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COTTAGES AT DAYTON CREEK
HOMES ASSOCIATION DECLARATION

THIS DECLARATION is made as of September 9, 2019, by PV Investments, LLC, a Kansas limited liability company ("**Developer**"), and Ashlar Homes, LLC, a Missouri limited liability company ("**Ashlar**").

WITNESSETH:

WHEREAS, Developer has executed and filed with the Register of Deeds of Johnson County, Kansas a plat of the subdivision known as "Dayton Creek, Fourth Plat", which plat includes the following described lots and tracts:

> All of Lots 112 through 159, DAYTON CREEK, FOURTH PLAT,
> a subdivision of land in Spring Hill, Johnson County, Kansas.

WHEREAS, Developer, as the present owner of lots 113-159 and developer of the above-described real property, and Ashlar as the present owner of lot 112, desire to create and maintain a residential neighborhood and a homes association for the purpose of enhancing and protecting the value, desirability, attractiveness and maintenance of the property within the subdivision.

NOW, THEREFORE, in consideration of the premises contained herein, Developer and Ashlar, for themselves and for their successors and assigns, and for their future grantees, hereby subjects all of the above-described lots and tracts to the covenants, charges, assessments and easements hereinafter set forth.

ARTICLE I
DEFINITIONS

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

(a) "**Assessment**" means each monthly assessment, special assessment, initiation assessment, monetary fine, late fee, interest, lien fee and other amount levied by the Homes Association against a Lot or otherwise payable by an Owner of a Lot to the Homes Association in accordance with this Declaration or the Bylaws of the Homes Association.

(b) "**Board**" means the Board of Directors of the Homes Association.

(c) "**Certificate of Substantial Completion**" means a certificate executed, acknowledged and recorded by the Developer with the Recording Office stating that all of the Lots in the Subdivision (as then 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 Developer's absolute discretion at any earlier time and for any limited purpose hereunder. The execution or recording of a Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Homes Association or any other person or entity.

(d) "**City**" means the City of Spring Hill, Kansas.

(e) "**Common Areas**" means (i) those areas determined by the Developer, in its sole discretion, to be common areas, and all improvements thereon, (ii) any entrances, monuments, berms, street islands, and other similar ornamental areas and related utilities, lights, irrigation systems, trees and landscaping constructed or installed by or for the Developer or the Homes Association at or near the entrance of any street or along any street, and any easements related thereto, in the Subdivision, (iii) all landscape easements and all other easements that may be granted to the Developer or the Homes Association, for the use, benefit and enjoyment of all Owners within the Subdivision, and (iv) all other similar areas and places, together with all improvements thereon and thereto, the use, benefit or enjoyment of which is intended for all of the Owners within the Subdivision or are otherwise Common Areas of the Homes Association.

(f) "**Declaration**" means this instrument, as the same may be amended, supplemented or modified from time to time.

(g) "**Developer**" means PV Investments, LLC, a Kansas limited liability company, and its successors and assigns.

(h) "**Exempt Lot**" means (i) any Lot owned by the Developer, (ii) any Lot owned by a homebuilder entity prior to the commencement of occupancy of a residence thereon as a residence, and (iii) any Lot owned by any other party prior to the issuance of a certificate of occupancy (temporary or permanent) for the residence on such Lot.

(i) "**Homes Association**" means the Kansas not-for-profit corporation to be formed by or for the Developer for the purpose of serving as the homes association for the Subdivision.

(j) "**Lot**" means any lot as shown as a separate lot on any recorded plat of all or part of the Subdivision; *provided, however*, that if an Owner, other than the Developer, owns adjacent lots (or parts thereof) upon which only one residence has been, is being, or will be erected, then (i) for purposes of determining the voting rights and the amount of periodic and special assessments due with respect thereto from time to time, such adjacent property under common ownership shall constitute such whole or partial number

of Lots as may be specified in writing by the Developer, and (ii) for all other purposes hereunder, such adjacent property under common ownership shall be deemed to constitute only one "Lot."

(k) "**Master Association**" means Dayton Creek Homes Association, Inc., a Kansas non-profit corporation.

(l) "**Master Declaration**" means the Dayton Creek Homes Association Declaration, as recorded in the Recording Office, as amended from time to time.

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

(n) "**Recording Office**" means the Office of the Register of Deeds of Johnson County, Kansas or such other governmental office in which deeds, mortgages, deeds of trust, and other instruments relating to real property in Johnson County, Kansas are to be recorded to give public notice thereof.

(o) "**Subdivision**" means collectively all of the above Lots in Dayton Creek, Fourth Plat, which is commonly known as the Cottages at Dayton Creek, all Common Areas, and all additional property (if any) which hereafter may be made subject to this Declaration in the manner provided herein.

(p) "**Turnover Date**" means the earlier of: (i) the date as of which 95% of all of the Lots in the Subdivision (as then contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon, or (ii) the date the Developer, in its absolute discretion, selects as the Turnover Date for all or any specific portion of this Declaration.

ARTICLE II
HOMES ASSOCIATION MEMBERSHIP AND BOARD

Until the Turnover Date, the Homes Association shall have two classes of membership, namely Class A and Class B. The Developer shall be the sole Class A member. Each Owner of a Lot, including the Developer as an Owner, shall be a Class B member. Until the Turnover Date, all voting rights shall be held by the Class A member, except that the Class B members shall have the sole right to vote on increases in monthly assessments as provided in **Section 4.2(c)** of **ARTICLE IV** below and to vote on any special assessments as provided in **Section 5.1(b)** of **ARTICLE V** below.

After the Turnover Date, there shall be only one class of membership which shall consist of the Owners of the Lots in the Subdivision, and every such Owner shall be a member.

Where voting rights exist based on Lot ownership, each member shall have one vote for each Lot for which he is the Owner; *provided, however*, that when more than one person is an Owner of any particular Lot, all such persons shall be members, and the one vote for such Lot

shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Lot.

To the extent permitted by law, during any period in which a member is in default in the payment of any assessment levied by the Homes Association under this Declaration, the voting rights of such member shall be suspended until such assessment has been paid in full.

Subject to the foregoing, the Board shall be the sole judge of the qualifications of each Owner to vote and to participate in its meetings and proceedings of the Homes Association.

The Board initially shall be the one or more persons named as the initial director(s) pursuant to the provisions of the Articles of Incorporation of the Homes Association, or such other person or persons as may from time to time be substituted by the Developer. As soon as possible after the Turnover Date, the Developer shall appoint replacement directors from among the Owners or, at the discretion of the Developer, the Homes Association shall hold a meeting of its members and the Owners shall elect directors to replace all of those directors earlier designated by the Developer. Notwithstanding the foregoing, the Developer shall have the right at any time to waive its right to designate one or more directors or to vote in an election of directors.

ARTICLE III
POWERS AND DUTIES OF THE HOMES ASSOCIATION

3.1 In addition to the powers granted by other portions of this Declaration or by law but subject to all of the limitations set forth in this Declaration, the Homes Association shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by the Board to carry out and effectuate the purposes of this Declaration, including, without limitation:

(a) To enforce, in the Homes Association's name, any and all building, use or other restrictions, obligations, agreements, reservations or assessments which have been or hereafter may be imposed upon any of the Lots or other part of the Subdivision; *provided, however*, that this right of enforcement shall not serve to prevent waivers, changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the Developer, the Homes Association or other parties having the right to make such waivers, changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth or otherwise by law. Nothing herein contained shall be deemed or construed to prevent the Developer or any Owner from enforcing any building, use or other restrictions in its or his own name.

(b) To own, lease and otherwise deal with real property and personal property.

(c) To acquire and own title to or interests in, to exercise control over, and to improve and maintain the Common Areas, subject to the rights of any governmental authority, utility or any other similar person or entity therein or thereto.

(d) To maintain public liability, worker's compensation, fidelity, property coverage, director and officer liability, indemnification and other insurance with respect to the activities of the Homes Association, the Common Areas and the property within the Subdivision.

(e) To levy the Assessments and other charges which are provided for in this Declaration and to take all steps necessary or appropriate to collect such Assessments and related charges.

(f) To enter into and perform agreements from time to time with the Developer and other parties regarding the performance of services and matters benefiting both the Developer or other parties and the Homes Association and its members, and the sharing of the expenses associated therewith.

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

(h) To have employees and otherwise engage the services of a management company or other person or entity to carry out and perform all or any part of the functions and powers of the Homes Association, including, without limitation, keeping of books and records, operating and maintaining Common Areas, and planning and coordination of activities.

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

(j) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the Subdivision; and to do any other things necessary or desirable in the judgment of the Board to keep any property in the Subdivision neat in appearance and in good order.

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

(l) In accordance with applicable law, to adopt reasonable rules, regulations, restrictions, policies, guidelines, and procedures, including, without limitation, the establishment and imposition of monetary fines, regarding (i) the use of the Common Areas and the personal conduct of the members and their guests thereon, (ii) the implementation of provisions set forth in this Declaration or in any other applicable recorded declaration or document applicable to the Subdivision (or any part thereof), (iii) the establishment and enforcement of construction and design criteria and aesthetic standards, or (iv) the regulation of behavior which violates this Declaration or any other applicable recorded declaration or document applicable to the Subdivision (or any part thereof) or which adversely affects the use and enjoyment of other properties or the Common Areas.

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

3.2 In addition to the duties required by other portions of this Declaration and by law, the Homes Association shall have the following duties and obligations with respect to providing services to all Owners within the Subdivision (subject to the Homes Association having adequate funds to pay the costs thereof) (see Exhibit A for a user friendly summary of Homes Association responsibilities versus Owner responsibilities):

(a) To the extent not provided as a service by any governmental authority or the Master Association, the Homes Association shall provide for the normal collection and disposal of rubbish and garbage for each residence one day per week (which day, if possible, shall be the same for all residences). The Homes Association, however, shall not be obligated to provide or pay for any recycling services, except where required by law.

(b) The Homes Association shall at all times, from and after its date of formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas, subject to any control thereover maintained by any governmental authority, utility or other similar person or entity.

(c) The Homes Association shall provide lawn care, consisting of mowing, edging, fertilizing and weed control of grass areas only (excluding designated natural areas) on all Lots, and shall care for trees and landscaping in the front yards only of the Lots, but such mandatory services shall not include the replanting or reseeding of sod or grass, the care for trees and landscaping in the side and rear yards of the Lots, the replacement of trees and landscaping on all Lots, or the care of any areas which have been enclosed by an Owner with fencing or hedging or otherwise made inaccessible to the Homes Association (all of which excluded items shall be the responsibility of the applicable Owner), and if an Owner fences any part of its Lot then the Homes Association may charge back to such Owner any increase in cost to the Homes Association in providing lawn care services, if any. Any fence installed by an Owner shall include a gate of at least 54 inches in width.

(d) The Homes Association shall provide and pay for the costs of watering, spring start-up, winterization, and repair and maintenance of any lawn sprinkler system(s) on the Lots (which are tied into the Homes Association's sprinkler system and used in common) that have been sodded, except that the Homes Association shall not be obligated to pay for the repair or replacement of (i) any part of the system lying in the flower or shrub bed on a Lot or (ii) any damage caused by the negligence or willful misconduct of the Owner or the Owner's guests or contractors (all of which excluded items shall be the responsibility of the applicable Owner). Each Owner is responsible for connecting their lawn sprinkler system to the Homes Association's sprinkler system and if any Owner does not tie into the Homes Association's sprinkler system then the Homes Association shall be relieved from all responsibilities under this subsection.

(e) The Homes Association shall provide snow (but not ice) clearing for the driveways, front sidewalks from the driveways to the front porch and front porches on the Lots, as soon as possible when the accumulation reaches two inches (2") or more and the snow has stopped. The Homes Association shall not be required to apply any salt, sand or chemical treatments to any such surfaces.

(f) In the event, the U.S. Post Office requires so-called "cluster mailboxes," the Owner of a Lot shall pay a "cluster mailbox" fee of $250 to the Developer due at the time of Closing on the Lot. In the event individual mailboxes are required by the U.S. Post Office, the respective Owner of a Lot shall purchase, install and maintain all mailbox and mailbox posts in accordance with uniform guidelines, as may be established by the Developer in its sole discretion.

3.3 The Board, in its discretion, may cause the Homes Association to provide other services for the Lots that are not part of the required services described above. The Board shall have the right to determine the scope and timing of the required and discretionary services to be provided by the Homes Association, and shall have the right (but not the obligation) to establish, maintain and expend reserve funds for the improvements on the Common Areas and the services to be provided by the Homes Association. Neither the Developer, the Homes Association, nor any of their officers, directors, managers, representatives or agents shall be liable to any Owner or other party for any failure to establish or maintain any such reserves or if any such reserves are inadequate.

ARTICLE IV
MONTHLY ASSESSMENTS AND INITIATION FEE

4.1 For the purpose of providing a general fund to enable the Homes Association to exercise the powers, render the services and perform the duties provided for herein, all Lots in the Subdivision, other than Exempt Lots, shall be subject to an monthly assessment to be paid to the Homes Association by the respective Owners thereof as provided in this **ARTICLE IV**. The amount of such monthly assessment per Lot shall be fixed periodically by the Board, subject to **Section 4.2** below, and, until further action of the Board, shall be determined each year (plus the amount of additional lawn care expense associated with an Owner's fencing of its Lot, if any, which shall be charged to the applicable Owner); provided, however, that such monthly amount may, in the discretion of the Developer, increase the amount payable per Lot to the Homes Association. At the option of the Board, the monthly assessments may be billed and collected on a quarterly basis in advance.

4.2 Prior to the Turnover Date, the rate of monthly assessment upon each Lot in the Subdivision shall be determined by the Developer in its sole discretion. After the Turnover Date, the rate of monthly assessment may be increased as to and for each calendar year:

(a) By the Board from time to time, without a vote of the members, by up to 30% over the rate of monthly assessment in effect for the preceding year for each of 2020 through 2022;

(b) After 2022, by the Board from time to time, without a vote of the members, by up to 30% over the rate of monthly assessment in effect for the preceding year; or

(c) At any time by any amount by a vote of the members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when the members present at such meeting (in person or by proxy, or, if applicable, by absentee ballot) and entitled to vote thereon authorize such increase by a majority vote of such voting members.

Notwithstanding the foregoing limits on monthly assessments, the Board, without a vote of the members, shall always have the power to set, and shall set, the rate of monthly assessment at an amount that will permit the Homes Association to perform its duties as specified in **Section 3.2** of **ARTICLE III** above.

4.3 The monthly assessments provided for herein shall be based upon the calendar year (commencing in 2019) and shall be due and payable on the first day of each month; provided, however, that the first assessment for each Lot shall be due and payable only upon the Lot ceasing to be an Exempt Lot and shall be prorated as of the date thereof. If the effective date of any increase in the rate of assessment is other than the first day of the month, a proper portion (as determined by the Board) of the amount of such increase for the remainder of such month shall be due and payable on such effective date. No Lot or its Owner shall be entitled to receive any services to be provided by and through the Homes Association until such time as the first monthly assessment has been paid with respect to the Lot.

4.4 An initiation fee in an amount equal to $150.00 shall be payable by the new Owner to the Homes Association, for use as part of the general funds of the Homes Association, upon each of the following events with respect to the applicable Lot:

(a) The initial occupancy of the residence on the Lot as a residence after the residence is constructed (which initiation fee is in addition to the first regular monthly assessment, as it may be prorated); and

(b) Each subsequent transfer of ownership of the Lot for value.

The Board may increase the initiation fee from time to time, without a vote of the members, so long as the rate of the increase is no more than 50% of original initiation fee amount.

ARTICLE V
SPECIAL ASSESSMENTS

5.1 In addition to the monthly assessments provided for herein, the Board:

(a) shall have the authority to levy from time to time a special assessment against any Lot and its Owner to the extent: (I) a monetary fine has been assessed by the Homes Association against the Owner, or (II) the Homes Association expends any money (for services, materials, and legal fees and expenses) to correct or eliminate (by

enforcement, self-help or otherwise) any breach by such Owner of any agreement, obligation, reservation or restriction contained in any deed, declaration or plat covering such Lot; and

(b) shall levy from time to time special assessments against each and every Lot (other than Exempt Lots) in an equal amount that is sufficient, when aggregated with any funds voluntarily contributed or loaned by the Developer to the Homes Association, to enable the Homes Association: (I) to perform its duties, as specified in **Section 3.2** of **ARTICLE III** above, that require any expenditure during any period in an amount in excess of the general and applicable reserve funds of the Homes Association available therefor, (II) to pay the costs of any emergency expenditures deemed necessary by the Board, and (III) to pay the costs of any capital improvements approved by a vote of the members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when a majority of the votes of the members present at such meeting (in person, by proxy or (if applicable) by absentee ballot) and entitled to vote thereon authorize such special assessment for the proposed capital expenditure by an affirmative vote.

5.2 In the event an Owner fails to properly maintain, repair, repaint, or replace any improvements on the Owner's Lot, the Homes Association, acting through the Board and after giving adequate notice to the Owner of the need for the maintenance, repair, repainting, or replacement, may enter onto the Lot and perform such maintenance, repair, repainting, or replacement. The Homes Association's costs thereof, plus a reasonable overhead and supervisory fee, shall be payable by the Owner of the Lot and shall be a special assessment against the Owner and the Owner's Lot.

5.3 If any Owner (other than the Developer) commences a lawsuit or files a counterclaim or crossclaim against the Homes Association, the Board of Directors, or any committee, or any individual director, officer or committee member of the Homes Association, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Homes Association, Board of Directors, committee, or individual director, officer or committee member sued by such Owner shall be entitled to recover from such Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees and court costs. Such recovery right shall constitute a special assessment against the Owner and the Owner's Lot.

5.4 Each special assessment shall be due and payable by the Owner of the Lot upon the Homes Association giving written notice of the special assessment to the Owner of the Lot, shall be a lien on the Lot until paid in full, and shall be enforceable as provided in this Declaration.

ARTICLE VI
DELINQUENT ASSESSMENTS

6.1 Each Assessment regarding a Lot shall be a charge against the Owner and shall become automatically a lien in favor of the Homes Association on the Lot against which it is

levied as soon as the Assessment becomes due. Should any Owner fail to pay any Assessment with respect to the Owner's Lot in full within 30 days after the due date thereof, then such Assessment shall be delinquent, the Owner shall be charged a late fee of 15% of the unpaid amount (which rate may be revised by the Board in its sole discretion), and the unpaid amount shall bear interest at the rate of 10% per annum, compounded monthly (or, if lower, the maximum rate permitted by law) from the delinquency date until paid, which late fee and interest shall become part of the delinquent Assessment and the lien on the Lot. Should the Homes Association engage the services of an attorney to collect any Assessment hereunder, all costs of collecting such Assessment, including, without limitation, court costs and reasonable attorneys' fees, shall, to the extent permitted by applicable law, be added to the amount of the Assessment being collected and the lien on the Lot. Each Assessment, together with late fees, interest thereon and collection costs, shall also be the personal obligation of the Owner(s) of the Lot, jointly and severally, at the time when the Assessment became due.

6.2 Payment of a delinquent Assessment with respect to a Lot may be enforced by judicial proceedings against the Owner personally and/or against the Lot, including, without limitation, through lien foreclosure proceedings similar to a foreclosure under a mortgage lien in any court having jurisdiction of suits for the enforcement of such liens. The Homes Association may file certificates of nonpayment of Assessments in the Recording Office, and/or the office of the Clerk of the District Court for Johnson County, Kansas, whenever any Assessment is delinquent, in order to give public notice of the delinquency. For each certificate so filed, the Homes Association shall be entitled to collect from the Owner of the Lot described therein a fee of $150.00, along with the costs to file the lien, which fee shall be added to the amount of the delinquent Assessment and the lien on the Lot and which fee amount may be increased by the Board from time to time to reflect cumulative increases in an appropriate consumer price index (as selected by the Board) after December 31, 2019.

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

6.4 To the extent permitted by law, the Homes Association may cease to provide any or all of the services (including, without limitation, use of Common Areas, trash services, snow removal, and lawn maintenance, if provided by the Homes Association) to be provided by or through the Homes Association with respect to any Lot during any period that the Lot is delinquent on the payment of an Assessment due under this Declaration, and no such cessation of use privileges or services shall result in a reduction of any amount due from or in any credit or restitution due to the Owner before, during or after such cessation. No Owner may waive or otherwise avoid liability for any Assessment by not using any Common Areas or by declining any services provided through the Homes Association.

6.5 No claim of the Homes Association for Assessments and charges shall be subject to setoffs or counterclaims made by any Owner. To the extent permitted by law, each Owner hereby waives the benefit of any redemption, homestead and exemption laws now or hereafter in effect, with respect to the liens created pursuant to this Declaration.

