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115 East Park
Post Office Box 1125
Olathe, KS 66061

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DOCUMENT COVER SHEET

Title of Document: *Creekside Woods, First Plat
Declaration of Easements, Covenants
Conditions and Restrictions*

Grantor(s):

Grantee(s):

Legal Description: *Lots 1-50, Tracts A-G and N,
Creekside Woods First Plat*

Acorn
First American Title Insurance Company
115 East Park
Post Office Box 1125
Olathe, KS 66061

CREEKSIDE WOODS, FIRST PLAT
DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into as of the 3rd day of May, 2006, by CREEKSIDE DEVELOPERS, LLC, a Kansas Limited Liability Company (herein called the "Developer") and PFAFF HOMES, INC., a Kansas corporation (herein called "Builder").

WHEREAS, Developer is the owner of that certain real property situated in Johnson County, Kansas, and Builder is the purchaser of certain real property from Developer situated in Johnson County, Kansas, which properties are described on Exhibit "A" attached hereto and desire to create a community possessing superior standards of aesthetics, improvements and quality of life; and

WHEREAS, Developer and Builder desire to submit and subject such real property, together with all buildings, improvements and fixtures of whatever kind now or hereafter located thereon, and all easements, right, appurtenances, and privileges belonging or in any way pertaining thereto, to the covenants, conditions, restrictions, liens, assessments, easements, privileges, and rights contained herein, all for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Community; and

WHEREAS, for the efficient management of the Community, Developer wishes to create the Association which shall exercise such powers and function as are set forth herein; and

WHEREAS, Creekside Woods Homeowners Association, a Kansas not for profit corporation, has been, or will be, incorporated for the purpose of exercising the foregoing powers and functions; and

WHEREAS, Developer and Builder intend that all persons or entities hereafter 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 hereby declared to be in furtherance of the plan to promote and protect the Community.

NOW, THEREFORE, Developer and Builder, for the purposes above set forth, declare that all property within the Community shall hereafter be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, conditions, 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

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having or acquiring any right, title or interest in or to any property within the Community, and shall inure to the benefit of and be the responsibility of each Owner and each Member of the Association.

ARTICLE I

Definitions

Unless the context clearly requires otherwise, the following definitions shall apply in this Declaration.

1.1 "Additional Property" means any additional real property that is annexed to the Community, in accordance with the provisions of Article X.

1.2 "Architectural Control Committee" or "ACC" means the committee provided for in Article VII.

1.3 "Assessments" shall include the following:

(a) "Regular Assessment" means the amount which is to be paid by each Owner as such Owner's share of the Common Expenses of the Association.

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

1.4 "Association" means Creekside Woods Homeowners Association, a Kansas not for profit corporation.

1.5 "Association Board" or "Board" means the Board of Directors of the Association.

1.6 "Association Declaration" or "Declaration" means this Declaration and any amendments thereto.

1.7 "Association Rules" or "Rules" means the rules and regulations adopted by the Association.

1.8 "City" means the City of Lenexa, Kansas.

1.9 "Common Expenses" means the costs incurred by the Association in conducting activities for which the Association is responsible pursuant to the terms



hereof. Common Expenses shall include, but not be limited to, the following:

(a) the cost of maintenance, management, operating, repair, and replacement of all areas and facilities within the Community that are owned, maintained or operated by the Association, including utilities provided directly to the Association;

(b) the cost of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, superintendents, attorneys, and employees;

(c) taxes of any nature owing by the Association and the cost of any insurance maintained by the Association;

(d) reasonable reserve for contingencies, replacements, and other proper purposes as deemed appropriate by the Association; and

(e) the costs of any other item or items to be provided or performed by the Association pursuant to this Declaration or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.10 "Community" means the land described on Exhibit "A", together with any Additional Property.

1.11 "Design Standards" means the rules, regulations, restrictions, architectural standards, and construction guidelines herein designated as such and as otherwise which may from time to time be adopted by the Architectural Control Committee.

1.12 "Developer" means Creekside Developers, LLC, a Kansas Limited Liability Company, its successors and assigns, or any person or entity to whom the Developer's rights hereunder are assigned in writing.

1.13 "Lot" means a subdivision lot within the Community as shown on the applicable Plat.

1.14 "Majority", where not specifically designated otherwise, means at least 51% of the total votes entitled to be cast with respect to a given matter.

1.15 "Occupant" means the record owner, whether one or more persons, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.16 "Person" means an individual, corporation, partnership, trustee, or other entity capable of holding title to real property, and their respective heirs, representatives, successors and assigns.

1.17 "Plat" means collectively each plat of subdivision of the Community as recorded in the Office of the Register of Deeds of Johnson County, Kansas.

