

STATE OF KANSAS)  
 SHAWNEE COUNTY) SS  
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**MASTER DECLARATION OF EASEMENTS, COVENANTS,  
 CONDITIONS AND RESTRICTIONS  
 OF McFARLAND FARM RESIDENTIAL DISTRICT**

FEB 25 10 19 AM '00

**TABLE OF CONTENTS**

REGISTER OF DEEDS  
 MARILYN L. RICHOLS

**NOTICE OF INTENT..... 1**

**ARTICLE I Definitions ..... 2**

**ARTICLE II The Declaration..... 4**

**ARTICLE III Master Association..... 5**

    3.1 (a) Purpose of the Master Association ..... 5

        (b) Duties of the Master Association ..... 5

            (1) Maintenance and Management ..... 5

            (2) Insurance ..... 5

            (3) Rules ..... 5

            (4) Taxes and Assessments ..... 5

            (5) Budgets and Financial Statements ..... 5

            (6) Enforcement ..... 6

    3.2 Membership in Master Association ..... 6

    3.3 Voting Rights ..... 6

    3.4 Assignment of Developer's Voting Rights ..... 7

    3.5 Board of Directors of the Master Association ..... 7

    3.6 Duties and Powers of the President of the Master Association ..... 7

    3.7 Additional Provisions in Master Association Articles and Master Association Bylaws ..... 7

    3.8 Master Association Rules ..... 7

    3.9 Indemnification ..... 8

    3.10 Non-Liability of Officials ..... 8

    3.11 Easements ..... 8

    3.12 Accounting ..... 8

    3.13 Records ..... 8

    3.14 Managing Agent ..... 9

    3.15 Developer's Control of the Master Association ..... 9

    3.16 Mediation and Binding Arbitration ..... 9

    3.17 Community Association Involvement in Master Association ..... 9

    3.18 Further Authority ..... 9

**ARTICLE IV Creation of Lien and Personal Obligations ..... 9**

    4.1 Purpose of Assessments ..... 9

    4.2 Regular Assessments ..... 10

    4.3 Special Assessments ..... 10

    4.4 Uniform Assessment ..... 10

    4.5 Exempt Property ..... 10

    4.6 Date of Commencement of Regular Assessments ..... 11

    4.7 Time and Manner of Payment; Late Charges and Interest ..... 11

    4.8 No Offsets ..... 11

    4.9 Reserves ..... 11

    4.10 Pledge of Assessment Rights as Security ..... 11

**ARTICLE V Insurance..... 11**

    5.1 Authority to Purchase ..... 11

    5.2 Non-Liability of Community Association/Board/President ..... 12

    5.3 Premiums ..... 12

    5.4 Insurance Claims ..... 12

    5.5 Benefit ..... 12

**ARTICLE VI Maintenance, Repairs and Replacements..... 12**

    6.1 Right of Access ..... 12

**ARTICLE VII Annexation of Additional Property ..... 12**

    7.1 Development of the Project ..... 12

    7.2 Supplemental Declarations ..... 12

    7.3 Annexation Without Approval of Master Association ..... 13

**ARTICLE VIII Exemption of the Developer from Restrictions ..... 13**

<b>ARTICLE IX Remedies</b> .....	13
9.1 General Remedies .....	13
9.2 Expenses of Enforcement .....	13
9.3 Legal Action .....	14
9.4 Effect on Mortgage .....	14
9.5 Limitation on the Developer's Liability .....	14
<b>ARTICLE X Amendment</b> .....	14
10.1 Amendments to Declaration .....	14
10.2 Effect of Amendment .....	14
10.3 Required Approvals .....	14
10.4 Developer's Right to Amend .....	15
<b>ARTICLE XI General Provisions</b> .....	15
11.1 Notice .....	15
11.2 Captions and Exhibits; Construction .....	15
11.3 Severability .....	15
11.4 Term .....	15
11.5 Rule Against Perpetuities .....	16
11.6 Mortgage of Lots .....	16
11.7 Power of Attorney .....	16
<b>ARTICLE XV Rights and Obligations</b> .....	16

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**MASTER DECLARATION OF EASEMENTS, COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF McFARLAND FARM RESIDENTIAL DISTRICT**

**THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, by McFarland Farm LLC, a Kansas limited liability company (herein called the "Developer").**

**NOTICE OF INTENT**

**This Declaration provides for an extensive degree of control by the Developer, including but not limited to (i) control of the Master Association and supervision over the type and design of improvements which may be constructed within the Community and upon the Lots located therein (with substantial fines for non-compliance); (ii) the right to amend this Declaration; and (iii) substantial flexibility in developing the Community. The provisions hereof also contain limitations on the liability of the Developer and its members. Each Community Association Member, by accepting title to a Lot, and each Master Association Member, by accepting such membership, acknowledges, agrees to, and accepts the Developer's control of the Community and the limited liability of the Developer and its members as provided for in this Declaration. Such control is an integral part of this declaration and the general scheme of development and operation of the Community. Capitalized terms used in this and the following introductory paragraphs are defined in this Declaration.**

**WITNESSETH**

**WHEREAS, Developer is the record owner of that certain property situated in Topeka, Shawnee County, Kansas, described in Exhibit "A" attached hereto and by reference made part hereof, which shall constitute the Community; and**

**WHEREAS, Developer desires to submit and subject the Community, together with all buildings, improvements and permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto, to the covenants, conditions, restrictions, liens, Assessments, easements, privileges, and rights contained herein; and**

**WHEREAS, Developer deems it advisable to establish easements, covenants, conditions, obligations and restrictions upon the Community and each and every portion thereof with respect to the proper use, occupancy, and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Community; and**

**WHEREAS, Developer deems it desirable, for the efficient management of the Community, to create the Master Association which shall exercise the powers of: (i) administering and enforcing the easements, covenants, conditions, and restrictions set forth herein (ii) collecting and disbursing funds, pursuant to the Assessments, spending procedures and charges hereinafter created; and (iii) performing such other acts as are herein provided for which generally benefit its Members, the Community or the owners of any interests therein; and**

**WHEREAS, the McFarland Farm Master Association, a corporation not organized for profit, has been or will be incorporated under the laws of the State of Kansas for the purpose of exercising such power and functions; and**

**WHEREAS, the Developer may, but is not obligated to annex additional real property to the Community, and thereby subject such property to this Declaration, and bind the owners of any interests therein to the easements, covenants, conditions, and restrictions contained in this Declaration; and**

**WHEREAS, Developer desires and intends that the owners, mortgagees, mortgagors, occupants, and all other persons hereinafter acquiring any interest in the Community shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions,**

liens, Assessments, easements, privileges, and rights hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the Community.

