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**ST. ANDREWS PLACE
1st PLAT, 2nd PLAT AND ESTATES
AMENDED AND RESTATED
HOMES ASSOCIATION DECLARATION**

\$5800

STATE OF KANSAS }
COUNTY OF JOHNSON } SS
FILED FOR RECORD

2000 OCT 16 P 3:43.7

THIS AMENDED AND RESTATED HOMES ASSOCIATION DECLARATION SARA F. HILMANN
REGISTER OF DEEDS

made and entered into effective the 13th day of October 2000 by **C & M LAND CO.**, a corporation organized and exists under and by the virtue of laws of the state of Kansas, hereinafter referred to as the "Developer."

WHEREAS, Developer was the original owner of the following described real property lying, being, and situated in the City of Overland Park,

Lots 1 through 50; **ST. ANDREWS, 1st PLAT**, a subdivision of land in the city of Overland Park, Johnson County, Kansas, according to the recorded plat thereof, filed on August 28, 1995, as Document Number 2519775, in Book 92 at Page 28, in the office of the Johnson County, Kansas Register of Deeds together with other tracts of land as shown on said plat ("St. Andrews 1st Plat").

And

Lots 51 through 94; **ST. ANDREWS PLACE, 2nd PLAT**, a subdivision of land in the City of Overland Park, Johnson County, Kansas, according to the recorded plat thereof, filed on June 11, 1997, as Document Number 2711737, in Book 99 at Page 50, in the office of the Johnson County, Kansas Register of Deeds together with other tracts of land as shown on said plat ("St. Andrews 2nd Plat").

And

Lots 1 through 20; **ST. ANDREWS PLACE ESTATES**, a subdivision of land in the City of Overland Park, Johnson County, Kansas, according to the recorded plat thereof, filed on July 21, 1998, as Document Number 2859148, in Book 105 at Page 31, in the office of the Johnson County, Kansas Register of Deeds together with other tracts of land as shown on said plat ("St. Andrews Estates").

WHEREAS, Developer filed homes association declarations with regard to said real estate, particularly:

St. Andrews Place, 1st Plat Homes Association Declaration which was filed on November 16, 1995, as Document Number 2544211, in Book 4729 at Page 455, in the office of the Johnson County, Kansas Register of Deeds.

St. Andrews Place, 2nd Plat Declaration of Restrictions which was filed on December 3, 1997, as Document Number 2769132, in Book 5390 at Page 261, in the office of the Johnson County, Kansas Register of Deeds.

St. Andrews Place Estates Declaration of Restrictions which was filed on January 27, 1999, as Document Number 2942560, in Book 6032 at Page 180, in the office of the Johnson County, Kansas Register of Deeds.

WHEREAS, Developer desires to amend and restate each of the referenced homes association declarations by this instrument in order to provide for the uniform maintenance of the residential neighborhoods, possessing features of more than ordinary value to a residential community and create a homes association for the purpose of enhancing and protecting the value, desirability, attractiveness and maintenance of the property within the subdivisions.

NOW, THEREFORE, Developer, for and in consideration of the benefits to itself, it's successors and assigns, and any and all of their past and future grantees, do hereby declare that the following described real property referred to herein as St. Andrews 1st Plat, St. Andrews 2nd Plat and St. Andrews Estates is hereby subjected to the following covenants, charges, easements and assessments hereinafter set forth:

ARTICLE I

DEFINITIONS

For the purposes of this Homes Association Declaration, the following terms and phrases shall be defined as follows:

1. **Articles of Incorporation.** “Articles of Incorporation” shall mean the Amended and Restated Articles of Incorporation of the Homes Association, as they may be amended from time to time.

2. **Bylaws.** “Bylaws” shall mean the Amended and Restated Bylaws of the Homes Association as they may be amended from time to time.

3. **Certificate of Substantial Completion.** “Certificate of Substantial Completion” shall mean 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 a “Certificate of Substantial Completion” or similar instrument in lieu thereof in its discretion at any time and for any limited purpose hereunder.

4. **Common Area.** “Common Areas” shall mean all Streets, street right-of-way, street islands, parks, gateways, berms, monuments, entrances, and other ornamental areas, and similar places, together with all improvements and their related utilities; which may be situated thereon, including, but not limited to, swimming pools, cabanas, clubhouses, tennis courts, and any other recreational facilities, sprinkler systems, and landscaping and all other landscaping constructed or installed by the Developer at or near the entrance of any street or along any street

9. **First Owner.** "First Owner" shall mean the first person or entity to acquire a particular Lot from the Developer.