1.18 "Record" or "Recording" means an instrument of records in, or the act of recording an instrument with, the Office of the Register of Deeds of Johnson County, Kansas.

1.19 "Screen" means to partition in a manner such that one cannot see through the partition.

1.20 "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.

1.21 "Tract" means an area on the applicable plat designated with an alphabetical letter and which is owned or to be owned by the Association.

ARTICLE II

The Declaration

Developer and Builder hereby establish the Community and this Declaration to govern the use and occupancy of Lots within the Community.

ARTICLE III

Association

3.1 **Purpose of the Association.** The Association has been, or will be, incorporated as a corporation not organized for profit under the laws of Kansas. The Association shall be responsible for the protection, improvement, alteration, maintenance, repair, replacement, administration, and operation of the Community, 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 Association Articles, the Association Bylaws, the Association Rules or Design Standards.

3.2 Membership in Association.

(a) Subject to the provisions of Section 3.10 hereof, each Lot shall be entitled to only one vote in the Association, the number of Owners notwithstanding. When more than one Person owns a Lot, the vote for such Lot shall be exercised as they among

themselves determine, but in no event shall more than one vote be cast with respect to any one Lot. The Association Member must be an individual who is either an Owner, or if the Owner is or includes a Person other than an individual, an individual designated in writing by the Owner to be the member representative.

(b) A membership in the Association shall be inseparable from the Lot to which it applies, and may not be transferred separately from such Lot.

3.3 Board of Directors of the Association.

(a) The affairs of the Association shall be conducted by the Board as herein provided and in accordance with the Association Articles and Association Bylaws. Except for directors elected by the Developer as provided for in Section 3.10, each director shall be an Association member.

3.4 Duties and Powers of the President of the Association.

(a) To the extent not prohibited by law, or as otherwise herein expressly limited, the President of the Association shall be empowered to exercise control over the affairs of the Association and to act on behalf of, and bind, the Association in every instance wherein the 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.

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

3.5 President's Determination Binding. In the event of any dispute or disagreement between any Owners, Association members, or any other Person subject to this Declaration, relating to the Community, or any question of interpretation or application of the provisions of this Declaration, the Association Articles or Bylaws, any Association Rules or other rules of the Association, or any Design Standards, the determination thereof by the President shall be final and binding on each and all of such Owners, Association member, or Persons. The President may, at his election, delegate the resolution of such dispute or disagreement to the Board or a committee appointed by the President.

3.6 Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration or the Articles or Bylaws of the Association, any provision of this Declaration that requires the vote or written assent of the members of the Association shall be deemed satisfied by the following:

(a) The vote in person, or by proxy, of the specified percentage of Association members entitled to vote at a meeting duly called and noticed pursuant to the provisions of the Association Articles or Bylaws, dealing with annual or special meetings of the members of the Association.

(b) Written consents signed by the specified percentage of members then entitled to vote as provided in the Bylaws of the Association.

3.7 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 Board shall be empowered to adopt, amend, or repeal such rules and regulations as it deems reasonable and appropriate (the "Rules"). The Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments or otherwise. The Rules shall not be inconsistent with the terms of this Declaration. The Rules may not unreasonably or unlawfully discriminate among Association members. The 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 Owners and Association members, and all other Persons having any interest in, or making any use of, the Association, whether or not actually received thereby. The Rules, as adopted, amended, or repealed, shall be available at the principal office of the Association to each Owner, Association member, or other Person entitled thereto, upon request. To the extent of any conflict between any provision of the Rules and any provisions of this Declaration, the provisions of the Rules shall be superseded.

3.8 Indemnification. To the fullest extent permitted by law, every director and every officer of the Association, and the members of the Architectural Control Committee, and the Developer (to the extent a claim may be brought against the Developer by reason of its appointment, removal, or control over members of the Board or the ACC) shall be indemnified by the Association, and every other person serving as an employee, or direct agent of the Association, or on behalf of the Association as a member of a committee or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement thereof to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association whether or not he is a director, an officer, or a member of the ACC, 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 Board shall determine, in good faith, that such officer, director, member of the ACC, or other Person, or the Developer, did not willfully act, fail to act, or refuse to act fraudulently, criminally or with gross negligence, 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 Person may be entitled at law or otherwise.

3.9 Non-Liability of Officials. To the fullest extent permitted by law, neither the Developer, the Association President, any directors or officers of the Association, any ACC member, nor any other members or committees of the Association shall be liable to any Association Member or any Owner, Occupant, or other Person for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, inaction, omission, error, or negligence, made in good faith and believed to be within the scope of his duties.