6.6 Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Lots, the Common Areas, and the Subdivision, and are necessary for the continued provision of services. Accordingly, Assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

ARTICLE VII
LIMITATION ON EXPENDITURES

Except for matters contemplated in **Section 3.2** of **ARTICLE III** above, 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 and applicable reserves which it may have on hand from prior years, plus any funds voluntarily contributed or loaned to the Homes Association by the Developer. The Homes Association shall not 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: (i) contracts for utilities, maintenance or similar services or matters to be performed for or received by the Homes Association or its members in subsequent years, and (ii) matters contemplated in **Section 3.2** of **ARTICLE III** above. The Developer shall have no obligation to contribute or loan any funds to the Homes Association.

ARTICLE VIII
COMMON AREAS

8.1 The Developer shall have the right (but is not obligated) to provide Common Areas for the use and benefit of the Subdivision. The size, location, nature and extent of improvements and landscaping in the Common Areas, and all other aspects of the Common Areas that are provided by the Developer, shall be determined by the Developer in its absolute discretion.

8.2 Subject to the provisions of this **ARTICLE VIII**, the Developer covenants and agrees to convey, by special warranty deed, all of its rights, title and interest in the Common Areas (except any part thereof that is solely a landscape easement or is within any Lot or outside of the Subdivision) to the Homes Association, without any charge to the Homes Association, at such time(s) as the Developer, in its absolute discretion, may determine, but in all events not later than one month after the Developer has recorded the Certificate of Substantial Completion. Such transfer shall be free and clear of all mortgages, security interests and mechanic's liens. Developer shall not be required to provide the Homes Association with any title insurance policy for any of the Common Areas. Any transfer of title by the Developer shall not require the consent of the Homes Association and shall not constitute an assignment by the Developer of any of its rights, as the developer of the Subdivision, pursuant to this Declaration or any other instrument, contract or declaration.

8.3 Notwithstanding the actual date of transfer, the Homes Association shall at all times, from and after the date of its formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by the Developer or the Homes Association), subject to any control thereover

maintained by any governmental authority, utility or similar person or entity. In insuring the Common Areas, the Homes Association shall cause the Developer to be named as an additional insured on the insurance coverage until the recording of the Certificate of Substantial Completion.

8.4 Each of the Developer and the Homes Association, in its discretion, shall have the right to reconfigure and/or replat all or any part of the Subdivision then owned by it, including, without limitation, to make part of a Common Area tract a part of a Lot, and vice versa. In addition, each of the Developer and the Homes Association shall have the right to transfer to the City (but only with the City's consent) title to or easements over all or any part of the Common Areas so that they become public areas maintained by the City.

8.5 Each Owner who is in good financial standing with the Association, and such Owner's tenants and guests, shall have the right to use and enjoy the Common Areas for their intended purposes, subject to any rules and regulations adopted by the Homes Association.

ARTICLE IX
NOTICES

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

9.2 All notices required or permitted under this Declaration shall be deemed given if (i) deposited in the United States Mail, postage prepaid, and addressed to the Owner at the address of the Lot, or (ii) sent by electronic mail to the Owner at the electronic mail address last provided by the Owner to the Homes Association. Notice to one co-Owner shall constitute notice to all co-Owners.

ARTICLE X
EXTENSION OF SUBDIVISION

The Developer shall have, and expressly reserves, the right (but not the obligation), from time to time, to add to the existing Subdivision and to the operation of the provisions of this Declaration other adjacent or nearby lands (without reference to any tract, street, park or right-of-way) by executing, acknowledging and recording in the Recording Office a written instrument subjecting such additional property to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; *provided, however*, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable, as solely determined by the Developer in its absolute discretion.

ARTICLE XI
AMENDMENT AND TERMINATION

11.1 This Declaration may be terminated, 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 at least 60% of the Lots within the Subdivision as then

constituted, and (b) if prior to the recording of the Certificate of Substantial Completion, the Developer. After recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be terminated, amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written instrument executed by the Homes Association after the proposed amendment, modification or termination has been first approved by the affirmative vote of 75% or more of the full number of directors on the Board of the Homes Association and then approved by the members of the Homes Association at a duly held meeting of the members of the Homes Association (called in whole or in part for that purpose) by the affirmative vote of Owners owning at least 60% of the Lots. Notwithstanding the foregoing, no amendment adopted under this Section may remove, revoke or modify any right or privilege of Developer under this Declaration at any time without the prior written consent of Developer.

11.2 Anything set forth in **Section 11.1** to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend or change any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording in the Recording Office a written instrument for such purpose, if (i) any of the Veteran's Administration, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, or any successor or similar agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, (iii) the amendment is necessary to cause this Declaration to comply with any applicable law, (iv) in the opinion of the Developer, a typographical or factual error or omission needs to be corrected, (v) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision, or (vi) so long as Developer owns any Lots, to make any other amendment the Developer may determine to be appropriate. No such amendment by the Developer shall require the consent of any Owner or the Homes Association.

11.3 If the rule against perpetuities or any rule against restraints on alienation or similar restriction is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the individual(s) signing this Declaration on behalf of the Developer and the now-living descendants of the individual(s) signing this Declaration on behalf of the Developer as of the date of such execution.

ARTICLE XII
ASSIGNMENT

12.1 The Developer shall have the right and authority, by written 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, reservations, privileges, duties and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for any or all such purposes be the Developer hereunder with respect to the rights, benefits, powers, reservations, privileges, duties and responsibilities so assigned. Such assignee and its

successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations, privileges, duties and responsibilities hereunder.

12.2 The Homes Association shall have no right, without the written consent of the Developer, to assign, convey, or transfer all or any part of its rights, benefits, powers, reservations, privileges, duties and responsibilities hereunder.

ARTICLE XIII
COVENANTS RUNNING WITH THE LAND

13.1 All provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon and inure to the benefit of all subsequent grantees of all parts of the Subdivision. By accepting a deed to any of the Lots, each future grantee of any of the Lots shall be deemed to have personally consented and agreed to the provisions of this Declaration as applied to the Lot owned by such Owner. The provisions of this Declaration shall not benefit nor be enforceable by any creditor of the Homes Association (other than the Developer) in such capacity as a creditor.

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

13.3 No waiver of any violation or default shall be effective unless in writing and signed and delivered by the person or entity entitled to give such waiver, and no such waiver shall extend to or affect any other violation or situation, whether or not similar to the waived violation. No waiver by one person or entity shall affect any rights or remedies that any other person or entity may have.

ARTICLE XIV
GOVERNING LAW AND SEVERABILITY

14.1 This Declaration shall be governed by and construed in accordance with the laws of Kansas.

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

ARTICLE XV
MASTER ASSOCIATION

In addition to being a member of the Homes Association and being bound by this Declaration, each Owner will also be a member of the Master Association and will be bound by, and the Lots will be subject to, the Master Declaration. The Master Association will be responsible for various matters and facilities addressed in the Master Declaration for the Subdivision.

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By: _____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me, a notary public, on September 5, 2019, by Bradley Vince, Managing Member of PV Investments, LLC, a Kansas limited liability company.

_____
Notary Public in and for said County and State

Print Name: Jennifer L Sears

My Commission Expires:

_____
[SEAL]

JENNIFER L. SEARS
Notary Public-State of Kansas
My Appt. Expires June 26, 2022

ASHLAR:

ASHLAR HOMES, LLC,
a Missouri limited liability company

By: _____
Name: Shaun T. Woods
Title: President

STATE OF MO)
) ss.
COUNTY OF Jackson)

Before me, the undersigned, a Notary Public, within and for said County and State on the 6th day of September, 2019, personally appeared Shaun T. Woods, president of Ashlar Homes, LLC, a Missouri limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

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

_____
NOTARY PUBLIC

My Commission Expires:

_____
[SEAL]

KIM FINNIGAN
Notary Public - Notary Seal
STATE OF MISSOURI
Jackson County
My Commission Expires: December 26, 2021
Commission # 13415138

Exhibit A

SUMMARY OF HOMES ASSOCIATION SERVICES

Item	Responsibility
Lawn Care (Mowing & Fertilizing) -entire yard, approximately 30 mowings and 5 lawn applications per year	Association
Landscaping Maintenance, -Spring Mulch, 2 tree and shrub applications, 3 prunings and 14x weeding -front yard only, sides and rear homeowner responsibility	Assoc/Home
Landscaping Replacement	Homeowner
Lawn Care of areas behind fenced in patios (if applicable)	Homeowner
Sprinkler System (Watering, Maintenance, Start Up, & Winterization) -includes price of water from separate water meter tap dedicated to HOA -entire lawn included -common, HOA managed sprinkler system -HOA strongly encourages residents to hose water Newly Planted Shrubbery twice per week (deep soak) for the first 4 weeks and during extreme heat.	Association
Snow Removal – Driveway, Sidewalk and Porch (2" Min)	Association
Snow Removal- Streets	City
Exterior Home Maintenance/Repair/Painting	Homeowner
Roof Repair/Maintenance	Homeowner
Trash Service	City
Irrigation Water	
Common Area	Association
Individual Homes	Association
Exterior Building Casualty Insurance	Homeowner
Interior and Contents Insurance	Homeowner
Property Insurance Deductible	Homeowner
Driveway (Repair and Replacement)	Homeowner

Patio Concrete / Front Porches	Homeowner
Patio Enclosure	Homeowner
Fences -black steel fences only per Dayton Creek Fence Guidelines **-Homeowner must install a 54 Inch wide gate for lawn company access**	Homeowner
Windows/Doors/Screens Includes frames, sashes and hardware.	Homeowner
Lights on Exterior of Home	Homeowner
Gutters Replaced/Downspouts Cleaned Out	Homeowner
Common Area Grounds, Walking Trails	Association
Pool/Fitness Center, Basketball and Pickle Ball Courts	Association

HOA Annual Dues Estimates based on the following Ranges:

300	-HOA shared fees for common area, pool, waterpark, fitness center, etc.
750-1,000	-Yearly lawn care and maintenance per home
120-150	-Yearly snow removal per home (based on 3-4 pushes per year)
300-500	-Yearly watering bill per home
125	-Yearly fee for Property Management services for Cottages
100	-Misc fees for the Cottages not listed above

$1,695 - $2,175 Yearly Totals

$141.25 - $181.25 Monthly Totals

Disclaimer – This exhibit is merely a user friendly summary of the services of the Homes Association versus Owner responsibilities. In the case of any inconsistency between this summary and the Declaration, the Declaration shall control. The fee estimates referenced herein are simply estimates, are not binding upon the Board or the Homes Association, and may not be used as part of a purchasing decision. The fees charged by the Homes Association are subject to change as provided in the Homes Association Declaration.

JO CO KS BK:202003 PG:000084
20200302-0000084
Electronic Recording 3/2/2020
Pages: 6 F: $106.00 9:19 AM
Register of Deeds T20200011121

FIRST AMENDMENT TO COTTAGES AT DAYTON CREEK HOMES ASSOCIATION DECLARATION

THIS FIRST AMENDMENT ("**Amendment**") is made and entered into as of February 24, 2020, by PV INVESTMENTS, LLC a Kansas limited liability company, ("**Developer**").

WITNESSETH:

WHEREAS, the Developer is the developer of the residential area in the City of Spring Hill, Johnson County, Kansas, commonly known as "Dayton Creek, Fourth Plat"; and

WHEREAS, the Developer has previously executed a certain document entitled Cottages at Dayton Creek Homes Association Declaration and caused such document to be recorded in the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") in Book 201909 at Page 0036462 (the "**Declaration**"); and

WHEREAS, the Declaration places certain covenants and assessments upon the following described residential lots (the "**Lots**") and the following described common areas:

> All of Lots 112 through 159, DAYTON CREEK, FOURTH PLAT,
> a subdivision of land in Spring Hill, Johnson County, Kansas.

WHEREAS, pursuant to Article XI of the Declaration, Developer, desires to amend the Declaration as provided herein;

NOW, THEREFORE, the Developer declare and agree as follows:

A. Capitalized terms used in this Amendment but not defined herein shall have the meanings set forth in the Declaration.

B. Article III Section 3.2(c) of the Declaration is hereby amended and restated to read as follows:

"(c) The Homes Association shall provide lawn care, consisting of mowing and fertilizing of grass areas only (excluding designated natural areas) on all Lots, and shall maintain the landscaping (not trees) in the front yards only of the Lots, but such mandatory services shall not include the replanting or reseeding of sod or grass, the maintenance of landscaping in the side and rear yards of the Lots, the replacement of trees and landscaping on all Lots, or the care of any areas which have been enclosed by an Owner with fencing or hedging or otherwise made inaccessible to the Homes Association (all of which excluded items shall be the responsibility of the applicable Owner), and if an Owner fences any part of its Lot then the Homes Association may charge back to such Owner any increase in cost to the Homes Association in providing lawn care services, if any. Any fence installed by an Owner shall include a gate of at least 54 inches in width."

C. Article III Section 3.2(d) of the Declaration is hereby amended and restated to read as follows:

"(d) The Homes Association shall provide and pay for the costs of spring start-up and winterization of any lawn sprinkler system(s) on the Lots that have been sodded, except that the Homes Association shall not be obligated to pay for any damage caused by the negligence or willful misconduct of the Owner or the Owner's guests or contractors (all of which excluded items shall be the responsibility of the applicable Owner)."

D. Article III Section 3.2(e) of the Declaration is hereby amended and restated to read as follows:

"(e) The Homes Association shall provide snow (**but not ice**) clearing for the driveways, front sidewalks from the driveways to the front porch and front porches on the Lots, as soon as possible when the accumulation reaches two inches (2") or more and the snow has stopped. **The Homes Association shall not be required to apply any salt, ice melt, sand or chemical treatments to any such surfaces.**"

E. Article IV Section 4.3of the Declaration is hereby amended and restated to read as follows:

"The monthly assessments provided for herein shall be based upon the calendar year (commencing in 2020) and shall be due and payable on the first day of each month; provided, however, that the first assessment for each Lot shall be due and payable only upon the Lot ceasing to be an Exempt Lot and shall be prorated as of the date thereof. If the effective date of any increase in the rate of assessment is other than the first day of the month, a proper portion (as

determined by the Board) of the amount of such increase for the remainder of such month shall be due and payable on such effective date. No Lot or its Owner shall be entitled to receive any services to be provided by and through the Homes Association until such time as the first monthly assessment has been paid with respect to the Lot.

F. Exhibit A of the Declarations shall be deleted and replaced with new Exhibit A attached to this Amendment.

G. Pursuant to Article XI, Section 11.2 of the Declaration, this Amendment shall become effective as an amendment of the Declaration and binding upon all of the Lots so long as Developer owns any Lots and upon the recordation hereof in the Recording Office.

H. The execution of this Amendment may occur in counterparts with only one copy of the main body hereof being recorded together with the various signature and acknowledgment pages from such counterparts.

[SIGNATURE PAGE FOLLOWS]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By: _____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on February 24, 2020, by Bradley Vince, as Managing Member of PV INVESTMENTS, LLC, a Kansas limited liability company.

My Commission Expires:

_____
[SEAL]

Notary Public in and for said County and State

Print Name: Claudia Lee Hughes

CLAUDIA LEE HUGHES
Notary Public - State of Kansas
My Appointment Expires 11-19-2023

First Amendment
February 24, 2020

Exhibit A

SUMMARY OF HOMES ASSOCIATION SERVICES AND HOMEOWNER RESPOSIBILITIES

Item	Responsibility
Lawn Care (Mowing & Fertilizing)	Association
Landscaping Maintenance, -Spring Mulch, shrub applications, shrub prunings and weeding -front yard only	Association
Landscaping Maintenance of Side and Backyards -HOA strongly encourages residents to hose water Newly Planted Shrubbery twice per week (deep soak) for the first 4 weeks and during extreme heat.	Homeowner
Landscaping and Tree Replacement	Homeowner
Lawn Care of areas behind fenced in patios (if applicable)	Homeowner
Sprinkler System (Start Up & Winterization)	Association
Sprinkler System (Repair and Replacement)	Homeowner
Snow Removal – Driveway, Sidewalk and Porch (2" Min) **(ice treatment of these areas is the responsibility of the Homeowner)**	Association
Snow Removal- Streets	City
Exterior Home Maintenance/Repair/Painting	Homeowner
Roof Repair/Maintenance	Homeowner
Trash Service	City/Homeowner
Irrigation Water	
Common Area	Association
Individual Homes	Homeowner
Exterior Building Casualty Insurance	Homeowner
Interior and Contents Insurance	Homeowner

Property Insurance Deductible	Homeowner
Driveway (Repair and Replacement)	Homeowner
Patio Concrete / Front Porches	Homeowner
Patio Enclosure	Homeowner
Fences -black steel fences only per Dayton Creek Fence Guidelines **-Homeowner must install a 54 Inch wide gate for lawn company access**	Homeowner
Windows/Doors/Screens Includes frames, sashes and hardware.	Homeowner
Lights on Exterior of Home	Homeowner
Gutters Replaced/Downspouts Cleaned Out	Homeowner
Common Area Grounds, Walking Trails	Association
Pool/Fitness Center, Basketball and Pickle Ball Courts	Association

Disclaimer – This exhibit is merely a user friendly summary of the services of the Homes Association versus Owner responsibilities. In the case of any inconsistency between this summary and the Declaration, the Declaration shall control.

JO CO KS BK:202005 PG:003158
20200507-0003158
Electronic Recording 5/7/2020
Pages: 3 F: $55.00 4:53 PM
Register of Deeds T20200027148

SECOND AMENDMENT TO COTTAGES AT DAYTON CREEK HOMES ASSOCIATION DECLARATION

THIS SECOND AMENDMENT ("**Amendment**") is made and entered into as of May 6, 2020, by PV INVESTMENTS, a Kansas limited liability company, as the developer of the real property described below (the "**Developer**").

WITNESSETH:

WHEREAS, the Developer is the developer of the residential area in the City of Spring Hill, Johnson County, Kansas, commonly known as "Dayton Creek, Fourth Plat"; and

WHEREAS, the Developer has previously executed a certain document entitled Cottages at Dayton Creek Homes Association Declaration and caused such document to be recorded in the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") in Book 201909 at Page 003462, which has been amended by that certain First Amendment to Cottages at Dayton Creek Homes Association Declaration recorded in the Recording Office in Book 202003 at Page 000084 (collectively, the "**Declaration**"); and

WHEREAS, the Declaration places certain covenants and assessments upon the following described residential lots (the "**Lots**") and the following described common areas:

> All of Lots 112 through 159, DAYTON CREEK, FOURTH PLAT, a subdivision of land in the City of Spring Hill, Johnson County, Kansas.

WHEREAS, pursuant to Article XI of the Declaration, the Developer desires to amend the Declaration as provided herein;

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

A. Capitalized terms used in this Amendment but not defined herein shall have the meanings set forth in the Declaration.

B. Article I Section (p) of the Declaration is hereby amended and restated to read as follows:

> "(p) "**Turnover Date**" means the earlier of: (i) the date as of which 90% of all of the Lots in the Subdivision (as then contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon, or (ii) the date the Developer, in its absolute discretion, selects as the Turnover Date for all or any specific portion of this Declaration."

C. Pursuant to Article XI of the Declaration, this Amendment shall become effective as an amendment of the Declaration and binding upon all of the Lots upon (a) the execution hereof by the Developer, and (b) the recordation hereof in the Recording Office.

[SIGNATURE PAGE FOLLOWS]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By: _____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on 6th of May, 2020, by Bradley Vince, as Managing Member of PV INVESTMENTS, LLC, a Kansas limited liability company.

_____
Notary Public in and for said County and State

My Commission Expires:

11-19-2023
[SEAL]

Print Name: Claudia Lee Hughes

CLAUDIA LEE HUGHES
Notary Public - State of Kansas
My Appointment Expires 11-19-2023

JO CO KS BK:201909 PG:003461
20190911-0003461
Electronic Recording 9/11/2019
Pages: 23 F: $395.00 4:04 PM
Register of Deeds T20190049565

COTTAGES AT DAYTON CREEK
DECLARATION OF RESTRICTIONS

THIS DECLARATION is made as of September 9, 2019, by PV Investments, LLC, a Kansas limited liability company (the "Developer"), and Ashlar Homes, LLC, a Missouri limited liability company ("Ashlar").

WITNESSETH:

WHEREAS, the Developer has caused to be executed and filed with the Office of Records and Tax Administration of Johnson County, Kansas a plat of the subdivision known as "Dayton Creek, Fourth Plat", which plat includes the following described lots and tracts:

> All of Lots 112 through 159, DAYTON CREEK, FOURTH PLAT, a subdivision of land in Spring Hill, Johnson County, Kansas, according to the recorded plat thereof;

WHEREAS, the Developer, as the present owner of lots 113-159 and developer of the above-described property, and Ashlar as the present owner of lot 112, desire to place certain restrictions on such lots to preserve and enhance the value, desirability and attractiveness of the development and improvements constructed thereon and to keep the use thereof consistent with the intent of the Developer, and all of said restrictions shall be for the use and benefit of the Developer, Ashlar, and their future grantees, successors and assigns;

NOW, THEREFORE, in consideration of the premises contained herein, the Developer and Ashlar, for themselves and for their successors and assigns, and for their future grantees, hereby agree and declare that all of the above-described lots shall be, and they hereby are, restricted as to their use and otherwise in the manner hereinafter set forth.