10. **Homes Association.** "Homes Association" shall mean St. Andrews Place Homes Association, Inc., a Kansas not-for-profit corporation formed by the Developer for the purpose of serving as the homes association for the District.

11. **Lot.** "Lot" shall mean any lot as shown as a separate lot on any recorded plat of all or part of land within 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 (1) residence has been, is being, or will in the future, be erected, then such adjacent property under common ownership shall be deemed to constitute only one (1) "Lot."

12. **Improved Lot.** "Improved Lots" shall be deemed to be a lot on which a residence has been erected or is in the process of erection with any and all other lots covered by this Declaration being deemed to be "vacant" and "unimproved lots." Additionally, if an Owner, other than the Developer, owns all or part of one or more adjacent Lots upon which only one (1) residence has been, is being, or will be erected, then such adjacent property under common ownership shall be deemed to constitute one (1) Lot.

13. **Member.** "Member" shall mean every person, or entity, who is a record owner of the fee interest in any Lot, including a contract seller, subject to the further terms and conditions of this Homes Association Declaration, the Declaration of Restrictions and the Bylaws of the Homes Association.

14. **Owner.** “Owner” shall mean those persons, firms, or corporations, including, but not limited to, the Developer, who may at any time, and, from time to time, own Lots within the district.

15. **Operating Expenses.** “Operating Expenses” of the Common 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 Common 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 Common Facilities or any part thereof by the Developer, any construction company, any real estate sales agent or any other similar party as an office, meeting place or storage facility.

16. **Post-Construction Expenditures.** “Post-Construction Capital Expenditures” shall mean any expenditures made or incurred after the completion of the initial (as specified by the Developers) Common 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 principals, consistently applied.

17. **Street.** “Street” shall mean any public street, road, terrace, circle or boulevard shown on any recorded plat of all or part of the District.

ARTICLE II

MANAGEMENT AND MEMBERSHIP

All public places, together with all improvements thereon and thereto shall be under the management and control of the Homes Association, subject to the management and control had and exercised by the City of Overland Park, County of Johnson, state of Kansas, or any of them. The membership in the Homes Association shall be limited to the Owners of Lots within the boundaries of the District. The Homes Association shall be the sole judge of the qualifications of its Members and of the Members' right to participate in its meetings and proceedings, except as hereinafter provided.

ARTICLE III

POWERS AND DUTIES OF THE HOMES ASSOCIATION

In addition to the powers and duties granted by other portions of this Homes Association Declaration, the Declaration of Restrictions, the Bylaws of the Homes Association, or by law, the Homes Association shall have the following specific powers, any, or all, of which may be exercised or assumed by it when, at its discretion, it deems it to be necessary or advisable, to-wit:

1. To enforce either in its own name or in the name of any owner within the District, any and all building or use restrictions which may have been heretofore, or may hereafter be, imposed upon any Lot in said District; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of such building or use restrictions or reservations being made by the party, or parties having the right to make such changes, releases, or modifications, as are permissible under the Declaration of Restrictions creating the same, any deed or the plat in which such restrictions and reservations are set forth; nor shall it serve to

prevent the assignment of those rights by the proper party, or parties, whenever and wherever such right of assignment exists. The expenses and cost of any such enforcement proceedings brought by the Homes Association shall be paid for by it and paid out of the general operating funds of the Homes Association, subject to the right of recoupment of such cost and expense from the Owner and Member of the Association against whom such action is brought pursuant to the terms hereof. Nothing herein contained shall be deemed to prevent any Owner from enforcing any building or use restrictions in the Owners' own name and at the Owner's own cost and expenses without any right of recoupment from the Homes Association.

2. To care for, spray, trim, protect, plant, and replant trees, shrubbery, flowers, bushes, and any other plants along the Streets and in any other Common Areas within the District; and to plant, replant, care for, mow, clip, water, fertilize, and protect all grasses in all Common Areas within the District.

3. To pick up, clean, and remove loose material, trash, debris, and rubbish of all kinds and nature in the district, and to do any and all other things necessary, or desirable, in the judgment and discretion of the officers of said Homes Association to keep the lawns, catch-basins, sidewalks, walkways, pedestrian ways, gutters, Streets, yards, fields, and open spaces of the Common areas and any vacant and unimproved Lots within in the District in a neat, clean, groomed, and slightly appearance and in good order.

4. To provide such lights as the Homes Association may deem advisable on Streets, parks, parking areas, pedestrian ways, gateways, entrances, and other Common Areas within the District, when such facilities are not provided by and available from any public source.

