improvement or impair any easement or hereditament provided for in this Declaration.

8. Insurance.

(a) Insurance to be Obtained and Maintained by Association. The Association shall obtain and maintain to the extent reasonably available, at least the following:

(i) Public liability insurance, in such amounts and in such forms as may be considered appropriate by the Board, including, but not limited to: legal liability, hired automobile, non-owned automobile, liability for property of others, and any and all other liability incident to the ownership and/or use of the Common Area and Facilities. The Board shall attempt to obtain a policy that contains a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or the Owners; and

(ii) Workers' compensation insurance to the extent necessary to comply with any applicable law; and

(iii) A “Legal Expense Indemnity Endorsement,” or its equivalent, affording protection for the officers and directors of the Association for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment, or cause of action to which any such officer or director shall have been made a party by reason of his or her services as such; and

(iv) Fire and other casualty insurance on the Common Area and Facilities; and

(v) Such other policies of insurance as the Board shall from time to time determine to be necessary or desirable for the Association and/or the Owners.

Premiums for all insurance obtained and maintained by the Association pursuant to this paragraph (a) shall be Common Expenses of the Association. All such insurance shall be for the benefit of the Association, and the Owners and their mortgagees, but such insurance shall be written in the name of the Association as trustee for such benefited parties. The Board shall attempt to secure insurance policies that will provide for a waiver of subrogation by the insurer as to any claims against the Board, its members, the Association, the Owners, and their respective tenants, servants, agents, and guests.

(b) Insurance to be Obtained and Maintained by Owners.

(i) The Owner of any Lot on which a Home has been constructed shall obtain and maintain casualty insurance, insuring all improvements against loss by fire, lightning, windstorm, or other casualty and extended coverage in an amount equal to a full replacement value (i.e., 100% or replacement cost exclusive of land, foundation, and excavation), respectively, with an “agreed amount” endorsement without deduction or allowance for depreciation, and the insurer shall waive any “increase of hazard” provision of its policy and any “apportionment of loss” provision of its policy in the event there is any other insurance insuring the same risk. The Owner of any Lot located in an officially established flood hazard area, and on which a Home has been constructed, shall also obtain and maintain flood insurance covering flood damage to such Home. All premiums for such insurance shall be paid by each Owner, and all such insurance policies shall be in a form acceptable to the Board. All policies shall be written with a company or companies licensed to do business in the State of Kansas holding a rating of “AB” or better in Best’s Insurance Guide, or some other equivalent insurance guide reference directory.



Each Owner agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the Owner shall proceed promptly to repair or to reconstruct the damaged Home in a manner consistent with the original construction. In the event the Home is totally destroyed and the Owner determines not to rebuild or reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. The Board may impose more stringent requirements regarding the standards for rebuilding or reconstructing a structure on a Lot, or the standards for returning the Lot to its natural state in the event the Owner determines not to rebuild or to reconstruct.

9. Architectural Control. No building, fence, wall, or other structure shall be commenced, erected, or maintained upon a Lot, nor shall any exterior addition, change, or alteration thereon (including painting and staining) be made until the plans and specifications showing the nature, kind, shape, heights, materials, exterior color scheme, general landscaping plans, elevations, Lot grading plans, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or an Architectural Committee composed of three or more representatives appointed by the Declarant ("Committee" or "Architectural Committee"). All work shall be completed as soon as reasonably possible after approval and shall be made in a good and workmanlike manner.

10. General Restrictions.

Each Member of the Association agrees that the following General Restrictions are a reasonable set of standards that apply to each Lot identified as a part of The Branches. Notwithstanding each Owner's and resident's right to privacy, each Member of the Association also acknowledges that each other Member has a valid material interest in seeing that these General Restrictions are applied equitably and uniformly to each Lot and its respective Owner. Consequently, any Member of the Association who observes a possible violation of these General Restrictions should make note of and provide a report of the facts to the Declarant or any Board member. The Declarant, Board, or the appropriate committee will review the facts reported to determine whether a violation actually exists, whether a waiver has previously been granted, and whether corrective action should be taken.

(a) Fences. Fences shall be made of wood of a uniform type, and may not be installed in the front yard of any Lot. All fences shall be stained. Color choices for the stain are as follows: SW 3511 Cedar Bark,

SW 3513 Spice Chest & SW 3522 Banyan Brown. These colors are available at Sherwin Williams

(b) Awnings. No awnings, sun screens, or canopies of any type shall be affixed to any building or structure without the approval of the Declarant.