NOW, THEREFORE, Developer, for the purposes above set forth, declares that all property within the Community shall hereafter be held, transferred, sold, conveyed, leased, occupied, and used subject to the covenants, restrictions, liens, Assessments, easements, privileges and rights hereinafter set forth, all of which shall run with the land and be binding upon all property within the Community and all parties having or acquiring any right, title, or interest in or to any property within the Community, or any part thereof, and shall inure to the benefit of and be a burden upon each owner of any interest in the Community and each Member of the Master Association.

## **ARTICLE I** **Definitions**

Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows. Defined terms appear throughout this Declaration with the initial letter of each word of such term capitalized, and if not capitalized are not used in their defined context.

1.1 "Annexation Property" means any additional real property which is annexed to the Community, thereby becoming a part thereof and subject to this Declaration, in accordance with the provisions hereof.

1.2 "Assessments" shall include the following:

(a) "Regular Assessment" means the amount which is to be paid by each Member as such Member's Proportionate Share of the Common Expenses incurred by the Master Association pursuant to the terms hereof.

(b) "Special Assessment" means (i) a charge against a particular Member or Community Association Member directly attributable to such Member or Community Association Member to reimburse the Master Association for costs incurred in bringing the Member or Community Association Member into compliance with the provisions of this Declaration, the Master Association Rules, or the Master Association Articles or Master Association Bylaws, (ii) any other charge designated as a Special Assessment in this Declaration, the Master Association Articles, Master Association Bylaws, the Master Association Rules or Design Standards, and (iii) attorneys' fees and other charges payable by such Member or Community Association Member as a Special Assessment pursuant to the provisions of this Declaration.

1.3 "City" means the City of Topeka Kansas, a municipal corporation of the State of Kansas.

1.4 "Common Expenses" mean the actual costs incurred by the Master Association in conducting activities in connection with the Community for which the Master Association is responsible pursuant to the terms hereof. Common Expenses contemplated hereby shall include, but not be strictly limited to the following:

(a) the cost of maintenance, management, operation, repair, and replacement of all areas and facilities within the Community which are maintained or operated by the Master Association;

(b) unpaid Assessments;

(c) the cost of management and administration of the Master Association including, but not limited to compensation paid by the Master Association to managers, accountants, attorneys, other professionals and employees;

(d) the cost of utilities (including, but not limited to water, electricity, gas, sewer, trash pick-up and disposal which are provided directly to the Master Association), landscaping maintenance, and other services which generally benefit and enhance the value and desirability of the Community and which are provided by the Master Association;

(e) the cost of any insurance maintained by the Master Association;

(f) reasonable reserves for contingencies, replacements, and other proper purposes as deemed appropriate by the Master Association;

(g) the cost of bonding which may be acquired with respect to any person handling the funds of the Master Association;

(h) taxes paid by the Master Association;

(i) costs incurred by the committees established by the Master Association, Master Association Articles, Master Association Bylaws, Board or President;

(j) the costs of any other item or items to be provided or performed by the Master Association pursuant to this Declaration, Master Association Articles or Master Association Bylaws, or in furtherance of the purposes of the Master Association or in the discharge of any duties or powers of the Master Association;

(k) the cost of maintaining the Common Properties including reserves for long term repair and replacement thereof; and

(l) the common maintenance expense described as Master Association Maintenance responsibilities.

1.5 "Common Facilities" means any swimming pool and/or grounds associated therewith, established on lands owned by the Master Association and shall include all that part of the properties, and all improvements located thereon, owned by the Master Association for the common use and enjoyment of the Community Association Members in McFarland Farm West and The Villas at McFarland Farm, including the following:

(a) All real estate owned in fee simple by the Developer which is intended for Common Facilities and has not yet been conveyed to the Master Association.

(b) All real estate owned in fee simple by the Master Association evidenced by deed from the Developer to the Master Association.

(c) All easements, rights and appurtenances belonging thereto necessary to the existence, maintenance and safety of the Common Facilities.

(d) All personal property owned by the Master Association intended for use in connection with the operation of Common Facilities or other facilities of the Master Association.

1.6 "Community" means the land described on the plat for McFarland Farms Subdivision, together with any Annexation Property.

1.7 "Community Association" means The Villas at McFarland Farm Community Association and McFarland Farm West Community Association both Kansas corporations not organized for profit.

1.8 "Community Association Member" is a person who is an owner and member in either of the two (2) Community Associations.

1.9 "Default Rate of Interest" means an annual rate of interest equal to the base rate as publicly announced by the Applicable Federal Rate from time to time while interest is accruing (with interest hereunder adjusted as and when said Applicable Federal Rate is adjusted) plus 4% per annum, but never less than 18% (so that if during any periods while interest is accruing said Applicable Federal Rate plus 4% per annum is less than 18%, interest shall accrue during said periods at 18% per annum). Notwithstanding herein to the contrary, if, during any period the highest lawful rate of interest which may be paid by the person required to pay the Default rate of Interest hereunder, despite the provisions hereof, is less than the rate provided above, the interest payable by such person during said period shall be the highest lawful rate.

1.10 "Developer" means McFarland Farm LLC, a Kansas limited liability company, its successors and assigns, or any person to whom the Developer's rights hereunder are hereafter assigned by the Recorded instrument.

1.11 "Majority", where not specifically designated otherwise, means at least 50.1% of the total votes entitled to be cast with respect to a given matter.

1.12 "Master Association" means McFarland Farm Master Owners Association, a Kansas corporation not organized for profit, its successors and assigns, which shall be responsible for implementing the terms of the Master Declaration.

1.13 "Master Association Articles" means the Articles of Incorporation, as such may be amended from time to time, of the Master Association or any successor thereto.

1.14 "Master Association Board" means the Board of Directors of the Master Association.

1.15 "Master Association Bylaws" means the bylaws of the Master Association, or of any successor thereto, adopted in accordance with the Master Association Articles, as such bylaws may be amended from time to time.

1.16 "Master Association Member" or sometimes herein "Member" means the two Community Associations each of which holds a membership in the Master Association.

1.17 "Master Association President" means the duly elected or appointed president of the Master Association.

1.18 "Master Association Rules" means the rules adopted, if any, by the Master Association pursuant to the provisions of the Master Declaration.