5. To provide for the construction, creation, purchase, maintenance and operation of playgrounds, recreational areas and facilities, gateways, sidewalks, tennis courts, walkways, drinking fountains, entrances, gardens, monuments and other ornamental features in and upon the Common Areas within the District.

6. To exercise such control over any and all easements as may be acquired by the Homes Association from time to time.

7. To acquire and own the title to or interest in and exercise control over the Common Areas, if any, as may be reasonable and necessary to carry out the purposes of the Homes Association, subject, however, to all rights, titles, and interests, including ownership, in any government body or public utility.

8. To erect and maintain signs for the marking of Streets, and safety signs for the protection of children and other persons, when such signs are not available from any public source.

9. To employ duly qualified security officers for the purpose of providing such security protection within the District as the Homes Association may deem necessary or desirable in addition to that rendered by public authorities.

10. To provide for the plowing and removal of snow from the Streets, sidewalks, parking areas, and pedestrian ways within the District as the Homes Association may deem necessary or desirable in addition to or when such services are not provided by any public authority.

11. To levy and collect the assessments which are provided for in this Declaration.

12. To provide for the maintenance, repair, up keep, and renovation of any swimming pools, green areas, playgrounds, tennis courts, public and private Streets, parking areas, walk ways, pedestrian ways, gateways, entrances, drinking fountains, and ornamental features now existing or which may hereafter be erected or created in any Common Area, parking area or other public place shown on the plats of the District, or on any additional land which may later be added to the District as provided by the provisions hereof.

13. 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 Homes Association, Common Areas and Common Facilities, if any, within the District.

14. To enter into agreements from time to time with the Developer and any other parties, including, but not limited to, other developers and homes associations, regarding the performance and services and matters benefitting both the Developer and the Homes Association and its Members and the sharing of the expenses associated therewith.

15. To enter into agreements with the Developer, other developers, other homes associations and any other parties relating to the joint use, operation and maintenance of any Common Facilities, if any, and other similar common areas, if any, whether in or outside the District, and the sharing of expenses related thereto.

16. To engage the services of a management company, if desired, or other persons or entities to carry out and perform the functions and powers of the Homes Association, including, without limitation, keeping of books and records, and operation and maintenance of Common Areas and Common Facilities, if any, and landscape easements along the entry.

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

18. To make such reasonable rules and regulations (including, without limitation, the use of Common Areas and Common Facilities, if any) 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.

19. That irrespective of any of the other rights, powers, or authorities vested in the Homes Association herein, the following terms and conditions apply to the various amenities contained within the District and which are located within the rights-of-way granted to the City of Overland Park, Johnson County, Kansas, by the aforesaid plat creating said subdivision, namely, to-wit:

a. The undersigned Developer, the Homes Association, and all other owners of Lots within the District claiming by, through, and under the Developer acknowledge hereby that any and all amenities constructed within and located on any rights-of-way vested in the City of Overland Park, Kansas, a Kansas municipal corporation (the "City"), are the sole responsibility of the Owners within the subdivision, which Owners shall maintain the Homes Association to be used as a vehicle by which to fulfill the obligations of that certain "Right-Of-Way Maintenance Agreement" made and entered into by and between the City and the Developer, however, such delegation of authority by the Owners to the Homes Association shall not relieve the Owners of their paramount duty to properly maintain said amenities within such City rights-of-way within the

subdivision or carry out the other obligations and responsibilities contained within said agreement;
and

b. That it shall be the duty and obligation of all Owners within the subdivision to properly and adequately maintain any and all amenities within the City rights-of-way within the subdivision; and

c. That the Homes Association shall levy assessments against the Lots within the District which is sufficient to pay for any and all maintenance of any amenities with the City rights-of-way and shall, in addition thereto levy assessments which are sufficient to pay for the costs incurred by reasons of any and all other obligations placed on the Owners of Lots within the District by reasons of sub-paragraphs (d) through (h) of paragraph 1.1 of that certain “Right-Of-Way Maintenance Agreement” made and entered into by and between the City and the Developer; which assessments shall become enforceable liens on said Lots within said District if any Owner fails and refuses to pay the same in accordance with the terms hereof; and

d. The undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer shall and do hereby release and forever discharge the City from any and all past, present, and future liability for any damage that may be caused at any time to any person or to any real or personal property resulting from or related to, either directly or indirectly, the City allowing any amenities to be located in it's, the City's rights-of-way within the District, or otherwise acting or failing to act with respect to the maintenance thereof, or from any and all past, present, or future obligations to expend any public funds or to take any other action to maintain or improve the amenities within the City rights-of-way within the District; and