(c) Roofs. Only a type of shingle specially approved by the Declarant may be used. Certaineed brand composition shingles of a "Presidential" style and "Weatherwood" color are specifically approved. All roofs must have a minimum 8-12 pitch, unless otherwise approved by the Declarant.

(d) Siding. Siding on the front of each Home shall be entirely of stucco, stone, brick, or a combination thereof. Synthetic material having the appearance of stucco, stone, or brick may be used with the prior approval of the Declarant. Sheet or lap siding may be used for the remainder of the exterior. Lap siding must be approximately five inches in width and be made of wood or other material made to have a wood appearance. No vinyl or vinyl appearing siding or vertical siding will be allowed; however, vinyl may be used for soffits and fascia.

(e) Foundations. No exposed concrete on the foundations shall be allowed more than 12 inches above ground level on the front of a Home. Exposed concrete on the side or rear of any Home shall be limited to forty-eight inches above ground level, unless the concrete is painted to match the remainder of the exterior.

(f) Paint colors. The paint colors used on any Home or Exterior Structure (to include stone, brick, or stucco) shall be subject to the approval of the Declarant. A list of approved paint/stone/stucco colors will be made available for review and reference from the Declarant. No two adjacent Homes may be painted substantially the same color.

(g) Windows. Plain aluminum framed windows on Homes are prohibited, and such windows may not be installed on any Exterior Structure without the approval of the Declarant. Coated aluminum or vinyl framed windows are permitted, provided that the frame color is consistent with the exterior color of the Home.

(h) Type and Size of Structure. The Declarant must approve all exterior elevations and footprints to be used in connection with the construction of Homes on the Property. Each Home must contain a minimum of 1,500 finished square feet, and shall not exceed three stories in height. Finished floor area shall exclude any finished attics, garages,

basements, porches, or similar areas. The Declarant, in its sole discretion, may allow variances from the minimum square footage requirements for any particular Lot. No two Homes on adjacent Lots shall have substantially the same exterior plan, appearance, or footprint.

(i) Construction/Repair of Improvements. Each Owner shall commence construction of the improvements on such Owner's Lot within twelve months after such Lot is purchased from Declarant. Construction of such improvements shall be completed within nine months after the date of issuance of the building permit. While under construction, the building site and all surrounding areas shall be kept clean, and the Owner and Owner's contractor shall minimize any erosion or run-off during the construction process. In the event of fire, windstorm, or other damage, no improvement shall be permitted to remain in a damaged condition longer than six months after the date of damage. If an Owner fails to comply with the preceding sentence, such Owner shall be subject to a Special Assessment in the amount of \$1,000.00 for each additional month, or part thereof, until the damage is repaired.

(j) Garages and Driveways. All Homes must contain at least a two-car attached garage. All driveways shall be paved with concrete, stone, or brick. Garage doors shall remain closed at all times except when necessary for ingress and egress. Members of the Association who observe open garage doors except when necessary for ingress and egress are encouraged to notify the Owner/resident directly.

(k) Landscape and Lawn Care. Each Owner shall maintain the yard and landscaping on such Owner's Lot at all times after closing on the purchase of the Lot. The initial landscaping done in connection with construction of a Home must, at a minimum, include the planting of grass sod, and at least one tree with a trunk diameter of at least three inches in the front yard of each Lot. The front and side yards of each Home, not including the driveway, shall have no less than 75% of their area planted in grass, with the remaining area to be used for sidewalks and landscaped plantings. All aspects of the initial landscaping must be completed within four months after the completion of the Home on the Lot. No existing tree with a trunk diameter of one and one-half inches or more shall be removed at any time from any Lot without the approval of the Declarant. The grass on all Lots, including unimproved Lots, must be cut and trimmed to a height of six inches or less at all times. Residents are responsible to remove grass, weeds, and crabgrass from sidewalks and concrete gutters adjacent to their property. This includes growth extending over the concrete surface as well as growth within cracks, joints, and margins. All ordinances and resolutions of Leavenworth County concerning weeds,

brush, and general maintenance apply. All Owners must, at their cost, plant grass sod sufficient to satisfy landscaping requirements.