1.19 "Master Declaration" means this document and shall include any amendments thereto or modification thereof.

1.20 "Occupant" means any person, other than a Community Association Member, in rightful possession of a Lot, whether as a guest, tenant or otherwise.

1.21 "Owner" shall refer to each of the Community Associations in their role as owner of the Master Association.

1.22 "Owner's Proportionate Share" means one half the expense.

1.23 "Plat" means collectively each plat of subdivision of the Community as Recorded in the official records of Shawnee County, Kansas, and as thereafter from time to time amended or supplemented.

1.24 "Record" or "Recording" means an instrument of record in, or the act of recording an instrument with the office of the Register of Deeds for Shawnee County, Kansas.

1.25 "Supplemental Declaration" means a declaration of easements, covenants, conditions and restrictions, or similar instrument, annexing additional real property to the Community and subjecting such real property to this Declaration.

## **ARTICLE II** **The Declaration**

In accordance with the provisions of the Master Declaration, Developer hereby establishes the Community to govern the use and occupancy of Common Facilities.

**ARTICLE III**  
**Master Association**

3.1 (a) **Purpose of the Master Association.** The Master Association has been incorporated as a corporation not organized for profit under the laws of Kansas. The Master Association shall be responsible for the protection, improvement, alteration, maintenance, repair, replacement, administration, and operation of the Common Facilities, including taking such action as is necessary for the Assessment of expenses, payment of losses, disposition of casualty insurance proceeds (if any), and other matters as provided in or contemplated by this Declaration, the Master Association Articles, the Master Association Bylaws, the Master Association Rules or Regulations. The Master Association shall not be deemed to be conducting a business of any kind, and all funds received by the Master Association shall be held and applied by it for the benefit of the Community in accordance with the provisions of the Master Association Declaration, Master Association Articles and Master Association Bylaws.

(b) **Duties of the Master Association.** In addition to the duties delegated to by the Master Association Articles and the Master Association Bylaws, and without limiting the generality thereof, the Association shall have the following duties:

(1) **Maintenance and Management.** To maintain in a safe and first class condition, manage and preserve the Common Facilities.

To maintain, manage and preserve in a safe and first class condition, the Master Association landscaping areas, Common Facilities, and any other area(s) for which the Master Association agrees to undertake maintenance responsibility, including, but not limited to the landscaped areas located adjacent to the property as required by the City.

(2) **Insurance.** To obtain and maintain in force appropriate policies of insurance, which shall include without limitation, directors and officers liability coverage, a comprehensive policy of public liability insurance coverage covering the Common Areas and/or Common Facilities and any off-site easements owned by the Master Association with a limit of not less than one million dollars (\$1,000,000) for claims for personal injury and/or property damage arising out of a single occurrence.

(3) **Rules.** To make, amend and repeal the Master Association Rules.

(4) **Taxes and Assessments.** To pay all taxes and Assessments which are or could become a lien on the Common Areas and/or Common Facilities.

(5) **Budgets and Financial Statements.** To cause financial statements for the Master Association to be regularly prepared and copies to be distributed to each Member of the Master Association as follows:

(1) A pro forma statement (budget) for each accounting year other than the first accounting year shall be distributed before the beginning of such accounting year of the Master Association. The budget shall include all of the following: (i) a statement of estimated revenue and expenses; (ii) the total amount of cash reserves of the Master Association currently available for replacement or major repair of Common Areas and/or Common Facilities and for contingencies; (iii) an itemized estimate of the current replacement costs of the remaining life of or additions to, major components of the Common Areas and/or Common Facilities and Master Association property for which the Master Association is responsible; and (iv) a general statement setting forth the procedures used by the Master Association Board in the calculation and establishment of reserves to defray the costs of future repair, replacement or additions to the Common Areas and/or Common Facilities for which the Master Association is responsible.

(2) An annual report consisting of the following shall be distributed after the close of each fiscal year: (i) a balance sheet as of the end of such accounting year; (ii) an operating (income) statement for such accounting year; (iii) a statement of changes in financial position for such accounting year; (iv) any information required to be reported under the Kansas Corporation Code; and (v) for any accounting year in which the gross income to the Master Association exceeds

\$75,000, a copy of a review of the annual report set forth in items (i) through (iii) of this paragraph, prepared in accordance with generally accepted accounting principles by an accountant licensed in the State of Kansas.

If the report referred to in the immediately preceding paragraph is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Master Association that the statements were prepared without audit from the books and records of the Master Association.

In lieu of the distribution of the financial statements set forth in this Article, the Master Association Board may elect to distribute a summary of the financial statements to all Community Association Members with a written notice that the financial statements are available at the business office of the Master Association or at another suitable location and that copies will be provided upon request and at the expense of the Master Association. If any Community Association Member requests in writing copies of the financial statements to be mailed, the Master Association shall provide the copies by first class United States mail at the expense of the Master Association for the first such request by that Community Association Member in any year and delivered within thirty (30) days. The written notice that is distributed to each of the Master Association Members shall be in at least 10-point bold type on the front page of the summary of the statements.

The Master Association Board shall take the following actions not less frequently than quarterly: (i) cause a current reconciliation of the operating accounts of the Master Association to be made and review the same; (ii) cause a current reconciliation of the reserve accounts of the Master Association to be made and review the same; (iii) review the current year's actual reserve revenues and expenses compared to the current year's budget; (iv) review the most current account statements prepared by the financial institution where the Master Association has its operating and reserve accounts; and (v) review an income and expenses statement for the operating and reserve accounts of the Master Association.

(6) Enforcement. To perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration, the Master Association Articles, the Master Association Bylaws, or the Master Association Rules.

### **3.2 Membership in Master Association.**

(a) Subject to provisions herein providing for Developer control, each Owner shall be entitled to only one Master Association Membership and one vote in the Master Association and such Owner shall specify in writing to the Master Association the name of the individual who will hold the Master Association Membership.

(b) A membership in the Master Association shall not be transferred, pledged, or alienated in any way, except as herein expressly provided.

### **3.3 Voting Rights. The Corporation shall have three (3) classes of voting membership:**

(a) Class A. The Directors of McFarland Farm West Community Association shall appoint three (3) member representatives.

(b) Class B. The Directors of The Villas at McFarland Farm Community Association shall appoint three (3) member representatives.

(c) Class C. Until the Developer owns less than 2 acres of land described in the Preliminary Plat for McFarland Farm Subdivision in the City of Topeka, Shawnee County, Kansas, described in Exhibit "B" attached hereto and by reference made part hereof, the Developer shall appoint one (1) member representative.