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

(a) "Approving Party" means (i) prior to the recording of the Certificate of Substantial Completion, the Developer (or its designees from time to time) and (ii) subsequent to the recording of the Certificate of Substantial Completion, the Homes Association (or with respect to Exterior Structures and other matters assigned to it, the Architectural Committee).

(b) "Architectural Committee" means: (i) prior to the Turnover Date, the Developer (or its designees from time to time); and (ii) on and after the Turnover Date, a committee comprised of at least three members of the Homes Association (at least one of whom resides in the Subdivision), all of whom shall be appointed by and serve at the pleasure of the Board (subject to the term limitations and other provisions of Section 14 below).

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

(d) "Certificate of Substantial Completion" means a certificate executed, acknowledged and recorded by the Developer stating that all or, at the Developer's discretion, substantially all of the Lots in the Subdivision (as then composed or contemplated by the Developer) have been sold by the Developer or 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 absolute discretion at any time and for any limited purpose hereunder. The execution or recording of a Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Homes Association or any other person or entity.

(e) "City" means the City of Spring Hill, Kansas.

(f) "Common Areas" means those areas determined by the Developer, in its sole discretion, to be common areas and may include: (i) any entrances, monuments, berms, street islands, and other similar ornamental areas and related utilities, lights, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any easements related thereto, in the Subdivision, (ii) all landscape easements that may be granted to the Developer and/or the Homes Association, for the use, benefit and enjoyment of all owners within the Subdivision, (iii) any community swimming pool, cabana, and other recreational facilities, and (iv) all other similar areas and places, together with all improvements thereon and thereto, the use, benefit or enjoyment of which is intended for all of the owners within the Subdivision, whether or not any "Common Area" is located on any Lot.

(g) "Developer" means PV Investments, LLC, a Kansas limited liability company, and its successors and assigns.

(h) "Exterior Structure" means any non-prohibited structure that is erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck or patio and its enclosure, gazebo, fence, patio wall, rock wall, landscape wall, privacy screen, boundary wall, below-ground swimming pool, hot tub, pond, basketball goal, swing set, trampoline, sand box,

playhouse, or other recreational or play structure, and all exterior sculptures, statuary, fountains, and similar yard decor.

(i) "Homes Association" means the Kansas not-for-profit corporation to be formed by or for the Developer for the purpose of serving as the homes association for the Subdivision.

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

(k) "Master Association" means Dayton Creek Homes Association, Inc., a Kanas non-profit corporation.

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

(m) "Subdivision" means all of the above-described lots in Dayton Creek, Fourth Plat, which is commonly known as the Cottages at Dayton Creek, all Common Areas, and all additional property which hereafter may be made subject to this Declaration in the manner provided herein.

(n) "Turnover Date" means the earlier of: (i) the date as of which 90% of all of the Lots in the Subdivision (as then composed or contemplated by the Developer) have been sold by the Developer, or (ii) the date the Developer, in its absolute discretion, selects as the Turnover Date under this Declaration.

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

3. Building Material Requirements.

(a) Exterior walls of all residences and all appurtenances thereto shall be of masonry (including, stucco, brick or stone), wood shingles, or any other materials specifically approved by the Developer in writing; *provided, however*, no exterior front walls shall be covered with materials commonly known as sheet goods that when

installed have uncovered seams or seams covered with batts, such as, without limitation, 4 feet by 8 feet panels, and no exterior front, side, or rear walls will be covered with batt and board or T-111 siding; *provided further, however,* that tongue and groove woodsman siding, "Smart" siding (or equivalent), and vinyl siding (on the sides and rear only) may be permitted by the Developer. At least 25% of the front façade of each home, excluding garage doors, shall be made of masonry materials, unless the Developer approves a lesser amount. Concrete blocks shall not be permitted as an exterior finished surface. All windows shall be constructed of glass, wood, metal or vinyl clad and wood laminate, or any combination thereof; provided, however, that no silver colored windows shall be allowed. All exterior doors and louvers shall be constructed of wood, metal or vinyl clad and wood laminate, colored metal (other than silver) and glass, or any combination thereof. Roofs may be covered with asphalt composite shingles or other higher quality and comparable looking material, with the specific written approval of the Architectural Committee in its absolute discretion. Metal gutters and downspouts shall be painted a color that is complementary to the color of the trim and color of any stucco or siding. All exterior paint colors shall be neutral, earth-tone colors. Notwithstanding the foregoing provisions of this Section 3 requiring or prohibiting specific building materials or products, any building materials or products that may be or come into general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Architectural Committee in its absolute discretion, shall be acceptable upon written approval by the Architectural Committee in its absolute discretion.

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

(c) No air conditioning apparatus or unsightly projection shall be attached or affixed to the front of any residence and must be adequately screened if in the side yard. No window air conditioning or heating units shall be permitted.

(d) Chimneys on exterior walls may not be cantilevered and must have a foundation wall underneath. No metal or other pipe shall be exposed on the exterior of any fireplace or fireplace flue (other than a minimal amount of exterior metal or piping from a direct vent fireplace). All fireplace flues in chimneys shall be capped with a black or color-conforming metal rain cap.

(e) All residences shall have a house number plate, which shall be affixed to the residence and visible from the adjoining street.

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

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

(h) Each Owner, at his expense, shall cause the residence on the Lot to be connected to the public sanitary sewer system within one year after being notified by the City that sanitary sewer service is available within 200 feet of the Lot.

(i) The Developer, in its discretion, may allow variances from the foregoing requirements of this Section.

4. Minimum Floor Area; Lot Splits.

(a) No residence shall be constructed upon any Lot unless it has a total finished floor area of at least: 1,100 square feet for a ranch style residence with at least 1,000 square feet on the main floor (excluding a so-called reverse one and one-half story); and 1,500 square feet for a reverse one and one-half story with at least 1,000 square feet on the main floor. A "reverse one and one-half story" is a ranch style residence with a basement finished comparable in quality to the main floor with at least one bedroom and bathroom in the basement. Finished floor area shall exclude any finished attics, garages, basements (other than in a reverse one and one-half story residence) and similar habitable areas. Developer, in its sole discretion, may allow a variance from the minimum square footage requirement.

(b) No Lots shall be split without the prior written consent of the Developer and, if the resulting Lot is less than two acres, without replatting in accordance with City requirements.

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

(a) Notwithstanding compliance with the provisions of Sections 3 and 4 above, no residence or Exterior Structure may be erected upon or moved onto any Lot unless and until the building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans, and exterior color scheme have been submitted to and approved in writing by the Developer or, in the case of Exterior Structures to the extent provided in Section 8 below, the Architectural Committee. No change or alteration in such building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans or exterior color scheme shall be made unless and until such change or alteration has been submitted to and approved in writing by the Developer or the Architectural Committee, as the case may be. All building plans and plot plans shall be designed to minimize the removal of existing trees and shall designate those trees to be removed.

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

materials, location and elevation as the original structure unless and until the changes thereto have been submitted to and approved in writing by the Architectural Committee.

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

(d) During the construction of the residence and improvements on such Lot, the Owner, at its expense, shall install and properly maintain, until the Lot is completely sodded, hay bales, fencing and such other erosion and silt control devices, as are necessary to prevent stormwater runoff from the Lot that deposits silt or other debris onto adjacent Lots, Common Areas and streets. In connection therewith, the Owner shall comply with all Federal, state and local governmental laws, regulations and requirements, with all applicable permits, and with all requirements imposed by Developer, including, without limitation, preparation of inspection reports, and the Owner shall be responsible for any and all governmental fines and assessments that may be levied or assessed as a result of a failure of the Owner to so comply.

(e) All site preparation, including, but not limited to, tree removal, excavation, grading, rock excavation/removal, hauling, and piering, etc., shall be at the sole expense of the Owner or builder. All removed trees and excavated rock, etc., shall be removed from the Subdivision and shall not be spoiled within the Subdivision, except as expressly approved by the Developer. All excess dirt shall be spoiled within the Subdivision or other location as directed by the Developer and no dirt shall be removed from the Subdivision, except as expressly approved by the Developer.

(f) All building plans and plot plans shall be designed to minimize the removal of existing trees and shall designate those trees of two (2) inches or more caliper (as measured two (2) feet above the ground) to be removed.

(g) Approval of plans or specifications by the Developer, or any other Approving Party is not, and shall not be deemed to be, a representation or warranty that such plans or specifications comply with good engineering/architectural practices or any governmental requirements.

(h) Each Owner acknowledges that neither the sale of a Lot by the Developer to a particular builder nor the inclusion of a particular builder on a list of builders building in the area or on a list of approved builders constitutes a representation, endorsement or guaranty by the Developer or any real estate broker/salesperson of the financial stability, qualifications, work or any other matter relating to such builder. Neither the Developer nor any real estate broker/salesperson guarantees or warrants the obligations or construction by any builder.

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

7. Commencement and Completion of Construction. Unless the following time periods are expressly extended by the Developer in writing, construction of the residence on a Lot shall be commenced within six (6) months following the date of delivery of a deed from the Developer to the purchaser of such Lot and shall be completed within twelve (12) months after such commencement. In the event such construction is not commenced within such six-month period (or extension thereof, if any), the Developer shall have, prior to commencement of construction, the right (but not the obligation) to repurchase such Lot from such purchaser at 80% of its original sale price. If such repurchase right is exercised by the Developer, the Owner of the Lot in violation of this construction commencement provision shall not be entitled to reimbursement for taxes, insurance, interest, or other expenses paid or incurred by or for such Owner and all taxes and installments of special assessments shall be prorated between the Developer and the Owner as of the closing of the repurchase by Developer.

8. Exterior Structures.

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

its discretion, shall always have the right to additionally regulate, prohibit, condition or otherwise restrict any Exterior Structure notwithstanding such otherwise compliance.

(b)

(i) Lots in the Subdivision not listed in the preceding sentence may have fences or privacy screens in the specific styles and colors approved by the Developer. All fences and privacy screens shall be constructed with the finished side out. All fences and privacy screens shall be constructed only of the specific materials and in the specific styles approved by the Developer as provided above. All fences must be black wrought iron, black powder coated steel or equivalent in one of two approved fence styles and must follow property lines (unless lot configuration, property easements, lot size or building code setback restricts or prevents following property lines). No wood, chain link or similar fence shall be permitted. Each fence gate must be at least 54 inches in width. Unless and until otherwise specifically approved in writing by the Developer, (A) no fence, boundary wall or privacy screen shall exceed four feet in height, unless the City's ordinances require a taller fence, boundary wall, or privacy screen in the case of pools, hot tubs, etc., (B) no fence, boundary wall or privacy screen shall be constructed or maintained on any Lot nearer to the street than the rear corners (as defined by the Approving Party) of the residence, (C) no fence shall be constructed or maintained within any landscape or drainage easement or on any Lot more than one foot from the property line of the Lot, except to the extent necessary for such fence to abut the residence and except for fences around swimming pools, hot tubs and patio areas, (D) all fences (except for fences around pools, and privacy screens around hot tubs and patio areas) must be joined to or abutting any previously existing fences on adjacent Lots, and (E) all perimeter fences shall run with the final grade of the Lot.

(ii) All basketball goals shall be free standing and not attached to the residence unless the Architectural Committee determines that there are compelling reasons for the basketball goal to be attached to the residence. Portable basketball goals will not be permitted. All backboards shall be transparent and all poles shall be a neutral color. There shall be only one basketball goal per Lot. The Board shall have the right to establish reasonable rules regarding the hours of use of basketball goals and any such rules shall be binding upon all of the Lots and the Owners.

(iii) All recreational or play structures must be approved in advance by the Approving Party and (if allowed) (A) shall be predominantly wood and made of materials approved in writing by the Approving Party, (B) (other than basketball goals) shall be located behind the rear corners (as determined by the Approving Party) of the residence and (C) (other than basketball goals) shall be located at least 10 feet from each side boundary and 10 feet from the rear boundary of the Lot.

(iv) No above-ground type swimming pools shall be permitted. All pools shall be fenced and all hot tubs shall be naturally screened (not fenced) or

otherwise adequately screened, all in accordance with the other provisions of the Declaration. All pools and hot tubs shall be kept clean and maintained in operable condition at all times.

(v) The following Exterior Structures shall be prohibited: dog houses, animal runs, tennis courts, sport courts, paddle tennis courts, metal swing sets, jungle gyms, tree houses, free-standing flag poles, sheds, barns, storage containers, detached greenhouses and other detached outbuildings.

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

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

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

(a) Except as otherwise provided in Section 2 above, no residence or Exterior Structure, or any portion thereof, shall ever be placed, erected or used for business, professional, trade or commercial purposes on any Lot; provided, however, that this restriction shall not prevent an Owner or occupant from maintaining an office area or operating a home-business occupation in his residence in accordance with the applicable ordinances of the City so long as the residential character of the area is maintained. Home-businesses shall not generate traffic to the residence more than four times per month. Under no circumstances is any signage permitted in Common Areas or anywhere on the subject Lot advertising a home-business.

(b) No illegal, noxious or offensive activity shall be carried on with respect to any Lot; nor shall any grass clippings, trash, ashes or other refuse be thrown, placed or dumped upon any Lot or Common Area; nor shall anything be done which may be or become an annoyance or a nuisance to the Subdivision, or any part thereof. Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. All residences and Exterior Structures shall be kept and maintained in good condition and repair at all times.

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

(d) Overnight parking of motor vehicles, boats, trailers, or similar apparatus of any type or character in public streets, Common Areas or vacant lots is prohibited. Motor vehicles shall be parked overnight in garages or on paved driveways only. Except as provided in subsection (f) below, no vehicle (other than an operable passenger automobile, passenger van or small truck), commercial truck or van, bus, boat, jet-ski, trailer, camper, mobile home, or similar apparatus shall be left or stored overnight on any Lot, except in an enclosed garage.

(e) Trucks or commercial vehicles with gross vehicle weight of 12,000 pounds or over are prohibited in the Subdivision except during such limited time as such truck or vehicle is actually being used in the Subdivision during normal working hours for its specific purpose.

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

(i) When stored in an enclosed garage;

(ii) Temporary parking on the driveway for the purpose of loading and unloading (maximum of one overnight every 14 days); or

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

(g) No television, radio, citizens' band, short wave or other antenna, satellite dish (other than as provided below), solar panel, clothes line or pole, or other unsightly projection shall be attached to the exterior of any residence or Exterior Structure or erected in any yard. Should any part or all of the restriction set forth in the preceding sentence be held by a court of competent jurisdiction to be unenforceable because it violates the First Amendment or any other provision of the United States Constitution, the Architectural Committee shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections on the Subdivision, and all parts thereof, and any such rules and regulations shall be binding upon all of the Lots. Notwithstanding any provision in this Declaration to the contrary, small satellite dishes may be installed with the prior written consent of the Approving Party. The Approving Party shall have the right to establish rules and regulations binding upon all of the Lots and specific requirements for each Lot, regarding the location, size, landscaping and other aesthetic aspects of such small satellite dishes so as to control the impact thereof on the Subdivision, and all parts thereof.

(h) No solar panels, windmills, or similar devices may be installed without the prior written consent of the Approving Party. Should any part or all of the restriction set forth in the preceding sentence be unenforceable because it violates a statute or any provision of the United States Constitution or the Kansas Constitution, the Approving Party shall have the right to establish rules and regulations regarding the location, size, and other aesthetic aspects of solar panels, windmills and similar devices so as to reasonably control the impact of such solar panels, windmills and similar devices on the Subdivision, and all parts thereof, and any such rules and regulations shall be binding upon all of the Lots.

(i) No artificial flowers, trees or other vegetation shall be permitted on the exterior of any residence or in the yard. Sculptures, bird baths, bird feeders, fountains, yard art, and similar decorative objects are allowed on the exterior of the residence or in the yard only with the specific written approval of the Approving Party.

(j) No lights or other illumination (other than street lights) shall be higher than the residence. Exterior holiday lights shall be permitted only between November 15

and January 31. Except for such holiday lights, all exterior lighting shall be white and not colored.

(k) No garage sales, estate sales, auctions, sample sales or similar activities shall be held within the Subdivision without the prior written consent of the Homes Association.

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

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

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

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

(p) No outside or underground fuel storage tanks of any kind shall be permitted (except standard propane tanks for outdoor grills). No power generators of any kind shall be permitted except in the event of emergencies, which means power loss to the residence for a duration of eight (8) hours or more.

(q) No driveway shall be constructed in a manner as to permit access to a street across a rear lot line.

(r) Except for signs erected by or for the Developer or its approved realtor for the Subdivision, no sign, advertisement or billboard may be erected or maintained on any Lot except that:

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

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

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

No signs offering a residence for lease or rent shall be allowed in the Subdivision. Without limiting the foregoing, no sign shall be permitted which (A) describes the condition of the residence or the Lot, (B) describes, maligns, or refers to the reputation, character or building practices of Developer, any builder, or any other Owner, or (C) discourages or otherwise impacts or attempts to impact a party's decision to acquire a Lot or residence in the Subdivision. In the event of a violation of the foregoing provisions, the Developer and/or the Association shall be entitled to remove any such offending sign, and in so doing, shall not be subjected to any liability for trespass, violation of constitutional or other rights, or otherwise. If these limitations on the use of signs, or any part thereof, are determined to be unlawful, the Board shall have the right to regulate the use of signs in a manner not in violation of law.

(s) No sign (other than community marketing signs approved by the Developer) shall be placed or maintained in any Common Area without the approval of the Approving Party.

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

(u) No residence or part thereof shall be rented or used for transient or hotel purposes, which is defined as: (i) rental of less than twelve month's duration or under which occupants are provided customary hotel services such as room service for food and beverages, maid service, and similar services; or (ii) rental to roomers or boarders, (i.e., rental to one or more persons of a portion of a residence only). No lease may be of less than an entire residence. Each lease shall be in writing, shall require that the tenant and other occupants acknowledge the existence of this Declaration and agree to comply with all provisions of this Declaration, shall provide that the lease shall be subject in all respects to the provisions of this Declaration and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of this Declaration or such rules and regulations shall be a default under the lease. In the event a tenant fails to comply with the terms of this Declaration or such rules and regulations, the Owner shall, if so directed by the Board, terminate the lease and evict the tenant. Prior to the commencement of the term of a lease, the Owner shall notify the Board, in writing, of the name or names of the tenant or tenants and the time during which the lease term shall be in effect. Notwithstanding the existence of a lease, the Owner shall remain liable for all obligations under this Declaration with respect to the Lot and the improvements thereon and the use thereof and the Common Areas and the Owner shall cause the rented property to be maintained to the same general condition and standards as then prevailing for the Owner-occupied residences in the Subdivision.

(v) Each of the Developer and the Homes Association may enforce the foregoing restrictions and other provisions of this Declaration by establishing, levying and collecting fines and other enforcement charges, having vehicles, trailers or other apparatus towed away at the Owner's expense, or taking such other lawful actions as the Developer or the Homes Association, in its sole discretion, deems appropriate.

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

11. Lawns, Landscaping and Gardens. Prior to occupancy, and in all events within eight months after commencement of construction of the residence, all lawns, including all areas between each residence and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, sidewalk or right-of-way line, shall be fully sodded and shall remain fully sodded at all times thereafter; provided, however, that the Owner of a Lot may leave or subsequently create a portion of the Lot as a natural area with the express written permission of the Approving Party. No lawn shall be planted with zoysia or buffalo grass. Prior to occupancy, and in all events within eight months following commencement of construction of the residence, the Owner thereof shall have installed landscaping costing in excess of $1,500.00 (excluding sodding) in the front yard on the Lot, plus at least one hardwood shade tree in the front yard and one evergreen in the back yard of 2 inches or more caliper, and shall maintain such landscaping to the same standards as that generally prevailing throughout the Subdivision and in accordance with the plans approved by the Developer.

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

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

Within 60 days after the issuance of a permanent or temporary certificate of occupancy for the residence, the Owner of each Lot shall have a sprinkler system installed which shall also tie into the Homes Association's or the Master Association's Common Area sprinkler system (with a keyed control panel and water tap located outside of the residence) covering all sod and landscape areas in the entire front, rear and side yards of the Lot. The Homes Association shall be provided with a key to the control panel by the Owner and shall use the sprinkler system as necessary or appropriate (as determined by the Approving Party) during the late spring, summer and early fall months. No Owner shall water the Lot such that there is significant runoff onto any adjacent Lot or Common Area.