e. The undersigned Developer, the Homes Association, and all Owners of Lots within the District shall and do hereby agree to indemnify and hold harmless the City, the Mayor of the City, any and all members of the City Council of the City, and any and all employees and agents of the City from any and all claims, actions, causes of action, demands, losses, damages, costs, and expenses, including, but not limited to, reasonable attorneys fees, that may be incurred or suffered by any or all of them as result of or in connection with any claims, actions, demands, and causes of action that may be asserted against any or them in connection with any amenities contained within any of the City rights-of-way within the District; and

f. The undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer shall and do hereby agree to promptly reimburse the City, the Mayor of the City, any and all members of the City Council of the City, and any and all employees and agents of the City from any and all public funds the City may expend with respect to the maintenance of any amenities within the City rights-of-way within the District in the event that said undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer fail and refuse to maintain the same, although the said undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer acknowledge hereby that the City is not under any obligation to so maintain the same; and

g. The undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer shall and do hereby agree that if said City, or any of it's employees, agents, contractors, or designees does any damage to any of the amenities constructed in any of the City's rights-of-way within the District neither the

City, nor any of its employees, agents, or designees shall be responsible for the repair or replacements of the same; and

h. The undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer shall and do hereby, should the City determine that any of the amenities constructed within the City's rights-of-way within the District are endangering the public health, safety, or welfare or have become so unsightly or a nuisance, or interfere in any way with the City's use of said rights-of-way, that upon request of the City, they, namely, the undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer will remove or cause to be removed any or all of such amenities from the City's rights-of-way; and

i. That should the undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer fails or refuses to comply with the City's removal request, the City may remove the same and the undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer shall be obligated to reimburse the City for the cost and expense to the City for such removal; and

j. The undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said Developer shall and do hereby agree to maintain and pay for adequately liability insurance to cover any and all reasonably insurable risks associated with the maintenance of the amenities constructed within the City's rights-of-way within the District and any and all covenants imposed on the undersigned Developer, the Homes Association, and all Owners of Lots within the District claiming by, through, and under said

ARTICLE IV

METHOD OF PROVIDING GENERAL FUNDS

1. For the purposes of providing a general fund to enable the Homes Association to perform its duties and to construct, purchase, operate, repair, keep up, and maintain the improvements herein provided for, all Lots within the District, other than those owned by the Developer, shall be subject to an annual assessment to be paid to the Homes Association by the respective Owners thereof. No Lot shall be subject to any such assessment prior to its conveyance by the Developer to the First Owner. The amount of assessment shall be fixed by the Homes Association, however, until further action of said Homes Association, shall be at the rate of Three Hundred Nineteen Dollars (\$319) per annum for each Lot as herein defined.

2. The rate of annual assessment upon each Lot in the District may be increased or decreased (a) by the Board of the Homes Association from time to time by an amount not to exceed ten percent (10%) of the rate of annual assessment in effect on the preceding January 1st (plus any increases after such date relating to the Common Facilities, if any, or (b) 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 Homes Association to perform its duties as specified herein.

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 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.

4. The obligation and liability to pay annual and special assessments shall be personal obligations of the Owners of such Lots to which any such assessment is applicable at the time such assessment is made, notwithstanding any subsequent conveyance of the subject Lot to any other person or entity.

5. Should it become necessary to engage in the services of an attorney to collect any assessment hereunder, all costs of collecting such assessment, including court costs and reasonable attorney's 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.

ARTICLE V

ASSESSMENTS DUE

The assessments provided for herein commenced effective January 1, 1996, and the first such assessment was fixed and levied prior to January 1, 1996, and was due and payable on such date. Thereafter, each assessment is due and payable on the first (1st) day of January of each year. Provided, however, the first annual assessment for any Lot conveyed by the Developer to the First Owner thereof after January 1, 1996, shall be due and payable on the first (1st) day of the month following the month of such conveyance and the amount of such assessment due and payable on such date shall be a sum equal to the number of full calendar months remaining after such conveyance in the year of such conveyance multiplied by an amount equal to one-twelfth (1/12) of the regular annual assessment for such year, as fixed in the manner hereinabove provided. It will be the duty of the Homes Association to give notice to all owners on or before the date on which