(l) Exterior Ornaments, Yard Art, and Gardens. Exterior ornaments and yard art are strictly prohibited in the front yard. This includes, but is not limited to, windsocks, weather vanes, windmills, bird houses, statues, animal forms, miniature fences and bird baths. No artificial flowers, trees, or other faux vegetation shall be permitted unless kept inside a Home, and not visible from the exterior of such Home. Rock gardens and other atypical planted areas may be permitted in the front yard with approval of the Declarant. Vegetable gardens shall be permitted only in the rear of the Home, shall not encompass more than 25% of the rear yard, and shall not exceed four feet in height. Flagpoles may be installed only with the approval of the Declarant. Owners may display a flag on a staff not to exceed six feet in length attached to the exterior of the structure, with such flag strictly limited to official national and/or state flags. No decorative, organizational, or other flag will be permitted at any time.

(m) Drainage. Each Owner shall be responsible for controlling erosion and run-off on such Owner's Lot, such that it does not affect any adjacent Lot. No landscaping, berms, fences, or other structures shall be installed or maintained that would impede the flow of surface water, unless such structure is necessary to control erosion or run-off, and is approved by the Declarant. Water from sump pumps shall be drained away from adjacent residences. No changes in the final grading of any Lot shall be made without the approval of the Declarant and, if necessary, any governmental entity having jurisdiction over the property. Declarant shall have no liability or responsibility to any builder or Owner for the failure of a builder or Owner to grade or maintain any Lot. The Declarant does not represent or guarantee to any Owner or any other person that any grading plan for the Lots that Declarant may approve or supply shall be sufficient or adequate or that the Lots will drain properly, or to the satisfaction of any Owner or other person.

(n) Chimneys. No exterior chimneys will be allowed on the front of any Home. All allowed exterior chimneys shall be constructed of brick or stone, unless the chimney is on the back of the Home and not visible from the street. All chimneys which are visible from only the roof line and above shall be constructed of brick, stone, or fire code approved pipe which has been capped with a black or color-conforming metal rain cap and enclosed by a framed wood structure and is integrated with the architectural design and construction materials of the dwelling.

(o) Overhead Wires; TV Antennas. No overhead wires, lightning rods, or clotheslines shall be permitted on any Lot without the approval of the Declarant. No television, radio, citizens band, or short-wave antennas or other unsightly projections shall be attached to the exterior of any Home or erected in or on any Lot. Notwithstanding any provision in this Declaration to the contrary, small satellite dishes of not more than 48 inches in diameter may be installed without the prior approval of the Declarant. If practicable, such satellite dishes should not be visible from the street.

(p) Exterior Audio Devices. No horn, whistle, siren, bell, or other sound device, shall be located, installed, or maintained in or upon the exterior of any Lot, except intercoms or devices used exclusively for security purposes.

(q) Lighting. No lights or other illumination (other than street lights) shall be higher than the Home. Exterior holiday lights shall be permitted only between November 15 and January 15. "Traditional" decorations associated with Halloween that incorporate candles or electric lights (i.e., jack-o-lanterns) are also allowed between October 15 and November 1. Except for such holiday lights, all regular season exterior lighting shall be white. Any other lighting display associated with a particular season, celebration, holiday, or other event shall require prior written permission of the Board.

(r) Swimming Pools. All pools shall be fenced and all hot tubs shall be fenced or otherwise adequately screened or secured all in accordance with the other provisions of this Declaration. All pools or hot tubs shall be kept clean and maintained in operable condition at all times while in season.

(s) Sporting Equipment. No sporting equipment, including, but not limited to, basketball goals and volleyball nets, shall be mounted or attached to any Home. Sports equipment shall not be placed in a street and left unattended or in a way that might impede traffic on any street.

(t) Pets. No animals shall be kept on any Lot, except cats, dogs, and other common household pets, and which shall be limited to three pets per Home, unless otherwise approved by the Declarant. All pets shall be kept within a Home, an approved fence, or an underground electric fence. When outside the Home or any approved fence, all pets shall be attended and leashed. A pet shall not be restrained by a chain, animal run, or similar device in any yard, except in extenuating circumstances, and with prior approval from the Declarant. No pet shall be kept, bred, or maintained for commercial purposes, constitute a

nuisance, or violate applicable ordinances or other laws. An Owner shall immediately clean up after all pets on all streets, easements, or Lots owned by others. In no event shall any animals be kept on any Lot if they unreasonably disturb any Owner or residents of any other Lot. All outside dog houses or other animal shelters shall be located in the back yard, shall be painted or stained the same color of the residence, and shall, to the extent practical, have roofs that are compatible with the residence.