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

12. Easements for Public Utilities; Drainage; Maintenance. The Developer shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and use of drains, pipelines, sanitary and storm sewers, gas and water lines, electric and telephone lines, television cables and other utilities, and to give or grant rights-of-way or easements therefore, over, under, upon and through all easements and rights-of-way shown on any recorded plat of the Subdivision or any Common Area. All utility easements and rights-of-way shall inure to the benefit of all utility companies, including, for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of the Developer, all Owners and the Homes Association as a cross easement for utility line or service maintenance.

The Developer shall have and does hereby reserve for itself and its successors and assigns and the Homes Association and its successors and assigns an easement over and through all unimproved portions of each Lot in the Subdivision for the purpose of (i) operating, maintaining, repairing and replacing a common irrigation system for the Lots and Common Areas and (ii) performing the powers and duties of the Homes Association, including performing any maintenance obligations relating to such Lots, and maintaining any Common Area. The Developer shall have the right to execute and record, at any time, an easement with respect to specific areas utilized as provided above.

The Developer and the Homes Association, through its authorized representative(s), may at any reasonable time enter any Lot, without being deemed guilty of trespass, for the purpose of inspecting the Lot and any improvements thereon to ascertain any compliance or noncompliance with the requirements and terms of this Declaration and/or any plans approved hereunder.

Developer and the builder of the residence on the Lot shall have reasonable access to each Lot for the purpose of inspecting and maintaining erosion control devices until final stabilization of the full Lot is achieved by sodding and landscaping. No Owner shall prevent or inhibit the Developer's or the builder's reasonable access for such purpose and no Owner shall remove or damage any erosion control devices installed by the Developer or the builder. Each Owner shall notify the builder and the Developer of any damage to such erosion control devices.

In the event any easement rights granted in this Section are exercised with respect to any Lot, the party so exercising such easement rights shall exercise the same in a reasonable manner so as to minimize all adverse effects on the Owners and shall promptly repair any damages to such Lot resulting from the exercise of such easement rights and restore the Lot to as near the original condition as possible.

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

13. Common Areas.

(a) The Developer shall have the right (but is not obligated) to provide Common Areas for the use and benefit of the Subdivision, and to make loans to the Homes Association to cover any operating expenses or shortfall in operating expenses to operate and maintain Common Areas, subject to mutually agreeable loan terms. The size, location, nature and extent of improvements and landscaping in the Common Areas, and all other aspects of the Common Areas that are provided by the Developer, shall be determined by the Developer in its absolute discretion.

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

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

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

(e) Owners of Lots nearby the Common Areas shall prevent erosion and pollutant discharges and runoff onto the Common Areas.

(f) The following rules, regulations and restrictions shall apply to the use of the Common Areas:

(i) No automobiles, motorcycles, all-terrain vehicles, or other motorized vehicles or apparatus of any kind shall be allowed in the Common Areas except for mowing and otherwise maintaining the Common Area.

(ii) No refuse, trash or debris shall be discarded or discharged in or about the Common Areas except in designated trash bins.

(iii) Access to the Common Areas shall be confined to designated areas, except that Owners of Lots adjacent to the Common Areas may have access to the area from their respective Lots (where applicable).

(g) Each of the Developer and the Homes Association shall have reasonable access through Lots adjacent to the Common Areas for the purposes of maintenance and improvement thereof, but shall be responsible for repairing any damage caused by it to adjacent Lots in connection with the use of such access right.

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

(i) The Developer, in its discretion, shall have the right to reconfigure and/or replat all or any part of the Subdivision then owned by it, including, without limitation, to make part of a Common Area tract a part of a Lot, and vice versa. In addition, each of the Developer and the Homes Association shall have the right to transfer to the City (but only with the City's consent) title to or easements over all or any part of the Common Areas so that such become public areas maintained by the City.

14. Architectural Committee.

(a) No more than two members of the Board shall serve on the Architectural Committee at any time. The positions on the Architectural Committee may be divided by the Board into two classes with staggered two-year terms. The provisions of this subsection (a) shall not apply until the Turnover Date. Until such date, the Developer or its designees shall be the Architectural Committee.

(b) The Architectural Committee shall meet as necessary to consider applications with respect to any Exterior Structures that require the approval of the Architectural Committee as provided in Section 8 above and to consider any other matters within the authority of the Architectural Committee as provided in this Declaration. Any written application complete with appropriate drawings and other information that is not acted upon by the Architectural Committee within 35 days after the date on which it is filed shall be deemed to have been approved provided all necessary documentation has been provided in writing. A majority of the members of the Architectural Committee shall constitute a quorum for the transaction of business at a meeting and every act or decision made by a majority of the members present at a meeting at which a quorum is present shall be regarded as the act or decision of the Architectural Committee.

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

(d) After the Turnover Date, any applicant or other person who is dissatisfied with a decision of the Architectural Committee shall have the right to appeal such

decision to the Board provided such appeal is filed in writing with a member of the Board within seven days after the date the Architectural Committee renders its written decision. In making its decisions, the Board may consider any and all aspects and factors that the individual members of the Board, in their absolute discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Subdivision, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, landscaping plans and use of any proposed Exterior Structure. Any decision rendered by the Board on appeal of a decision of the Architectural Committee shall be final and conclusively binding on all parties and shall be deemed to be the decision of the Architectural Committee for all purposes under this Declaration. The Board from time to time may adopt, amend and revoke rules and regulations respecting appeals of decisions of the Architectural Committee, including, without limitation, requiring payment of a reasonable fee by the appealing party.

15. No Liability for Approval or Disapproval.

(a) Neither the Developer, nor the Homes Association, nor any member of the Architectural Committee or the Board shall be personally liable to any person for any approval, disapproval or failure to approve any matter submitted for approval, for the adoption, amendment or revocation of any rules, regulations, restrictions or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration or any other declaration or any such rules, regulations, restrictions or guidelines.

(b) **If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Homes Association, the Board, the Architectural Committee, and its agents, or any individual member, director, officer or employee thereof, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Homes Association, the Board, or individual sued by such Owner shall be entitled to recover from such Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees. Such recovery right shall constitute a lien against the Owner's Lot and shall be enforceable against such Lot.**

(c) To the fullest extent permitted by law, the Homes Association shall indemnify each officer and director of the Homes Association, each member of the Architectural Committee, or other committee established by the Board, and the Developer (to the extent a claim may be brought against the Developer by reason of its appointment, removal of or control over, or failure to control, any such other persons) (each, an "Indemnified Party") against all expenses and liabilities, including, without limitation, attorneys' fees, reasonably incurred by or imposed upon the Indemnified Party in connection with any action or proceeding, or any settlement thereof, to which the Indemnified Party may be a party or in which the Indemnified Party may become involved by reason of serving or having served in such capacity (or, in the case of the Developer, by reason of having appointed, removed or controlled or failed to control any officer or director of the Association), provided the Indemnified Party did not act, fail to act or refuse to act with fraudulent or criminal intent in the performance of the

Indemnified Party's duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which any Indemnified Party may be entitled at law or otherwise.

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

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

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

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

No waiver of any violation shall be effective unless in writing and signed and delivered by the person or entity entitled to give such waiver, and no such waiver shall extend to or affect any other violation or situation, whether or not similar to the waived violation. No waiver by one person or entity shall affect any rights or remedies that any other person or entity may have; provided, however, that a duly authorized, executed and delivered waiver by the Homes

Association respecting a specific violation shall constitute and be deemed as a waiver of such violation by all other persons and entities (other than the Developer).

17. **No Liability for Swimming Pool or Other Common Area Amenities. By acceptance of a deed to a Lot, all Owners acknowledge and accept the inherent risks and hazards (whether foreseeable or not) associated with use of any Common Areas, swimming pool, any diving board, and slide, play area, fitness center, walking trail, basketball court, pickleball court, any playground equipment, and any water park, water feature or waterfall that may be installed as part of the Common Areas or as part of the common areas maintained by the Master Association or otherwise made available for use by Owners or their guests. The Developer, the Homes Association, and the Master Association and the officers, directors, managers, representatives, and agents of the Developer, the Homes Association, and the Master Association shall have no liability or responsibility to any Owner or other party with respect to such inherent risks and hazards. To the maximum extent permitted by law, each Owner, for himself, the members of his family, his guests and invitees, shall be deemed to have released and agreed never to make a claim against the Developer, the Homes Association, and the Master Association and/or any officer, director, manager, representative or agent of the Developer, the Homes Association, or the Master Association for any personal injury or death that may be suffered or incurred by any of such releasing parties in connection with use of the Common Areas, swimming pool, any diving board, and slide, play area, fitness center, walking trail, basketball court, pickleball court, any playground equipment, and any water park, water feature or waterfall and each of them shall be deemed to have waived any and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.**

18. Potential View Obstruction. No Owner has any right to an unobstructed view beyond the boundaries of the Owner's Lot. No Owner shall be entitled to prevent the construction or location of any structure, trees, landscaping or other item on any other part of the Subdivision, where otherwise permitted by this Declaration, because such structure, trees, landscaping or other item obstructs any view from the affected Lot.

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

20. Release or Modification of Restrictions.

(a) The provisions of this Declaration may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by both: (i) the Owners of at least sixty

percent (60%) of the Lots within the Subdivision as then constituted, and (ii) if prior to the recording of the Certificate of Substantial Completion, the Developer, or if after the recording of the Certificate of Substantial Completion, the Homes Association under express authority and action of the Board. After the recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written instrument executed by the Homes Association after the proposed amendment, modification or termination has been first approved by the affirmative vote of seventy-five (75%) or more of the full number of directors on the Board of the Homes Association and then approved at a duly held meeting of the members of the Homes Association (called in whole or in part for that purpose) by the affirmative vote of Owners owning at least sixty percent (60%) of the Lots. Notwithstanding the foregoing, no amendment adopted under this subsection may remove, revoke or modify any right or privilege of Developer under this Declaration at any time without the written consent of Developer.

(b) Anything set forth in this Section to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend, change or add to any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording in the Recording Office a written instrument for such purpose, if: (i) any of the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or any successor or similar agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision, or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, (iii) the amendment is necessary to cause this Declaration to comply with any applicable law, (iv) a typographical or factual error or omission needs to be corrected in the opinion of the Developer, (v) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision, or (vi) so long as Developer owns any Lots, to make any other amendment the Developer may determine to be appropriate. No such amendment by the Developer shall require the consent of any Owner or the Homes Association.

(c) If the rule against perpetuities or any rule against restraints on alienation or similar restriction is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the individual(s) signing this Declaration on behalf of the Developer and the now-living descendants of the individual(s) signing this Declaration on behalf of the Developer as of the date of such execution.

21. Extension of Subdivision. The Developer shall have, and expressly reserves, the right, from time to time, to add to the existing Subdivision and to the operation of the provisions of this Declaration such other adjacent or nearby (without reference to any street, tract, park or

right-of-way) lands as it may now own or hereafter acquire by executing, acknowledging and recording an appropriate written declaration or agreement subjecting such land to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable as solely determined by the Developer in its discretion.

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

23. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Kansas.

[*Remainder of Page Intentionally Left Blank; Signature Page Follows*]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By:_____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

Before me, the undersigned, a Notary Public, within and for said County and State on the 5th day of September, 2019, personally appeared Bradley Vince, Managing Member of PV Investments, LLC, a Kansas limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

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

Jennifer L Sears
NOTARY PUBLIC

My Commission Expires:

_____
[SEAL]

JENNIFER L. SEARS
Notary Public-State of Kansas
My Appt. Expires June 26, 2022

ASHLAR:

ASHLAR HOMES, LLC,
a Missouri limited liability company

By: _____
Name: Shawn T. Woods
Title: President

STATE OF MO)
) ss.
COUNTY OF Jackson)

Before me, the undersigned, a Notary Public, within and for said County and State on the 10th day of September, 2019, personally appeared Shawn T. Woods, President of Ashlar Homes, LLC, a Missouri limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

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

_____
NOTARY PUBLIC

My Commission Expires:

_____
[SEAL]

KIM FINNIGAN
Notary Public - Notary Seal
STATE OF MISSOURI
Jackson County
My Commission Expires: December 26, 2021
Commission #13415129

JO CO KS BK:201703 PG:000416
20170301-0000416
Electronic Recording 3/1/2017
Pages: 16 F: $228.00 3:52 PM
Register of Deeds T20170010968

DAYTON CREEK
HOMES ASSOCIATION DECLARATION

THIS DECLARATION is made as of the 23 day of February, 2017 by PV Investments, LLC, a Kansas limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer has executed and filed with the Office of Records and Tax Administration of Johnson County, Kansas a plat of the subdivision known as "Dayton Creek, First Plat", which plat includes the following described lots and tracts:

> All of Lots 1 through 48, and Tracts A, B and C, DAYTON CREEK, FIRST PLAT, a subdivision of land in Spring Hill, Johnson County, Kansas, according to the recorded plat thereof;

WHEREAS, Developer, as the present owner and developer of the above-described property, desires to create and maintain a residential neighborhood and a homes association for the purpose of enhancing and protecting the value, desirability, attractiveness and maintenance of the property within the subdivision;

NOW, THEREFORE, in consideration of the premises contained herein, Developer, for itself and for its successors and assigns, and for its future grantees, hereby subjects all of the above-described lots to the covenants, charges, assessments and easements hereinafter set forth.

ARTICLE I. DEFINITIONS

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

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

(b) "Certificate of Substantial Completion" means means a certificate executed, acknowledged and recorded by the Developer stating that all or, at the Developer's discretion, substantially all of the Lots in the Subdivision (as then composed or contemplated by the Developer) have been sold by the Developer or 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 absolute discretion at any time and for any limited purpose hereunder. The execution or recording of a Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Homes Association or any other person or entity.

(c) "City" means the City of Spring Hill, Kansas.

(d) "Common Areas" means those areas determined by the Developer, in its sole discretion, to be common areas and may include: (i) any entrances, monuments, berms, street islands, and other similar ornamental areas and related utilities, lights, sprinkler systems, trees and landscaping constructed or installed by or for the Developer or the Homes Association at or near the entrance of any street or along any street, and any easements related thereto, in the Subdivision, (ii) all platted landscape easements and all other landscape easements that may be granted to the Developer and/or the Homes Association, for the use, benefit and enjoyment of all owners within the Subdivision, (iii) Tracts A, B, and C of Dayton Creek, (iv) the Pool Area, and (v) all other similar areas and places, together with all improvements thereon and thereto, the use, benefit or enjoyment of which is intended for all of the owners within the Subdivision, whether or not any "Common Area" is located on any Lot.

(e) "Declaration" means this instrument, as the same may be amended, supplemented or modified from time to time.

(f) "Developer" means PV Investments, LLC, a Kansas limited liability company, and its successors and assigns.

(g) "Homes Association" means the Kansas not-for-profit corporation to be formed by or for the Developer for the purpose of serving as the homes association for the Subdivision.

(h) "Lot" means any lot as shown as a separate lot on any recorded plat of all or part of the Subdivision; provided, however, that if an Owner, other than the Developer, owns adjacent lots (or parts thereof) upon which only one residence has been, is being, or will be erected, then (i) for purposes of determining the amount of periodic and special assessments due with respect thereto from time to time, such adjacent property under common ownership shall constitute such whole or partial number of Lots as may be specified in writing by the Developer, and (ii) for all other purposes hereunder, such adjacent property under common ownership shall be deemed to constitute only one "Lot."

(i) "Owner" means the record owner(s) of title to any Lot, including the Developer.

(j) "Pool Area" has the meaning set forth in Article XIV below.

(k) "Recording Office" means the Office of Records and Tax Administration of Johnson County, Kansas.

(l) "Subdivision" means collectively all of the above lots in Dayton Creek subdivision, all Common Areas, and all additional property which hereafter may be made subject to this Declaration in the manner provided herein.

(m)"Turnover Date" means the earlier of: (i) the date as of which 80% of all of the Lots in the Subdivision (as then contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon, or (ii) the date the Developer, in its absolute discretion, selects as the Turnover Date for all or any specific portion of this Declaration.

ARTICLE II. HOMES ASSOCIATION MEMBERSHIP

Until the Turnover Date, the Homes Association shall have two classes of membership, namely Class A and Class B. The Developer shall be the sole Class A member. Each Owner of a Lot, including the Developer as an Owner, shall be a Class B member. Until the Turnover Date, all voting rights shall be held by the Class A member, except that the Class B members shall have the sole right to vote on increases in annual assessments as provided in clause (c) of Section 2 of Article IV below and to vote on any special assessments as provided in clause (III) of Section 1(b) of Article V below.

After the Turnover Date, there shall be only one class of membership which shall consist of the Owners of the Lots in the Subdivision and every such Owner shall be a member.

Where voting rights exist based on Lot ownership, each member shall have one vote for each Lot for which he is the Owner; provided, however, that when more than one person is an Owner of any particular Lot, all such persons shall be members and the one vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Lot. During any period in which a member is in default in the payment of any assessment levied by the Homes Association under this Declaration, the voting rights of such member shall be suspended until such assessment has been paid in full.

Subject to the foregoing, the Homes Association shall be the sole judge of the qualifications of each Owner to vote and their rights to participate in its meetings and proceedings.

ARTICLE III. POWERS AND DUTIES OF THE HOMES ASSOCIATION

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

(a) To enforce, in the Homes Association's name, any and all building, use or other restrictions, obligations, agreements, reservations or assessments which have been or hereafter may be imposed upon any of the Lots or other part of the Subdivision; provided, however, that this right of enforcement shall not serve to prevent waivers, changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the Homes Association or other parties having the right to make such waivers, changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth or otherwise by law. The expense and cost of any such enforcement proceedings by the Homes Association shall be paid out of the general funds of the Homes Association, except as herein provided. Nothing herein contained shall be deemed or construed to prevent the Developer or any Owner from enforcing any building, use or other restrictions in its or his own name.

(b) To acquire and own title to or interests in, to exercise control over, and to improve and maintain the Common Areas, subject to the rights of any governmental authority, utility or any other similar person or entity therein or thereto.

(c) 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, the Common Areas and the property within the Subdivision.

(d) To levy the assessments and related charges which are provided for in this Declaration and to take all steps necessary or appropriate to collect such assessments and related charges.

(e) To enter into and perform agreements from time to time with the Developer and other parties regarding the performance of services and matters benefiting both the Developer or other parties and the Homes Association and its members, and the sharing of the expenses associated therewith.

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

(g) To have employees and otherwise engage the services of a management company or other person or entity to carry out and perform all or any part of the functions and powers of the Homes Association, including, without limitation, keeping of books and records, operation and maintenance of Common Areas, and planning and coordination of activities.

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

(i) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the Subdivision; and to do any other things necessary or desirable in the judgment of the Board to keep any property in the Subdivision neat in appearance and in good order.

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

(k) To make, amend and revoke reasonable rules, regulations, restrictions and guidelines (including, without limitation, regarding the use of Common Areas) and to provide means to enforce such rules, regulations, restrictions and guidelines, and the recorded declarations, by establishing, levying and collecting fines and other enforcement charges and taking such other lawful actions as the Homes Association, in its discretion, deems appropriate.

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

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

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

(b) The Homes Association shall at all times, from and after its date of formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by or for the Developer or the Homes Association), subject to any control thereover maintained by any governmental authority, utility or other similar person or entity.

(c) The Homes Association shall satisfy its obligations with respect to the Pool Area, as set forth in Article XIV below.

(d) In the event, the U.S. Post Office requires so-called "cluster mailboxes," the Owner of a Lot shall pay a "cluster mailbox" fee of $250 to the Developer due at the time of Closing on the Lot. In the event individual mailboxes are required by the U.S. Post Office, the respective Owner of a Lot shall purchase, install and maintain all mailbox and mailbox posts in accordance with uniform guidelines, as may be established by the Developer in its sole discretion.

The Board shall have the right to further determine the scope and timing of the foregoing services.

ARTICLE IV. ANNUAL ASSESSMENTS AND INITIATION FEE

1. For the purpose of providing funds to enable the Homes Association to exercise the powers, render the services and perform the duties provided for herein, all Lots in the Subdivision (other than Lots then owned by the Developer and Lots then owned by a builder prior to the initial occupancy of the residence thereon as a residence) shall be subject to an annual assessment to be paid to the Homes Association by the respective Owners thereof as provided in this Article IV. The amount of such annual assessment per Lot shall be fixed periodically by the Board, subject to Section 2 below, and, until further action of the Board, shall be determined each year; provided, however, that such annual amount may, in the discretion of the Developer, increase by the amount payable per Lot to the Homes Association.

2. Prior to the Turnover Date, the rate of annual assessment upon each assessable Lot in the Subdivision shall be determined by the Developer in its sole discretion. After the Turnover Date, the rate of annual assessment may be increased as to and for each calendar year:

(a) For each of years 2017 through 2020, by the Board from time to time, without a vote of the members, by up to 30% over the rate of annual assessment in effect for the preceding calendar year;

(b) After year 2020, by the Board from time to time, without a vote of the members, by up to 30% over the rate of annual assessment in effect for the preceding calendar year; or

(c) At any time by any amount by a vote of the members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when a majority of the members present at such meeting and entitled to vote thereon authorize such increase by an affirmative vote for the proposed increase.

