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Register of Deeds

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**FIFTH AMENDMENT TO
AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS AND
HOMES ASSOCIATION DECLARATION
(CANYON CREEK)**

**THIS FIFTH AMENDMENT TO AMENDED AND RESTATED DECLARATION
OF RESTRICTIONS AND HOMES ASSOCIATION DECLARATION (CANYON
CREEK)** is made as of the 8 day of October, 2020, by **CANYON CREEK REAL
PROPERTY HOLDINGS, LLC**, a Kansas limited liability company (the "Developer"), whose
address is 13626 West 87th Street Parkway, Lenexa, Kansas 66215.

RECITALS:

A. **CANYON CREEK DEVELOPMENT, L.L.C.**, a Kansas limited liability company as the Developer ("Original Developer") executed and filed with the Register of Deeds of Johnson County, Kansas, a plat of the subdivision known as "**CANYON CREEK BY THE PARK**," which such plat includes the following described lots and tracts:

Lots 1 through 35, and Tracts A through D, inclusive, CANYON CREEK BY THE PARK, FIRST PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas

B. The Original Developer executed and filed the following Declaration of Restrictions which affected Canyon Creek by the Park:

Canyon Creek by the Park Declaration of Restrictions, recorded with the Register of Deeds of Johnson County, Kansas on March 9, 2006, in Book 200602 at Page 002975 (the "**Original Declaration of Restrictions for Canyon Creek by the Park**");

C. The Original Developer also executed and filed the following Homes Association Declaration which affected Canyon Creek by the Park:

Canyon Creek Area Homes Association Declaration, recorded with the Register of Deeds of Johnson County, Kansas on March 9, 2006, in Book 200602 at Page 002975 (the "**Original Homes Association Declaration**");

D. The Original Developer executed and filed with the Register of Deeds of Johnson County, Kansas, a plat of the subdivision known as "**CANYON CREEK BY THE LAKE**," which such plat includes the following described lots and tracts:

Lots 1 through 18, and Lots 20 through 50, Tracts A and C through E, inclusive, **CANYON CREEK BY THE LAKE, FIRST PLAT**, a subdivision in the City of Lenexa, Johnson County, Kansas

E. The Original Developer executed and filed the following Declaration of Restrictions which affected Canyon Creek by the Lake:

Canyon Creek by the Lake Declaration of Restrictions, recorded with the Register of Deeds of Johnson County, Kansas on June 28, 2007, in Book 200706 at Page 010291 (the "**Original Declaration of Restrictions for Canyon Creek by the Lake**").

F. The Original Developer amended the Original Homes Association Declaration by a First Amendment Canyon Creek Area Homes Association Declaration (the "**First Amendment**") recorded with the Register of Deeds of Johnson County, Kansas June 28, 2007, in Book 200706 at Page 010289 which added the following described tracts and lots to the Original Homes Association Declaration:

Lots 36 through 77, and Tracts E through F, inclusive, **CANYON CREEK BY THE PARK, SECOND PLAT**, a subdivision in the City of Lenexa, Johnson County, Kansas; and

Lots 1 through 18, and Lots 20 through 50, Tracts A and C through E, inclusive, **CANYON CREEK BY THE LAKE, FIRST PLAT**, a subdivision in the City of Lenexa, Johnson County, Kansas

G. The Original Declaration and the First Amendment were amended and restated in their entirety by the Original Developer pursuant to an Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) (the "**Declaration**") dated as of the 21st day of June, 2012, and recorded with the Register of Deeds of Johnson County, Kansas on June 25, 2012, in Book 201206 at Page 0008341;

H. The Original Developer assigned all of its rights, benefits, powers, reservations, privileges, duties and responsibilities reserved or granted to it as the Original Developer under the Declaration to **CANYON CREEK REAL PROPERTY HOLDINGS, L.L.C.**, a Kansas limited liability company, the Developer named herein, pursuant to the right to do so under the Declaration, by virtue of an Assignment of Developer's Rights dated the 21st day of June, 2012, recorded with the Register of Deeds of Johnson County, Kansas on June 28, 2012, in Book 201206 at Page 010251;

I. The Declaration was amended pursuant to a First Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 9th day of January, 2014, and recorded with the Register of Deeds of Johnson County, Kansas on January 13, 2014, in Book 201401 at Page 002685 (the "**First Amendment to Restated Declaration**");

J. The purpose of the First Amendment to Restated Declaration was to add additional land to the Neighborhood, create a landscape easement and add additional tracts to the Open Spaces and Common Facilities ("First Amendment Additional Land"), all of which was owned by Developer, and described as;

Lot 19 and 51 through 72, and Tracts A and B, inclusive, CANYON CREEK BY THE LAKE, SECOND PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on November 6, 2013, in Book 201311 at Page 001400; and

Lots 73 through 90, inclusive, and Tract E, CANYON CREEK BY THE LAKE, THIRD PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on November 22, 2013, in Book 201311 at Page 006281.