3.10 Developer's Control of the Association. Notwithstanding anything in this Article III or elsewhere in this Declaration to the contrary, the Developer shall maintain absolute and exclusive control over the Association and the ACC, including appointment and removal of the President and all other officers of the Association, all members of the Board of Directors and all members of the ACC, until the Developer owns no Lots or land in the Community (as it exists from time to time). Until such time, only the Developer will be entitled to cast any votes with respect to the election and removal of Association officers or directors and members of the ACC, or any other matter requiring the vote or approval of 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 by written assignment without affecting any rights of control not relinquished.

ARTICLE IV

Creation of Lien and Personal Obligation

Each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, is deemed to personally covenant and agree to pay all Assessments. The Assessments, together with interest thereon, late charges, attorneys' fees, and court costs, and other costs of collection thereof, as provided herein, shall be a continuing lien upon the Owner's Lot against which the Assessments are made. The personal obligation for delinquent payments shall not pass to an Owner's successor unless expressly assumed by him. If an Owner shall consist of more than one Person, the obligations of the Owners for the payment of Assessments on such Owner's Lot shall be joint and several.

4.1 Purpose of Assessments. Except as otherwise herein set forth, the Assessments levied by the Association shall be used: (a) to promote the health, safety, and welfare of Owners; (b) to enhance the value of the Community; (c) to pay the costs of administration of the Association; (d) to pay all other Common Expenses; and/or (e) to otherwise further the interest of the Community.

4.2 Regular Assessments.

(a) Except as otherwise specifically provided herein, payment of Regular Assessments shall be in such amounts and at such times as may be determined by the Association.

(b) Not later than 60 days prior to the beginning of each fiscal year of the Association, the Association shall make available for review by each Owner at the Association's office, during reasonable times, a pro forma operating statement or budget for the upcoming fiscal year, approved by the Board, estimating the total Common Expenses to be incurred by such Association for such fiscal year. The operating statement or budget shall also set forth the amount of the Regular Assessment to be paid by each Owner and the Association shall notify each Owner thereof. Each Owner shall thereafter pay to the Association the entire Regular Assessment as so determined on or before the beginning of the Association's fiscal year, which date shall be set forth in the written notice sent to Owners.

(c) If the 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, the Association President shall then immediately determine the approximate amount of such inadequacy and, with the approval of the board, issue a supplemental estimate of the Common Expenses and determine the revised amount of the Regular Assessment to be paid by each Owner for the balance of the year, and the date or dates due. Each Owner shall be notified of the additional amount required to be paid and the due date of such payment, and each Owner shall pay the additional amount when due. If the total Regular Assessments for a current year exceed the actual Common Expenses, the Association may, at the discretion of the Board, retain such excess as additional working capital or reserves, or reduce the amount of the Regular Assessments for the next fiscal year.

4.3 Special Assessments. Special Assessments shall be levied by the Association against an Owner for:

(a) Costs incurred in bringing an Owner or his Lot into compliance with the provisions of this Declaration, the Association Articles or Bylaws, or the Rules.

(b) Fines levied or fixed by the Board as provided herein.

(c) 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 or the Rules.

(d) Any other charge designated as a Special Assessment in this Declaration or the Rules.

4.4 Exempt Property. All properties owned by the Developer and all properties dedicated to and accepted by, or otherwise owned or acquired by, a public authority shall be exempt from the Assessments provided herein.

4.5 Date of Commencement of Regular Assessments. The Regular Assessments shall commence as to an Owner on the date when the residence is first occupied, and shall be prorated based upon a 365 day year and measured from the date the Owner has the right of possession.

4.6 Time and Manner of Payment; Late Charges and Interest. If an Assessment is not paid within thirty (30) days after its due date, each such Assessment shall have added to it late charge equal to 10% of the amount of Assessment and thereafter bear interest at the Kansas judgment rate of interest until paid. The Board may, in its discretion, waive any late charge and/or interest in any instance without prejudice to other instances. A delinquent Owner shall, to the extent allowed by then applicable law, be liable for attorneys' fees and other related costs incurred by the Association as a result of such delinquency.

4.7 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.

4.8 Homestead Waiver. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration or documentation associated herewith, the benefit of any redemption, homestead or exemption laws of the State of Kansas now in effect, or in effect from time to time hereafter.

4.9 Reserves. The responsibility of the Board shall be only to provide for such reserves as such Board in good faith deems reasonable, and neither the Developer, the Board nor any member thereof shall have any liability to the Association, any Owner, or Association member, with regard to the adequacy of such reserves.

4.10 Enforcement of Lien. Any lien provided for in this Declaration may be foreclosed by the Association in any manner provided, or permitted, for the foreclosure of real property mortgages or homes association liens in the State of Kansas.