Notwithstanding the foregoing limits on annual assessments, the Board, without a vote of the members, shall always have the power to set, and shall set, the rate of annual assessment at an

amount that will permit the Homes Association to perform its duties as specified in Section 2 of Article III above.

3. The annual assessments provided for herein shall be based upon the calendar year (commencing in 2017) and shall be due and payable on January 1st of each year; provided, however, that:

(a) The first assessment for each Lot shall be due and payable only upon the initial occupancy of the Lot as a residence and shall be prorated as of the date thereof (with an adjustment to reflect a proper portion of the dues associated with the costs of the Pool Area for the remainder of the year, as determined by the Board); and

(b) Any increase that occurs under the proviso in Section 1 above shall be effective as of the date such swimming pool is substantially completed and ready for use (with an adjustment to reflect a proper portion associated with the costs of the Pool Area for the remainder of the year, as determined by the Developer).

If the effective date of any increase in the rate of assessment is other than January 1st, a proper portion (as determined by the Board (or by the Developer under Section 3(b)) of the amount of such increase for the remainder of such year shall be due and payable on such effective date. No Lot shall be entitled to receive any services to be provided by and through the Homes Association until such time as the first annual assessment has been paid with respect thereto.

4. A portion of the annual assessments may be allocated to reserves to provide funds for repair or maintenance of major items and for other contingencies. Neither Developer nor the Homes Association nor any member of the Board shall have any liability to any Owner or member of the Homes Association if no reserves are established or maintained or if any reserves are inadequate.

5. An initiation fee of $150.00 shall be payable by the new Owner (excluding Builders under a Lot sale Agreement) to the Homes Association, for use as part of the general funds of the Homes Association, upon each of the following events with respect to each Lot:

(a) The initial occupancy of the residence on the Lot after the residence is constructed (which initiation fee is in addition to the first regular annual assessment, as it may be prorated); and

(b) Each subsequent transfer of ownership of the Lot for value.

The Board may increase the initiation fee from time to time, without a vote of the members, so long as the rate of the increase is no more than 50% of original initiation fee amount.

ARTICLE V. SPECIAL ASSESSMENTS

1. In addition to the annual assessments provided for herein, the Board:

(a) shall have the authority to levy from time to time a special assessment against any Lot and its Owner to the extent (I) a fine has been assessed by the Homes Association against the Owner or (II) the Homes Association expends any money (for services, materials, and legal fees and expenses) to correct or eliminate (by enforcement, self-help or otherwise) 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 or by a builder prior to the initial occupancy of the residence thereon as a residence) in an equal amount that is sufficient, when aggregated, to enable the Homes Association (I) to perform its duties as specified in Section 2 of Article III above that require any expenditure during any period in an amount in excess of the general and reserve funds of the Homes Association available therefor, (II) to pay the costs of any emergency expenditures deemed necessary by the Board and (III) to pay the costs of any capital improvements approved by a vote of the members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when a majority of the votes of the members present at such meeting (in person or by proxy) and entitled to vote thereon authorize such special assessment for the proposed capital expenditure by an affirmative vote.

2. In the event an Owner fails to properly maintain, repair, repaint, or replace any improvements on the Owner's Lot, the Homes Association, acting through the Board and after giving adequate notice to the Owner of the need for the maintenance, repair, repainting, or replacement, may enter onto the Lot and perform such maintenance, repair, repainting, or replacement. The Homes Association's costs thereof, plus a reasonable overhead and supervisory fee, shall be payable by the Owner of the Lot and shall be a special assessment against the Owner and the Owner's Lot.

3. **If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Homes Association, the Board of Directors, or any committee, or any individual director, officer or committee member of the Homes Association, or its agents, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Homes Association, Board of Directors, or individual director, officer or committee member sued by such Owner shall be entitled to recover from such Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees and court costs. Such recovery right shall constitute a special assessment against the Owner and the Owner's Lot.**

4. Each special assessment shall be due and payable by the Owner of the Lot upon the Homes Association giving written notice of the assessment to the Owner of the Lot, shall be a lien on the Lot until paid in full, and shall be enforceable as provided in this Declaration.

ARTICLE VI. DELINQUENT ASSESSMENTS

1. Each assessment regarding a Lot shall be a charge against the Owner and shall become automatically a lien in favor of the Homes Association on the Lot against which it is levied as soon as the assessment becomes due. Should any Owner fail to pay any assessment with respect to the Owner's Lot in full within 30 days after the due date thereof, then such assessment shall be delinquent, the Owner shall be charged a late fee of 15% of the unpaid amount (which rate may be revised by the Board in its sole discretion) and the unpaid amount shall bear interest at the rate of 10% per annum (or, if lower, the maximum rate permitted by law) from the delinquency date until paid, which late fee and interest shall become part of the delinquent assessment and the lien on the Lot. **Should the Homes Association engage the services of an attorney to collect any assessment hereunder, all costs of collecting such assessment, including, without limitation, court costs and reasonable attorneys' fees, shall, to the extent permitted by applicable law, be added to the amount of the assessment being collected and the lien on the Lot. Each assessment, together with late fees, interest thereon and collection costs, shall also be the personal obligation of the Owner(s) of the Lot, jointly and severally, at the time when the assessment became due.**

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, as provided below. A foreclosure sale or deed in lieu of foreclosure thereunder shall automatically extinguish the lien hereunder for such assessments to the extent applicable to periods prior to the earlier of (i) the entry of the order allowing such foreclosure [or (if no order is required) the holding of the foreclosure sale], or (ii) the execution of a deed in lieu thereof, but shall not release such Lot from liability for any assessment applicable to periods thereafter. If the Owner subsequently redeems the Lot from the foreclosure sale, the lien hereunder shall automatically be reinstated retroactively in full.

3. Payment of a delinquent assessment with respect to a Lot may be enforced by judicial proceedings against the Owner personally and/or against the Lot, including through lien foreclosure proceedings in any court having jurisdiction of suits for the enforcement of such liens. The Homes Association may file certificates of nonpayment of assessments in the Recording Office, and/or the office of the Clerk of the District Court for Johnson County, Kansas, whenever any assessment is delinquent, in order to give public notice of the delinquency. For each certificate so filed, the Homes Association shall be entitled to collect from the Owner of the Lot described therein a fee of $150.00, along with the costs to file the lien, which fee and costs shall be added to the amount of the delinquent assessment and the lien on the Lot and which fee amount may be increased by the Board from time to time to reflect cumulative

increases in an appropriate consumer price index (as selected by the Board) after December 31, 2017.

4. Such liens shall continue for a period of five years from the date of delinquency and no longer, unless within such period a lawsuit 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.

5. The Homes Association may cease to provide any or all of the services (including, without limitation, use of Common Areas and trash services) to be provided by or through the Homes Association with respect to any Lot during any period that the Lot is delinquent on the payment of an assessment due under this Declaration, and no such cessation of use privileges or services shall result in a reduction of any amount due from the Owner before, during or after such cessation. No Owner may waive or otherwise avoid liability for any assessment by not using any Common Areas or declining any services provided through the Homes Association.

6. No claim of the Homes Association for assessments and charges shall be subject to setoffs or counterclaims made by any Owner. To the extent permitted by law, each Owner hereby waives the benefit of any redemption, homestead and exemption laws now or hereafter in effect, with respect to the liens created pursuant to this Declaration.

7. Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Lots and the Subdivision, and to continue to provide service, and, accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

ARTICLE VII. LIMITATION ON EXPENDITURES

Except for matters contemplated in Section 2 of Article III above, 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 and available reserves which it may have on hand from prior years. The Homes Association shall not have the power to enter into any contract which binds the Homes Association to pay for any obligation out of the assessments for any term longer than three years, except for (i) contracts for utilities, maintenance or similar services or matters to be performed for or received by the Homes Association or its members in subsequent years, and (ii) matters contemplated in Section 2 of Article III above.

ARTICLE VIII. NOTICES

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

2. All notices required or permitted under this Declaration shall be deemed given if deposited in the United States Mail, postage prepaid, and addressed to the Owner at the address of the Lot. Notice to one co-Owner shall constitute notice to all co-Owners.

ARTICLE IX. EXTENSION OF SUBDIVISION

The Developer shall have, and expressly reserves, the right (but not the obligation), from time to time, to add to the existing Subdivision and to the operation of the provisions of this Declaration other adjacent or nearby lands (without reference to any tract, street, park or right-of-way) (regardless of whether the additional property is part of the property platted as Dayton Creek or is known by a name other than Dayton Creek) by executing, acknowledging and recording in the Recording Office a written instrument subjecting such additional property to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable, as solely determined by the Developer in its absolute discretion.

ARTICLE X. AMENDMENT AND TERMINATION

1. This Declaration may be terminated, 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 (a) the Owners of at least 60% of the Lots within the Subdivision as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion, the Developer, or if after the recording of the Certificate of Substantial Completion, the Homes Association under express authority and action of the Board. After the recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be amended, modified or terminated in whole or in part, at any time by a duly acknowledged and recorded written instrument executed by the Homes Association after the proposed amendment, modification or termination has been first approved by the affirmative vote of 75% or more of the full number of directors on the Board of the Homes Association and then approved at a duly held meeting of the members of the Homes Association (called in whole or in part for that purpose) by the affirmative vote of Owners owning at least 60% of the Lots.

2. Anything set forth in Section 1 of this Article to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend or change any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording in the Recording Office a written instrument for such purpose, if (i) the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or any successor or similar agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable

programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, (iii) a typographical or factual error or omission needs to be corrected in the opinion of the Developer, or (iv) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision. No such amendment by the Developer shall require the consent of any Owner or the Homes Association.

3. If the rule against perpetuities or any rule against restraints on alienation or similar restriction is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the individual(s) signing this Declaration on behalf of the Developer and the now-living children and grandchildren of the individual(s) signing this Declaration on behalf of the Developer as of the date of such execution.

ARTICLE XI. ASSIGNMENT

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

2. The Homes Association shall have no right, without the written consent of the Developer, to assign, convey, or transfer all or any part of its rights, benefits, powers, reservations, privileges, duties and responsibilities hereunder.

ARTICLE XII. COVENANTS RUNNING WITH THE LAND

1. All provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon all subsequent grantees of all parts of the Subdivision. By accepting a deed to any of the Lots, each future grantee of any of the Lots shall be deemed to have personally consented and agreed to the provisions of this Declaration as applied to the Lot owned by such Owner. The provisions of this Declaration shall not benefit or be enforceable by any creditor of the Homes Association (other than the Developer) in such capacity as a creditor.

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

3. No waiver of any violation or default shall be effective unless in writing and signed and delivered by the person or entity entitled to give such waiver, and no such waiver shall extend to or affect any other violation or situation, whether or not similar to the waived violation. No waiver by one person or entity shall affect any rights or remedies that any other person or entity may have.

ARTICLE XIII. GOVERNING LAW AND SEVERABILITY

1. This Declaration shall be governed by and construed in accordance with the laws of Kansas.

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

ARTICLE XIV. COMMON AREAS

1. Any swimming pool complex (whether one or more, collectively, the "Pool Area") is expected to be constructed on property in the Subdivision for use by residents of the Subdivision and possibly other subdivisions. The size, location, nature and extent of the improvements and landscaping of the Pool Area, and all other aspects of the Common Areas that are provided by the Developer, shall be determined by the Developer in its absolute discretion.

2. If the Pool Area is so constructed and made available for use by residents of the Subdivision, the following shall apply:

(a) Following substantial completion and opening for use, or sooner, (as determined by the Developer), the Developer shall convey or cause to be conveyed, without charge and free and clear of any mortgages, security interests, or mechanic's liens, title to the Pool Area (or the completed portion thereof) to the Homes Association. Such title transfer shall be by special warranty deed. Thereafter, the Homes Association shall cause adequate property and liability insurance to be continuously maintained on the Pool Area.

(b) The Homes Association shall pay (i) all operating expenses (as defined below) and (ii) all post construction capital expenditures (as defined below) relating to the Pool Area. The Homes Association shall pay the amounts due from it under this subsection out of the assessments collected from the Owners of the Lots and the owners of other lots that are allowed to use the Pool Area. Notwithstanding the foregoing, the Developer may, in its sole discretion, cover any operating shortfalls for a period not to exceed 5 years following substantial completion of the Pool Area. After such time, the payment by the Developer (it its sole discretion) of any operating shortfall, shall be considered a loan to the Home Association, which shall be repaid to the Developer at an annual rate of the

lesser of 3% or the lowest rate allowed by law until such loan is fully repaid, and such other mutually agreeable loan terms.

(c) For purposes hereof, the "operating expenses" of the Pool Area generally has the meaning attributed thereto under generally accepted accounting principles, consistently applied, but shall not include (i) any costs of the Developer or other applicable party of acquiring, developing, improving, constructing or erecting the Pool Area or the site on which such facilities are located, (ii) any depreciation or amortization of the costs described in clause (i) above, or (iii) any financing or debt service expenses related to the costs described in clause (i) above.

(d) For purposes hereof, "post construction capital expenditures" means any expenditures to be made or incurred after the initial completion (as specified by the Developer) of the Pool Area for equipment, furniture, waterfall and entrance monuments, or other capital assets, including the expansion, addition or replacement of any equipment or facilities, and any other expenditures that would be capitalized under generally accepted accounting principles, consistently applied. All post construction capital expenditures shall be made at the discretion of the Homes Association.

(e) **By acceptance of a deed to a Lot, all Owners acknowledge and accept the inherent risks and hazards (whether foreseeable or not) associated with use of a swimming pool and any diving board and/or slide and/or play equipment, water features and waterfalls, that may be installed as part of the Pool Area. The Developer, the Homes Association, and their respective officers, directors, managers, representatives and agents shall have no liability or responsibility to any Owner, their Guests, or other party with respect to such inherent risks and hazards. Each Owner, for himself, the members of his family, his guests and invitees, shall be deemed to have released and agreed never to make a claim against the Developer, the Homes Association, or any of their respective officers, directors, managers, representatives, or agents for any personal injury or death that may be suffered or incurred by any of such releasing parties in connection with use of the Pool Area and such inherent risks and hazards, and each of them shall be deemed to have waived any and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.**

3. Subject to Section 2 above and Section 4 below, the Developer covenants and agrees to convey, by special warranty deed, all of its rights, title and interest in the Common Areas (except any part thereof that is solely a landscape easement or is within any Lot or outside of the Subdivision) to the Homes Association, without any cost to the Homes Association, at such time(s) as the Developer, in its absolute discretion, may determine, but in all events not later than one month after the Developer has recorded the Certificate of Substantial Completion. Such transfer shall be free and clear of all mortgages, security interests and mechanic's liens. Notwithstanding the actual date of transfer, the Homes Association shall at all times, from and after the date of its formation and at its expense, be responsible for properly repairing, replacing,

controlling, maintaining, operating and insuring, as applicable, all Common Areas (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by the Developer or the Homes Association), subject to any control thereover maintained by any governmental authority, utility or similar person or entity. Any transfer of title by the Developer shall not require the consent of the Homes Association and shall not constitute an assignment by the Developer of any of its rights, as the developer of the Subdivision, pursuant to this Declaration or any other instrument, contract or declaration. In insuring the Common Areas, the Homes Association shall cause the Developer to be named as an additional insured on the insurance coverage until the recording of the Certificate of Substantial Completion.

4. The Developer, in its discretion, shall have the right to reconfigure and/or replat all or any part of the Subdivision then owned by it, including, without limitation, to make part of a Common Area tract a part of a Lot, and vice versa. In addition, each of the Developer and the Homes Association shall have the right to transfer to the City title to or easements over all or any part of the Common Areas so that they become public areas maintained by the City.

5. Prior to the filing of the Certificate of Completion, Developer and the project marketing company shall have the right to use the clubhouse for office, sales and storage purposes without payment of rent or utility reimbursement by the Developer or the project marketing company to the Homes Association.

[*Remainder of Page Intentionally Left Blank; Signature Page Follows*]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By:_____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF Johnson)

23 Before me, the undersigned, a Notary Public, within and for said County and State on the _____ day of February, 2017, personally appeared Bradley Vince, Managing Member of PV Investments, LLC, a Kansas limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
NOTARY PUBLIC

My Commission Expires:

10/06/2020
[SEAL]

MARY BERLIN
Notary Public - State of Kansas
My Appointment Expires 10/06/20

JO CO KS BK:201909 PG:003459
20190911-0003459
Electronic Recording 9/11/2019
Pages: 7 F: $123.00 4:04 PM
Register of Deeds T20190049565

FIRST AMENDMENT TO DAYTON CREEK HOMES ASSOCIATION DECLARATION

THIS FIRST AMENDMENT ("**Amendment**") is made and entered into as of September 9, 2019, by PV INVESTMENTS, a Kansas limited liability company, as the developer of the real property described below (the "**Developer**").

WITNESSETH:

WHEREAS, the Developer is the developer of the residential area in the City of Spring Hill, Johnson County, Kansas, commonly known as "Dayton Creek"; and

WHEREAS, the Developer has previously executed a certain document entitled Dayton Creek Homes Association Declaration and caused such document to be recorded in the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") in Book 201703 at Page 000416 (the "**Declaration**"); and

WHEREAS, the Declaration places certain covenants and assessments upon the following described residential lots (the "**Lots**") and the following described common areas:

> All of Lots 1 through 48, and Tracts A, B and C, DAYTON CREEK, FIRST PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,
>
> Tract D, DAYTON CREEK, SECOND PLAT, a subdivision in City of Spring Hill, Johnson County, Kansas,
>
> Lots 49 through 111, and Tracts E, F and G, DAYTON CREEK, THIRD PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 113 through 159, and Tracts H, I, and J, DAYTON CREEK, FOURTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 160 through 175, and Tracts K, L, M, and N, DAYTON CREEK, FIFTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas, and

Lots 176 through 239, and Tracts O, P, and Q, DAYTON CREEK, SIXTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

WHEREAS, the Developer desires to amend the Declaration as provided herein;

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

A. Capitalized terms used in this Amendment but not defined herein shall have the meanings set forth in the Declaration.

B. For clarification purposes, Lots 46, 47, and 48 of Dayton Creek, First Plat, have been replatted as Lots 110 and 111, Dayton Creek, Third Plat.

C. Ashlar Homes, LLC, a Missouri limited liability company ("**Ashlar**"), owns the following described lot (the "**Builder Lot**"):

Lot 112, DAYTON CREEK, FOURTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

Ashlar, for itself and for its successors and assigns, and for its future grantees, desires to subject the Builder Lot to the covenants, assessments, charges and other provisions contained in the Declaration, and Developer desires to amend the Declaration to accept the Builder Lot as a Lot in the Subdivision subjected to the covenants, assessments, charges and other provisions contained in the Declaration. Therefore, the Declaration is hereby amended such that the Builder Lot shall be, and it hereby is, subject to the covenants, assessments, charges and other provisions set forth in the Declaration as though the Builder Lot had been original described therein and subject to the provisions thereof; provided, however, the Builder Lot shall only pay 1/2 of the annual assessments as they exist from time to time pursuant to Article IV of the Declaration.

D. Article IV Section 3 of the Declaration is hereby amended to add the following at the end of the Section:

"The Developer, it is discretion, shall have the right to loan funds to the Homes Association from time to time to enable the Homes Association to perform its duties under this Declaration. The interest rate on any such loans shall not exceed at any given time the "prime rate" as then published in The Wall Street Journal.

All such loans shall be repaid by the Homes Association to the Developer no later than upon the filing by the Developer of the Certificate of Substantial Completion."

E. Article V Section 1(b) of the Declaration is hereby amended and restated to read as follows:

"(b) shall levy from time to time special assessments against each and every Lot (other than any Lot then owned by the Developer or by a builder prior to the initial occupancy of the residence thereon as a residence) in an equal amount that is sufficient, when aggregated with any funds voluntarily contributed or loaned by the Developer to the Homes Association, to enable the Homes Association (I) to perform its duties as specified in Section 2 of Article III above that require any expenditure during any period in an amount in excess of the general and applicable reserve funds of the Homes Association available therefor, (II) to pay the costs of any emergency expenditures deemed necessary by the Board and (III) to pay the costs of any capital improvements approved by a vote of the members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when a majority of the votes of the members present at such meeting (in person or by proxy) and entitled to vote thereon authorize such special assessment for the proposed capital expenditure by an affirmative vote."

F. Article VII of the Declaration is hereby amended and restated to read as follows:

"Except for matters contemplated in Section 2 of Article III above, 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 and available reserves which it may have on hand from prior years, plus any funds voluntarily contributed or loaned to the Homes Association by the Developer. The Homes Association shall not have the power to enter into any contract which binds the Homes Association to pay for any obligation out of the assessments for any term longer than three years, except for (i) contracts for utilities, maintenance or similar services or matters to be performed for or received by the Homes Association or its members in subsequent years, (ii) matters contemplated in Section 2 of Article III above, and (iii) loans from the Developer. The Developer shall have no obligation to contribute or loan any funds to the Homes Association."