K. The Declaration was further amended pursuant to a Second Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 30th day of June, 2014, and recorded with the Register of Deeds of Johnson County, Kansas on July 1, 2014, in Book 201407 at Page 000328 (the "Second Amendment");

L. The purpose of the Second Amendment was to make certain amendments as provided therein and to add additional land to the Neighborhood ("Second Amendment Additional Land"), all of which was owned by Developer, and described as:

Lot 91 through 129, inclusive, and Tracts D and F, CANYON CREEK BY THE LAKE FOURTH PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on June 6, 2014, in Book 201406 at Page 006865.

M. The Declaration was further amended pursuant to a Third Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 12th day of January, 2016, and recorded with the Register of Deeds of Johnson County, Kansas on January 14, 2016, in Book 201601 at Page 002678 (the "Third Amendment"), which added additional land, Open Spaces and Common Facilities to the Neighborhood, and replaced the Building Standards and Requirements; and the additional land which was the subject of the Third Amendment is described as:

Lot 1 through 13, inclusive, and Tracts A, B and C, FINAL PLAT OF CANYON CREEK SHORES, a subdivision in the City of Lenexa, Johnson County, Kansas,

recorded with the Register of Deeds of Johnson County, Kansas on January 8, 2016, in Book 201601 at Page 001280.

N. Lots 49 and 50 of CANYON CREEK BY THE PARK, SECOND PLAT, were consolidated into a single Lot 49 by virtue of the FINAL PLAT OF CANYON CREEK BY THE PARK, THIRD PLAT, A Replat of Lots 49 and 50, "CANYON CREEK BY THE PARK, SECOND PLAT" in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on November 17, 2016, in Book 201611 at Page 006585.

O. The Declaration was further amended pursuant to a Fourth Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 28th day of June, 2017, and recorded with the Register of Deeds of Johnson County, Kansas on June 28, 2017, in Book 201706 at Page 010271 (the "Fourth Amendment"), as revised by a Correction to Fourth Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 28th day of June, 2018, and recorded with the Register of Deeds of Johnson County, Kansas on June 28, 2018, in Book 201786 at Page 010271 which provided a limited license for Owners of Residences in Canyon Creek Point, First Plat and Canyon Creek Point, Second Plat and their invitees for the use of the pool and appurtenant recreational facilities in the Neighborhood.

P. Section 13.2 of the Declaration as revised provides that the Developer, prior to the Turnover Date (as defined in the Declaration) shall have the sole and exclusive right, power and authority to amend, modify, revise or add to any of the terms of this Declaration (as from time to time amended, modified, revised or supplemented) without the approval of the Board or members of the Association or the approval of any Builder, other Owner or other party, by a written instrument setting forth the entire amendment, which shall become effective upon its recording with the Register of Deeds;

Q. The Turnover Date has not occurred;

R. The Developer desires to amend the Declaration to provide a limited license for owners of residences and their invitees in a proposed development described as Canyon Creek Forest (hereafter the "Canyon Creek Forest Residents") which includes the area of land legally described in Exhibit A attached here; and

S. In order to accomplish the foregoing, Developer desires to amend the Declaration, as set forth herein.

NOW, THEREFORE, Developer hereby declares that the Declaration as amended is supplemented and amended as set forth herein.

1. The Canyon Creek Forest Residents are hereby granted an irrevocable license for use of the pool and appurtenant recreational facilities in the Neighborhood, including the restrooms, parking lot, playground, basketball court and play field (the pool and appurtenant recreational facilities are collectively referred to hereafter as the "Facilities"), subject to the terms and conditions stated herein. In order for a Canyon Creek Forest Resident to utilize such license,

such Canyon Creek Forest Resident must pay an annual fee of \$250.00 per year for the household (consisting of members of the household, full time students of the household and their invitees) to the Association. Residents may elect annually to utilize the license. The annual fee may be increased to reflect actual increases in costs of maintaining and operating the Facilities, provided that the annual fee shall in no event be increased by more than ten percent (10%) from one year to the next. The Association may impose reasonable rules and regulations for the users of the Facilities that apply without discrimination to both the Owners of Canyon Creek and the Canyon Creek Forest Residents. The Association may also impose reasonable procedures to collect the annual fee and to administer the conditions stated herein.

2. In all other respects, the Declaration is hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, Developer has executed this Amendment as of the date first above written.