ARTICLE V

Insurance

5.1 Authority to Purchase. The Association shall purchase and maintain such insurance, and in such types and amounts, as its board shall determine from time to time. Such policies, and endorsements thereon, or copies thereof, shall be deposited with the Association and shall be available to the Association members for inspection upon reasonable request.

5.2 **Non-Liability of Association/Board/President.** Anything in this Declaration to the contrary notwithstanding, neither the Association nor any member of its Board nor any officer of the Association nor the Developer shall be liable to any Owner or Association member 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 Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner may desire.

ARTICLE VI
Maintenance, Repairs and Replacements

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

ARTICLE VII
Architectural and Landscape Control

7.1 **Architectural Control Committee.** The Association shall have an Architectural Control Committee consisting of not less than three nor more than seven persons, as specified from time to time by the Developer during periods in which the Developer has the right to appoint the members of the ACC pursuant to 3.10, and thereafter, by resolution of the Board. Thereafter, members of the ACC shall be appointed by the Board of the Association. The ACC shall be empowered to utilize professional consultants as may be approved by the Board.

7.2 **The Design Standards.**

(a) **Street Obstructions.** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways will be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sight line limitations will apply on any Lot within 10 feet of the intersection of a street property line with the edge of a driveway or alley pavement. No tree will be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

(b) **Landscaping.** Each Lot, when first improved for occupancy, shall utilize an amount of not less \$750.00 in the construction and planting of landscaping, excluding the costs of trees required below, grading and sod. Landscaping shall include at least (2) shade trees planted in each Lot, all such trees of at least 2 inches or over in caliper each. Approval by the ACC of any landscaping plan shall be required.

In addition to the foregoing, the following shall apply to all Lots:

(1) Written permission is required from the ACC before removing any trees 5" or over in caliper. Appropriate construction procedures shall be followed to protect and preserve trees, shrubs and other landscaping which may exist on the construction site or on adjacent or nearby sites. Attractive mature vegetation should, whenever practical, be saved to give the Community an established feeling. All disturbed ground areas of a building site shall be sodded, covered with plants or mulched with approved landscape materials. Landscape improvements as approved by the ACC shall be installed within sixty (60) days after completion of the residence; provided, however, said 60 day period shall be subject to reasonable extension on account of inclement weather.

(2) Plantings for Lots shall reinforce the natural meadow and woodland character of the Community. Cleared areas should be landscaped with trees, shrubs and lawns designed to compliment the architectural character of proposed buildings.

(c) **Hard Surfaces.** All paved surfaces shall be of high quality finish such as brick, concrete or other permanent material approved by the ACC. No asphalt driveways will be permitted. A maximum of 50% hard surface materials will be allowed within the front yard areas on any Lot, with the approval of the ACC.

(d) **Construction Period Requirements.** During the period that construction is being undertaken on a Lot, the following minimum measures will be required to minimize disturbance to adjacent sites:

(1) No dumping of construction materials, waste or trash shall occur in the Community.

(2) Each Lot shall be maintained in a clean and orderly manner during construction. Erosion shall be controlled on each Lot in a manner approved by the ACC while it is in a disturbed condition.

(e) Residence Design.

(1) The design of each residence shall be subject to the approval of the ACC and, without limiting the foregoing, shall comply with the following criteria:

(i) appropriateness of form, color and materials to design style; (ii) relationship of window to wall and wall to total form (well designed massing); (iii) appropriateness of detailing to form, style and massing; and (iv) the proportions of roofs shall be consistent with the proposed architectural style.

(2) Colors, materials, finishes and building forms shall be in conformity with the requirements hereof and integrated with the particular landscape and topographical character of each site.

(3) The site dimensions must be adequate to accommodate the proposed improvements, including the house, parking, drives, and screening.

(4) Finished grades and elevations must be compatible with neighboring sites, particularly with regard to drainage and views.

(5) No turbines or solar panels shall be permitted which can be seen from any street.

(6) Exterior decks and porches shall be natural wood color, or stained, or painted to match the color of the residence.

(7) All fixed structural playground equipment and playhouses shall be subject to approval by the ACC; approval of placement, color, design and landscaping/screening shall be made by the ACC in its sole discretion.

(8) All exposed surfaces of fireplace chimneys shall be constructed of or faced with stucco, brick or stone.

(f) Exterior Materials and Colors. Residences shall be faced on all sides with quality materials (such as Dryvit, brick, wood shingles, stone, stucco or wood product) as approved by the ACC. Exposed concrete block, prefabricated metal buildings, lava rock, batt and board, or simulated brick or stone, will not be allowed. All exterior materials and the color of all exterior materials (including the color of decks and porches) shall be subject to the approval of the ACC.

Exposed foundations shall be painted and those exceeding twelve inches (12") shall be covered with the same quality material as the residence.