After the Developer owns less than the 2 acres described, the Developer: shall have no right, title or interest in or to the common area and facilities and any and all other personal property or real estate owned by corporation; shall have no right to vote at any regular or special meeting of the

Corporation for any purpose whatsoever; and the seventh member representative and Director will be appointed for one (1) year terms first by Class A then Class B in rotating fashion.

**3.4 Assignment of Developer's Voting Rights.** If any lender to whom the Developer has assigned, or hereafter assigns, as security all or substantially all of its rights under this Declaration, succeeds to the interests of the Developer by virtue of said assignment as provided herein, the Developer's rights shall not be terminated thereby, and such lender shall hold the Developer's memberships and voting rights on the same terms as they were held by the Developer pursuant hereto.

**3.5 Board of Directors of the Master Association.**

(a) The affairs of the Master Association shall be conducted by the Master Association Board as herein provided and in accordance with the Master Association Articles and Master Association Bylaws.

(b) Except for directors elected by the Developer as provided for herein, the Members of the Master Association shall have the power and right to appoint and remove the Directors of the Master Association Board as provided in the Master Association Articles and Master Association Bylaws.

**3.6 Duties and Powers of the President of the Master Association.**

(a) To the extent not prohibited by law, or as otherwise herein expressly limited, including without limitation the following paragraph, the President of the Master Association shall be empowered to exercise control over the affairs of the Master Association and to act on behalf of, and bind the Master Association in every instance wherein the Master Association is required or permitted to take any action. The action of the President shall at all times be subject to the review of the Board of the Master Association.

(b) Notwithstanding anything in the preceding paragraph to the contrary, the President shall not have the power to borrow any funds on behalf of the Master Association, make any expenditures on behalf of the Master Association which are, in the aggregate, more than 5% in excess of the total amount of the Master Association's budget, or increase the amount of or levy any Assessment (except a Special Assessment), without the prior approval of the Board of the Master Association.

(c) The Master Association President may appoint such assistants as the President deems necessary and appropriate. No compensation shall be paid to the President or any assistant except as provided in the budget of the Master Association or as otherwise approved by the Board of the Master Association.

(d) Any right or power herein given or delegated to the Master Association President which cannot be exercised by such President, whether by reason of law, or otherwise, shall be deemed to be a right or power to be exercised by the Board of the Master Association.

**3.7 Additional Provisions in Master Association Articles and Master Association Bylaws.** The Master Association Articles and Master Association Bylaws may contain any provision relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents, and Members not inconsistent with law or this Declaration.

**3.8 Master Association Rules.** In order to be able to address specific matters relating to the administration, operation, and development of, or other matters relating to, the Community, the Master Association Board shall be empowered to adopt, amend, or repeal such rules and regulations as it deems reasonable and appropriate including the Master Association Rules. The Master Association Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments or otherwise. The Master Association Rules shall not be inconsistent with the terms of this Declaration, or the Master Association Declaration. The Master Association Rules may not unreasonably or unlawfully discriminate among Community Association or Master Association Members. A copy of the Master Association Rules as they may from time to time be adopted, amended or repealed, or a notice setting forth the adoption, amendment, or repeal of specific portions of the

Master Association Rules shall be delivered to each Master and Community Association Member in the same manner established in this Declaration for the delivery of notices. Upon completion of the notice requirements, the Master Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Master and Community Association Members, and all other persons having any interest in, or making any use of, the Master Association, whether or not actually received thereby. The Master Association Rules, as adopted, amended, or repealed, shall be available at the principal office of the Master Association to each Community Association Member, or other person reasonably entitled thereto, upon request. In the event of any conflict between any provision of the Master Association Rules and any provisions of this Declaration or the Master Association Articles or Master Association Bylaws, the provisions of the Master Association Rules shall be deemed to be superseded by the provisions of this Declaration or such Master Association Articles or Master Association Bylaws, but only to the extent of any such conflict.

**3.9 Indemnification.** To the fullest extent permitted by law, every director and every officer of the Master Association and the Developer (to the extent a claim may be brought against the Developer by reason of its appointment, removal, or control over Directors of the Master Association Board) shall be indemnified by the Master Association, and every other person serving as an employee, or direct agent of the Master Association, or on behalf of the Master Association as a member of a committee or otherwise, may, in the discretion of the Board of the Master Association, be indemnified by the Master Association, against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon any aforesaid party in connection with any proceeding or any settlement thereof to which any aforesaid party may be a part, or in which any aforesaid party may become involved, by reason of being or having served in such capacity on behalf of the Master Association (or in the case of the Developer by reason of having appointed, removed, or controlled, or failed to control Directors of the Master Association Board) whether or not such party is a director, an officer, or serving in such other specified capacity at the time such expenses are incurred; provided, however, that prior to agreeing to any such indemnification, the Master Association Board shall determine, in good faith, that such officer, director, or other person, or the Developer, did not act, fail to act, or refuse to act willfully, or with gross negligence, or fraudulent or criminal intent in the performance of his duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such persons may be entitled at law or otherwise. Appropriate insurance may be obtained pursuant to provisions of this Declaration to cover any liability exposure created by virtue of the foregoing indemnification.

**3.10 Non-Liability of Officials.** To the fullest extent permitted by law, neither the Developer, the Master Association President, any directors or officers of the Master Association, nor any other members of committees of the Master Association shall be liable to any Master Association Member or any Community Association Member, 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, negligence, or the like made in good faith and which the Developer, the President, any presidential assistants, any officer or any member of such committees reasonably believed to be within the scope of his duties.

**3.11 Easements.** The Master Association is authorized and empowered to grant upon, across, or under real property owned or controlled by the Master Association such permits, licenses, easements, and rights of way for sewer lines, water lines, underground conduits, storm drains, television cable, and other similar public or private utility purposes, roadways, or other purposes as may be reasonably necessary and appropriate for the orderly maintenance, preservation, and enjoyment of all or any part of the Community or for the preservation of the health, safety, convenience, and welfare of the Community Association Members.

**3.12 Accounting.** The Master Association, at all times, shall keep, or cause to be kept, true and correct records of account on a cash basis, and shall have available for the inspection of all Community Association Members at reasonable times during regular business hours, books which shall specify in reasonable detail all expenses incurred and funds accumulated from Assessments or otherwise.

**3.13 Records.** The Master Association shall, upon reasonable written request and during reasonable business hours, make available for inspection by each Community Association Member the books, records, and financial statements of the Master Association together with current copies, as

amended from time to time, of this Declaration and the Master Association Articles, Master Association Bylaws, and Master Association Rules. The Developer shall be under no obligation to make its own books and records available for inspection by the Master Association Board Member, Master Association, or any Community Association Member, or other person.

**3.14 Managing Agent.** Any powers, duties, and rights of the Master Association created pursuant hereto, or of the Master Association President, or Board, as provided by law and herein, may be delegated to a managing agent under a management agreement; provided, however, that no such delegation shall relieve the Master Association of its obligation to perform any such delegated duty. Any agreement for professional management, or any other contract providing for services, shall not exceed a term of three years, which term may be renewed by agreement of the parties for successive one-year periods, and shall further provide for termination by either party with or without cause and without payment of a termination fee upon 90 days' prior written notice.

**3.15 Developer's Control of the Master Association.** Notwithstanding anything in this Article or elsewhere in this Declaration to the contrary, the Developer shall maintain absolute and exclusive control over the Master Association, including appointment and removal of the President and all other officers of the Master Association, and all directors of the Master Association Board, until (i) 95% of the Lots in the Community (as the Community exists from time to time) have been sold to third parties and (ii) Developer shall own less than two acres of land within the approved Preliminary Plat of McFarland Farm Subdivision. Until such time, only the Developer will be entitled to cast any votes with respect to the election and removal of Master Association officers or directors, or any other matter requiring the vote or approval of Master Association Members. The Developer voluntarily may (but shall not be required to) at any time relinquish all or any part of the Developer's control and rights under this Section.

**3.16 Mediation and Binding Arbitration.** In the event of a dispute with the President's decision as elsewhere provided herein, between one or more of the Owners, Master or Community Association Members, the Master Association, or any other persons subject to this Declaration, relating to any question of interpretation, or application of the provisions, of this Declaration, the Master Association Articles or Master Association Bylaws, any Master Association Rules or other rules of the Master Association, unless otherwise agreed by all parties to the dispute or disagreement, the parties shall submit the dispute or disagreement to a mutually acceptable mediator or, if there is no mutually acceptable mediator, then to a mediator selected by the Board of Directors of the Master Association. If such mediator is unable to mediate the dispute or disagreement to the satisfaction of all parties involved, the dispute shall be submitted to binding arbitration through the American Arbitration Association under its rules and procedures then in effect for disputes or disagreements of such nature or, in the absence of any such standard rules or procedures, then under such rules and procedures as it designates. The costs of such mediation or arbitration shall be assessed against the parties to such process.

**3.17 Community Association Involvement in Master Association.** The Community Association Board of Directors shall from among their Members elect the necessary representatives to the Master Association.

**3.18 Further Authority.** The Master Association Board of Directors is further authorized to make such payments, enter into such agreements of cooperation, and to otherwise carry out and fulfill the obligations of the Master Association as may be required by the Master Association Declaration, Master Association Bylaws, Master Association Articles, or rules or regulations.

#### ARTICLE IV

##### Creation of Lien and personal Obligations

Each Community Association is deemed to covenant and agree to pay all of the following to the Master Association in accordance with the terms hereof: Regular Assessments and Special Assessments. Such Assessments shall be collected from time to time as provided in this Declaration.

**4.1 Purpose of Assessments.** Except as otherwise herein set forth, the Assessments levied by the Master Association shall be used: (a) to promote the health, safety, and welfare of Owners and Community Association Members, (b) to enhance the value of the Community, (c) to pay the costs of

administration of the Master Association, (d) to pay all other Common Expenses, (e) to establish reasonable reserves, (f) to pay the costs associated with maintenance and repair of landscaping and lawn areas installed by the Developer within the landscape easements as defined on the Plat, entrance landscape and water features, ponds within Common Areas, and landscaping within center islands within public right of way, or (g) to otherwise further the interests of the Community.

#### **4.2 Regular Assessments.**

(a) Except as otherwise specifically provided herein, each Community Association shall pay as its Regular Assessment its Proportionate Share of the Common Expenses. Except as otherwise specifically provided herein, payment of Regular Assessments shall be in such amounts and at such times as may be provided in the Master Association Articles or Master Association Bylaws, or as determined by vote of the Master Association Board.

(b) The Master Association shall at the time of budget adoption determine the amount of the Regular Assessment and thereafter notify the Community Association Members thereof. Each Community Association Member shall thereafter pay to the Master Association its entire Regular Assessment as determined on or before the beginning of the Master Association's fiscal year, which date shall be set forth in the written notice sent to Community Association Members. The Master Association fiscal year will be a calendar year ending December 31 each year. The bylaws may provide for quarterly or monthly payment of dues upon vote of the Master Association Board.

(c) If the Master Association subsequently determines that the total Regular Assessments for the current year are, or will become, inadequate to meet all Common Expenses for whatever reason, including Common Expenses in excess of the estimated Common Expenses used in preparation for the Master Association's budget for that year, the Master Association President shall then determine the approximate amount of such inadequacy and, with the consent of the Master Association Board, issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessments to be paid by each Community Association Member for the balance of the year, and the date or dates when due. Each Community Association Member shall be notified at least 30 days in advance of the additional amount required to be paid and the due date of such payment, and each Community Association Member shall pay the additional amount when due. If the estimated total Regular Assessments for a current year prove to be excessive in light of the actual Common Expenses, the Master Association may, at the discretion of the Master Association Board, retain such excess as additional working capital, reserves, or reduce the amount of the Regular Assessments for the next fiscal year. No reduction or abatement of Regular Assessments because of any such anticipated surplus may diminish the quantity, or quality, of services upon which the Common Expenses for the year in question are based, and if supplemental Assessments are required, they shall be made as set forth above.

**4.3 Special Assessments.** Special Assessments shall be levied by the Master Association against a Community Association or its Member to reimburse the Master Association for:

(a) Fines levied or fixed by the Master Association Board as provided herein.

(b) Attorneys' fees, interest, and other costs or charges provided to be paid as, or which are incurred in connection with, a Special Assessment in accordance with this Declaration, the Master Association Articles or Master Association Bylaws, or the Master Association Rules.

(c) Any other charge designated as a Special Assessment in this Declaration, the Master Association Articles or Master Association Bylaws, or the Master Association Rules.

**4.4 Uniform Assessment.** All Regular Assessments imposed upon a Community Association shall be based upon such Community Association's Proportionate Share. However, Special Assessments need not be uniform in amount to all Lots, but shall be proportionate to the costs incurred for the individual Community Association or its Member.

**4.5 Exempt Property.** All properties dedicated to and accepted by, or otherwise owned or acquired by, a public authority shall be exempt from the Assessments created herein. All property owned by the Developer will be exempt and no payment of expense or assumption of Master

Association duties by the Developer in one year shall create an implied duty to pay such expense in succeeding years.

**4.6 Date of Commencement of Regular Assessments.** The Regular Assessments shall commence as of March 1, 2000. The Regular Assessment shall be equitably adjusted as required for short periods.

**4.7 Time and Manner of Payment; Late Charges and Interest.** Assessments shall be due and payable by Community Association Members as specified above and otherwise in such manner and at such times as the Master Association shall designate in accordance with the terms hereof. If not paid within ten (10) days after its due date, each such Assessment shall have added to it a late charge equal to 10% of the amount of Assessment and thereafter bear interest at the Default Rate of Interest until paid. The Master Association may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A delinquent Community Association Member shall, to the extent allowed by then applicable law, be liable for attorneys' fees and other related costs incurred by the Master Association as a result of such delinquency, and if any suit, action, or proceeding is brought to collect any such Assessment or charge, then there shall be added to the amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment or award rendered thereon.

**4.8 No Offsets.** All Assessments shall be payable in the amount specified in the Assessment or notice of Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that (a) the Master Association, its Board, its President, or the Developer is not properly exercising its duties and powers as provided in this Declaration or documentation associated therewith; (b) a Community Association Member has performed any duty or paid any debt of the Master Association; or (c) Assessments for any period exceed Common Expenses.

**4.9 Reserves.** Reserves included in any budget for Common Expenses which are collected as part of Regular Assessments shall be deposited by the Master Association in a separate account to be held in trust for the purposes for which they are budgeted and are to be segregated from and not commingled with any other funds of the Master Association, except to the extent that the Master Association's regularly employed accountant deems it desirable to do otherwise on the basis of standard accounting principles in similar contexts or the laws (tax or otherwise) of the State of Kansas or the United States relating to corporations not organized for profit, or homeowners associations. Such reserves shall be deemed a contribution to the capital account of the Master Association. The responsibility of the Master Association Board (whether while controlled by the Developer) shall be only to provide for such reserves as such Board in good faith deems reasonable, and neither the Developer, such Board or any member thereof shall have any liability to the Master Association or any Community Association Member, Master Association Member, if such reserves prove to be inadequate. Individual Community Association Members have no right, title or interest in or to the Reserves or any Proportionate Share thereof. In the event of termination of the Master Association, then all Reserves will be disbursed in accordance with the rules of the Internal Revenue Service with respect to not-for-profit corporations.

**4.10 Pledge of Assessment Rights as Security.** The Master Association shall have the power to pledge the right to exercise its assessment powers and rights as security for any obligation of the Master Association; provided, however, any such action shall require the prior affirmative vote, or written assent, of the Developer, if it controls the Master Association, or otherwise, a Majority of all of the Members of the Master Association Board. The Master Association's power to pledge its assessment powers shall include, but not be limited to the ability to make an assignment of Assessments which are then payable to, or which will become payable to the Master Association, which assignment may then be presently effective but shall allow said Assessments to continue to be paid to the Master Association and used by the Master Association as required, unless and until the Master Association shall default on its obligations secured by said assignment.

## **ARTICLE V** **Insurance**

**5.1 Authority to Purchase.** In addition to any required insurance, the Master Association shall purchase and maintain such insurance, and in such amounts as its Board shall determine from time

to time. Such policies, and endorsements thereon, or copies thereof, shall be deposited with the Master Association. The Master Association shall make same available to the Community Association Members in order to permit such Members to determine which particular items are included within the coverage. If they so desire, any Community Association Members or Master Association Members may insure themselves, as they see fit, if any risks which they wish to have covered are not insured by the insurance purchased by the Master Association.

**5.2 Non-Liability of Master Association/Board/President.** Notwithstanding anything in this Declaration to the Contrary, neither the Master Association nor any Member of its Board nor any officer of the Master Association nor the Developer shall be liable to any Community Association Member or Master Association Member, Mortgagee, or other person, if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Community Association Member to ascertain the coverage and protection afforded by the Master Association's insurance and to procure and pay for such additional insurance coverage and protection as the Community Association Member may desire.

**5.3 Premiums.** Premiums upon insurance policies purchased by the Master Association shall be paid by the Master Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Lot, or its appurtenances, by a Community Association Member, shall be assessed against that particular Community Association Member in a Special Assessment.

**5.4 Insurance Claims.** The Master Association is hereby appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Master Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The President of the Master Association has full and complete power to act for the Master Association in this regard and may, at the discretion of the President, appoint an authorized representative, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Master Association.

**5.5 Benefit.** Except as otherwise provided herein, all insurance policies purchased by the Master Association shall be for the benefit of, and any proceeds of insurance received by the Master Association, or any insurance trustee, shall be held or disposed of in trust for the Master Association and the Owners, as their interests may appear.

**ARTICLE VI**  
**Maintenance, Repairs and Replacements**

**6.1 Right of Access.** An authorized representative of the Master Association and all contractors, repairmen or other agents employed or engaged by the Master Association, shall be entitled to reasonable access to each of the lots within the Community as may be required to perform any of the Master Association's responsibilities hereunder.

**ARTICLE VII**  
**Annexation of Additional Property**

**7.1 Development of the Project.** Additional real property may be annexed to and become subject to this Declaration as hereinafter set forth in this Article at such time as the Developer or Master Association may elect.

**7.2 Supplemental Declarations.** A Supplemental Declaration shall be a writing in recordable form which annexes Annexation Property to this Declaration and which incorporates by reference all of the covenants, conditions, restrictions, easements, and other provisions of this Declaration and shall contain such other provisions as are necessary to designate such property. Supplemental Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexation Property and as are not inconsistent with this Declaration. In no event, however, shall any such Supplemental Declaration revoke, modify or add to the covenants established by this

Declaration with respect to the portion of the Community already subject to this Declaration, except that it may reduce the Proportionate Share of any Owner.

7.3 Annexation Without Approval of Master Association. If added at the election of the Developer, the Annexation Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Master Association without the approval, assent or vote of the Master Association provided that a Supplemental Declaration covering the Annexation Property shall be recorded by the Developer. The recordation of said Supplemental Declaration shall constitute and effectuate the annexation of the Annexation Property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdictions of the Community for all intents and purposes of this Declaration and all of the owners of lots in the Annexation Property shall automatically be Owners in accordance with the terms of Community Association Declarations and Community Association Members as defined herein.