(u) Outbuildings. An Owner may construct one outbuilding using the same materials, to the extent practical, used in construction of the Home on such Lot, which shall be placed in the rear yard of the Lot, as far away from any adjacent street as possible. Such outbuilding may not exceed the dimensions of 10 feet by 12 feet. Any variance from materials used in the Home on the Lot shall be submitted to the Declarant for review and consideration prior to construction. Prefabricated metal or plastic storage sheds are strictly prohibited.

(v) Trash and Refuse. Each Owner shall properly maintain his Lot and the improvements thereon in a neat, clean, and orderly fashion. Trash, ashes, or other refuse shall not be thrown, placed, or dumped upon any Lot, except in trash receptacles. All trash cans, garbage cans, and wood piles shall be kept screened by adequate planting or fencing, so as to conceal them from view from any street or adjacent Lot. All rubbish, trash, and garbage shall be regularly removed from each Lot and Home. No trash burning shall be permitted anywhere within the Property. No trash, refuse, or garbage can or receptacle shall be placed outside any Home or appropriately screened enclosure, except the day of regularly scheduled trash collection and except for grass bags placed in the back or side yard pending regularly scheduled trash collection.

(w) Hazardous Substances. Each Owner shall keep such Owner's Lot free from Hazardous Substances and in compliance with all applicable environmental laws. Each Owner shall remove any Hazardous Substances and/or cure any violations of any environmental law, as applicable, as required by law, promptly after the Owner becomes aware of same. Nothing herein shall prevent an Owner from recovering such expenses from any other party that may be liable for such removal or cure. In no event shall outside or underground fuel storage tanks of any kind be permitted on any Lot.

(x) Occupancy Restrictions. No Home shall be occupied by more than three persons who are not members of the same family without approval of the Declarant. The term "members of the same family" shall be deemed to mean spouse, parents, parents-in-law, brothers, sisters, children, or grandchildren.

(y) Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of the Property or any Lot, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Property shall be observed. The obligation of complying with requirements of such governmental bodies as to the maintenance, modification, or repair of any part of the Property shall be imposed on the same person who has the obligation to maintain and repair such Property by the terms of this Declaration. No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any unsightly objects or nuisances be erected, placed, or permitted to remain on any Lot, nor shall anything be done which may become an annoyance or a nuisance to the neighborhood, nor shall any Lot or any improvement be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident of any Home.

(z) Leasing. No Home shall be rented for transient or hotel purposes. Any lease of a Home shall contain a provision to the effect that the rights of the tenant to use and occupy the Home shall be subject and subordinate in all respects to the provisions of this Declaration.

(aa) Sales. No garage sales, sample sales, yard sales, trunk sales, or similar activities shall be held by any resident, except as a part of an annual or semi-annual event organized and sponsored by the Association. The Association-sponsored event shall be of a frequency, time, and location selected by the Board.

(bb) Signs. Except for signs erected by or for Declarant or its approved realtor for the Property, no sign, advertisement, or billboard may be displayed on any Lot, except that:

(i) One sign of not more than five square feet may be maintained offering a Lot for sale or lease.

(ii) One political sign per candidate or issue, not more than five square feet, is permitted for up to three weeks before the vote on such candidate or issue, but must be removed within 24 hours after such vote.

(cc) Vehicle Repair Prohibited. No vehicle repair (except minor routine maintenance) or rebuilding or any other form of manufacture, whether for hire or otherwise, shall occur on any Lot.

(dd) Parking and Storage of Vehicles Prohibited. No truck or commercial vehicle with gross vehicle weight of 12,000 pounds or over

(other than a truck parked on a temporary basis actually being used for the specific purpose for which it was designed), trailer, mobile home, recreational vehicle ("RV"), boat, personal watercraft, airplane, equipment, machinery, cars not in weekly use, or movable units of any type (even if temporarily immobile) shall be parked, located, or otherwise maintained on the Property except within an enclosed garage. Recognizing, however, that visiting guests traveling in an RV might visit a resident from time to time, such RV may be parked in the driveway of a lot for a period not to exceed 24 hours. At no time may such RV be used for occupancy, including entertaining or overnight sleeping. Also, recognizing that residents may from time to time desire to load, unload, or clean boats, RVs, or trailers, such vehicles may be parked in the driveway of a lot for a minimum amount of time to accomplish the necessary task, but not to exceed 24 hours. No overnight parking shall be allowed on any public or private road at any time.

(ee) Noncompliance. The Board may impose a Special Assessment of \$50.00 per day against the Owner of any Lot on which construction of any type is commenced prior to approval of construction plans of such site or for any other violation hereunder for which there is not a specific assessment otherwise provided. This Assessment shall continue in effect until construction is stopped and a set of plans has been submitted for review or until any other violation is ceased. Construction shall not commence again until a full set of construction plans has been approved by the Declarant.

11. Set Backs. No Home, or any part thereof, (exclusive of porches, porticoes, stoops, balconies, bay and other windows, eaves, chimneys, and other similar projections) shall be nearer any street line than 25 feet.

12. Assignment of Declarant's Rights. Declarant shall have the right and authority, by appropriate 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 Declarant, and upon such assignment the assignee shall then for all purposes be deemed to be the Declarant 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 Declarant hereunder.

13. General Provisions.



(a) Enforcement. The Declarant, Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, Association, or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the further right by three-fourths vote of its Board to levy fines up to and including \$100.00 per violation, against any Owner who has breached any of the provisions of this Declaration, the Bylaws of the Association, or the published rules and regulations of the Association, and to charge such fines as a Special Assessment.

(b) Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provision or provisions hereof, which shall remain in full force and effect.

(c) Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of 40 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of five years, unless terminated as provided in the next sentence. This Declaration may be amended by an instrument signed by the Owners of not less than two-thirds of the Lots, and may be amended or terminated in its entirety thereafter by an instrument signed by the Owners of not less than two-thirds of the Lots. So long as Declarant owns any part of the Property, no such amendment shall be effective unless consented to in writing by Declarant. Any amendment must be executed, acknowledged, and recorded to be effective. Notwithstanding anything set forth in this paragraph to the contrary, Declarant 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 an appropriate instrument in writing for such purpose, if either (i) the Veteran's Administration or the Federal Housing Administration, or any successor agencies thereto, shall require such action as a condition precedent to the approval by such agency of the Property or any part of the Property, or any Lot, for federally-approved mortgage financing purposes under applicable Veteran's Administration, Federal Housing Administration or similar programs, laws or regulations, or (ii) The City of Leavenworth requires such action as a condition to approval by the city of some matter relating to the development or annexation of the Property.

(d) Rule Against Perpetuities. If the rule against perpetuities 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 now living children and grandchildren of the Declarant as of the date of execution.

(e) Interpretation. The singular shall include the plural and the plural the singular unless the context requires the contrary, the masculine, feminine, and neuter shall each include the masculine, feminine, and neuter as the context requires, and words importing persons shall include firms, partnerships, associations, and corporations as well as natural persons. The section headings herein are for convenience only and shall not effect the interpretation or construction hereof.

(f) Limitation of Liability. To the fullest extent permitted by law, neither the Declarant, any director or officer of the Association, nor any other member of any committee of the Association shall be liable to any Owner, occupant, or other person for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, inaction, omission, error, or negligence, made in good faith and believed to be within the scope of his duties.

(g) Release; Pond. Certain Lots adjoin, will adjoin, or are or will be in the vicinity of a pond on the Property. There are inherent dangers associated with a pond, including but not limited to injury or damage caused by boating, fishing, or swimming activities. Each grantee of the Declarant or of any Owner, by the acceptance of a deed, and each purchaser under contract for a deed of conveyance, and each purchaser under any agreement of sale, and each occupant of a Lot, for themselves, their heirs, grantees, representatives, guests, invitees, tenants, family members, successors and assigns hereby agree to and do hereby release Declarant from any liability whatsoever relating to injury or damage sustained as a result of the use of the pond or its proximity to their Lot.

(h) Release; Recreational Equipment. There are inherent dangers associated with recreational equipment or playground equipment. Each grantee of the Declarant or of any Owner, by the acceptance of a deed, and each purchaser under contract for a deed of conveyance, and each purchaser under any agreement of sale, and each occupant of a Lot, for themselves, their heirs, grantees, representatives, guests, invitees, tenants, family members, successors and assigns hereby agree to and do hereby release Declarant from any liability whatsoever relating to injury or damage sustained as a result of the use of any recreational equipment, playground equipment, or its proximity to their Lot.

(i) Covenants Running With the Land. All provisions of the Declaration shall be deemed to be covenants running with the land and shall be binding upon all subsequent grantees of any Lot. By accepting a deed to any Lot, each future grantee of any Lot shall be deemed to have personally consented and agreed to the provisions of this Declaration. 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 any violation or default. 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 effect 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.

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

Larkin Homes, Inc.

\_\_\_\_\_  
By: Florence Larkin, President

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came Florence Larkin, and duly executed the foregoing on behalf of Larkin Homes, Inc.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

**ELECTION**

The undersigned, Derrick Carl Robinson and Evelyn Robinson, being the owners of the real property described as follows:

Lot 1, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elect to subject such real property to this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, we have set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Derrick Carl Robinson

\_\_\_\_\_  
Evelyn Robinson

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came Derrick Carl Robinson and Evelyn Robinson, and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

**ELECTION**

NAK Construction, Inc., being the owner of the real property described as follows:

Lot 12, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elects to subject such real property to the provisions of this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, \_\_\_\_\_ has caused this Election to be duly executed this \_\_\_\_ day of \_\_\_\_\_, 2008.

NAK Construction, Inc.

\_\_\_\_\_  
By: \_\_\_\_\_, President

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came \_\_\_\_\_ as president of NAK Construction, Inc., and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

**ELECTION**

The undersigned, Michael J. Shumway and Janet C. Shumway, being the owners of the real property described as follows:

Lot 34, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elect to subject such real property to the provisions of this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, we have set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Michael J. Shumway

\_\_\_\_\_  
Janet C. Shumway

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came Michael J. Shumway and Janet C. Shumway, and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

**ELECTION**

The undersigned, Clyde A. Griggs and Mildred F. Griggs, being the owners of the real property described as follows:

Lot 35, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elect to subject such real property to the provisions of this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, we have set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Clyde A. Griggs

\_\_\_\_\_  
Mildred F. Griggs

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came Clyde A. Griggs and Mildred F. Griggs, and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_



**ELECTION**

Larkin Construction, L.L.C., being the owner of the real property described as follows:

Lots 36, 37, 38, and 39, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elects to subject such real property to the provisions of this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, Larkin Construction, L.L.C., has caused this Election to be duly executed this \_\_\_\_ day of \_\_\_\_\_, 2008.

Larkin Construction, L.L.C.

\_\_\_\_\_  
By: John J. Larkin, President

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came \_\_\_\_ as president of NAK Construction, Inc., and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

**ELECTION**

The undersigned, Darrell M. Gray and Karen C. Gray, being the owners of the real property described as follows:

Lot 41, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elect to subject such real property to the provisions of this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, we have set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Darrell M. Gray

\_\_\_\_\_  
Karen C. Gray

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came Darrell M. Gray and Karen C. Gray, and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

The undersigned, Jana L. Harris, being the owner of the real property described as follows:

Lot 42, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elects to subject such real property to this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Jana L. Harris

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came Jana L. Harris, and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

The undersigned, Jamie M. Griggs, being the owner of the real property described as follows:

Lot 43, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elects to subject such real property to this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Jamie M. Griggs

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came Jamie M. Griggs, and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_

The undersigned, David E. Griggs, being the owner of the real property described as follows:

Lot 46, in The Branches Addition No. 1 Subdivision, a subdivision in the Northwest Quarter of Section 15, Township 9 South, Range 22 East of the 6<sup>th</sup> Principal Meridian, in the City of Leavenworth, Leavenworth County, Kansas;

hereby elects to subject such real property to this Declaration. This Election shall be a covenant running with the land, and the above-described Property shall only be removed from the provisions of the Declaration as provided in the Declaration.

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
David E. Griggs

STATE OF KANSAS; COUNTY OF LEAVENWORTH) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a notary public in and for said county and state, came David E. Griggs, and duly executed the foregoing Election.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

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

My commission expires: \_\_\_\_\_