G. Article X of the Declaration is hereby amended and restated to read as follows:

"1. This Declaration may be terminated, 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 at least

60% of the Lots within the Subdivision as then constituted, and (b) if prior to the recording of the Certificate of Substantial Completion, the Developer. After recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be terminated, amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written instrument executed by the Homes Association after the proposed amendment, modification or termination has been first approved by the affirmative vote of 75% or more of the full number of directors on the Board of the Homes Association and then approved by the members of the Homes Association at a duly held meeting of the members of the Homes Association (called in whole or in part for that purpose) by the affirmative vote of Owners owning at least 60% of the Lots. Notwithstanding the foregoing, no amendment adopted under this Section may remove, revoke or modify any right or privilege of Developer under this Declaration at any time without the prior written consent of Developer.

2. Anything set forth in Section 1 of this Article to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend or change any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording in the Recording Office a written instrument for such purpose, if (i) any of the Veteran's Administration, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, or any successor or similar agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, (iii) the amendment is necessary to cause this Declaration to comply with any applicable law, (iv) in the opinion of the Developer, a typographical or factual error or omission needs to be corrected, (v) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision, or (vi) **so long as Developer owns any Lots, to make any other amendment the Developer may determine to be appropriate**. No such amendment by the Developer shall require the consent of any Owner or the Homes Association

3. If the rule against perpetuities or any rule against restraints on alienation or similar restriction is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the individual(s) signing this Declaration on behalf of the Developer and the now-living descendants of the individual(s) signing this Declaration on behalf of the Developer as of the date of such execution."

H. Article XIV Section 2(b) of the Declaration is hereby amended and restated to read as follows:

> "(b) The Homes Association shall pay (i) all operating expenses (as defined below) and (ii) all post construction capital expenditures (as defined below) relating to the Pool Area. The Homes Association shall pay the amounts due from it under this subsection out of the assessments collected from the Owners of the Lots and the owners of other lots that are allowed to use the Pool Area."

I. Article XIV of the Declaration is hereby amended to add the following new Section 6 to read as follows:

> "6. Notwithstanding the foregoing, the Developer may, in its sole discretion, cover any operating shortfalls of the Homes Association. If Developer (in its sole discretion) has advanced $100,000.00 or more in the aggregate to cover any operating shortfalls of the Homes Association, then the Homes Association shall execute and deliver a note to Developer (as it may be amended, modified, increased or decreased from time to time) evidencing the aggregate amount owed to Developer over the $100,000.00 threshold as a loan. The note shall be repaid to the Developer at an annual rate of the lesser of 3% or the lowest rate allowed by law until such loan is fully repaid, which shall be no later than upon the filing by the Developer of the Certificate of Substantial Completion, and such other mutually agreeable loan terms. While a note to Developer is outstanding, the Homes Association shall not spend any money on any new capital expenditures (excluding repairs) until the note to Developer is paid in full. If the Homes Association has $10,000 or more in surplus funds over its budgeted expenses for the year, then such excess over $10,000 shall be used to pay down any note to Developer."

J. Pursuant to Article X of the Declaration, this Amendment shall become effective as an amendment of the Declaration and binding upon all of the Lots upon (a) the execution hereof by the Developer (as Developer and as owner of record of at least 60% of the Lots), and (b) the recordation hereof in the Recording Office.

K. The execution of this Amendment may occur in counterparts with only one copy of the main body hereof being recorded together with the various signature and acknowledgment pages from such counterparts.

[SIGNATURE PAGE FOLLOWS]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By: _____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on September 5, 2019, by Bradley Vince, as Managing Member of PV INVESTMENTS, LLC, a Kansas limited liability company.

_____
Notary Public in and for said County and State

My Commission Expires:

_____
[SEAL]

Print Name: Jennifer L Sears

JENNIFER L. SEARS
Notary Public-State of Kansas
My Appt. Expires June 26, 2022

The undersigned hereby approves and consents to the foregoing First Amendment to the Dayton Creek Homes Association Declaration.

Date: September 10th, 2019

ASHLAR:

ASHLAR HOMES, LLC,
a Missouri limited liability company

By: _____
Name: Shaun T. Woods
Title: President

STATE OF MO)
) ss.
COUNTY OF Jackson)

This instrument was acknowledged before me on September 10th, 2019, by Shaun T. Woods, as President of ASHLAR HOMES, LLC, a Missouri limited liability company.

_____
Notary Public in and for said County and State

My Commission Expires:

_____
[SEAL]

Print Name:_____

KIM FINNIGAN
Notary Public - Notary Seal
STATE OF MISSOURI
Jackson County
My Commission Expires: December 23, 2021
Commission #

JO CO KS BK:202005 PG:003157
20200507-0003157
Electronic Recording 5/7/2020
Pages: 3 F: $55.00 4:53 PM
Register of Deeds T20200027148

SECOND AMENDMENT TO DAYTON CREEK HOMES ASSOCIATION DECLARATION

THIS SECOND AMENDMENT ("**Amendment**") is made and entered into as of May 6, 2020, by PV INVESTMENTS, a Kansas limited liability company, as the developer of the real property described below (the "**Developer**").

WITNESSETH:

WHEREAS, the Developer is the developer of the residential area in the City of Spring Hill, Johnson County, Kansas, commonly known as "Dayton Creek"; and

WHEREAS, the Developer has previously executed a certain document entitled Dayton Creek Homes Association Declaration and caused such document to be recorded in the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") in Book 201703 at Page 000416, which has been amended by that certain First Amendment to Dayton Creek Homes Association Declaration recorded in the Recording Office in Book 201909 at Page 003459 (collectively, the "**Declaration**"); and

WHEREAS, the Declaration places certain covenants and assessments upon the following described residential lots (the "**Lots**") and the following described common areas:

> All of Lots 1 through 45, and Tracts A, B, and C, DAYTON CREEK, FIRST PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,
>
> Tract D, DAYTON CREEK, SECOND PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 49 through 111, and Tracts E, F, and G, DAYTON CREEK, THIRD PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 112 through 159, and Tracts H, I, and J, DAYTON CREEK, FOURTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 160 through 175, and Tracts K, L, M, and N, DAYTON CREEK, FIFTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas, and

Lots 176 through 239, and Tracts O, P, and Q, DAYTON CREEK, SIXTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

WHEREAS, the Developer desires to amend the Declaration as provided herein;

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

A. Capitalized terms used in this Amendment but not defined herein shall have the meanings set forth in the Declaration.

B. Article I Section (m) of the Declaration is hereby amended and restated to read as follows:

"(m) "Turnover Date" means the earlier of: (i) the date as of which 90% of all of the Lots in the Subdivision (as then contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon, or (ii) the date the Developer, in its absolute discretion, selects as the Turnover Date for all or any specific portion of this Declaration."

C. Pursuant to Article X of the Declaration, this Amendment shall become effective as an amendment of the Declaration and binding upon all of the Lots upon (a) the execution hereof by the Developer, and (b) the recordation hereof in the Recording Office.

[SIGNATURE PAGE FOLLOWS]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By: _____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on 6th May, 2020, by Bradley Vince, as Managing Member of PV INVESTMENTS, LLC, a Kansas limited liability company.

_____
Notary Public in and for said County and State

My Commission Expires:

11-19-2023
[SEAL]

Print Name: Claudia Lee Hughes

CLAUDIA LEE HUGHES
Notary Public - State of Kansas
My Appointment Expires 11-19-2023

JO CO KS BK:201909 PG:003457
20190911-0003457
Electronic Recording 9/11/2019
Pages: 3 F: $55.00 4:04 PM
Register of Deeds T20190049565

DAYTON CREEK
HOMES ASSOCIATION DECLARATION
ADDITIONAL PHASE
(Fourth, Fifth, and Sixth Plats)

THIS DECLARATION is made as of the 9th day of September, 2019, by PV INVESTMENTS, LLC, a Kansas limited liability company (the "**Developer**");

WITNESSETH:

WHEREAS, the Developer has executed and filed with the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") additional plats of the subdivision known as "Dayton Creek"; and

WHEREAS, such plats add the following lots to the subdivision (the "**Additional Lots**") and the following tracts to the subdivision:

> Lots 113 through 159, and Tracts H, I, and J, DAYTON CREEK, FOURTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,
>
> Lots 160 through 175, and Tracts K, L, M, and N, DAYTON CREEK, FIFTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas, and
>
> Lots 176 through 239, and Tracts O, P, and Q, DAYTON CREEK, SIXTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

WHEREAS, the Developer, as the owner of the Additional Lots and tracts, desires to subject the Additional Lots and tracts to the covenants, assessments, charges and other provisions contained in that certain Dayton Creek Homes Association Declaration, executed by the

Developer and filed with the Recording Office in Book 201703 at Page 000416 (the "**Original Declaration**").

NOW, THEREFORE, in consideration of the premises, the Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the Additional Lots and tracts shall be, and they hereby are, subject to the covenants, assessments, charges and other provisions set forth in the Original Declaration. As contemplated in Article IX of the Original Declaration, this instrument shall have the effect of subjecting the Additional Lots and tracts to all of the provisions of the Original Declaration as though the Additional Lots and tracts had been originally described therein and subject to the provisions thereof.

Lots 113 through 159 of Dayton Creek Fourth Plat shall only pay 1/2 of the annual assessments as they exist from time to time pursuant to Article IV of the Original Declaration.

Tracts H, I, and J of Dayton Creek Fourth Plat, Tracts K, L, M, and N of Dayton Creek Fifth Plat, and Tracts O, P, and Q of Dayton Creek Sixth Plat are "Common Areas" under the Original Declaration.

[SIGNATURE PAGE FOLLOWS]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By:_____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

Before me, the undersigned, a Notary Public, within and for said County and State on the 5 day of September, 2019, personally appeared Bradley Vince, Managing Member of PV Investments, LLC, a Kansas limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

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

Jennifer L Sears
NOTARY PUBLIC

My Commission Expires:

_____
[SEAL]

JENNIFER L. SEARS
Notary Public-State of Kansas
My Appt. Expires June 26, 2022

JO CO KS BK:201703 PG:000417
20170301-0000417
Electronic Recording 3/1/2017
Pages: 21 F: $298.00 3:52 PM
Register of Deeds T20170010969

DAYTON CREEK
DECLARATION OF RESTRICTIONS

THIS DECLARATION is made as of the 23 day of February 2017, by PV Investments, LLC, a Kansas limited liability company (the "Developer").

WITNESSETH:

WHEREAS, the Developer has caused to be executed and filed with the Office of Records and Tax Administration of Johnson County, Kansas a plat of the subdivision known as "Dayton Creek, First Plat" (the "Plat"); and,

WHEREAS, the Plat creates the subdivision of Dayton Creek, composed, in part, of the following described lots and tracts:

> All of Lots 1 through 48, and Tracts A, B and C, DAYTON CREEK, FIRST PLAT, a subdivision of land in Spring Hill, Johnson County, Kansas, according to the recorded plat thereof;

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

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

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

(a) "Approving Party" means (i) prior to the recording of the Certificate of Substantial Completion, the Developer (or its designees from time to time) and (ii) subsequent to the recording of the Certificate of Substantial Completion, the Homes Association (or with respect to Exterior Structures and other matters assigned to it, the Architectural Committee).

(b) "Architectural Committee" means: (i) prior to the Turnover Date, the Developer (or its designees from time to time); and (ii) on and after the Turnover Date, a committee comprised of at least three members of the Homes Association (at least one of whom resides in the Subdivision), all of whom shall be appointed by and serve at the pleasure of the Board (subject to the term limitations and other provisions of Section 14 below).

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

(d) "Certificate of Substantial Completion" means a certificate executed, acknowledged and recorded by the Developer stating that all or, at the Developer's discretion, substantially all of the Lots in the Subdivision (as then composed or contemplated by the Developer) have been sold by the Developer or 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 absolute discretion at any time and for any limited purpose hereunder. The execution or recording of a Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Homes Association or any other person or entity.

(e) "City" means the City of Spring Hill, Kansas.

(f) "Common Areas" means those areas determined by the Developer, in its sole discretion, to be common areas and may include: (i) any entrances, monuments, berms, street islands, and other similar ornamental areas and related utilities, lights, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any easements related thereto, in the Subdivision, (ii) all landscape easements that may be granted to the Developer and/or the Homes Association, for the use, benefit and enjoyment of all owners within the Subdivision, (iii) the Green Areas, (iv) any community swimming pool, cabana, and other recreational facilities, and (v) all other similar areas and places, together with all improvements thereon and thereto, the use, benefit or enjoyment of which is intended for all of the owners within the Subdivision, whether or not any "Common Area" is located on any Lot.

(g) "Developer" means PV Investments, LLC, a Kansas limited liability company, and its successors and assigns.

(h) "Exterior Structure" means any non-prohibited structure that is erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck or patio and its enclosure, gazebo, fence, patio wall, rock wall, landscape wall, privacy screen, boundary wall, below-ground

swimming pool, hot tub, pond, basketball goal, swing set, trampoline, sand box, playhouse, or other recreational or play structure, and all exterior sculptures, statuary, fountains, and similar yard decor.

(i) "Green Areas" means Tracts A, B and C of Dayton Creek and all similar areas that may be platted in the Subdivision as a tract and not for use as a residential lot (as they may be subsequently replatted and/or configured).

(j) "Homes Association" means the Kansas not-for-profit corporation to be formed by or for the Developer for the purpose of serving as the homes association for the Subdivision.

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

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

(m) "Subdivision" means all of the above-described lots in Dayton Creek, all Common Areas, and all additional property which hereafter may be made subject to this Declaration in the manner provided herein.

(n) "Turnover Date" means the earlier of: (i) the date as of which 90% of all of the Lots in the Subdivision (as then composed or contemplated by the Developer) have been sold by the Developer, or (ii) the date the Developer, in its absolute discretion, selects as the Turnover Date under this Declaration.

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

3. Building Material Requirements.

(a) Exterior walls of all residences and all appurtenances thereto shall be of stucco, stucco board, brick, stone, wood shingles, masonite or wood siding, wood paneling, wood lap siding, plate glass, glass blocks, or any combination thereof, or any

other material(s) or combination of materials specifically approved by the Developer. At least 25% of the front façade of each home, excluding garage doors, shall be made of masonry materials, unless the Developer approves a lesser amount. All windows shall be constructed of glass, wood, metal or vinyl clad and wood laminate, or any combination thereof; provided, however, that no silver colored windows shall be allowed. All exterior doors and louvers shall be constructed of wood, metal or vinyl clad and wood laminate, colored metal (other than silver) and glass, or any combination thereof. Roofs may be covered with asphalt composite shingles or other higher quality and comparable looking material, with the specific written approval of the Architectural Committee in its absolute discretion. Notwithstanding the foregoing provisions of this Section 3 requiring or prohibiting specific building materials or products, any building materials or products that may be or come into general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Architectural Committee in its absolute discretion, shall be acceptable upon written approval by the Architectural Committee in its absolute discretion.

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

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

(d) Chimneys on exterior walls may not be cantilevered and must have a foundation wall underneath. No metal or other pipe shall be exposed on the exterior of any fireplace or fireplace flue (other than a minimal amount of exterior metal or piping from a direct vent fireplace). All fireplace flues in chimneys shall be capped with a black or color-conforming metal rain cap.

(e) All residences shall have a house number plate, which shall be affixed to the residence and visible from the adjoining street.

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

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

(h) Each Owner, at his expense, shall cause the residence on the Lot to be connected to the public sanitary sewer system within one year after being notified by the City that sanitary sewer service is available within 200 feet of the Lot.

4. Minimum Floor Area; Lot Splits.

(a) No residence shall be constructed upon any Lot unless it has a total finished floor area of at least: 1,100 square feet on the main floor for a ranch style residence (excluding a so-called reverse one and one-half story); 1,500 square feet for a reverse one and one-half story with at least 1,100 square feet on the main floor; 1,800 square feet for a two story residence with at least 800 square feet on the main floor; 1,800 square feet for a one and one-half story residence with at least 1,000 square feet on the main floor; and 1,250 square feet for a split-level residence. A "reverse one and one-half story" is a ranch style residence with a basement finished comparable in quality to the main floor with at least one bedroom and bathroom in the basement. Finished floor area shall exclude any finished attics, garages, basements (other than in a reverse one and one-half story residence and a split-level residence) and similar habitable areas. Developer, in its sole discretion, may allow a variance from the minimum square footage requirement.

(b) No Lots shall be split without the prior written consent of the Developer and, if the resulting Lot is less than two acres, without replatting in accordance with City requirements.

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

(a) Notwithstanding compliance with the provisions of Sections 3 and 4 above, no residence or Exterior Structure may be erected upon or moved onto any Lot unless and until the building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans, and exterior color scheme have been submitted to and approved in writing by the Developer or, in the case of Exterior Structures to the extent provided in Section 8 below, the Architectural Committee. No change or alteration in such building plans, specifications, exterior materials, location, elevations, lot grading plans, general landscaping plans or exterior color scheme shall be made unless and until such change or alteration has been submitted to and approved in writing by the Developer or the Architectural Committee, as the case may be. All building plans and plot plans shall be designed to minimize the removal of existing trees and shall designate those trees to be removed.

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

(c) All final grading of each Lot shall be in accordance with the master grading plan approved by the City, any related grading plan furnished by the Developer for the development phase containing the Lot and any specific site grading plan for the Lot approved by the Developer. No landscaping, berms, fences or other structures shall

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

(d) During the construction of the residence and improvements on such Lot, the Owner, at its expense, shall install and properly maintain, until the Lot is completely sodded, hay bales, fencing and such other erosion and silt control devices, as are necessary to prevent stormwater runoff from the Lot that deposits silt or other debris onto adjacent Lots, Common Areas and streets. In connection therewith, the Owner shall comply with all Federal, state and local governmental laws, regulations and requirements, with all applicable permits, and with all requirements imposed by Developer, including, without limitation, preparation of inspection reports, and the Owner shall be responsible for any and all governmental fines and assessments that may be levied or assessed as a result of a failure of the Owner to so comply.

(e) All site preparation, including, but not limited to, tree removal, excavation, grading, rock excavation/removal, hauling, and piering, etc., shall be at the sole expense of the Owner or builder. All removed trees and excavated rock, etc., shall be removed from the Subdivision and shall not be spoiled within the Subdivision, except as expressly approved by the Developer. All excess dirt shall be spoiled within the Subdivision or other location as directed by the Developer and no dirt shall be removed from the Subdivision, except as expressly approved by the Developer.

(f) All building plans and plot plans shall be designed to minimize the removal of existing trees and shall designate those trees of two (2) inches or more caliper (as measured two (2) feet above the ground) to be removed.

(g) Approval of plans or specifications by the Developer, or any other Approving Party is not, and shall not be deemed to be, a representation or warranty that such plans or specifications comply with good engineering/architectural practices or any governmental requirements.

(h) Each Owner acknowledges that neither the sale of a Lot by the Developer to a particular builder nor the inclusion of a particular builder on a list of builders building in the area or on a list of approved builders constitutes a representation, endorsement or guaranty by the Developer or any real estate broker/salesperson of the financial stability, qualifications, work or any other matter relating to such builder. Neither the Developer nor any real estate broker/salesperson guarantees or warrants the obligations or construction by any builder.

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

7. Commencement and Completion of Construction. Unless the following time periods are expressly extended by the Developer in writing, construction of the residence on a Lot shall be commenced within six (6) months following the date of delivery of a deed from the Developer to the purchaser of such Lot and shall be completed within twelve (12) months after such commencement. In the event such construction is not commenced within such three-month period (or extension thereof, if any), the Developer shall have, prior to commencement of construction, the right (but not the obligation) to repurchase such Lot from such purchaser at 80% of its original sale price. If such repurchase right is exercised by the Developer, the Owner of the Lot in violation of this construction commencement provision shall not be entitled to reimbursement for taxes, insurance, interest, or other expenses paid or incurred by or for such Owner and all taxes and installments of special assessments shall be prorated between the Developer and the Owner as of the closing of the repurchase by Developer.

8. Exterior Structures.

(a) No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except (i) strictly in accordance with and pursuant to the prior written approval of the Architectural Committee as to the applicable building plans, specifications, exterior materials, location, elevations, lot grading plans, landscaping plans and exterior color scheme and (ii) in compliance with the additional specific restrictions set forth in subsection (b) below or elsewhere in this Declaration; provided, however, that the approval of the Architectural Committee shall not be required for (i) any Exterior Structure erected by or at the request of the Developer or (ii) any Exterior Structure that (A) has been specifically approved by the Developer prior to the issuance of a temporary or permanent certificate of occupancy as part of the residential construction plans approved by the Developer and (B) has been built in accordance with such approved plans. Compliance with the specific requirements or restrictions set forth in subsection (b) below or elsewhere in this Declaration shall not automatically entitle an Owner to install or maintain any specific Exterior Structures, and the Approving Party, in its discretion, shall always have the right to additionally regulate, prohibit, condition or otherwise restrict any Exterior Structure notwithstanding such otherwise compliance.