Roofs shall be of such material approved by the ACC.

(g) **Garages.** Each residence must have an attached, fully enclosed side-entry garage for not less than two or more than four vehicles, unless the ACC shall consent to capacity for a greater number of vehicles; provided, however, if the features unique to the Lot shall not reasonably permit a side-entry garage, the ACC may (but shall not be obligated to) approve a rear- or front-entry garage. Garages should generally remain closed except when vehicles are entering or exiting, and garage doors shall not be left open for extended periods of time such as overnight. No garage will be permitted to be enclosed for living or used for purposes other than storage of vehicles and related uses.

(h) **Construction, Location, and Size Limitations.**

(1) No exterior alterations of any existing building or structure shall be permitted without the prior approval of the ACC.

(2) No excavation will be made except in conjunction with construction of an improvement. When such improvement is completed, all exposed openings will be back filled and graded.

(3) Once commenced, construction will be diligently pursued to completion and it may not be left in a partly finished condition for more than 30 days without written approval from the ACC.

(4) A residence destroyed by fire or other casualty shall be removed from the Lot and new construction begun within three months after the date of such destruction, and thereafter such construction shall be performed with due diligence through completion.

(5) Minimum square footage requirements for residences shall be as follows:

(i) 2 story residence - 1,600 square feet with no less than 800 square feet on the first floor;

(ii) 1 ½ story - 1,600 square feet with no less than 1,200 square feet on the first floor;

(iii) 1 story - 1,500 square feet; and

(iv) reverse 1 ½ story - 1,600 square feet with no less than 1,200 square feet on the first floor.

In calculating the foregoing minimum square footage requirements, basements, porches, decks and garages shall not be considered. The Developer reserves the right to approve in writing variances up to 15% from the foregoing minimum square footages on a case-by-case basis.

(6) All residences and other improvements shall be located on each Lot as approved by the ACC and in full compliance with any set back lines or restrictions shown on the applicable Plat.

(i) HVAC. No window air conditioning or heating units will be permitted.

(j) Patios. No screening of a patio or other recreation area will be installed without the written approval of the ACC.

(k) Swimming Pools, tennis Courts and Spas. All swimming pools and pool areas, spas, tennis courts, equipment associated therewith (including lighting) and screening therefor shall be subject to approval of the ACC. No above-ground or above-grade swimming pools shall be allowed; provided, however, that in the event topographical features of the Lot, in the opinion of the ACC, require a swimming pool to be partially above-grade, the ACC shall have the right to approve such partial above-grade construction. No external or outdoor hot tubs or spas shall be above-ground or above-grade or otherwise allowed without the prior approval of the ACC, and shall provide appropriate screening.

(l) Fences or Walls. All fencing and walls (including, without limitation, the composition and location thereof) shall be subject to the approval of the ACC. Cedar fencing shall be required. No fencing shall exceed five (5) feet in height unless required by the City for screening of pool, hot tub or spa areas. Retaining or screening walls shall be made of natural materials or faced with quality materials approved by the ACC.

7.3 Review Process.

(a) Signed, written approval by the ACC is required prior to the undertaking of any site improvements, construction or installation, including clearing, grading, paving, signs, structures, landscaping and building additions or alterations. Review shall be coordinated with the required governmental approvals. Submission to the City for building permits or site plan approval shall not be made until final plans have been approved by the ACC. All submissions to the ACC are to be made within the time periods established by the ACC and shall be in a format approved by the ACC. The review of each complete submission by the ACC will be completed within thirty (30) working days from the date of such submission; and notification of recommendations or approval will be provided in writing to the Owner within such time.

7.4 Interpretation and Waiver. The ACC's interest in reviewing site and building designs is to assure that a high quality of compatible development is consistently achieved. In order to meet special situations that may not be foreseen, it may be desirable from time to time for the ACC to allow variances of certain requirements; such variances shall not be considered precedent setting. All approvals and consents of the ACC shall be in writing, and oral approvals or consents shall be of no force or effect.

7.5 ACC Authority and Limits of Liability.

(a) No Residence, fence, wall or other structure, or improvement of whatever type shall be commenced, erected or maintained within the Community, nor shall there be any addition to or change to the exterior of any residence, or other structure or improvement upon a Lot, or the landscaping, grading, or drainage thereof, including, without limitation, the painting (other than painting with the same color of paint as previously existed) of exterior walls, patio covers and fences, except in compliance with plans and specifications therefor which have been submitted to and approved by the ACC. The ACC may reject plans and specifications, without citing specifics, for the following reasons, among others: (i) insufficient information to adequately evaluate the design or its intent; (ii) low design quality; (iii) incompatible design elements; (iv) inappropriate design concepts or design treatment; and (v) a design found to have an adverse effect on the character of the Community or its residents. In recognition of the fact that the overall impact of improvements on any Lot involves issues of taste and judgment that cannot be completely described in Design Standards, the ACC shall also have the right to reject plans and specifications otherwise conforming to the Design Standards if the ACC finds that the overall aesthetic or other impact of any proposed improvement, addition, alteration or change is detrimental to the Community.

(b) By its approval of plans and specifications, the ACC shall not be deemed to have warranted or approved the same for engineering design safety, or for compliance with zoning, health and building ordinances; by approving such plans and specifications neither the ACC, the members thereof, the Association, any of its members, its officers, its Board nor the Developer assumes any liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. Neither the ACC, any member thereof, the Association, its officers, its Board nor the Developer shall be liable to any Owner or other Person for any damage, loss or prejudice suffered or claimed on account of (i) the approval or disapproval of any plans, drawings specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or (iii) the development, or manner of development, of any property within the Community.

(c) Any member or authorized consultant of the ACC, the Developer or its representatives, or any authorized officer, director, employee or agent of the Association,

may at any reasonable time enter, without being deemed guilty of trespass, upon any Lot, after reasonable notice to the Owner, in order to inspect improvements constructed or being constructed on such Lot to ensure that such improvements have been, or are being, built in compliance with the plans and specifications approved by the ACC, the Design Standards and this Declaration.

(d) The Association may promulgate such rules and regulations as it deems to be appropriate and as are not in conflict with this Declaration in order to enforce compliance with the Design Standards set forth herein. **WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE BOARD MAY FIX FINES FOR FAILURE TO OBTAIN APPROVAL FROM THE ACC OR TO COMPLY WITH ANY SUCH APPROVAL.**

7.6 Authorized Builders. Developer, while in control of the Community pursuant to Section 3.10, and the Board thereafter reserves the right to approve a builder intending to construct a residence. Only builders who are members of the Home Builders Association of Greater Kansas City, its successor, or similar organization approved by the Developer or Board, as the case may be, and who makes his living primarily through the building of single family residences shall be eligible for consideration.

ARTICLE VIII

Use and Occupancy Restrictions

The use and occupancy restrictions hereinafter set forth in this Article VIII are hereby established for the Community.

8.1 Residential Use. Each Lot within the Community may be used only for residential purposes and no other. No business or commercial building may be erected on any Lot and no business or commercial enterprise, or other non-residential use, may be conducted on any part thereof; provided, however, nothing herein shall prohibit a business being conducted from the actual residence of the business owner, so long as such business does not require or involve exterior signage or any visible evidence of such business on the exterior of the residence or Lot, and does not interfere with the quiet enjoyment of other Lot owners. No temporary buildings, structures, or trailers may be erected, placed or maintained on any Lot, except as expressly permitted by, and in compliance with, the Design Standards. Nothing herein contained shall be deemed to limit the Developer's rights as set forth in Article X.

8.2 Signs. No permanent or temporary sign of any kind shall be displayed to the public view, or from any Lot, without the approval of the ACC, except for the following temporary signs ("Permitted Signs"): (a) such signs as may be used by

Developer or any realtor retained by Developer in connection with the development and sale of Lots (whether improved or unimproved) in the Community; (b) such signs as may be required by legal proceedings; (c) such signs advertising the Lot as being for sale; or (d) signs promoting political candidates but only 30 days before and five days after the day of election. Permitted Signs shall not exceed five square feet in total area or be more than three feet in height, measured from grade.

8.3 Animals. No animals of any kind may be kept, bred, or maintained on any Lot, except a reasonable number of commonly accepted household pets as specified in the Rules; provided, however, that not more than two (2) dogs and/or three (3) cats may be maintained on any Lot. In no event shall any domestic pet be allowed to leave its owner's Lot unattended by the owner or create a nuisance.

8.4 Nuisances. No Owner shall permit or suffer anything to be done or kept about or within his Lot, or on, or about, any portion of the Community, which will obstruct or interfere with the rights of other Owners, Occupants, or Persons, or annoy them with unreasonable noises, or otherwise, nor will he commit or permit any nuisance, or commit or suffer any illegal act to be committed therein. Each Owner shall comply with the Rules and the requirements of all health authorities and other governmental authorities having jurisdiction over this Lot.

8.5 Boats and Motor Vehicles. No boats, trailers, buses, motorhomes, mobile homes, campers, recreational vehicles or other similar vehicles shall be parked or stored in, or upon the Lot except within an enclosed garage, provided, nonrecurring and intermittent temporary convenience parking of such vehicles for a period not to exceed forty-eight (48) hours or two (2) consecutive overnights shall be permitted. No vehicle shall be repaired (excepting minor repairs) or rebuilt on any Lot. The Association may remove, or cause to be removed, any unauthorized vehicle or other item prohibited hereby at the expense of the owner.