[SIGNATURE PAGES FOLLOW]

DEVELOPER:

CANYON CREEK REAL PROPERTY
HOLDINGS, LLC

BY ITS MANAGER
CLAY BLAIR SERVICES CORPORATION

By:

Clay C. Blair, III, President

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

ON THIS 8 day of October 2020, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Clay C. Blair, III, to me personally known to be the person described in and who executed the foregoing instrument, who, being by me duly sworn, acknowledged that he is the President of Clay Blair Services Corporation, a Kansas corporation, the Manager of CANYON CREEK REAL PROPERTY HOLDINGS, LLC, a Kansas limited liability company, and that he executed such instrument on behalf of said corporation and said company by his authority as President of the Manager, and said person acknowledged the execution of said instrument to be the act and deed of said corporation for said limited liability company.

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

Christanne M. Goldring
Notary Public Christanne M. Goldring
Printed Name: Christanne M. Goldring

My Commission Expires:

8/27/2022



EXHIBIT A

CANYON CREEK FOREST LEGAL DESCRIPTION

PART OF THE NORTHEAST ONE QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 23 EAST, IN THE CITY OF LENEXA, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST ONE QUARTER OF SAID SECTION 5; THENCE SOUTH 87 DEGREES 47 MINUTES 43 SECONDS WEST ALONG THE SOUTH LINE OF THE SAID NORTHEAST ONE QUARTER OF SAID SECTION 5, A DISTANCE OF 1485.75 FEET TO THE SOUTHEAST CORNER OF CANYON CREEK VILLAS, A SUBDIVISION IN THE CITY OF LENEXA AS RECORDED IN BOOK 200709 AT PAGE 001192; THENCE ALONG THE EASTERLY LINE OF SAID CANYON CREEK VILLAS THE FOLLOWING TWO COURSES, NORTH 03 DEGREES 12 MINUTES 15 SECONDS WEST A DISTANCE OF 6.44 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF NORTH 84 DEGREES 18 MINUTES 52 SECONDS WEST, A RADIUS OF 680.00 FEET, A CENTRAL ANGLE OF 00 DEGREES 42 MINUTES 45 SECONDS AND AN ARC LENGTH OF 8.45 FEET TO THE SOUTHERNMOST CORNER OF CANYON CREEK BY THE LAKE FIRST PLAT, A SUBDIVISION IN THE CITY OF LENEXA AS RECORDED IN BOOK 200703 AT PAGE 001500; THENCE ALONG THE EASTERLY LINE OF SAID CANYON CREEK BY THE LAKE FIRST PLAT, THE FOLLOWING SIX COURSES, NORTH 06 DEGREES 23 MINUTES 52 SECONDS EAST A DISTANCE OF 50.00 FEET; THENCE NORTH 03 DEGREES 12 MINUTES 15 SECONDS WEST A DISTANCE OF 136.12 FEET; THENCE NORTH 25 DEGREES 01 MINUTES 11 SECONDS EAST A DISTANCE OF 157.68 FEET; THENCE NORTH 47 DEGREES 50 MINUTES 42 SECONDS EAST A DISTANCE OF 180.43 FEET; THENCE NORTH 86 DEGREES 57 MINUTES 04 SECONDS EAST A DISTANCE OF 175.57 FEET; THENCE NORTH 49 DEGREES 15 MINUTES 27 SECONDS EAST A DISTANCE OF 178.68 FEET TO A POINT ON THE WEST LINE OF LOT 19, CANYON CREEK BY THE LAKE SECOND PLAT, A SUBDIVISION IN THE CITY OF LENEXA AS RECORDED IN BOOK 201311 AT PAGE 001400; THENCE ALONG THE SOUTHERLY LINE OF SAID CANYON CREEK BY THE LAKE SECOND PLAT THE FOLLOWING SEVEN COURSES, SOUTH 45 DEGREES 32 MINUTES 15 SECONDS EAST A DISTANCE OF 20.28 FEET; THENCE NORTH 48 DEGREES 14 MINUTES 18 SECONDS EAST A DISTANCE OF 11.83 FEET; THENCE NORTH 44 DEGREES 05 MINUTES 51 SECONDS EAST A DISTANCE OF 210.20 FEET; THENCE NORTH 45 DEGREES 17 MINUTES 09 SECONDS EAST A DISTANCE OF 205.20 FEET; THENCE NORTH 56 DEGREES 42 MINUTES 06 SECONDS EAST A DISTANCE OF 196.54 FEET; THENCE NORTH 69 DEGREES 44 MINUTES 18 SECONDS EAST A DISTANCE OF 200.12 FEET; THENCE NORTH 72 DEGREES 59 MINUTES 43 SECONDS EAST A DISTANCE OF 260.41 FEET TO A POINT ON THE EAST LINE OF THE SAID NORTHEAST ONE QUARTER OF SAID SECTION 5; THENCE SOUTH 03 DEGREES 38 MINUTES 14 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 1070.21 FEET TO THE POINT OF BEGINNING.