(b)

(i) Lots in the Subdivision not listed in the preceding sentence may have fences or privacy screens in the specific styles and colors approved by the Developer. All fences and privacy screens shall be constructed with the finished side out. All fences and privacy screens shall be constructed only of the specific

materials and in the specific styles approved by the Developer as provided above. All fences must be black wrought iron, black powder coated steel or equivalent in one of two approved fence styles and must follow property lines (unless lot configuration, property easements, lot size or building code setback restricts or prevents following property lines). No wood, chain link or similar fence shall be permitted. Unless and until otherwise specifically approved in writing by the Developer, (A) no fence, boundary wall or privacy screen shall exceed four feet in height, unless the City's ordinances require a taller fence, boundary wall, or privacy screen in the case of pools, hot tubs, etc., (B) no fence, boundary wall or privacy screen shall be constructed or maintained on any Lot nearer to the street than the rear corners (as defined by the Approving Party) of the residence, (C) no fence shall be constructed or maintained within any landscape or drainage easement or on any Lot more than one foot from the property line of the Lot, except to the extent necessary for such fence to abut the residence and except for fences around swimming pools, hot tubs and patio areas, (D) all fences (except for fences around pools, and privacy screens around hot tubs and patio areas) must be joined to or abutting any previously existing fences on adjacent Lots, and (E) all perimeter fences shall be stair-stepped to follow the grade of the Lot.

(ii) All basketball goals shall be free standing and not attached to the residence unless the Architectural Committee determines that there are compelling reasons for the basketball goal to be attached to the residence. Portable basketball goals will not be permitted. All backboards shall be transparent and all poles shall be a neutral color. There shall be only one basketball goal per Lot. The Board shall have the right to establish reasonable rules regarding the hours of use of basketball goals and any such rules shall be binding upon all of the Lots and the Owners.

(iii) All recreational or play structures must be approved in advance by the Approving Party and (if allowed) (A) shall be predominantly wood and made of materials approved in writing by the Approving Party, (B) (other than basketball goals) shall be located behind the rear corners (as determined by the Approving Party) of the residence and (C) (other than basketball goals) shall be located at least 10 feet from each side boundary and 10 feet from the rear boundary of the Lot.

(iv) No above-ground type swimming pools shall be permitted. All pools shall be fenced and all hot tubs shall be naturally screened (not fenced) or otherwise adequately screened, all in accordance with the other provisions of the Declaration. All pools and hot tubs shall be kept clean and maintained in operable condition at all times.

(v) The following Exterior Structures shall be prohibited: dog houses, animal runs, tennis courts, sport courts, paddle tennis courts, metal swing sets, jungle gyms, tree houses, free-standing flag poles, sheds, barns, storage containers, detached greenhouses and other detached outbuildings.

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

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

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

(a) Except as otherwise provided in Section 2 above, no residence or Exterior Structure, or any portion thereof, shall ever be placed, erected or used for business, professional, trade or commercial purposes on any Lot; provided, however, that this restriction shall not prevent an Owner or occupant from maintaining an office area or operating a home-business occupation in his residence in accordance with the applicable ordinances of the City so long as the residential character of the area is maintained. Home-businesses shall not generate traffic to the residence more than four times per month. Under no circumstances is any signage permitted in Common Areas or anywhere on the subject Lot advertising a home-business.

(b) No illegal, noxious or offensive activity shall be carried on with respect to any Lot; nor shall any grass clippings, trash, ashes or other refuse be thrown, placed or dumped upon any Lot or Common Area; nor shall anything be done which may be or become an annoyance or a nuisance to the Subdivision, or any part thereof. Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. All residences and Exterior Structures shall be kept and maintained in good condition and repair at all times.

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

(d) Overnight parking of motor vehicles, boats, trailers, or similar apparatus of any type or character in public streets, Common Areas or vacant lots is prohibited. Motor vehicles shall be parked overnight in garages or on paved driveways only. Except as provided in subsection (f) below, no vehicle (other than an operable passenger automobile, passenger van or small truck), commercial truck or van, bus, boat, jet-ski, trailer, camper, mobile home, or similar apparatus shall be left or stored overnight on any Lot, except in an enclosed garage.

(e) Trucks or commercial vehicles with gross vehicle weight of 12,000 pounds or over are prohibited in the Subdivision except during such limited time as such truck or vehicle is actually being used in the Subdivision during normal working hours for its specific purpose.

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

(i) When stored in an enclosed garage;

(ii) Temporary parking on the driveway for the purpose of loading and unloading (maximum of one overnight every 14 days); or

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

(g) No television, radio, citizens' band, short wave or other antenna, satellite dish (other than as provided below), solar panel, clothes line or pole, or other unsightly projection shall be attached to the exterior of any residence or Exterior Structure or erected in any yard. Should any part or all of the restriction set forth in the preceding sentence be held by a court of competent jurisdiction to be unenforceable because it violates the First Amendment or any other provision of the United States Constitution, the Architectural Committee shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections on the Subdivision, and all parts thereof, and any such rules and regulations shall be binding upon all of the Lots. Notwithstanding any provision in this Declaration to the contrary, small satellite dishes may be installed with the prior written consent of the Approving Party. The Approving Party shall have the right to establish rules and regulations binding upon all of the Lots and specific requirements for each Lot, regarding the location, size, landscaping and other aesthetic aspects of such small satellite dishes so as to control the impact thereof on the Subdivision, and all parts thereof.

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

(i) No lights or other illumination (other than street lights) shall be higher than the residence. Exterior holiday lights shall be permitted only between November 15 and January 31. Except for such holiday lights, all exterior lighting shall be white and not colored.

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

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

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

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

(n) No shed, barn, detached garage or other storage facility shall be erected upon, moved onto or maintained upon any Lot. Storage shall be permitted under a deck

provided such area is screened with materials and in the manner approved by the Approving Party as otherwise authorized herein.

(o) No outside or underground fuel storage tanks of any kind shall be permitted (except standard propane tanks for outdoor grills). No power generators of any kind shall be permitted except in the event of emergencies, which means power loss to the residence for a duration of eight (8) hours or more.

(p) No driveway shall be constructed in a manner as to permit access to a street across a rear lot line.

(q) Except for signs erected by or for the Developer or its approved realtor for the Subdivision, no sign, advertisement or billboard may be erected or maintained on any Lot except that:

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

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

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

No signs offering a residence for lease or rent shall be allowed in the Subdivision. Without limiting the foregoing, no sign shall be permitted which (A) describes the condition of the residence or the Lot, (B) describes, maligns, or refers to the reputation, character or building practices of Developer, any builder, or any other Owner, or (C) discourages or otherwise impacts or attempts to impact a party's decision to acquire a Lot or residence in the Subdivision. In the event of a violation of the foregoing provisions, the Developer and/or the Association shall be entitled to remove any such offending sign, and in so doing, shall not be subjected to any liability for trespass, violation of constitutional or other rights, or otherwise. If these limitations on the use of signs, or any part thereof, are determined to be unlawful, the Board shall have the right to regulate the use of signs in a manner not in violation of law.

(r) No sign (other than community marketing signs approved by the Developer) shall be placed or maintained in any Common Area without the approval of the Approving Party.

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

(t) No residence or part thereof shall be rented or used for transient or hotel purposes, which is defined as: (i) rental of less than twelve month's duration or under which occupants are provided customary hotel services such as room service for food and beverages, maid service, and similar services; or (ii) rental to roomers or boarders, (i.e., rental to one or more persons of a portion of a residence only). No lease may be of less than an entire residence. Each lease shall be in writing, shall require that the tenant and other occupants acknowledge the existence of this Declaration and agree to comply with all provisions of this Declaration, shall provide that the lease shall be subject in all respects to the provisions of this Declaration and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of this Declaration or such rules and regulations shall be a default under the lease. In the event a tenant fails to comply with the terms of this Declaration or such rules and regulations, the Owner shall, if so directed by the Board, terminate the lease and evict the tenant. Prior to the commencement of the term of a lease, the Owner shall notify the Board, in writing, of the name or names of the tenant or tenants and the time during which the lease term shall be in effect. Notwithstanding the existence of a lease, the Owner shall remain liable for all obligations under this Declaration with respect to the Lot and the improvements thereon and the use thereof and the Common Areas and the Owner shall cause the rented property to be maintained to the same general condition and standards as then prevailing for the Owner-occupied residences in the Subdivision.

(u) Each of the Developer and the Homes Association may enforce the foregoing restrictions and other provisions of this Declaration by establishing, levying and collecting fines and other enforcement charges, having vehicles, trailers or other apparatus towed away at the Owner's expense, or taking such other lawful actions as the Developer or the Homes Association, in its sole discretion, deems appropriate.

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

11. Lawns, Landscaping and Gardens. Prior to occupancy, and in all events within eight months after commencement of construction of the residence, all lawns, including all areas between each residence and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, sidewalk or right-of-way line, shall be fully sodded and shall remain fully sodded at all times thereafter; provided, however, that the Owner of a Lot may leave or subsequently create a portion of the Lot as a natural area with the express written

permission of the Approving Party. No lawn shall be planted with zoysia or buffalo grass. Prior to occupancy, and in all events within eight months following commencement of construction of the residence, the Owner thereof shall have installed landscaping costing in excess of $2,500.00 (excluding sodding) in the front yard on the Lot and shall maintain such landscaping to the same standards as that generally prevailing throughout the Subdivision and in accordance with the plans approved by the Developer.

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

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

The Owner of each Lot shall keep the lawn uniformly mowed and clipped with a length of grass not to exceed six inches. The Owner of each Lot shall be required to install an underground water irrigation system to provide for water irrigation in the front yard and the side yard areas of the Lot (at a minimum) and shall ensure that all lawn, landscaping and garden areas are properly watered as needed to maintain the viability of such vegetation. The Owner of each Lot shall provide lawn care, consisting of mowing, edging, fertilizing and weed control of grass areas, trimming and replacement of all bushes, and trimming of all trees.

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

12. Easements for Public Utilities; Drainage; Maintenance. The Developer shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and use of drains, pipelines, sanitary and storm sewers, gas and water lines, electric and telephone lines, television cables and other utilities, and to give or grant rights-of-way or easements therefore, over, under, upon and through all easements and rights-of-way shown on any recorded plat of the Subdivision or any Common Area. All utility easements and rights-of-way shall inure to the benefit of all utility companies, including, for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of the Developer, all Owners and the Homes Association as a cross easement for utility line or service maintenance.

The Developer shall have and does hereby reserve for itself and its successors and assigns and the Homes Association and its successors and assigns an easement over and through all unimproved portions of each Lot in the Subdivision for the purpose of performing the duties of the Homes Association and maintaining any Common Area. The Developer shall have the right to execute and record, at any time, an easement with respect to specific areas utilized as provided above.

The Developer and the Homes Association, through its authorized representative(s), may at any reasonable time enter any Lot, without being deemed guilty of trespass, for the purpose of inspecting the Lot and any improvements thereon to ascertain any compliance or noncompliance with the requirements and terms of this Declaration and/or any plans approved hereunder.

Developer and the builder of the residence on the Lot shall have reasonable access to each Lot for the purpose of inspecting and maintaining erosion control devices until final stabilization of the full Lot is achieved by sodding and landscaping. No Owner shall prevent or inhibit the Developer's or the builder's reasonable access for such purpose and no Owner shall remove or damage any erosion control devices installed by the Developer or the builder. Each Owner shall notify the builder and the Developer of any damage to such erosion control devices.

In the event any easement rights granted in this Section are exercised with respect to any Lot, the party so exercising such easement rights shall exercise the same in a reasonable manner so as to minimize all adverse effects on the Owners and shall promptly repair any damages to such Lot resulting from the exercise of such easement rights and restore the Lot to as near the original condition as possible.

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

13. Common Areas.

(a) The Developer shall have the right (but is not obligated) to provide Common Areas for the use and benefit of the Subdivision, and to make loans to the Homes Association to cover any operating expenses or shortfall in operating expenses to operate and maintain Common Areas, subject to mutually agreeable loan terms. The size, location, nature and extent of improvements and landscaping in the Common Areas, and all other aspects of the Common Areas that are provided by the Developer, shall be determined by the Developer in its absolute discretion.

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

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

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

(e) Owners of Lots nearby the Common Areas shall prevent erosion and pollutant discharges and runoff onto the Common Areas.

(f) The following rules, regulations and restrictions shall apply to the use of the Green Areas:

(i) No automobiles, motorcycles, all-terrain vehicles, or other motorized vehicles or apparatus of any kind shall be allowed in the Green Areas except for mowing and otherwise maintaining the Green Area.

(ii) No refuse, trash or debris shall be discarded or discharged in or about the Green Areas except in designated trash bins.

(iii) Access to the Green Areas shall be confined to designated areas, except that Owners of Lots adjacent to the Green Areas may have access to the area from their respective Lots (where applicable).

(g) Each of the Developer and the Homes Association shall have reasonable access through Lots adjacent to the Green Areas for the purposes of maintenance and improvement thereof, but shall be responsible for repairing any damage caused by it to adjacent Lots in connection with the use of such access right.

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

(i) The Developer, in its discretion, shall have the right to reconfigure and/or replat all or any part of the Subdivision then owned by it, including, without limitation, to make part of a Common Area tract a part of a Lot, and vice versa. In addition, each of the Developer and the Homes Association shall have the right to transfer to the City (but only with the City's consent) title to or easements over all or any part of the Common Areas so that such become public areas maintained by the City.

14. Architectural Committee.

(a) No more than two members of the Board shall serve on the Architectural Committee at any time. The positions on the Architectural Committee may be divided by the Board into two classes with staggered two-year terms. The provisions of this subsection (a) shall not apply until the Turnover Date. Until such date, the Developer or its designees shall be the Architectural Committee.

(b) The Architectural Committee shall meet as necessary to consider applications with respect to any Exterior Structures that require the approval of the Architectural Committee as provided in Section 8 above and to consider any other matters within the authority of the Architectural Committee as provided in this Declaration. Any written application complete with appropriate drawings and other information that is not acted upon by the Architectural Committee within 35 days after the date on which it is filed shall be deemed to have been approved provided all necessary documentation has

been provided in writing. A majority of the members of the Architectural Committee shall constitute a quorum for the transaction of business at a meeting and every act or decision made by a majority of the members present at a meeting at which a quorum is present shall be regarded as the act or decision of the Architectural Committee.

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

(d) After the Turnover Date, any applicant or other person who is dissatisfied with a decision of the Architectural Committee shall have the right to appeal such decision to the Board provided such appeal is filed in writing with a member of the Board within seven days after the date the Architectural Committee renders its written decision. In making its decisions, the Board may consider any and all aspects and factors that the individual members of the Board, in their absolute discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Subdivision, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, landscaping plans and use of any proposed Exterior Structure. Any decision rendered by the Board on appeal of a decision of the Architectural Committee shall be final and conclusively binding on all parties and shall be deemed to be the decision of the Architectural Committee for all purposes under this Declaration. The Board from time to time may adopt, amend and revoke rules and regulations respecting appeals of decisions of the Architectural Committee, including, without limitation, requiring payment of a reasonable fee by the appealing party.

15. No Liability for Approval or Disapproval.

(a) Neither the Developer, nor the Homes Association, nor any member of the Architectural Committee or the Board shall be personally liable to any person for any approval, disapproval or failure to approve any matter submitted for approval, for the adoption, amendment or revocation of any rules, regulations, restrictions or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration or any other declaration or any such rules, regulations, restrictions or guidelines.

(b) **If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Homes Association, the Board, the Architectural Committee,**

and its agents, or any individual member, director, officer or employee thereof, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Homes Association, the Board, or individual sued by such Owner shall be entitled to recover from such Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees. Such recovery right shall constitute a lien against the Owner's Lot and shall be enforceable against such Lot.

(c) To the fullest extent permitted by law, the Homes Association shall indemnify each officer and director of the Homes Association, each member of the Architectural Committee, or other committee established by the Board, and the Developer (to the extent a claim may be brought against the Developer by reason of its appointment, removal of or control over, or failure to control, any such other persons) (each, an "Indemnified Party") against all expenses and liabilities, including, without limitation, attorneys' fees, reasonably incurred by or imposed upon the Indemnified Party in connection with any action or proceeding, or any settlement thereof, to which the Indemnified Party may be a party or in which the Indemnified Party may become involved by reason of serving or having served in such capacity (or, in the case of the Developer, by reason of having appointed, removed or controlled or failed to control any officer or director of the Association), provided the Indemnified Party did not act, fail to act or refuse to act with fraudulent or criminal intent in the performance of the Indemnified Party's duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which any Indemnified Party may be entitled at law or otherwise.

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

The Developer, the Homes Association and each Owner shall have the right (but not the obligation) to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the agreements, restrictions, reservations and other provisions herein set forth, in addition to any action at law for damages. To the

extent permitted by law, if the Developer or the Homes Association shall be successful in obtaining a judgment or consent decree in any such court action, the Developer and/or Homes Association shall be entitled to receive from the breaching party as part of the judgment or decree the legal fees and expenses incurred by the Developer and/or Homes Association with respect to such action.

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

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

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

17. **No Liability for Swimming Pool or Other Common Area Amenities. By acceptance of a deed to a Lot, all Owners acknowledge and accept the inherent risks and hazards (whether foreseeable or not) associated with use of any Green Areas, swimming pool, any diving board, and slide, play area, basketball court, volleyball court, any playground equipment, and any water feature or waterfall that may be installed as part of the Common Areas or otherwise made available for use by Owners or their guests. The Developer and the Homes Association and the officers, directors, managers, representatives, and agents of the Developer and the Homes Association shall have no liability or responsibility to any Owner or other party with respect to such inherent risks and hazards. Each Owner, for himself, the members of his family, his guests and invitees, shall be deemed to have released and agreed never to make a claim against the Developer, the Homes Association and/or any officer, director, manager, representative or agent of the Developer or the Homes Association for any personal injury or death that may be suffered or incurred by any of such releasing parties in connection with use of the Green Areas, swimming pool area, basketball court, volleyball court, any playground area, and any water feature or waterfall and each of them shall be deemed to have waived any and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.**

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

to the assigned rights, benefits, powers, reservations, privileges, duties and responsibilities. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations, privileges, duties, and responsibilities of the Developer hereunder. Any such assignments shall be recorded with the Office of Records and Tax Administration of Johnson County, Kansas.

19. Release or Modification of Restrictions.

(a) The provisions of this Declaration shall remain in full force and effect until December 31, 2041, and shall automatically be continued thereafter for successive periods of five years each; provided, however, that the Owners of at least a majority of the Lots within the Subdivision as then constituted may release the Subdivision, from all or part of such provisions as of December 31, 2041, or at the expiration of any extension period, by executing (in one or more counterparts), acknowledging and recording an appropriate agreement in writing for such purpose, at least one year prior to December 31, 2041, or to a subsequent expiration date, whichever is applicable. The provisions of this Declaration may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by (i) the Owners of at least 2/3rds of the Lots within the Subdivision as then constituted and (ii) if prior to the recording of the Certificate of Substantial Completion, the Developer, or if after the recording of the Certificate of Substantial Completion, the Homes Association under express authority and action of the Board. After the recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be amended, modified or terminated in whole or in part, at any time by a duly acknowledged and recorded written instrument executed by the Homes Association after the proposed amendment, modification or termination has been first approved by the affirmative vote of 75% or more of the full number of directors on the Board of the Homes Association and then approved at a duly held meeting of the members of the Homes Association (called in whole or in part for that purpose) by the affirmative vote of Owners owning at least 2/3rds of the Lots.

(b) Anything set forth in this Section to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend or change any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording an appropriate instrument in writing for such purpose, if (i) either the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or any successor agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or similar programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, (iii) a typographical or factual error or omission needs to be corrected in the opinion of the Developer, or (iv) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision.

No such amendment by the Developer shall require the consent of any Owner or the Homes Association.

(c) If the rule against perpetuities is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the now-living children and grandchildren of the individuals signing this Declaration on behalf of the Developer as of the date of such execution.