8.6 Lights. No spotlights, flood lights, or other lighting shall be placed or utilized upon any Lot in a manner which unreasonably interferes with the enjoyment of adjoining Lots. All exterior lighting shall have a concealed energy source and a white color. No exterior lighting shall be installed or maintained on any Lot unless approved by the ACC. Provided, however, that decorative holiday lighting may be permitted in such types, at such times and in such manner as may be provided by the ACC or the Rules.

8.7 Antennae. No external radio, television, satellite dish or other antennae of any kind or nature or other device for the reception or transmission of radio, microwave or other similar signals in excess of 36 inches in diameter, shall be placed or maintained upon any Lot without the prior approval of the ACC. All such antennae or other devices so approved by the ACC shall be completely Screened from view outside the Lot.

8.8 Garbage. No garbage or trash shall be kept, maintained or contained in any Lot so as to be visible from another Lot. No incinerator shall be kept or maintained on any Lot. No refuse pile, garbage or unsightly objects shall be allowed to be placed, accumulated or suffered to remain anywhere on a Lot. Trash shall be placed in such designated locations and containers as may be established from time to time in the Rules.

8.9 Safe Condition. Without limiting any other provision in this Article VIII, each Owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair, and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Lots. All improvements on a Lot which are damaged by or destroyed by fire or other casualty shall be repaired and restored by the Owner thereof with due diligence.

8.10 Basketball Goals. No basketball goals shall be attached to any building. All basketball goals shall be free standing and located behind the front building set back line shown on the applicable Plat. All basketball goal backboards shall be of a clear material.

8.11 Clothes Drying Area. No portion of any Lot outside of a residence shall be used as a drying or hanging area for laundry.

8.12 No Further Subdivision; Combined Lots. No Lot shall be divided or subdivided except by the Developer. If an Owners owns contiguous Lots, they may be combined into a single home site but only upon obtaining the prior written approval of the City and the ACC (each such approved combination of Lots being called a "Combined Lot"); provided, however, (i) for purpose of Assessments, a Combined Lot shall be deemed only one Lot; (ii) all Assessments with respect to a Combined Lot shall constitute a lien upon the entire Combined Lot; and (iii) the Owner of each Combined Lot shall be entitled to the rights of only one Association Membership in respect of all such Lots so combined. After combining Lots, the Combined Lot shall remain as such, and the Owner(s) thereof shall not be permitted at any time to rent, sell, or otherwise transfer or convey less than all of such Combined Lot.

8.13 No Obstructions to Drainage. No Owner shall erect, construct, maintain, permit or allow any fence or structure or obstruction that would interrupt the normal drainage of the land, or which has been intentionally contoured to facilitate drainage; provided, however, that with the prior consent of the City and the ACC, nonpermanent structures, including fences, may be erected in those areas that contain only underground closed conduit storm drainage facilities.

8.14 Outbuildings Generally Prohibited. No building or other detached structure may be erected on any Lot without the consent of the ACC; gazebos and similar ornamental structures may be approved by the ACC, with such materials, dimensions, heights and construction attributes as may be determined in the sole discretion of the ACC.

8.15 Storage Tanks. No exterior storage tanks shall be allowed on any Lot.

8.16 Solar Panels. Solar panels shall not be erected without the prior written consent of the ACC, and in no event shall the same face any street.

8.17 Lawn Ornamentation. No lawn ornaments of any kind are permitted in yards visible from any street without the approval of the ACC.

8.18 Enforcement. The Association or its authorized agents may enter any Lot on which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses and such fines as may be imposed pursuant to this Declaration or the Rules shall be a Special Assessment secured by a lien upon such Lot enforceable in accordance with this Declaration.

ARTICLE IX

Annexation of Additional Property

9.1 Development of the Project. Additional real property may be annexed to and become subject to this Declaration as hereinafter set forth in this Article IX at such time as the Developer may elect, without the consent or assent of the Association.

9.2 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. Supplemental Declarations may contain such additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be determined by the Developer in its sole discretion.

ARTICLE X

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 designated by it in connection with the construction, completion, sale or leasing of the Lots, or any part of the Community owned by the Developer.

ARTICLE XI

Remedies

11.1 General Remedies. In the event of any violation or default by any Owner, Occupant or other Person under the provisions of this Declaration, the 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 Owner, Occupant, or other Persons for injunctive relief, for enforcement or foreclosure of any lien herein provided, for damages, specific performance, for judgment for payment of money and collection thereof, or for any combination of remedies.

11.2 Expenses of Enforcement. All expenses of the Association or the Developer or other Person granted rights of enforcement hereunder, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest therein until paid at the judgment rate of interest, shall be charged to and assessed against such defaulting Owner, or other Person, and shall be a Special Assessment against such Owner or other Person, and the Association shall have a lien as provided in this Declaration.

ARTICLE XII

Amendment

12.1 Amendments to Declaration. Except as otherwise specifically provided in Section 12.2 and elsewhere in this Declaration, any proposed amendment to this Declaration must be recommended for approval by a Majority of the Board prior to its consideration by the Association members. Amendments may be adopted at a meeting of the Association members upon the approval thereof of two-thirds of all of the Association members entitled to vote, or without any meeting if all Association members have been duly notified and if two-thirds of all of the Association members entitled to vote at such a meeting, if held, consent in writing to such amendment. Amendments once properly adopted shall be effective upon recording of the Amendment in the Office of the Register of Deeds of Johnson County, Kansas.

12.2 Developer's Right to Amend. So long as Developer has the power to control the Community pursuant to Section 3.10, the Developer reserves the exclusive right to amend this Declaration without the approval of the Board, the Association members or any Owner or other Person.

ARTICLE XIII
General Provisions

13.1 Captions; Construction. Captions given to various Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The provisions of this Declaration shall be construed to effectuate its purpose of creating a uniform plan for quality development and operation of the Community as hereinabove set forth.

13.2 Severability. If any provision of this Declaration is held invalid, the validity of the remainder of this Declaration shall not be affected thereby, and the remainder of this Declaration shall be construed as if such invalid part were omitted herefrom.

13.3 Term. This Declaration shall continue in full force and effect (subject, however, to the right to amend as herein provided) until January 1, 2026. Thereafter, unless one (1) year prior to January 2, 2026, there shall be recorded an instrument directing the termination of this Declaration signed by at least two-thirds (2/3) of all Association members then entitled to vote, 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 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.

ARTICLE XIV
Rights and Obligations; City Requirements; Release

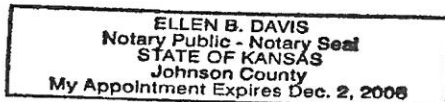
14.1 Binding Nature. Each grantee of the Developer or of any Owner of a Lot, by the acceptance of a deed, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each occupant of a Lot, and the heirs, successors and assigns of the foregoing persons, accepts ownership and occupation within the Community 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.

14.2 Governmental Fees. As conditions precedent to the development of the Community, Developer has been required to pay to the City and other authorities certain fees, charges and impositions for streets, parks, utilities and other off-site improvements. Each grantee of the Developer or of any Owner of a Lot, by the acceptance of a deed, and

STATE OF KANSAS, COUNTY OF JOHNSON, SS.:

BE IT REMEMBERED, that on this 3rd day of May, 2006, before me, a Notary Public in and for said County and State, came Mike Curry, Manager of Creekside Developers, LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of Kansas, who is personally known to me to be the same person who executed as such member the within instrument of writing on behalf of such limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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



Ellen B. Davis

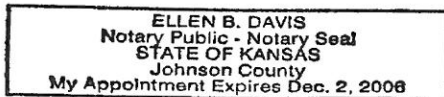
Notary Public ELLEN B. DAVIS

My Appointment Expires:

STATE OF KANSAS, COUNTY OF JOHNSON, SS.:

BE IT REMEMBERED, that on this 3rd day of May, 2006, before me, a Notary Public in and for said County and State, came Richard Pfaff, President of Pfaff Homes, Inc., duly organized and existing under and by virtue of the laws of the State of Kansas, who is personally known to me to be the same person who executed as such member the within instrument of writing on behalf of such corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

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



Ellen B. Davis

Notary Public ELLEN B. DAVIS

My Appointment Expires:

each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each occupant of a Lot, and the heirs, successors and assigns of the foregoing persons, hereby releases the Developer, its successors, agents, officers, members, stockholders and assigns from any obligation to remit any part of such fees, charges and impositions to him, her or it in the event any of the same are declared invalid or illegal, any refund or return of same to the Developer notwithstanding; it is expressly understood that Developer shall have the sole right to make claim for and receive any such refund or return.

IN WITNESS WHEREOF, the Developer and Builder have caused this Declaration to be duly executed.

CREEKSIDE DEVELOPERS, LLC

By Michael R. Curry
Mike Curry, Manager

PFAFF HOMES, INC.

By Richard Pfaff
Richard Pfaff, President

File Number: 205060070

EXHIBIT A

Lots 1-50, Tracks A-G and N, CREEKSIDE WOODS FIRST PLAT, a subdivision in the City of
Lenexa, Johnson County, Kansas.


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