

**WHITEHORSE 5TH PLAT
HOMES ASSOCIATION DECLARATION**

THIS DECLARATION is made as of the 19th day of December, 2003, by White Horse Development, L.L.C., a Kansas limited liability company (the "Developer");

WITNESSETH:

WHEREAS, the Developer is the assignee of Highwoods Services, Inc.'s future development rights with respect to the subdivision known as WhiteHorse; and

WHEREAS, the Developer has executed and filed with the Office of the Register of Deeds of Johnson County, Kansas, a 5th plat of WhiteHorse; and

WHEREAS, such plat adds the following lots to the subdivision (the "Additional Lots"):

Lots 4 through 13 of Block 3, Lots 3 through 24 of Block 5, Lots 37, 38 and 39 of Block 6, and Lots 4 through 18 of Block 14, WHITEHORSE PLAT NO. 5, a subdivision of land in City of Leawood, Johnson County, Kansas, according to the recorded plat thereof; and

WHEREAS, the Developer, as the owner of the Additional Lots, desires to subject the Additional Lots to the covenants, assessments, charges and other provisions contained in that certain WhiteHorse Plat No. 3 Homes Association Declaration, dated as of October 20, 1998, executed by the Developer and filed with the Office of the Register of Deeds of Johnson County, Kansas as Instrument No. 2898977 in Book 5893 at Page 99, as supplemented and amended by Supplement to WhiteHorse Homes Association Declarations filed with the Office of the Register of Deeds of Johnson County, Kansas as Instrument No. 3006098 in Book 6222 at Page 674 and by Amendment to Supplement to WhiteHorse Homes Association Declarations filed in the Office of Register of Deeds of Johnson County, Kansas as Instrument No. 3640189 in Book 9060 at Page 805 (collectively, the "Original Declaration").

NOW, THEREFORE, in consideration of the premises, the Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the

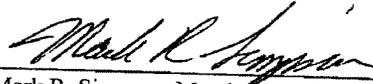
Additional Lots shall be, and they hereby are, subject to the covenants, assessments, charges and other provisions set forth in the Original Declaration. As contemplated in Article IX of the Original Declaration, this instrument shall have the effect of subjecting the Additional Lots to all of the provisions of the Original Declaration as though the Additional Lots had been originally described therein and subject to the provisions thereof.

Tract A and the platted landscape easements along Nall on Lots 14 through 18 of Block 14 and Lots 8, 9, 10, 12 and 13 of Block 3, of WhiteHorse Plat No. 5 are "Common Areas" described in the Declaration.

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

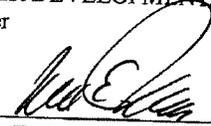
THE DEVELOPER:

WHITE HORSE DEVELOPMENT, L.L.C.

By: 
Mark R. Simpson, Member

By: ASHNER VENTURE, L.L.C., Member

By: ASHNER DEVELOPMENT, INC.,
Member

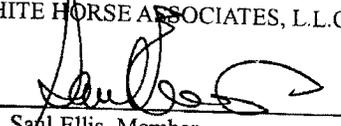
By: 
Leo E. Ashner, President

By: GREAT PLAINS INVESTMENT CO.,
L.L.C., Member

By: SAILORS BUILDING
COMPANY, L.L.C., Member

By: 
Bobby F. Sailors, Member

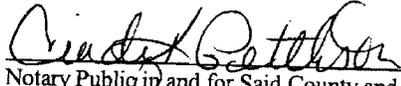
By: WHITE HORSE ASSOCIATES, L.L.C.

By: 
Saul Ellis, Member



STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on December 19th, 2003 by Mark R. Simpson, Saul Ellis, as a member in and on behalf of White Horse Associates, L.L.C., a Kansas limited liability company; Leo E. Ashner, President of Ashner Development, Inc., a Kansas corporation, in its capacity as a member in and on behalf of Ashner Venture, L.L.C., a Kansas limited liability company; and Bobby F. Sailors, as a member in and on behalf of Sailors Building Company, L.L.C., a Kansas limited liability company, in its capacity as a member in and on behalf of Great Plains Investment Co., L.L.C., a Kansas limited liability company; in each entity's capacity as a member in and on behalf of White Horse Development, L.L.C., a Kansas limited liability company.


Notary Public in and for Said County and State

Print Name: Cindy K. Peterson

My Commission Expires:

10/3/04

[SEAL]



2898977

WHITEHORSE PLAT NO. 3
HOMES ASSOCIATION DECLARATION

THIS DECLARATION, Made on this 20th day of October, 1998, by Highwoods Services, Inc., a North Carolina corporation ("Highwoods").

WITNESSETH: That,

WHEREAS, Highwoods is the owner of all of the lots shown on the plat of WhiteHorse Plat No. 3, a subdivision of land in the City of Leawood, in Johnson County, Kansas, filed for record on September 25, 1998, in the Office of the Register of Deeds of Johnson County, Kansas, and recorded under Document No. 2888445 in Book 107 of Plats, at Page 4; and

WHEREAS, Highwoods is now developing said WhiteHorse Plat No. 3, for residence purposes and it is its desire to create and maintain a residential neighborhood possessing features of more than ordinary value.

NOW, THEREFORE, to provide the means necessary to achieve such purpose, Highwoods does now and hereby subject Lots 12 to 21, both inclusive, in Block 9; Lots 13 to 15, both inclusive, in Block 10; Lots 5 to 11, both inclusive, in Block 11; Lots 1 to 5, both inclusive, in Block 12; and Lots 1 to 5, both inclusive, in Block 13; of WhiteHorse Plat No. 3, as shown on the aforesaid plat, to the covenants, charges and assessments set forth, contained and provided for in this Declaration.

ARTICLE I. DEFINITION OF TERMS USED

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

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

(b) The term "District" shall mean all of the above-described lots in WHITEHORSE, all Common Areas, and all additional property which hereafter may be made subject hereto in the manner provided herein.

(c) The term "Developer" shall mean and refer to Highwoods and its successors and assigns.

(d) The term "Owner" shall mean the record owner in fee simple of any Lot, including the Developer.

(e) The term "Common Areas" shall mean (i) street right-of-ways, (ii) streets and street islands, (iii) gateways, entrances, monuments, berms and other similar ornamental areas and related utilities, street lights, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any easements

related thereto, including an approximate 30 foot wide landscape easement along Nall Avenue as shown on the plat of WHITEHORSE, an approximate 30 to 35 foot wide landscape easement along 151st Street as shown on the plat of WHITEHORSE Plat No. 3, and (iv) all other similar areas and places, together with all improvements thereon and thereto (including clubhouse or other recreational facilities that may be constructed or erected), the use, benefit or enjoyment thereof is intended for all of the Owners within the District, whether or not any "Common Area" is located on any Lot.

(f) The term "street" shall mean any public street, road, terrace, circle or boulevard shown on any recorded plat of all or part of the District.

(g) The term "WhiteHorse Homes Association" shall mean the Kansas not-for-profit corporation formed by the Developer for the purpose of serving as the homes association for the District.

(h) The term "Certificate of Substantial Completion" shall mean a certificate executed, acknowledged and recorded by the Developer stating that all or substantially all of the Lots in the District (as then composed or contemplated by the Developer) have been sold by the Developer and the residences to be constructed thereon are substantially completed; provided, however, that the Developer may execute and record a Certificate of Substantial Completion or similar instrument in lieu thereof in its discretion at any time and for any limited purpose hereunder.