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

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

[*Remainder of Page Intentionally Left Blank; Signature Page Follows*]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By: _____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF Johnson)

Before me, the undersigned, a Notary Public, within and for said County and State on the 23 day of February, 2017, personally appeared Bradley Vince, Managing Member of PV Investments, LLC, a Kansas limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

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

_____
NOTARY PUBLIC

My Commission Expires:

10/06/2020
[SEAL]

MARY BERLIN
Notary Public - State of Kansas
My Appointment Expires 10/06/20

JO CO KS BK:201812 PG:003486
20181213-0003486
Electronic Recording 12/13/2018
Pages: 3 F: $55.00 9:50 AM
Register of Deeds T20180068102

AMENDMENT TO
DAYTON CREEK DECLARATION OF RESTRICTIONS

THIS AMENDMENT ("Amendment") is made as of the 11th day of December, 2018, by PV INVESTMENTS, LLC, a Kansas limited liability company (the "Developer");

WITNESSETH:

WHEREAS, the Developer has executed and filed with the Office of the Register of Deeds of Johnson County, Kansas, a various plats of the subdivision known as "Dayton Creek", which plats are described as contains the following lots (the "Lots"), to wit:

WHEREAS, the Developer has executed and filed with the Office of the Register of Deeds of Johnson County, Kansas (the "Recording Office") additional plats of the subdivision known as "Dayton Creek"; and

WHEREAS, such plats add the following lots to the subdivision (the "Additional Lots") and the following tracts to the subdivision:

Tract D, DAYTON CREEK, SECOND PLAT, a subdivision in City of Spring Hill, Johnson County, Kansas.

AND

Lots 49 through 111, and Tracts E, F and G, DAYTON CREEK, THIRD PLAT, a subdivision in City of Spring Hill, Johnson County, Kansas.

AND

Lots 112 through 159, and Tracts H, I, and J, DAYTON CREEK, FOURTH PLAT, a subdivision in City of Spring Hill, Johnson County, Kansas.

AND

Lots 160 through 175, and Tracts K, L, M, and N, DAYTON CREEK, FIFTH PLAT, a subdivision in City of Spring Hill, Johnson County, Kansas.

WHEREAS, the Developer, as the owner of the Additional Lots and tracts, desires to subject the Additional Lots and tracts to the covenants, restrictions, easements and other provisions contained in that certain Dayton Creek Declaration of Restrictions, executed by the Developer and filed with the Recording Office in Book 201703 at Page 000417 (the "**Original Declaration**").

NOW, THEREFORE, in consideration of the premises, the Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the Additional Lots and tracts shall be, and they hereby are, subject to the covenants, restrictions, easements and other provisions set forth in the Original Declaration. As contemplated in Section 20 of the Original Declaration, this instrument shall have the effect of subjecting the Additional Lots to all of the provisions of the Original Declaration as though the Additional Lots had been originally described therein and subject to the provisions thereof.

Remainder of page intentionally left blank. Signature page follows.

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By:_____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF Johnson)

Before me, the undersigned, a Notary Public, within and for said County and State on the 11th day of December, 2018, personally appeared Bradley Vince, Managing Member of PV Investments, LLC, a Kansas limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

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

_____
NOTARY PUBLIC
Mary Berlin

My Commission Expires:

10/06/20
[SEAL]

MARY BERLIN
Notary Public - State of Kansas
My Appointment Expires 10/06/20

JO CO KS BK:201909 PG:003460
20190911-0003460
Electronic Recording 9/11/2019
Pages: 7 F: $123.00 4:04 PM
Register of Deeds T20190049565

SECOND AMENDMENT TO DAYTON CREEK DECLARATION OF RESTRICTIONS

THIS SECOND AMENDMENT ("**Amendment**") is made and entered into as of September 9, 2019, by PV INVESTMENTS, LLC, a Kansas limited liability company, as the developer of the real property described below (the "**Developer**").

WITNESSETH:

WHEREAS, the Developer is the developer of the residential area in the City of Spring Hill, Johnson County, Kansas, commonly known as "Dayton Creek"; and

WHEREAS, the Developer has previously executed a certain document entitled Dayton Creek Declaration of Restrictions and caused such document to be recorded in the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") in Book 201703 at Page 000417, which has been amended by that certain Amendment to Dayton Creek Declaration of Restrictions recorded in the Recording Office in Book 201812 at Page 003486 (collectively, the "**Declaration**"); and

WHEREAS, the Declaration places certain covenants and restrictions upon the following described residential lots (the "**Lots**") and the following described common areas:

> All of Lots 1 through 48, and Tracts A, B and C, DAYTON CREEK, FIRST PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,
>
> Tract D, DAYTON CREEK, SECOND PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 49 through 111, and Tracts E, F and G, DAYTON CREEK, THIRD PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 112 through 159, and Tracts H, I, and J, DAYTON CREEK, FOURTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas,

Lots 160 through 175, and Tracts K, L, M, and N, DAYTON CREEK, FIFTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas, and

Lots 176 through 239, and Tracts O, P, and Q, DAYTON CREEK, SIXTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

WHEREAS, the Developer desires to amend the Declaration as provided herein;

NOW, THEREFORE, the parties hereto declare and agree as follows:

A. Capitalized terms used in this Amendment but not defined herein shall have the meanings set forth in the Declaration.

B. For clarification purposes, Lots 46, 47, and 48 of Dayton Creek, First Plat, have been replatted as Lots 110 and 111, Dayton Creek, Third Plat.

C. The following Lots are hereby removed from the Declaration:

Lots 112 through 159, DAYTON CREEK, FOURTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

D. The amendments contained in this Paragraph D apply only to Lots 160 through 175, Dayton Creek, Fifth Plat (the "**Estates Lots**"):

(a) Section 3(a) of the Declaration is hereby amended and restated as to the Estates Lots only to read as follows:

"(a) Exterior walls of all residences and all appurtenances thereto shall be of masonry (including, stucco, brick, stone, or faux stone), wood shingles, or any other materials specifically approved by the Developer in writing; *provided, however*, no exterior front walls shall be covered with materials commonly known as sheet goods that when installed have uncovered seams or seams covered with batts, such as, without limitation, 4 feet by 8 feet panels, and no exterior front, side, or rear walls will be covered with batt and board or T-111 siding; *provided*

further, however, that tongue and groove woodsman siding and "Smart" siding (or equivalent) may be permitted by the Developer. At least 25% of the front façade of each home, excluding garage doors, shall be made of masonry materials, unless the Developer approves a lesser amount. Concrete blocks shall not be permitted as an exterior finished surface. All windows shall be constructed of glass, wood, metal or vinyl clad and wood laminate, or any combination thereof; provided, however, that no silver colored windows shall be allowed. All exterior doors and louvers shall be constructed of wood, metal or vinyl clad and wood laminate, colored metal (other than silver) and glass, or any combination thereof. Roofs may be covered with tile, slate, or 30-year (or greater) premium asphalt composite shingles or other higher quality and comparable looking material, with the specific written approval of the Architectural Committee in its absolute discretion. Metal gutters and downspouts shall be painted a color that is complementary to the color of the trim and color of any stucco or siding. All exterior paint colors shall be neutral, earth-tone colors. Notwithstanding the foregoing provisions of this Section 3 requiring or prohibiting specific building materials or products, any building materials or products that may be or come into general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Architectural Committee in its absolute discretion, shall be acceptable upon written approval by the Architectural Committee in its absolute discretion."

(b) Section 3(g) of the Declaration is hereby amended and restated as to the Estates Lots only to read as follows:

"(g) All residences shall have at least a three-car garage. No carports are permitted. All garages shall be side entry only. In the event of a four-car (or more) garage, Developer may approve a two-car side entry and a two-car front entry, or a three-car side entry with a one-car front entry. All such approvals are at the Developer's sole discretion."

(c) Section 4(a) of the Declaration is hereby amended and restated as to the Estates Lots only to read as follows:

"(a) No residence shall be constructed upon any Lot unless it has a total finished floor area of at least: 2,400 square feet for a ranch style residence with at least 2,400 square feet on the main floor (excluding a so-called reverse one and one-half story); 2,400 square feet for a reverse one and one-half story with at least 1,700 square feet on the main floor; 2,800 square feet for a two story residence with at least 1,200 square feet on the main floor; and 2,700 square feet for a one and one-half story residence with at least 1,700 square feet on the main floor. A "reverse one and one-half story" is a ranch style residence with a basement finished

comparable in quality to the main floor with at least one bedroom and bathroom in the basement. Finished floor area shall exclude any finished attics, garages, basements (other than in a reverse one and one-half story residence) and similar habitable areas. Developer, in its sole discretion, may allow a variance from the minimum square footage requirement."

(d) Section 11, first paragraph, of the Declaration is hereby amended and restated as to the Estates Lots only to read as follows:

"Prior to occupancy, and in all events within eight months after commencement of construction of the residence, all lawns, including all areas between each residence and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, sidewalk or right of way line, shall be fully sodded and shall remain fully sodded at all times thereafter; provided, however, that the Owner of a Lot may leave or subsequently create a portion of the Lot as a natural area with the express written permission of the Approving Party. No lawn shall be planted with zoysia or buffalo grass. Prior to occupancy, and in all events within eight months following commencement of construction of the residence, the Owner thereof shall have installed landscaping costing in excess of $4,000.00 (excluding sodding) in the front and side yards on the Lot, plus at least two hardwood shade trees in the front yard and one hardwood shade tree in the back yard of 2 inches or more caliper, and shall maintain such landscaping to the same standards as that generally prevailing throughout the Subdivision and in accordance with the plans approved by the Developer."

(e) Section 11, fourth paragraph, of the Declaration is hereby amended and restated as to the Estates Lots only to read as follows:

"The Owner of each Lot shall keep the lawn uniformly mowed and clipped with a length of grass not to exceed six inches. The Owner of each Lot shall be required to install an underground water irrigation system to provide for water irrigation over the entire Lot and shall ensure that all lawn, landscaping and garden areas are properly watered as needed to maintain the viability of such vegetation. The Owner of each Lot shall provide lawn care, consisting of mowing, edging, fertilizing and weed control of grass areas, trimming and replacement of all bushes, and trimming of all trees."

E. Section 8(b)(i)(E) of the Declaration is hereby amended and restated to read as follows:

"(E) all perimeter fences shall run with the final grade of the Lot."

F. Section 8(b)(i) of the Declaration is hereby amended as to Lots 4 through 12, Dayton Creek, First Plat only to add the following at the end of the Section:

> "Notwithstanding the forgoing, as to lots 4 through 12, Dayton Creek, First Plat ("**Lots 4-12**") only, Lots 4-12 shall have any fences installed place their southern fence line approximately five (5) feet north of the low point of the drainage easement on each such lot, fence corners must match the fence corners of adjacent lots, if any, and the southern fence line shall include a 54-inch-wide gate. Approval of fences on Lots 4-12, including any variances, will be in the sole discretion of the Architectural Committee."

G. Section 11, first paragraph, of the Declaration is hereby amended as to Lots 4 through 12, Dayton Creek, First Plat only to add the following at the end of the first paragraph:

> "Notwithstanding the forgoing, as to Lots 4-12, sod shall be installed to the low point of the drainage easement on each such Lot, and from the low point south to the road the Developer will install wild grass."

H. Section 19 of the Declaration is hereby amended and restated to read as follows:

"19. Release or Modification of Restrictions.

(a) The provisions of this Declaration may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by both: (i) the Owners of at least sixty percent (60%) of the Lots within the Subdivision as then constituted, and (ii) if prior to the recording of the Certificate of Substantial Completion, the Developer, or if after the recording of the Certificate of Substantial Completion, the Homes Association under express authority and action of the Board. After the recording of the Certificate of Substantial Completion or with the Developer's written consent, this Declaration also may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written instrument executed by the Homes Association after the proposed amendment, modification or termination has been first approved by the affirmative vote of seventy-five (75%) or more of the full number of directors on the Board of the Homes Association and then approved at a duly held meeting of the members of the Homes Association (called in whole or in part for that purpose) by the affirmative vote of Owners owning at least sixty percent (60%) of the Lots. Notwithstanding the foregoing, no amendment adopted under this subsection may remove, revoke or modify any right or privilege of Developer under this Declaration at any time without the written consent of Developer.

(b) Anything set forth in this Section to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to

modify, revise, amend, change or add to any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording in the Recording Office a written instrument for such purpose, if: (i) any of the Veteran's Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or any successor or similar agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision, or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, (iii) the amendment is necessary to cause this Declaration to comply with any applicable law, (iv) a typographical or factual error or omission needs to be corrected in the opinion of the Developer, (v) such action is appropriate, in Developer's discretion, in connection with a replat of all or any part of the Subdivision, or (vi) **so long as Developer owns any Lots, to make any other amendment the Developer may determine to be appropriate**. No such amendment by the Developer shall require the consent of any Owner or the Homes Association.

(c) If the rule against perpetuities or any rule against restraints on alienation or similar restriction is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the individual(s) signing this Declaration on behalf of the Developer and the now-living descendants of the individual(s) signing this Declaration on behalf of the Developer as of the date of such execution."

I. Pursuant to Section 19 of the Declaration, this Amendment shall become effective as an amendment of the Declaration and binding upon all of the Lots upon (a) the execution hereof by the Developer (as Developer and as owner of record of at least 2/3 of the Lots), and (b) the recordation hereof in the Recording Office.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed.

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By: _____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on September 5, 2019, by Bradley Vince, as Managing Member of PV INVESTMENTS, LLC, a Kansas limited liability company.

_____
Notary Public in and for said County and State

My Commission Expires:

_____
[SEAL]

Print Name: Jennifer L. Sears

JENNIFER L. SEARS
Notary Public-State of Kansas
My Appt. Expires June 26, 2022

JO CO KS BK:201909 PG:003458
20190911-0003458
Electronic Recording 9/11/2019
Pages: 3 F: $55.00 4:04 PM
Register of Deeds T20190049565

DAYTON CREEK
DECLARATION OF RESTRICTIONS
ADDITIONAL PHASE
(Sixth Plat)

THIS DECLARATION is made as of the 9th day of September, 2019, by PV INVESTMENTS, LLC, a Kansas limited liability company (the "**Developer**");

WITNESSETH:

WHEREAS, the Developer has executed and filed with the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") an additional plat of the subdivision known as "Dayton Creek"; and

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

> Lots 176 through 239, and Tracts O, P, and Q, DAYTON CREEK, SIXTH PLAT, a subdivision in the City of Spring Hill, Johnson County, Kansas.

WHEREAS, the Developer, as the owner of the Additional Lots and tracts, desires to subject the Additional Lots and tracts to the covenants, restrictions, easements and other provisions contained in that certain Dayton Creek Declaration of Restrictions, executed by the Developer and filed with the Recording Office in Book 201703 at Page 000417, which has been amended by that certain Amendment to Dayton Creek Declaration of Restrictions recorded in the Recording Office in Book 201812 at Page 003486 (collectively, the "**Original Declaration**").

NOW, THEREFORE, in consideration of the premises, the Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the Additional Lots and tracts shall be, and they hereby are, subject to the covenants, restrictions, easements and other provisions set forth in the Original Declaration. As contemplated in Article

20 of the Original Declaration, this instrument shall have the effect of subjecting the Additional Lots and tracts to all of the provisions of the Original Declaration as though the Additional Lots and tracts had been originally described therein and subject to the provisions thereof.

Tracts O, P, and Q of Dayton Creek Sixth Plat are "Common Areas" under the Original Declaration.

[SIGNATURE PAGE FOLLOWS]

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

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By:_____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

Before me, the undersigned, a Notary Public, within and for said County and State on the 5 day of September, 2019, personally appeared Bradley Vince, Managing Member of PV Investments, LLC, a Kansas limited liability company, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said company and such person duly acknowledged the execution of the same to be the voluntary act and deed of said company.

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

Jennifer L. Sears
NOTARY PUBLIC

My Commission Expires:

_____
[SEAL]

JENNIFER L. SEARS
Notary Public-State of Kansas
My Appt. Expires June 26, 2022

JO CO KS BK:202005 PG:010892
20200528-0010892
Electronic Recording 5/28/2020
Pages: 4 F: $72.00 1:08 PM
Register of Deeds T20200032277

THIRD AMENDMENT TO DAYTON CREEK DECLARATION OF RESTRICTIONS

THIS THIRD AMENDMENT ("**Amendment**") is made and entered into as of May 22nd, 2020, by PV INVESTMENTS, LLC, a Kansas limited liability company, as the developer of the real property described below (the "**Developer**").

WITNESSETH:

WHEREAS, the Developer is the developer of the residential area in the City of Spring Hill, Johnson County, Kansas, commonly known as "Dayton Creek"; and

WHEREAS, the Developer has previously executed a certain document entitled Dayton Creek Declaration of Restrictions and caused such document to be recorded in the Office of the Register of Deeds of Johnson County, Kansas (the "**Recording Office**") in Book 201703 at Page 000417, which has been amended by that certain Amendment to Dayton Creek Declaration of Restrictions recorded in the Recording Office in Book 201812 at Page 003486, which has been further amended by that certain Second Amendment to Dayton Creek Declaration of Restrictions recorded in the Recording Office in Book 201909 at Page 003460 (collectively, the "**Declaration**"); and

WHEREAS, the Developer desires to amend the Declaration as provided herein;

NOW, THEREFORE, the parties hereto declare and agree as follows:

A. Capitalized terms used in this Amendment but not defined herein shall have the meanings set forth in the Declaration.

B. Section 3(a) of the Declaration is hereby amended and restated only as to Lots 160 through 175, Dayton Creek, Fifth Plat, to read as follows:

> "(a) Exterior walls of all residences and all appurtenances thereto shall be of masonry (including, stucco, brick, stone, or faux stone), wood shingles, or any other materials specifically approved by the Developer in writing; *provided,*

however, no exterior front walls shall be covered with materials commonly known as sheet goods that when installed have uncovered seams or seams covered with batts, such as, without limitation, 4 feet by 8 feet panels, and no exterior front, side, or rear walls will be covered with batt and board or T-111 siding; *provided further, however,* that tongue and groove woodsman siding and "Smart" siding (or equivalent) may be permitted by the Developer; *and provided further, however*, that the limited use of siding with vertical decorative trim (batt and board), which creates an architectural element of the front elevation is permitted with the specific written approval of the Developer. At least 25% of the front façade of each home, excluding garage doors, shall be made of masonry materials, unless the Developer approves a lesser amount. Concrete blocks shall not be permitted as an exterior finished surface. All windows shall be constructed of glass, wood, metal or vinyl clad and wood laminate, or any combination thereof; provided, however, that no silver colored windows shall be allowed. All exterior doors and louvers shall be constructed of wood, metal or vinyl clad and wood laminate, colored metal (other than silver) and glass, or any combination thereof. Roofs may be covered with tile, slate, or 30-year (or greater) premium asphalt composite shingles or other higher quality and comparable looking material, with the specific written approval of the Architectural Committee in its absolute discretion. Metal gutters and downspouts shall be painted a color that is complementary to the color of the trim and color of any stucco or siding. All exterior paint colors shall be approved by the Architectural Committee prior to paint application. Notwithstanding the foregoing provisions of this Section 3 requiring or prohibiting specific building materials or products, any building materials or products that may be or come into general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Architectural Committee in its absolute discretion, shall be acceptable upon written approval by the Architectural Committee in its absolute discretion."

C. Section 3(g) of the Declaration is hereby amended and restated only as to Lots 168 through 175, Dayton Creek, Fifth Plat (the "**Western Estates Lots**"), to read as follows:

"(g) All residences shall have at least a three-car garage. No carports are permitted. All garages shall be front entry or side entry only. In the event of a four-car (or more) garage, Developer may approve a two-car side entry and a two-car front entry, or a three-car side entry with a one-car front entry. All such approvals are at the Developer's sole discretion."

D. Section 4(a) of the Declaration is hereby amended and restated only as to the Western Estates Lots to read as follows:

"(a) No residence shall be constructed upon any Lot unless it has a total finished floor area of at least: 1,100 square feet for a ranch style residence with at least 1,100 square feet on the main floor (excluding a so-called reverse one and one-half story); 1,500 square feet for a reverse one and one-half story with at least 1,100 square feet on the main floor; 1,800 square feet for a two story residence with at least 800 square feet on the main floor; and 1,800 square feet for a one and

one-half story residence with at least 1,000 square feet on the main floor; and 1,250 square feet for a split-level residence. A "reverse one and one-half story" is a ranch style residence with a basement finished comparable in quality to the main floor with at least one bedroom and bathroom in the basement. Finished floor area shall exclude any finished attics, garages, basements (other than in a reverse one and one-half story residence and a split-level residence) and similar habitable areas. Developer, in its sole discretion, may allow a variance from the minimum square footage requirement."

E. Pursuant to Section 19 of the Declaration, this Amendment shall become effective as an amendment of the Declaration and binding upon all of the Lots upon (a) the execution hereof by the Developer, and (b) the recordation hereof in the Recording Office.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed.

DEVELOPER:

PV INVESTMENTS, LLC,
a Kansas limited liability company

By:_____
Bradley Vince, Managing Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on May 22, 2020, by Bradley Vince, as Managing Member of PV INVESTMENTS, LLC, a Kansas limited liability company.

Christina M Lawson
Notary Public in and for said County and State

My Commission Expires:

8-30-21
[SEAL]

Print Name: Christina M. Lawson

CHRISTINA M. LAWSON
Notary Public - State of Kansas
My Appt. Expires 8-30-21