## ARTICLE VIII

### Exemption of the Developer from Restrictions

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of the Developer, its employees, agents and subcontractors, or parties designed by it in connection with the construction, completion, sale or leasing of the lots, or development of a residence on any individual lot, construction, development, or improvement of Common Facilities on any part of the Community. The Developer may provide funding to the Master Association at such levels as the Developer, in the Developer's sole discretion, may believe necessary and proper. No funding stream from the Developer in any given year shall be deemed to imply a similar funding stream in any subsequent year. The Developer is specifically exempt from the payment of any Assessment, Regular or Special, as to any land owned by the Developer within the subdivision until that land has been transferred from the Developer to the first owner other than the Developer.

## ARTICLE IX

### Remedies

9.1 General Remedies. In the event of the default by any Community Association or its Member under the provisions of this Declaration, the Master Association, or the successors, assigns, or agents thereof, or the Developer, shall have each and all of the rights and remedies which may be provided for in this Declaration, or which may be available at law or equity, and may prosecute any action or other proceedings against such defaulting Community Association or its Member or other persons for an injunction, whether affirmative or negative, or for enforcement or foreclosure of any lien herein provided and the appointment of a receiver for the Lot, or for damages, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief, all without notice and without regard to the value of the Lot or the solvency of such Owner or Community Association Member.

9.2 Expenses of Enforcement. All expenses of the Master Association or the Developer or other person granted rights of enforcement hereunder, in connection with any action or proceeding described or permitted by this Article, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon until paid at the Default Rate of Interest, shall be charged to and assessed against such defaulting Owner, Community Association Member, or other person and shall be a Special Assessment against such Owner, Community Association Member, or other person, and the Master Association or Developer shall have a lien. In the event of any default by any Owner, Community Association Member, or other person, the Master Association and the Developer, and any permitted manager or managing agent, if so authorized, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith, together with interest thereon until paid at the Default Rate of Interest, shall be charged to and assessed against such defaulting Owner, Community Association Member, or other person as a Special Assessment, which shall constitute a lien against the defaulting Community Association Member's lot as provided herein. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Master Association or the Developer.

**9.3 Legal Action.** In addition to any other remedies available under this Article, if any Owner or Community Association Member (either by conduct or by the conduct of any Occupant of his lot or family member, guest, invitee or agent) shall violate any of the provisions of this Declaration or any other document contemplated hereby, as then in effect, then the Master Association, the Developer, or any affected or aggrieved Owner, or Community Association Member, shall have the power to file an action against the defaulting Owner, Community Association Member, for a judgment, or injunction against the Owner, Community Association Member, or such other person requiring the defaulting Owner, Community Association Member, or any other person to comply with the provisions of this Declaration, or any other document contemplated hereby, and granting other appropriate relief, including money damages.

**9.4 Effect on Mortgage.** Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any other document contemplated hereby, shall not defeat or adversely affect the lien of any Mortgagee upon any Lot but, except as herein or therein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Community Association Member whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

**9.5 Limitation on the Developer's Liability.** Notwithstanding anything to the contrary herein, it is expressly agreed that neither the Developer (including without limitation any assignee of the interest of the Developer hereunder) nor any member in the Developer (or in any such assignee) shall have any personal liability to the Master Association or any Community Association Member, Occupant, Master Association Member or other person, arising under, in connection with, or resulting from (including, without limitation, resulting from action or failure to act with respect to) this Declaration, the Master Association Articles, Master Association Bylaws or Master Association Rules, or for any action taken or not taken pursuant to authority granted Developer therein or with respect thereto, except, in the case of the Developer (or its assignee) to the extent of its interest in the Community, and in the case of a member in the Developer (or in any such assignee), the member's interest in the Developer (or such assignee), and in the event of a judgment against the Developer (or any member or assignee thereof), no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets of the judgment debtor.

## **ARTICLE X** **Amendment**

**10.1 Amendments to Declaration.** Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets for the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a Majority of the Master Association Board Members prior to its adoption by the Master Association Members. Amendments require prior approval by a simple majority of the board of directors of each Community Association and may be adopted at a meeting of the Master Association Board Members upon the approval thereof of three fourths of all of the Master Association Board Members entitled to vote thereat, or without any meeting if all Master Association Members have been duly notified and if three fourths of all of the Master Association Members entitled to vote at such a meeting, if held, consent in writing to such amendment. In all events, the amendment when adopted shall bear the signature of the President of the Master Association and shall be attested by the secretary, who shall state whether the amendment was properly adopted, and shall be acknowledged by them as officers of the Master Association. Amendments once properly adopted shall be effective upon recording of the Amendment to Declaration in the office of the appropriate Master Association or the Developer and Recorded.

**10.2 Effect of Amendment.** It is specifically covenanted and agreed that any amendment to this Declaration property adopted will be completely effective to amend any and all of the easements, covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration, unless otherwise specifically provided in the Section be amended or the amendment itself.

**10.3 Required Approvals.** Notwithstanding the provisions of the foregoing Sections of this Article:

(a) If this Declaration or any applicable provision of law requires the consent or agreement of additional parties, or a specified percentage thereof, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all such parties, as required by this Declaration or by said law.

(b) Until the later of when (i) 95% of all the Lots in the Community (as it exists from time to time) have been sold to third parties, and (ii) Developer owns less than two acres of land in the approved Preliminary Plat of McFarland Farm Subdivision, as it exists from time to time, this Declaration may not be amended by the Master Association Members pursuant to this Article without the written consent of the Developer, which may be withheld for any reason.

10.4 Developer's Right to Amend. Notwithstanding any other provision of this Article, until the later of when (i) 95% of all the Lots in the Community, as it exists from time to time, have been sold to third parties, or (ii) Developer owns less than two acres of land in the approved Preliminary Plat of McFarland Farm Subdivision, as it exists from time to time, the Developer reserves the right to amend this Declaration and/or the Master Declaration, Master Plan, or Master Association Rules without the approval of the Master Association Board, the Master Association Members, Master Association, or any Community Association Member or other person; provided, however, that no such amendment shall have the effect of changing the Plat of a Community Association Member's Lot without the consent of the Community Association Member.