ARTICLE II. HOMES ASSOCIATION
MEMBERSHIP, VOTING AND MANAGEMENT

Membership in the WhiteHorse Homes Association shall be limited to the Owners of Lots within the District and every such Owner shall be a member. The WhiteHorse Homes Association shall have only one class of membership. Each member shall have one vote for each Lot for which he is the Owner and upon which he shall not be delinquent in the payment of any assessment; provided, however, that when more than one person is an Owner of any particular Lot, all such persons shall be members and the vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Lot.

ARTICLE III. POWERS AND DUTIES
OF THE HOMES ASSOCIATION

1. In addition to the powers granted by other portions of this Declaration or by law, the WhiteHorse Homes Association shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by its Board of Directors to carry out and effectuate the purposes of this Declaration, including, without limitation:

(a) To enforce, in its own name, any and all building, use or other restrictions, obligations, agreements or reservations which have been or hereafter may be imposed upon any of the Lots; provided, however, that this right of enforcement shall not serve to

prevent changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the parties having the right to make such changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth. The expense and cost of any such enforcement proceedings by the WhiteHorse Homes Association may be paid out of the general fund of the WhiteHorse Homes Association, as herein provided. Nothing herein contained shall be deemed or construed to prevent any Owner from enforcing any building, use or other restrictions in his own name.

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

(c) To levy and collect the assessments which are provided for in this Declaration.

(d) To enter into agreements from time to time with the Developer and other parties regarding the performance of services and matters benefiting both the Developer and the WhiteHorse Homes Association and its members and the sharing of the expenses associated

therewith.

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

(f) To engage the services of a management company or other person or entity to carry out and perform the functions and powers of the WhiteHorse Homes Association, including, without limitation, keeping of books and records, and operation and maintenance of Common Areas.

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

(h) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the District; and to do any other things necessary or desirable in the judgment of the board of directors of the WhiteHorse Homes Association to keep any property in the District neat in appearance and in good order.

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

(j) To make such reasonable rules and regulations (including, without limitation, the use of Common Areas) and to provide means to enforce such rules and regulations as will enable it to adequately and properly carry out the provisions and purposes of this Declaration.

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

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

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

(b) The WhiteHorse Homes Association shall at all times be responsible for the proper maintenance of, and shall maintain, the Common Areas.

(c) The WhiteHorse Homes Association shall pay all amounts due from it under any agreement regarding recreational facilities, as contemplated in Article VIII below.

ARTICLE IV. METHOD OF PROVIDING GENERAL FUNDS

1. For the purpose of providing a general fund to enable the WhiteHorse Homes Association to exercise the powers, maintain the improvements and render the services provided for herein, all Lots in the District, other than Lots then owned by the Developer, shall be subject to an annual assessment to be paid to the WhiteHorse Homes Association by the respective Owners thereof. The amount of such annual assessment shall be fixed periodically by the WhiteHorse Homes Association and, until further action of the WhiteHorse Homes Association, shall be \$400.00 per year.

2. The rate of annual assessment upon each Lot in the District may be increased or decreased (i) by the Board of Directors of the WhiteHorse Homes Association from time to time to an increased amount not to exceed 10% of the rate of annual assessment in effect on the preceding January 1st, or (ii) at a meeting of the members specially called for that purpose and of which advance notice is given and if a majority of the members present at such meeting and entitled to vote, authorize such increase or decrease by an affirmative vote therefor; provided, however, that the rate of annual assessment may not be less than an amount that is necessary to permit the WhiteHorse Homes Association to perform its duties as specified in subsection 2 of Article III.

3. The annual assessments provided for herein shall be based upon the calendar year and shall be due and payable on January 1st of each year; provided, however, that (a) the first assessment for each Lot shall be due and payable, at the Developer's option, upon closing of the acquisition of the Lot from the Developer and shall be prorated as of the date thereof and (b) any increase that occurs under the proviso in subsection 1 above shall be effective as of the date such recreational facilities are available and ready for use (as determined by the Developer) and such increased amount shall be prorated as of the date thereof for the remainder of the calendar year. If the effective date of any increase in the rate of assessment is other than January 1st, the prorated portion of the amount of such increase for the remainder of such year shall be due and payable on such effective date.

ARTICLE V. LIEN ON REAL ESTATE

1. The annual assessment shall become a lien on the Lot against which it is levied as soon as it is due and payable as set forth above. ~~In the event of the failure of any owner to pay~~ any assessment within 30 days of the due date thereof, then such assessment shall bear interest at the rate of 10% per annum from the due date until paid. Should it become necessary to engage the services of an attorney to collect any assessment hereunder, all costs of collecting such assessment, including court costs and reasonable attorneys' fees, shall, to the extent permitted by

applicable law, be added to the amount of the assessment being collected and the lien on the Lot.

2. All liens on any Lot for assessments provided for herein shall be inferior and subordinate to the lien of any valid purchase money first mortgage now existing or which may hereafter be placed upon such Lot.

3. Nonpayment of any assessment provided for herein within 60 days from the due date thereof shall cause such assessment to become delinquent. Payment of both principal and interest of a delinquent assessment may be enforced as a mortgage lien on such Lot through proceedings in any court in Johnson County, Kansas, having jurisdiction of suits for the enforcement of such liens. The WhiteHorse Homes Association may file certificates of nonpayment of assessments in the office of the Register of Deeds of Johnson County, Kansas, whenever any assessment is delinquent. For each certificate so filed, the WhiteHorse Homes Association shall be entitled to collect from the Owner of the Lot described therein a fee of \$25.00, which fee shall be added to the amount of the delinquent assessment and the lien on the Lot.

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

ARTICLE VI. SPECIAL ASSESSMENTS

In addition to the annual assessments provided for herein, the Board of Directors of the WhiteHorse Homes Association (a) shall have the authority to levy from time to time a special assessment against any Lot and its Owner to the extent the WhiteHorse Homes Association expends any money (for services or materials) to correct or eliminate any breach by such Owner of any agreement, obligation, reservation, or restriction contained in any deed, declaration or plat covering such Lot (including, without limitation, to maintain or repair any Lot or improvement thereon) and (b) shall levy from time to time special assessments against each and every Lot in an equal amount that is sufficient, when aggregated, to enable the WhiteHorse Homes Association to perform its duties as specified in subsection 2 of Article III that require any expenditure during any period in an amount in excess of the general funds of the WhiteHorse Homes Association available therefor. Such special assessment shall be due and payable, and become a lien on such Lot, upon notice to such Owner of the assessment. Interest at the rate of 10% per annum shall accrue from the due date until paid and shall also be part of the lien against such Lot. Such lien shall be enforced and terminated in accordance with the provisions of Article V above.

ARTICLE VII. LIMITATION ON EXPENDITURES

Except with respect to recreational facilities, the WhiteHorse Homes Association shall at no time expend more money within any one year than the total amount of the assessments for

that particular year, plus any surplus which it may have on hand from prior years; nor shall the WhiteHorse Homes Association have the power to enter into any contract which binds the WhiteHorse Homes Association to pay for any obligation out of the assessments for any future year, except for contracts for utilities, maintenance or similar services or matters to be performed for or received by the WhiteHorse Homes Association or its members in subsequent years and except for matters contemplated in subsection 2(c) of Article III above.