the annual assessment is due of the amount of the assessment on each lot and when said annual assessment is due. Failure of the Homes Association to assess, determine, set, and levy an annual assessment prior to the first (1st) of January of any year shall not invalidate any such assessment subsequently assessed, determined, set, and levied for that particular year. Additionally, failure to determine, set, assess and levy an annual assessment for anyone year shall not affect the right of the Homes Association to do so in any subsequent year. By action of the Homes Association, the annual assessments levied against any Lot within the District may be made payable in monthly installments in lieu of annual lump sum payments, at the discretion of the Homes Association and the action of its Board. When the annual assessment is levied after or following the first (1st) day of January of any year, then the first monthly installment thereon, or the lump sum annual assessment, shall become due and payable not sooner than thirty (30) days following the date the Homes Association assessed, determined, set, and levied such assessment.

ARTICLE VI

LIEN ON REAL ESTATE

1. The entire annual assessment shall become a lien on said real estate as soon as it is due and payable as above set forth. In the event any Owner fails, refuses, or for whatever reason whatsoever does not pay all, or any agreed upon monthly installment, of such assessment on or before the thirtieth (30th) day following the due date of such payment, then all of such annual assessment, shall bear interest at the rate of ten percent (10%) per annum from the due date the same became and payable until paid.

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 sixty (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 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 Homes Association shall be entitled to collect from the Owner of the Lot described therein, in addition to any other fee or expense provided herein, an administrative fee of Twenty-Five Dollars (\$25), 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 (5) 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 VII

SPECIAL ASSESSMENTS

In addition to the annual assessments provide for herein, the Board of the 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 Homes Association expends any sum as a result of 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 (other than any Lot then owned by the Developer) in an equal amount that is sufficient, when aggregated, to enable the 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 Homes Association available therefor. Such special assessment shall be due and payable, and shall become a lien on such Lots, upon notice to such Owners of the assessment. Interest at the rate of ten percent (10%) per annum shall accrue from the due date until paid and shall also be part of the lien against any such Lot. Such lien shall be enforced and terminated in accordance with the provisions of Article VI above.

ARTICLE VIII

LIMITATION ON EXPENDITURES

Except with respect to Common Facilities, if any, the Homes association shall at no time expend more money within any one year than the total amount of the assessments for that particular year, plus any surplus which it may have on hand from prior years; nor shall the Homes Association have the power to enter into any contract which binds the Homes Association to pay for any obligation out of the assessments for any future year, except for contracts for utilities, maintenance or similar services or matter to be performed for or received by the Homes Association or its Members in subsequent years.

ARTICLE IX

COMMON FACILITIES

1. The Developer shall have the right (but is not obligated) to construct and erect from time to time a swimming pool, tennis courts, a clubhouse, parking lot and other Common Facilities, if any, within the District or on property near the District and to make such facilities available for exclusive use by residents of the District. The size, number and components of the Common Facilities shall be as determined by the Developer in its absolute discretion.

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

a. The Homes Association will pay, from and after the substantial completion and availability date, a pro rata share of the Operating Expenses, net of operating income, of the Common Facilities, Construction Expenditures, and of any Post-Construction Capital Expenditures provided, however, that until ownership and control of the Common Facilities are transferred as provided herein, the per Lot payment by the Homes Association shall not exceed the amount established for annual assessments by this Homes Association Declaration.

b. For purposes hereof, the Homes Association's pro rata share for any fiscal year shall be equal to the product of (i) to aggregate pertinent expenses for the period that are not payable or reimbursable by the Developer or other developers pursuant to any agreement with the Homes Association, multiplied by (ii) a fraction the numerator of which is the number of Lots that are then obligated to pay annual assessments and the denominator of which is the sum of (A) the numerator plus (B) the number of residential units in other subdivision that are entitled to use the Common Facilities, if any.

c. At such time as the Developer deems appropriate, the Developer shall convey all of its rights, title and interest in the Common Facilities to the Homes Association or to a not-for-profit entity having as its members the Owners of the Lots entitled to use the Common Facilities.

ARTICLE X

BOARD OF DIRECTORS

The Homes Association shall have a Board as provided in its Articles of Incorporation and Bylaws, which Board shall be charged with the management of the Homes Association.

ARTICLE XI

MEMBERSHIP

Every person, or entity, who is a record owner of the fee interest in any Lot, including a contract seller, shall be a Member of the Homes Association; provided, however, that any such person, or entity, other than a contract seller, who holds such interest merely as a security for the performance of monetary or financial obligation shall not be a Member.