## ARTICLE XI General Provisions

11.1 Notice. Notices provided for in this Declaration, or the Master Association Bylaws, or Master Association Rules, shall be in writing and shall be addressed to the Master Association at the address specified in the Master Association Bylaws. The Master Association may designate a different address or addresses for notice by giving written notice of such change of address to all Master Association Members at such time. All notices to Master Association Members shall be to the last address shown on the records of the Master Association. Any Master Association Member may designate a different address or addresses for notice to it by giving written notice of its change of address to the Master Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person with written acknowledgment of the receipt thereof.

11.2 Captions and Exhibits; Construction. Captions given to various Sections herein, and the Table of Contents for this Declaration, are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various exhibits referred to herein are incorporated as though fully set forth where such reference is made. The provisions of this Declaration shall be construed to effectuate its purpose of creating a uniform plan for the development and operation of the Community as hereinabove set forth.

11.3 Severability. If any provision of this Declaration, the Master Association Articles or Master Association Bylaws, or Master Association Rules, or any Section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration, the Master Association Articles or Master Association Bylaws, or Master Association Rules, and of the application of any such provision, Section, sentence, clause, phrase or work in any other circumstances, shall not be affected thereby, and the remainder of this Declaration, the Master Association Articles or Master Association Bylaws, or Master Association Rules shall be construed as if such invalid part were never included therein.

11.4 Term. This Declaration shall continue in full force and effect (subject, however, to the right to amend as herein provided) until January 1, 2090. Thereafter, unless one (1) year prior to January 2, 2090, there shall be Recorded an instrument directing the termination of this Declaration adopted in the same fashion as an amendment, this Declaration shall be automatically continued without any further notice for an additional period of ten (10) years and thereafter for successive periods of ten (10) years each; provided, however, that within one (1) year prior to the expiration of any such ten (10) year period, this Declaration may be terminated as set forth in this Section.

11.5 Rule Against Perpetuities. If any of the options, easements, privileges, covenants, or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue until 21 years after the death of the survivor of any currently living person in Shawnee County, Kansas.

11.6 Mortgage of Lots. Each Community Association Member shall have the right, subject to the provisions hereof, to separately Mortgage that Community Association Member's lot. No Community Association Member shall have the right or authority to make, or create, or cause to be made or created any Mortgage, or other lien or security interest, on or affecting the Community or any part thereof, except only to the extent of that Community Association Member's lot.

11.7 Power of Attorney. Whenever the Master Association is granted rights, privileges, or duties in this Declaration, the President shall have the authority to act for the Master Association, unless such right and power is hereby expressly reserved to the Master Association Board. Further, unless otherwise specifically restricted by the provisions of this Declaration, wherever the Master Association is empowered to take any action or do any act, which may at any time be deemed to require the act of a Community Association Member, Master Association Members, and each of them, hereby constitute and appoint the Master Association as their attorney in fact, as may be appropriate, for the purposes of taking such action or doing such acts including, but not limited to executing, acknowledging, and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest and by becoming a Member of a Master Association, or by the acceptance of a deed for a Lot, or by signing a contract for purchase of a lot, or by succeeding in any other manner to the ownership of a lot, or any interest therein, each Community Association Member and Master Association Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

**ARTICLE XII**  
**Rights and Obligations**

Each grantee of the Developer or of any Community Association Member, by the acceptance of a deed or conveyance, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each person acquiring a membership in the Master Association, and the heirs, successors and assigns of the foregoing persons, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and equitable servitudes, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of any such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or instrument evidencing or creating such interest.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed.

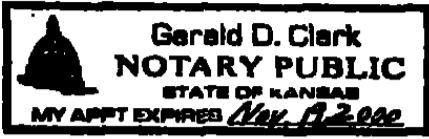
**McFARLAND FARM LLC**

By  \_\_\_\_\_

STATE OF KANSAS, COUNTY OF SHAWNEE, ss:

BE IT REMEMBERED that on this 24th day of February 2000, before me, the undersigned, a notary public in and for the county and state aforesaid, came Craig E. Lutz, who is personally known to me to be the same person who executed the above and foregoing document as Member of such limited liability company, and duly acknowledged the execution of the same to be the free and voluntary act and deed of McFarland Farm LLC.

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



*Gerald D. Clark*  
\_\_\_\_\_  
Notary Public

My Appointment Expires:

*November 17, 2000*

Master

## EXHIBIT A

Blocks A, B and C including all lots therein to McFarland Farm Subdivision, City of Topeka, Shawnee County, Kansas.

## EXHIBIT B

A TRACT OF LAND IN THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE 6TH P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 6 IN SAID SOUTHEAST QUARTER; THENCE SOUTH ON AZ. 177 DEGREES 48 MINUTES 22 SECONDS 2,645.89 FEET, TO THE SOUTHEAST CORNER OF LOT 5 IN SAID SOUTHEAST QUARTER; THENCE ON AZ. 267 DEGREES 55 MINUTES 18 SECONDS 750.00 FEET, COINCIDENT WITH THE SOUTH LINE OF SAID QUARTER SECTION; THENCE NORTH NORTHEAST 600.00 FEET TO A POINT THAT IS 610.00 FEET NORTH OF THE SOUTH LINE OF SAID QUARTER SECTION AND 620.00 FEET WEST OF THE EAST LINE OF SAID LOT 5; THENCE NORTH NORTHWEST 240.00 FEET TO A POINT THAT IS 980.00 FEET NORTH OF THE SOUTH LINE OF SAID QUARTER SECTION AND 530.00 FEET WEST OF THE EAST LINE OF SAID LOT 5; THENCE NORTHEAST 230.00 FEET TO A POINT THAT IS 760.00 FEET NORTH OF THE SOUTH LINE OF SAID QUARTER SECTION AND 450.00 FEET WEST OF THE EAST LINE OF SAID LOT 5; THENCE NORTHWEST 1,150.00 FEET TO A POINT THAT IS 735.00 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 34, AND 260.00 FEET WEST OF THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE NORTHEAST TO A POINT THAT IS 330.00 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHEAST QUARTER AND 770.00 FEET WEST OF THE EAST LINE OF SAID LOT 6; THENCE NORTH 330.00 FEET TO THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE EAST ON AZ. 87 DEGREES 48 MINUTES 10 SECONDS 770.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 137 ACRES, MORE OR LESS.

NOTE: (A.)- AZIMUTHS ARE ANGULAR INCREMENTS MEASURED CLOCKWISE FROM ZERO DEGREES AT ASSUMED ASTRONOMIC NORTH.