ARTICLE VIII. RECREATIONAL FACILITIES

1. The Developer shall have the right to construct and erect from time to time a clubhouse, parking lot and other similar recreational facilities ("Recreational Facilities") within the District or on property near the District and to make such facilities available for use by residents of the District and residents of other subdivisions that may be situated near the District. The size, number and components of the Recreational Facilities shall be as determined by the Developer in its absolute discretion.

2. ~~In the event any Recreational Facilities are so~~
constructed and made available for use by residents of the District, the following shall apply:

(a) The WhiteHorse Homes Association will pay, from and after the substantial completion and availability date, a pro rata share (as defined below) of the operating expenses (as defined below) of the Recreational Facilities and of any post construction

capital expenditures (as defined below); provided, however, that until ownership and control of the Recreational Facilities are transferred as provided in paragraph (d) below the per residence payment by the WhiteHorse Homes Association shall not exceed \$150.00 per year (which amount may be increased by 10% on January 1st of each year).

(b) For purposes hereof, the "operating expenses" of the Recreational Facilities shall generally have the meaning attributed thereto under generally accepted accounting principles, consistently applied, but shall not include (i) any costs of the Developer of acquiring, developing, improving, constructing or erecting the Recreational Facilities or the site on which such facilities are located, (ii) any depreciation or amortization of the costs described in clause (i) above, (iii) any financing or debt service expenses related to the costs described in clause (i) above, (iv) any ground, facilities, or other lease payments or rents related to the costs described in clause (i) above, or (v) any costs attributable or allocable to the use of the Recreational Facilities or any part thereof by the Developer, any construction company, any real estate agent or any other similar party as an office, meeting place or storage facility.

(c) For purposes hereof, "post construction capital expenditures" shall mean any expenditures made or incurred after the completion of the initial (as specified by the Developer) Recreational Facilities for equipment, furniture, or other capital assets, including the expansion of any facilities, and any other expenditures that would be capitalized under generally accepted accounting principles, consistently applied.

(d) For purposes hereof, the WhiteHorse Homes Association's "pro rata share" for any fiscal year shall be equal to the product of (i) the aggregate pertinent expenses for the period multiplied by (ii) a fraction the numerator of which is the number of Lots that are then obligated to pay homes association dues and the denominator of which is the sum of (A) the numerator plus (B) the number of residential units in other subdivisions that are using the Recreational Facilities.

(e) At such time as the Developer deems appropriate, the Developer shall convey title to or its interest in the Recreational Facilities to the WhiteHorse Homes Association and any other homes associations whose members may use the Recreational Facilities or to a not-for-profit corporation having as

its members the owners of the residences entitled to use the Recreational Facilities. Such transfer shall be without cost or charge to the grantee(s) and free and clear of any mortgages or similar liens.

(f) The WhiteHorse Homes Association shall pay the amounts due from it under paragraph (a) above out of the homes association dues collected from the Owners of the Lots.

ARTICLE IX. COMMON AREAS

The Developer covenants and agrees to convey title to or its interest in the Common Areas (except as provided in Article VIII above) to the WhiteHorse Homes Association, without cost to the WhiteHorse Homes Association, not later than one month after the Developer has recorded the Certificate of Substantial Completion.

ARTICLE X. NOTICES

1. At least seven days prior to any meeting of the WhiteHorse Homes Association, it shall give written notice to all members of the place, time and purpose of the regular or special meeting of the WhiteHorse Homes Association.

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

3. All notices required or permitted under this Declaration shall be deemed given if deposited in the United States Mail, postage prepaid, and addressed to the person entitled to such notice at the last address listed with the

WhiteHorse Homes Association for such person. Notice to one co-owner shall constitute notice to all co-owners.

ARTICLE XI. EXTENSION OF DISTRICT

The Developer shall have, and expressly reserves, the right, from time to time, to add to the existing District and to the operation of the provisions of this Declaration such other adjacent (without reference to streets and right-of-ways) lands as it may now own or hereafter acquire by executing, acknowledging and recording an appropriate written declaration or agreement subjecting such land to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable as solely determined by the Developer in good faith.

ARTICLE XII. OBSERVANCE OF ALL LAWS

The WhiteHorse Homes Association shall at all times observe all applicable state, county, city or other laws or regulations and, if at any time any of the provisions of this Declaration shall be found to be in conflict with such laws, such provisions shall become null and void, but no other parts of this Declaration not in conflict therewith shall be affected thereby.

ARTICLE XIII. AMENDMENT AND TERMINATION

This Declaration may be amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by both (a) the

owners of two-thirds of the Lots within the District as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion, by the Developer.

ARTICLE XIV. ASSIGNMENT OF DEVELOPER'S RIGHTS

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

ARTICLE XV. COVENANTS RUNNING WITH THE LAND

All provisions of this Declaration shall be deemed to be covenants running with the land and into whosoever hands any of the property in the District shall come.

ARTICLE XVI. TEMPORARY TRUSTEE

Prior to actual organization or incorporation of the Homes Association contemplated by the terms of this Declaration, Developer as Temporary Trustee for the WhiteHorse Homes Association shall have the right at its option to perform the duties, assume the obligations, levy and collect the assessments,

and otherwise exercise the powers herein given to the WhiteHorse Homes Association, in the same way and manner as though all of such powers and duties were herein given directly to Developer. The WhiteHorse Homes Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the written consent of Developer and its relinquishment of its rights as Temporary Trustee.

ARTICLE XVII. SEVERABILITY

Invalidation of any of the provisions set forth herein, or any part thereof, by an order, judgment or decree of any court, or otherwise, shall not invalidate or affect any of the other provisions, or any part thereof, but they shall remain in full force and effect.

3006098

STATE OF KANSAS 155
COUNTY OF JOHNSON
FILED FOR RECORD

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1999 JUN 24 P 3: 15.9

SARA F. ULLMANN
REGISTER OF DEEDS

SUPPLEMENT TO
WHITEHORSE HOMES ASSOCIATION
DECLARATIONS

This Supplement to WhiteHorse Homes Association Declarations ("Amendment") is made this 16 day of June, 1999 by White Horse Development, L.L.C., a Kansas limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the lots in the WhiteHorse subdivision in Overland Park, Kansas described on Exhibit A attached hereto (the "Specific Lots").

WHEREAS, a prior owner of the Specific Lots has previously executed a WHITEHORSE HOMES ASSOCIATION DECLARATION recorded in the Office of the Register of Deeds of Johnson County, Kansas (the "Recording Office") as instrument number 2424589 in book 4412 at page 698, as supplemented by WHITEHORSE PLAT NO. 2 HOMES ASSOCIATION DECLARATION, recorded in the Recording Office as instrument number 2609748 in book 4915 at page 742, and as supplemented by WHITEHORSE PLAT NO. 3 HOMES ASSOCIATION DECLARATION, recorded in the Recording Office as instrument number 2898977 in book 5893 at page 99 (collectively, the "Declaration"); and

WHEREAS, the Declaration places certain obligations and restrictions upon the Specific Lots.

WHEREAS, Developer desires to supplement the Declaration as provided herein with respect to the Specific Lots;

NOW, THEREFORE, the Developer declares and agrees as follows:

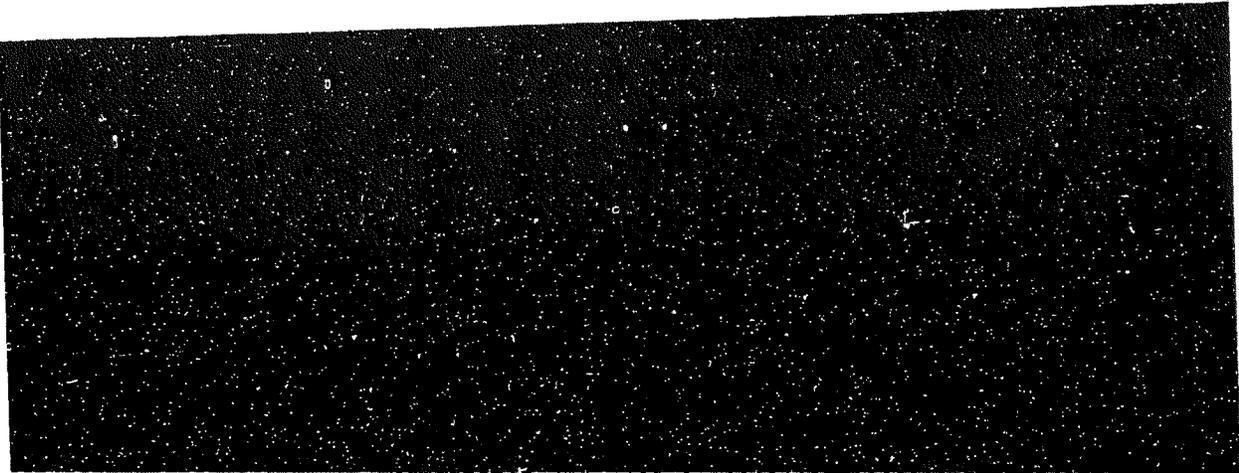
A. All capitalized terms used but not otherwise defined in this Declaration shall have the meanings set forth in the Declaration.

B. The following new Section 4 is hereby added to Article IV of the Declaration to be applicable only to the Specific Lots:

4. Upon initial occupancy of the residence on each Specific Lot, the Developer shall collect from the Lot Owner and cause to be paid over to the Association, for the purpose of providing a general fund to enable the Homes Association to exercise the powers, render the services and perform the duties provided for herein, a one time initiation fee of \$250.00.

C. Except as otherwise supplemented hereby, the Declaration shall remain in full force and effect.

1200
at Polsinelli, White
7500 College Blvd
O.P. Ks 66210



D. This Supplement shall become effective as a supplement of the Declaration and binding upon all of the Specific Lots upon (a) the execution hereof by the Developer, and (b) the recordation hereof in the Recording office. The Developer is executing this Supplement in its capacity as the Developer and as the Owner of the Specific Lots.

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

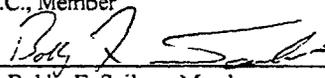
THE DEVELOPER:

WHITE HORSE DEVELOPMENT, L.L.C.

By: 
Mark R. Simpson, Member

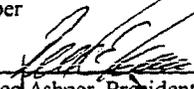
By: GREAT PLAINS INVESTMENT CO.,
L.L.C., Member

By: SAILORS BUILDING COMPANY,
L.L.C., Member

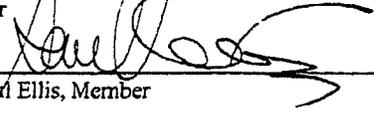
By: 
Bobby F. Sailors, Member

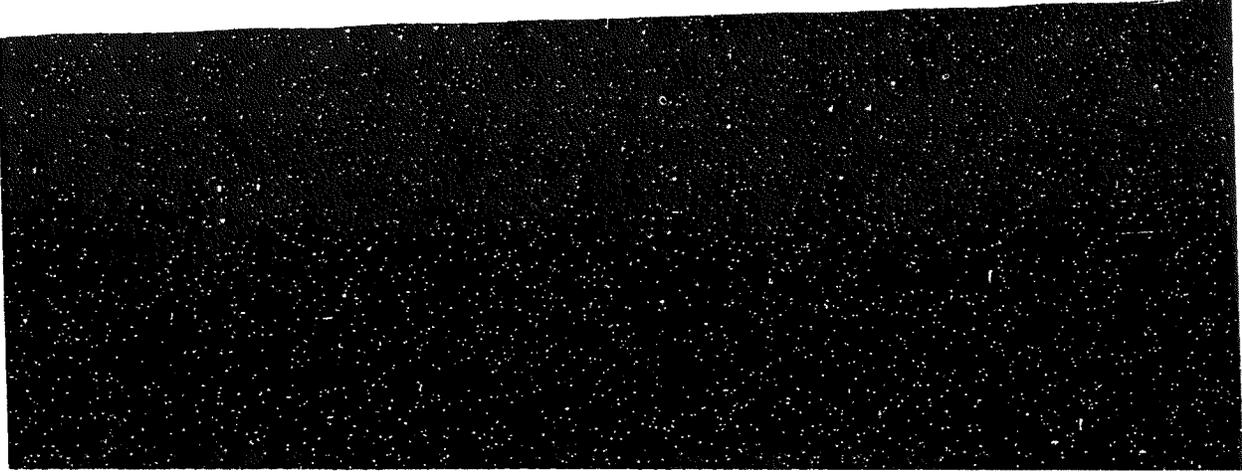
By: ASHNER VENTURE, LLC, Member

By: ASHNER DEVELOPMENT, INC.,
Member

By: 
Leo Ashner, President

By: WHITE HORSE ASSOCIATES, L.L.C.,
Member

By: 
Saul Ellis, Member



STATE OF KANSAS)
) ss.
 COUNTY OF JOHNSON)

This instrument was acknowledged before me on June 16, 1999 by Mark R. Simpson; Bobby F. Sailors, as a member in and on behalf of Sailors Building Company, L.L.C., a Kansas limited liability company, as a member in and on behalf of Great Plains Investment Co., L.L.C., a Kansas limited liability company; Saul Ellis, as a member in and on behalf of White Horse Associates, L.L.C., a Kansas limited liability company; and Leo E. Ashner, as President of Ashner Development, Inc., a Kansas corporation as a member in and on behalf of Ashner Venture, LLC, a Kansas limited liability company; in each person's or Entity's capacity as a member in and on behalf of White Horse Development, L.L.C., a Kansas limited liability company.

Stanley H. Woodworth
 Notary Public in and for Said County and State

Print Name: _____

My Commission Expires:

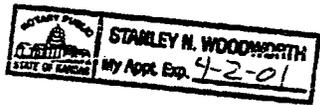




EXHIBIT A

SPECIFIC LOTS

Lots 8, 13, 14 and 16 of Block 2, Lot 3 of Block 3, Lots 1 and 2 of Block 5, Lots 8, 15 and 16 of Block 8, and Lots 10, 11 and 12 of Block 10, WHITEHORSE, a subdivision in City of Leawood, Johnson County, Kansas.

Lots 9 and 16 of Block 6, and Lots 2 and 3 of Block 7, WHITEHORSE, Plat No. 2, a subdivision in City of Leawood, Johnson County, Kansas.

Lots 12, 13, 14, 15, 17, 18, 19, 20 and 21 of Block 9, Lots 13, 14 and 15 of Block 10, Lots 5, 6, 7, 8, 9, 10 and 11 of Block 11, Lots 1, 2, 3, 4 and 5 of Block 12, and Lots 1, 2, 3, 4 and 5 of Block 13, WHITEHORSE, Plat No. 3, a subdivision in City of Leawood, Johnson County, Kansas.

WHITEHORSE PLAT NO. 5
DECLARATION OF RESTRICTIONS

THIS DECLARATION is made as of the 19th day of December, 2003, by White Horse Development, L.L.C., a Kansas limited liability company.

WITNESSETH:

WHEREAS, White Horse Development, L.L.C. is the assignee of Highwood Services, Inc.'s future development rights with respect to the subdivision known as WhiteHorse, and White Horse Development, L.L.C. has executed and filed with the Register of Deeds of Johnson County, Kansas a 5th Plat of WhiteHorse; and

WHEREAS, such plat creates the following described lots and tract, to-wit:

Lots 4 through 13 of Block 3, Lots 3 through 24 of Block 5, Lots 37, 38 and 39 of Block 6, and Lots 4 through 18 of Block 14, WHITEHORSE PLAT NO. 5, a subdivision of land in City of Leawood, Johnson County, Kansas, according to the recorded plat thereof; and

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

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

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

(a) "Lot" means any lot as shown as a separate lot in WhiteHorse 5th Plat; provided, however, that if an Owner, other than the Developer, owns adjacent lots (or parts thereof) upon which only one residence has been, is being, or will be erected, then such adjacent property under common ownership shall be deemed to constitute only one "Lot."

(b) "District" means all of the property, including the above-described lots, all lots in the three prior plats of WhiteHorse, and all Common Areas, platted as part of the WhiteHorse subdivision.

(c) "Developer" means White Horse Development, L.L.C., a Kansas limited liability company, and its successors and assigns.

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

(e) "Common Areas" means (i) any entrances, monuments, berms, street islands, and other similar ornamental areas and related utilities, lights, sprinkler systems and landscaping constructed or installed by or for the Developer (or Highwood Services, Inc.) at or near the entrance of any street or along any street, and any easements related thereto, in the District, (ii) all landscape easements that may be granted to the Developer and/or the Homes Association, for the use, benefit and enjoyment of all owners within the District, and (iii) all other similar areas and places, together with all improvements thereon and thereto, the use, benefit or enjoyment of which is intended for all of the owners within the District, whether or not any "Common Area" is located on any Lot.

(f) "Homes Association" means WhiteHorse Homes Association, Inc., a Kansas not-for-profit corporation, formed for the purpose of serving as the homes association for the District.

(g) "Exterior Structure" means any structure 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 screen, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, pond, basketball goal, flag pole, swingset, trampoline, sand box, playhouse, treehouse or other recreational or play structure, and all exterior sculptures, statuary, fountains, and similar yard decor.

(h) "Certificate of Substantial Completion" means a certificate executed, acknowledged and recorded by the Developer stating that all or, at the Developer's discretion, substantially all of the Lots in the District (as then composed or contemplated by the Developer) have been sold by the Developer and the residences to be constructed thereon are substantially completed; provided, however, that the Developer may execute and record the Certificate of Substantial Completion or similar instrument in lieu thereof

in its absolute discretion at any time and for any limited purpose hereunder. The execution or recording of the Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Homes Association or any other person or entity.

(i) "Approving Party" means (i) prior to the recording of the Certificate of Substantial Completion, the Developer (or its designees from time to time) and (ii) subsequent to the recording of the Certificate of Substantial Completion, the Homes Association.

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

(k) "City" means the City of Leawood, Kansas.

2. Use of Land. Except as otherwise expressly provided herein, none of the Lots may be improved, used or occupied for other than single family, private residential purposes. No trailer, outbuilding or Exterior Structure shall at any time be used for human habitation, temporarily or permanently; nor shall any residence of a temporary character be erected, moved onto or maintained upon any of the Lots or any Common Areas or used for human habitation; provided, however, that nothing herein shall prevent the Developer or others (including, without limitation, builders and real estate sales agencies) authorized by the Developer from using temporary buildings or structures or any residence or clubhouse for model, office, sales or storage purposes during the development and build out of the District.

3. Building Material Requirements.

(a) Exterior walls of all residences and all appurtenances thereto shall be of stucco, brick, stone, wood shingles, plate glass, glass blocks, masonite or wood lap siding, or any combination thereof. Except as specifically approved in writing by the Developer, no exterior walls shall be covered with materials commonly known as sheet goods that when installed have uncovered seams or seams covered with batts, such as, without limitation, 4 feet by 8 feet panels. All windows and exterior doors shall be constructed of glass, wood, metal or vinyl clad, fiberglass, or any combination thereof. No windows or exterior doors may be silver or other bright finish. Roofs shall be covered with wood shingles, wood shakes, slate, tile, clay, concrete or other materials, all of the specific types, colors and other aesthetic factors approved by the Developer in writing. Notwithstanding the foregoing provisions of this Section 3 requiring or prohibiting specific building materials or products, any building materials or products that may be or come into general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Approving Party in its absolute discretion, shall be acceptable upon written approval by the Approving Party in its absolute discretion. In the event the City or other government agency with jurisdiction and authority requires specific building materials not authorized above or requires that Owners have additional choices of building materials not authorized above, the Approving Party shall have the right, in its absolute discretion, to establish and regulate in writing the specific types, colors and other aesthetic features of such new or additional building materials.


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

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

(d) No metal or other pipe shall be exposed on the exterior of any fireplace or fireplace flue, and all fireplace flues shall be capped with a black or color-conforming metal rain cap.

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

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

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

4. Minimum Floor Area.

(a) No residence shall be constructed unless it has a total finished floor area of at least: 1,750 square feet for a ranch style residence (including a so-called reverse one and one-half story), 2,500 square feet for a two story residence with at least 1,400 square feet on the first floor, and 2,500 square feet for a one and one-half story residence with at least 1,600 square feet on the first floor.

(b) Finished floor area shall exclude any finished garages and similar areas. The Developer, in its absolute discretion, may allow variances from the foregoing minimum square footage requirements.

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

(a) Notwithstanding compliance with the provisions of Sections 3 and 4 above, no residence or Exterior Structure may be erected upon or moved onto any Lot unless and until the building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans, and exterior color scheme have been submitted to and approved in writing by the Developer or, in the case of Exterior

Structures to the extent provided in Section 8 below, the Approving Party. No change or alteration in such building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans or exterior color scheme shall be made unless and until such change or alteration has been submitted to and approved in writing by the Developer or the Approving Party, as the case may be. All building plans and plot plans shall be designed to minimize the removal of existing trees and shall designate those trees to be removed.

(b) Following the completion of construction of any residence or Exterior Structure, no significant landscaping change, exterior color change or exterior addition or alteration shall be made thereto unless and until the change, addition or alteration has been submitted to and approved in writing by the Approving Party. All replacements of all or any portion of a completed structure because of age, casualty loss or other reason, including, without limitation, roofs and siding, shall be of the same materials, location, elevation and colors as the original structure unless and until the changes thereto have been submitted to and approved in writing by the Approving Party.

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

6. Set Backs. No residence, or any part thereof (exclusive of porches, porticoes, stoops, balconies, bay and other windows, eaves, chimneys and other similar projections), or Exterior Structure, or any part thereof, shall be nearer the street line than the building set back lines shown on the recorded plat for such Lot; provided, however, that the Approving Party shall have the right to decrease, from time to time and in its absolute discretion, the set back lines for a specific Lot, to the extent they are greater than the minimum set backs required by the City, by filing an appropriate instrument in writing in the office of the Register of Deeds of Johnson County, Kansas.

7. Commencement and Completion of Construction. Unless the following time periods are expressly extended by the Developer in writing, construction of the residence on a Lot shall be commenced within three months following the date of delivery of a deed from the Developer to the purchaser of such Lot and shall be completed within 12 months after such



commencement. In the event such construction is not commenced within such three month period (or extension thereof, if any), the Developer shall have, prior to commencement of construction, the right (but not the obligation) to repurchase such Lot from such purchaser at its original sale price. If such repurchase right is exercised by the Developer, the Owner of the Lot in violation of this construction commencement provision shall not be entitled to reimbursement for taxes, interest or other expenses paid or incurred by or for such Owner.

8. Exterior Structures.

(a) No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except (i) strictly in accordance with and pursuant to the prior written approval of the Approving Party as to the applicable building plans, specifications, exterior materials, location, elevations, lot grading plans, landscaping plans and exterior color scheme and (ii) in compliance with the additional specific restrictions set forth in subsection (b) below or elsewhere in this Declaration; provided, however, that the approval of the Approving Party shall not be required for (i) any Exterior Structure erected by or at the request of the Developer or (ii) any Exterior Structure that (A) has been specifically approved by the Developer prior to the issuance of a temporary or permanent certificate of occupancy as part of the residential construction plans approved by the Developer and (B) has been built in accordance with such approved plans.

(b)

(i) Only wrought iron (or similar) or wood fences in the specific style(s) and color(s) approved by the Developer shall be allowed on any Lot. No chain link or similar fence shall be permitted. No fence may be installed within any platted landscape easement. Unless and until otherwise specifically approved in writing by the Developer, (A) no fence, boundary wall or privacy screen shall exceed five feet in height, (B) no fence, boundary wall or privacy screen shall be constructed or maintained on any Lot nearer to the street than the rear corners (as defined by the Approving Party) of the residence, (C) no fence (other than a patio fence) shall be constructed or maintained on any Lot more than one foot from the property line of the Lot, except to the extent necessary for such fence to abut the residence, and (D) all fences (other than a patio fence) must be joined to any previously existing fences on adjacent Lots.

(ii) All basketball goals shall be permanently installed, free standing and not attached to the residence unless the Approving Party determines that there are compelling reasons for the basketball goal to be attached to the residence. All backboards shall be transparent or painted white and all poles shall be a neutral color. There shall be only one basketball goal per Lot. The Board shall

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

(v) All outside dog houses shall be located in the back yard near to the residence, shall be painted or stained (where appropriate) the same color as the residence, and shall have roofs compatible with the residence.

(vi) The following Exterior Structures shall be prohibited: animal runs, trampolines, portable basketball goals, tennis courts, paddle tennis courts, tree houses, detached greenhouses and other detached outbuildings.

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

(c) No fence, boundary wall or other Exterior Structure installed by or for the Approving Party anywhere in the District may be removed or altered by any Owner or other person without the prior written consent of the Approving Party.

9. Buildings or Uses Other Than for Residential Purposes; Repainting; Noxious Activities; Miscellaneous.

(a) Except as otherwise provided in Section 2 above, no residence or Exterior Structure, or any portion thereof, shall ever be placed, erected or used for business, professional, trade or commercial purposes on any Lot; provided, however, that this restriction shall not prevent an Owner from maintaining an office area in his residence in accordance with the applicable ordinances of the City.

(b) No noxious or offensive activity shall be carried on with respect to any Lot; nor shall any grass clippings, trash, ashes or other refuse be thrown, placed or dumped upon any Lot or Common Area; nor shall anything be done which may be or become an annoyance or a nuisance to the District, or any part thereof. Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. Each residence and all Exterior Structures shall be kept and maintained by the Owner in good condition and repair at all times. Each residence shall be repainted by the Owner every four years or less. Any exterior color change must be approved in accordance with Section 5(b).

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

(d) Overnight parking of motor vehicles of any type or character in public streets, Common Areas or vacant lots is prohibited. Motor vehicles shall be parked overnight in garages or on paved driveways only. Except as provided in subsection (f) below, no vehicle (other than a passenger automobile, passenger van or small truck),


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truck, bus, boat, trailer, camper or similar apparatus shall be left or stored over night on any Lot, except in an enclosed garage.

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

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

(i) Storing in an enclosed garage;

(ii) Temporary parking for the purpose of loading and unloading (maximum of one consecutive night and one night every 14 days); or

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

(g) No television, radio, citizens' band, short wave or other antenna, satellite dish (other than as provided below), solar panel, clothes line or pole, or other unsightly projection shall be attached to the exterior of any residence or Exterior Structure or erected in any yard. Should any part or all of the restriction set forth in the preceding sentence be unenforceable under any Federal statute or be held by a court of competent jurisdiction to be unenforceable because it violates the First Amendment or any other provision of the United States Constitution, the Approving Party shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections on the District, and all parts thereof, and any such rules and regulations shall be binding upon all of the Lots. Notwithstanding any provision in this Declaration to the contrary, small satellite dishes (maximum 20 inches in diameter) may be installed and screened, with the prior written consent of the Approving Party, so as not to be readily visible from the street or any Lot. The Approving Party shall have the right to establish rules and regulations binding upon all of the Lots and specific requirements for each Lot, regarding the location, size, landscaping and other aesthetic aspects of such small satellite dishes so as to control the impact thereof on the District, and all parts thereof.

(h) No artificial flowers, trees or other vegetation shall be permitted on the exterior of any residence or in the yard.

(i) No lights or other illumination (other than street lights) shall be higher than the residence. Exterior holiday lights shall be permitted only between November 15 and January 15. Except for such holiday lights, all exterior lighting shall be white and not colored. All exterior landscape lighting must be approved in advance by the Approving Party.

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


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

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

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

(n) No shed, barn, detached garage or other storage facility shall be erected upon, moved onto or maintained upon any Lot. Storage shall be permitted under a deck provided such area is screened in a manner approved by the Approving Party.

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

(p) Except for signs erected by or for the Developer or its approved realtor for sale of new residences, no sign, advertisement or billboard may be erected or maintained on any Lot except that:

(i) One sign not more than three feet high or three feet wide, not to exceed a total of six square feet, may be maintained offering the residence for sale or lease. For newly constructed homes offered for sale, only a realtor sign (which may include a rider identifying the builder), and not also a separate sign for the builder, may be used if a realtor is involved.

(ii) One garage sale sign not more than three feet high or three feet wide, not to exceed a total of six square feet, is permitted on the Lot when the sale is being held, provided such signs are removed within 24 hours after the close of the sale.

(iii) One political sign per candidate or issue not more than three feet high or three feet wide, not to exceed a total of six square feet, is permitted for up to three weeks before the election but must be removed within 24 hours after the election.

(q) No sign shall be placed or maintained in any Common Area without the approval of the Approving Party.

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

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



10. Animals. No animals of any kind shall be raised, bred, kept or maintained on any Lot except that dogs, cats and other common household pets may be raised, bred, kept or maintained so long as (a) they are not raised, bred, kept or maintained for commercial purposes, (b) they do not constitute a nuisance and (c) the City ordinances and other applicable laws are satisfied. All pets shall be confined to the Lot of the Owner except when on a leash controlled by a responsible person. Owners shall immediately clean up after their pets on all streets, Common Areas and Lots owned by others.

11. Lawns, Landscaping and Gardens. In all events within 30 days after any permanent or temporary certificate of occupancy is issued for the residence, all lawns, including all areas between each residence and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, sidewalk or right-of-way line, shall be fully sodded and shall remain fully sodded at all times thereafter; provided, however, that the Owner of a Lot may leave or subsequently create a portion of the Lot as a natural area with the express written permission of the Approving Party. No lawn shall be planted with zoysia or buffalo grass. In all events within 30 days after any permanent or temporary certificate of occupancy is issued for the residence, the Owner thereof shall landscape the Lot to the same standards as that generally prevailing throughout the Subdivision (which shall include a minimum expenditure of \$3,000.00 on foundation plantings, plus at least one hardwood tree of two inch or more caliper in the each of the front yard (in addition to any trees planted by the Developer)) and the back yard and in accordance with the plans approved by the Developer.

Each Lot that is adjacent to 149th Terrace or Rosewood is required to have a sprinkler system installed prior to occupancy covering the entire yard of the Lot and to use the sprinkler system as necessary or appropriate (as determined by the Approving Party) during the late spring, summer and early fall months. No Owner of any Lot shall water the Lot such that there is significant runoff onto any adjacent Lot or Common Area.

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

All vegetable gardens shall be located behind the rear corners of the residence and at least five feet away from the boundary of the Lot. No vegetable garden(s) shall exceed 100 square feet in size on any Lot except with the prior written consent of the Approving Party.

The Owner of each Lot shall keep the lawn uniformly mowed and clipped with a length of grass not to exceed four inches.

The Developer shall have the right (but not the obligation) to install one or more trees on each Lot. The type of tree(s) and location shall be selected by the Developer in its absolute discretion. Each Owner shall properly water, maintain and replace all trees and landscaping on the Owner's Lot (including any trees planted by or for the Developer, but excluding those in a Common Area maintained by the Homes Association).


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12. Easements for Public Utilities; Drainage; Maintenance. The Developer shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and use of drains, pipelines, sanitary and storm sewers, gas and water lines, electric and telephone lines, television cables and other utilities, and to give or grant rights-of-way or easements therefor, over, under, upon and through all easements and rights-of-way shown on any recorded plat of the District or any Common Area. All utility easements and rights-of-way shall inure to the benefit of all utility companies, including, without limitation, the Johnson County Unified Wastewater District, for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of the Developer, all Owners in the District and the Homes Association as a cross easement for utility line or service maintenance.

The Developer shall have and does hereby reserve for itself and its successors and assigns and the Homes Association and its successors and assigns an easement over and through all unimproved portions of each Lot for the purpose of performing the duties of the Homes Association and maintaining any Common Area.

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

13. Common Areas.

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

(b) Any ownership by the Homes Association of any Common Area and the right and easement of enjoyment of the Owners in the District as to any Common Area shall be subject to the right of the Developer to convey sewage, water, drainage, pipeline, maintenance, electric, telephone, television and other utility easements over, under, upon and through such Common Area, as provided in Section 12 above.

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

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

14. Approving Party.

(a) The Approving Party shall meet as necessary to consider applications with respect to any Exterior Structures that require the approval of the Approving Party as provided in Section 8 above and to consider any other matters within the authority of the

Approving Party as provided in this Declaration. Any written application complete with appropriate drawings and other information that is not acted upon by the Approving Party within 35 days after the date on which it is filed shall be deemed to have been approved. A majority of the members of the Approving Party shall constitute a quorum for the transaction of business at a meeting and every act or decision made by a majority of the members present at a meeting at which a quorum is present shall be regarded as the act or decision of the Approving Party.

(b) At each meeting, the Approving Party shall consider and act upon written and complete applications that have been submitted to it for approval in accordance with this Declaration. In making its decisions, the Approving Party may consider any and all aspects and factors that the individual members of the Approving Party, in their discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the District, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, landscaping plans and use of any proposed Exterior Structure. All decisions of the Approving Party shall be in writing and delivered to the applicant, who shall be responsible for keeping the same, and shall be final and conclusively binding on all parties. The Approving Party may establish in advance and change from time to time certain procedural and substantive guidelines and conditions that it intends to follow in making its decisions.

15. No Liability for Approval or Disapproval. Neither the Developer, nor the Homes Association, nor any member of the Approving Party, Developer or the Board shall be personally liable to any person for any approval, disapproval or failure to approve any matter submitted for approval, for the adoption, amendment or revocation of any rules, regulations, restrictions or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration or any other declaration or any such rules, regulations, restrictions or guidelines.

16. Covenants Running with Land; Enforcement. The agreements, restrictions, reservations and other provisions herein set forth are, and shall be, covenants running with the land and shall be binding upon all subsequent grantees of the Lots. The Developer, and its successors, assigns and grantees, and all parties claiming by, through or under them, shall conform to and observe such agreements, restrictions, reservations and other provisions; provided, however, that neither the Developer, the Homes Association nor any other person or entity shall be obligated to enforce any such agreements, restrictions, reservations or other provisions. By accepting a deed to any of the Lots, each future grantee of any of the Lots shall be deemed to have personally consented and agreed to the agreements, restrictions and reservations set forth herein as applied to the Lot owned by such Owner. No agreement, restriction, reservation or other provision herein set forth shall be personally binding upon any Owner except with respect to breaches thereof committed during his ownership; provided, however, that (i) the immediate grantee from the builder of the residence on a Lot shall be personally responsible for breaches committed during such builder's ownership of such Lot and (ii) an Owner shall be personally responsible for any breach committed by any prior Owner of the Lot to the extent notice of such breach was filed of record, as provided in the third paragraph of this Section 16, prior to the transfer of ownership.



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

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

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

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

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

18. Release or Modification of Restrictions.

(a) The provisions of this Declaration shall remain in full force and effect until December 31, 2028, and shall automatically be continued thereafter for successive periods of five years each; provided, however, that the Owners of at least a majority of the Lots within the District as then constituted may release the Lots, from all or part of such provisions as of December 31, 2028, or at the expiration of any extension period, by executing (in one or more counterparts), acknowledging and recording an appropriate agreement in writing for such purpose, at least one year prior to December 31, 2028, or to a subsequent expiration date, whichever is applicable. The provisions of this Declaration


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may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by (i) the Owners of at least a majority of the Lots within the District as then constituted and (ii) the Developer, or its successors and assigns.

(b) Anything set forth in this Section 18 to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend or change any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording an appropriate instrument in writing for such purpose, if (i) either the Veteran's Administration or the Federal Housing Administration or any successor agencies thereto shall require such action as a condition precedent to the approval by such agency of the District or any part of the District or any Lot in the District, for federally-approved mortgage financing purposes under applicable Veteran's Administration or Federal Housing Administration or similar programs, laws and regulations, or (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the District. The Developer shall also have the absolute, unilateral right, power and authority to amend or waive the provisions of Section 11 requiring certain Lots to install and use sprinkler systems.

(c) 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 individuals signing this Declaration on behalf of the Developer as of the date of such execution.

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

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

THE DEVELOPER:

WHITE HORSE DEVELOPMENT, L.L.C.

By: 
Mark R. Simpson, Member



By: ASHNER VENTURE, L.L.C., Member

By: ASHNER DEVELOPMENT, INC.,
Member

By: [Signature]
Leo E. Ashner, President

By: GREAT PLAINS INVESTMENT CO.,
L.L.C., Member

By: SAILORS BUILDING
COMPANY, L.L.C., Member

By: [Signature]
Bobby F. Sailors, Member

By: WHITE HORSE ASSOCIATES, L.L.C.

By: [Signature]
Saul Ellis, Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on December 19th, 2003 by Mark R. Simpson, Saul Ellis, as a member in and on behalf of White Horse Associates, L.L.C., a Kansas limited liability company; Leo E. Ashner, President of Ashner Development, Inc., a Kansas corporation, in its capacity as a member in and on behalf of Ashner Venture, L.L.C., a Kansas limited liability company; and Bobby F. Sailors, as a member in and on behalf of Sailors Building Company, L.L.C., a Kansas limited liability company, in its capacity as a member in and on behalf of Great Plains Investment Co., L.L.C., a Kansas limited liability company; in each entity's capacity as a member in and on behalf of White Horse Development, L.L.C., a Kansas limited liability company.

My Commission Expires:

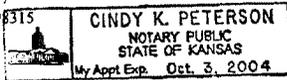
10/03/04

[Signature]

Notary Public in and for said County and State

Print Name: Cindy K Peterson

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WHITEHORSE
CERTIFICATE OF SUBSTANTIAL COMPLETION

WHEREAS, White Horse Development, L.L.C., a Kansas limited liability company ("**Developer**"), is the current "**Developer**" of the residential subdivision in Leawood, Johnson County, Kansas commonly known as "WhiteHorse", platted as the following residential lots (the "**Lots**"):

Lots 1 through 8 of Block 1, Lots 1 through 21 of Block 2, Lots 1 through 3 of Block 3, Lots 1 and 2 of Block 5, Lots 1 and 2 of Block 6, Lots 1 through 12 of Block 7, Lots 1 through 26 of Block 8, Lots 1 through 11 of Block 9, and Lots 7 through 12 of Block 10, WHITEHORSE, a subdivision in Leawood, Johnson County, Kansas.

Lots 3 through 16 of Block 6, and Lots 3 through 9 of Block 7, WHITEHORSE PLAT NO. 2, a subdivision in Leawood, Johnson County, Kansas.

Lots 12 through 21 of Block 9, Lots 13 through 15 of Block 10, Lots 5 through 11 of Block 11, Lots 1 through 5 of Block 12, Lots 1 through 5 of Block 13, WHITEHORSE PLAT NO. 3, a subdivision in Leawood, Johnson County, Kansas.

Lots 17 through 36 of Block 6, Lots 16 through 25 of Block 10, Lots 12 through 18 of Block 11, Lots 6 through 9 of Block 13, Lots 1 through 3 of Block 14, Lots 1 through 5 of Block 15, and Lot 1 of Block 16, WHITEHORSE PLAT NO. 4, a subdivision of land in Leawood, Johnson County, Kansas.

Lots 4 through 13 of Block 3, Lots 3 through 24 of Block 5, Lots 37, 38 and 39 of Block 6, and Lots 4 through 18 of Block 14, WHITEHORSE PLAT NO. 5, a subdivision of land in Leawood, Johnson County, Kansas.

WHEREAS, the Lots are subject to the following documents (collectively, the "Declarations") that have been recorded with the Register of Deeds of Johnson County, Kansas:

(a) WhiteHorse Homes Association Declaration recorded as Instrument No. 2424589 in Volume 4412 at Page 698, as amended or supplemented by the following:

<u>Title</u>	<u>Instrument No.</u>	<u>Book</u>	<u>Page</u>
Amendment of WhiteHorse Homes Association Declaration	2498425	4606	324
WhiteHorse Plat No. 2 Homes Association Declaration	2609748	4915	742
WhiteHorse Plat No. 3 Homes Association Declaration	2898977	5893	99
WhiteHorse 4 th Plat Homes Association Declaration	3328646	7421	300
WhiteHorse 5 th Plat Homes Association Declaration		200312	007660
Supplement to WhiteHorse Homes Association Declarations	3006098	6222	674
Amendment to Supplement to WhiteHorse Homes Association Declarations	3640189	9060	805
WhiteHorse Homes Association Declaration (Additional Phase – Villas of WhiteHorse)	3541816	8514	144

(b) WhiteHorse Declaration of Restrictions recorded as Instrument No. 2423423 in Volume 4409 at Page 558 , as amended and supplemented by the following:

<u>Title</u>	<u>Instrument No.</u>	<u>Book</u>	<u>Page</u>
Modification Agreement of WhiteHorse Declaration of Restrictions	2511168	4641	442
Declaration of Restrictions of WhiteHorse Plat No. 2	2609228	4914	301
Declaration of Restrictions of WhiteHorse Plat No. 3	2898976	5893	79
WhiteHorse Plat No. 4 Declaration of Restrictions	3342158	7493	388

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<u>Title</u>	<u>Instrument No.</u>	<u>Book</u>	<u>Page</u>
WhiteHorse Plat No. 5 Declaration of Restrictions		200312	007661

NOW, THEREFORE, Developer does hereby certify that, at the time of recording of this instrument, substantially all of the Lots have been sold by the Developer and the residences to be constructed thereon are substantially completed. This instrument constitutes the "Certificate of Substantial Completion" described in the Declarations. In addition, this instrument evidences that the "Turnover Date" has occurred under the Declarations. This instrument does not constitute the release, transfer or assignment of any of Developer's rights under the Declarations, except those that are expressly affected by the filing of this instrument, as expressly set forth in the Declarations. In particular, and without limitation, Developer retains the right to approve all plans for the construction of new residences in the Subdivision.

IN WITNESS WHEREOF, Developer has caused this instrument to be duly executed as of the 29 day of December, 2004.

THE DEVELOPER:

WHITE HORSE DEVELOPMENT, L.L.C.

By: Mark R. Simpson
Mark R. Simpson, Member

By: ASHNER VENTURE, L.L.C., Member

By: ASHNER DEVELOPMENT,
INC., Member

By: Leo E. Ashner
Leo E. Ashner, President

By: GREAT PLAINS INVESTMENT CO.,
L.L.C., Member

By: SAILORS BUILDING
COMPANY, L.L.C., Member

By: Bobby F. Sailors
Bobby F. Sailors, Member

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By: WHITE HORSE ASSOCIATES,
L.L.C.

By: [Signature]
Saul/Ellis, Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on December 29, 2004 by Mark R. Simpson; Saul Ellis, as a member in and on behalf of White Horse Associates, L.L.C., a Kansas limited liability company; Leo E. Ashner, President of Ashner Development, Inc., a Kansas corporation, in its capacity as a member in and on behalf of Ashner Venture, L.L.C., a Kansas limited liability company; and Bobby F. Sailors, as a member in and on behalf of Sailors Building Company, L.L.C., a Kansas limited liability company, in its capacity as a member in and on behalf of Great Plains Investment Co., L.L.C., a Kansas limited liability company; in each entity's capacity as a member in and on behalf of White Horse Development, L.L.C., a Kansas limited liability company.

Ann M Anderson
Notary Public in and for said County and State

My Commission Expires:

4-8-2008
[SEAL]

Print Name: Ann M Anderson