ARTICLE XII

VOTING RIGHTS

The Association shall have only one class of Member. Each Member shall have one (1) vote for each Lot in which the Member holds the fee interest required for membership in accordance with this Homes Association Declaration; provided, however, if any such Member is delinquent in the payment of the Member's annual or special assessments, or any agreed upon monthly installment thereof, then such Member shall not, for so long as such Member is delinquent in the payment of such assessment, have a vote on any issue brought before the

membership of the Homes Association. When more than one person holds such fee interest in any Lot, all such persons shall be Members of the Homes Association and the vote for such Lot shall be exercised as they, among themselves, shall determine, but, in no event shall more than one (1) vote be cast with respect to any one Lot on anyone issue brought before the Homes Association, and it's Members, for vote.

ARTICLE XIII

NOTICE

1. At least seven (7) days prior to any meeting of all of the Members of the Homes Association, the Homes Association shall give written notice to all owners of Lots in the District of the place, time, and purpose of regular, or special, meeting of the members of the Homes Association. The Homes Association shall in a like manner, designate the place where payment of the annual or special assessments, or any agreed upon monthly installment thereof, shall be paid and where my other business in connection with the Homes Association may be transacted. In the event of any change of address, the Homes Association shall also give written notice thereof to all the owners of Lots in the District of the Homes Association's new address.

2. All notices required or permitted under this Homes Association Declaration shall be deemed given, if the same are deposited in the United States mails, with postage prepaid, and addressed to the person, persons, or entity entitled to such notice at the last address listed with the Homes Association for such person, persons, or entity. Notice to one Co-Owner shall constitute notice to all Co-Owners.

ARTICLE XIV

DISTRICT MAY BE EXTENDED

The District may be extended by Developer to include any other lands added by Developer to St. Andrews Place by later plats thereof; however, all the land, or lands, to be added to the District shall at that time be subjected to this Homes Association Declaration. The extension of the District shall be accomplished by the Developer making, executing, and acknowledge and appropriate written declarations or agreements subjecting said lands to all of the provisions hereof, as subsequently modified and amended.

ARTICLE XV

OBSERVANCE OF ALL LAWS

The Homes Association shall at all times observe all applicable city, county, state and federal laws, ordinances, and regulations and if, at any time, any of the provisions of this Homes Association Declaration shall be found to be in conflict with any such city, county, state or federal laws, ordinances, or regulation such provision shall become null and void, but no other parts of this Homes Association Declaration, not in conflict therewith, shall be affected thereby. The Homes Association, by the action of its Board and Members, shall have the right to make such reasonable rules and regulations and provide means to enforce such rules and regulations as will enable the Homes Association to adequately and properly carry out the purposes for which it was formed and the provisions of this Homes Association Declaration.

ARTICLE XVI

AMENDMENT AND TERMINATION

This Homes Association 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 (2/3) of the Lots within the District as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion and the transfer of the Common Facilities, if any, as contemplated herein, by the Developer.

ARTICLE XVII

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(s) or entity, all or any part of the rights, benefits, powers, reservation, 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, 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 XVIII

COVENANTS RUNNING WITH THE LAND

All provisions of this Homes Association Declaration shall be deemed to be covenants running with the land and shall be binding upon the undersigned, Developer, and upon its successors and assigns.

ARTICLE XIX

SEVERABILITY

Invalidation of any of the provisions set forth herein, or any part thereof, by an order, judgement 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.

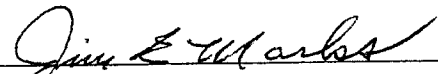
ARTICLE XX

ENFORCEMENT

In addition to any other remedy provided herein, the Association, and/or any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by this Homes Association Declaration, the Declaration of Restrictions, the Articles of Incorporation or the Bylaws. In any such event, the prevailing party shall be entitled to recover as an additional item of damage, all attorney fees and costs incurred therein.

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

C & M LAND CO.

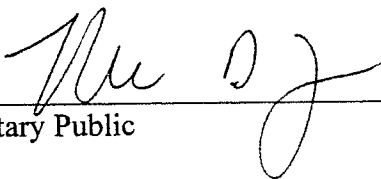
By 
JIM E. MARKS
President

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

Before me, a Notary Public, in and for said county and state, personally appeared **JIM E. MARKS**, the President of **C & M LAND COMPANY**, a Kansas corporation, which person is

personally known to me known to me to be such officer as herein above described, and who is personally known to me to be the same person who executed, as such officer, the within instrument, and acknowledged that he executed the same as the free act and voluntary deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed seal this 13^d day of October 2000.



Notary Public

My Commission Expires:

