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Security-Land Companies, Inc.  
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ORIGINAL COMPARED WITH RECORD

1982573 ✓

FOREST PARK ESTATES

ADDENDUM TO DECLARATION  
OF RESTRICTIONS

THIS ADDENDUM, made as of the *25<sup>th</sup>* day of October, 1990, by FOREST PARK DEVELOPMENT COMPANY, a Kansas general partnership:

WITNESSETH:

WHEREAS, FOREST PARK DEVELOPMENT COMPANY has executed and filed with the Register of Deeds of Johnson County, Kansas a DECLARATION OF RESTRICTIONS for the subdivision of Forest Park Estates, and

WHEREAS, the aforementioned DECLARATION OF RESTRICTIONS contained an incomplete legal description and was, therefore, filed in the Miscellaneous Book at Volume 3233, pages 1 through 14 inclusive, and

WHEREAS, as an accommodation to Title Insurance Companies and others who rely on the public records, it is desired to have a record of said DECLARATION OF RESTRICTIONS in the Plat Book:

NOW, THEREFORE, this ADDENDUM contains the entire and correct legal description of the premises and is to be recorded in the Plat Book to direct interested parties to the Miscellaneous book.

1. The complete and correct legal description of the lots in the subdivision of Forest Park Estates which are subject to the aforementioned DECLARATION OF RESTRICTIONS are as follows:

Lots 1 through 12 of Block 1 and Lots 1 and 54 through 62 of Block 2, Lots 1 and Lots 26 through 28 of Block 3, and Lots 1 and Lots 35 through 42 of Block 4, and Lots 1, 2 and 3 in Block 5 all in Forest Park Estates First Plat.

Lots 38 through 53 in Block 2 and Lots 27 through 34 in Block 4, all in Forest Park Estates Second Plat.

STATE OF KANSAS )  
COUNTY OF JOHNSON ) ss  
FILED FOR RECORD

FOREST PARK DEVELOPMENT COMPANY  
a Kansas General Partnership

1990 OCT 29 A 10:32.2

By: David K. Miller  
General Partner

*70*

SARA E. ULLMANN  
REGISTER OF DEEDS

BY \_\_\_\_\_ DEP.

*David K. Miller*  
\_\_\_\_\_

STATE OF KANSAS )  
 ) ss  
COUNTY OF JOHNSON )

BE IT REMEMBERED, that on this *25<sup>th</sup>* day of *Oct.*, 1990, before me, the undersigned, a Notary Public in and for the County and State of aforesaid, came David K. Miller, who is personally known to me to be the Managing General Partner of Forest Park Development Company, a Kansas General Partnership.

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

MEG L. KERSTETTER  
NOTARY PUBLIC  
STATE OF KANSAS  
My Appl. Expires 11-1-93

*Meg L. Kerstetter*  
\_\_\_\_\_  
Notary Public

*Meg L. Kerstetter*  
\_\_\_\_\_  
Print or Type Name

My Commission expires:

11-1-93

**FOREST PARK ESTATES  
DECLARATION OF RESTRICTIONS**

THIS DECLARATION, made as of the \_\_\_\_\_ day of August, 1990, by FOREST PARK DEVELOPMENT COMPANY, a Kansas general partnership;

**WITNESSETH:**

WHEREAS, FOREST PARK DEVELOPMENT COMPANY has executed and filed with the Register of Deeds of Johnson County, Kansas a first and second plat of the subdivision known as "Forest Park Estates"; and

WHEREAS, such plat creates the subdivision of Forest Park Estates, composed of the following described lots, to wit:

Lots 1 through 12 of Block 1 and Lots 1 and 38 through 62 of Block 2, Lots 1 and 26 through 28 of Block 3 and Lots 1 and 27 through 42 of Block 4 and Lots 1, 2, and 3 of Block 5 of FOREST PARK ESTATES, a subdivision in the City of Shawnee, Johnson County, Kansas, according to the recorded plat thereof;

and

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

NOW, THEREFORE, in consideration of the premises, Forest Park Development Company, 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. Definition of Terms Used. For purposes of this Declaration, the following definitions shall apply:

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

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

(c) The term "Developer" shall mean and refer to Forest Park Development Company, a Kansas general partnership, and its successors and assigns.

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

(e) The term "Common Areas" shall mean (i) street right-of-ways, (ii) streets and street islands, (iii) gateways, entrances, monuments, berms and other similar ornamental areas and related utilities, street lights, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any easements related thereto, including 14.57 acres of open space as shown on the second plat of Forest Park Estates and (iv) all other similar areas and places, together with all improvements thereon and thereto (including any swimming pool, tennis courts, or similar recreational facilities that may be constructed or erected), the use, benefit or enjoyment thereof is intended for all of the Owners within the District, whether or not any "Common Area" is located on any Lot.

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

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

(h) The term "Exterior Structure" shall mean any structure erected or maintained on a Lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck, gazebo, greenhouse, doghouse or other animal shelter, outbuilding, fence, privacy screen, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, basketball goal, swingset, trampoline, sand box, playhouse, treehouse or other recreational or play structure, or flagpoles.

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

(j) The term "Approving Party" shall mean (i) prior to the recording of the Certificate of Substantial Completion, the Developer and (ii) subsequent to the recording of the Certificate of Substantial Completion, the Homes Association, through its Board of Directors.

(k) The term "Architectural Committee" shall mean, through the date of filing the Certificate of Substantial Completion, the Developer and a committee comprised of at least two persons appointed by the Developer knowledgeable of home design and construction. (Also see paragraph 14)

(l) The term "Board" shall mean the Board of Directors of the Homes Association.

2. Use of Land. None of the Lots may be improved, used or occupied for other than single-family, private residential purposes, and no duplex, flat or apartment house, although intended for residential purposes, may be erected thereon. This shall not prohibit construction of up to 20 owner-occupied townhouses approved for construction in a future plat of the District. No residential building which has previously been at another location shall be moved onto any Lot. No trailer or outbuilding erected on any Lot shall at any time be used for human habitation, temporarily or permanently, nor shall any residence of a temporary character be erected on any of such Lots 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 erecting temporary buildings and using such temporary buildings or any residence for model, office, sales or storage purposes during the development of the District.

3. Building Material Requirements. Exterior walls of all residences and all appurtenances thereto shall be of stucco, brick, stone, wood shingles, wood siding, wood paneling, plate glass, or any combination thereof, excluding board and batt siding. All windows shall be constructed of glass, wood, metal clad and wood laminate; provided, however, that storm windows may be constructed of colored metal (other than silver). All exterior doors and louvers shall be constructed of wood, metal clad and wood laminate, colored metal (other than silver) and glass. All exterior doors shall be functional. Roofs with a pitch of three inches or more per foot shall be covered with wood shingles, wood shakes, tile or slate. Flat roofs, or roofs with a pitch of less than three inches per foot, shall be covered with copper, wood shingles, wood shakes, asbestos shingles or slate. Any building or roof products that may come into general usage for dwelling construction of comparable quality and style in the area after the date hereof, or if mandated by a governing body, shall be acceptable if approved in writing by the Developer. All wood exteriors, except roofs and shake side walls, shall be covered with a workmanlike finish of two coats of high quality paint or stain. No building shall be permitted to stand with its exterior in any unfinished condition for longer than five months after commencement of construction. All exterior basement foundations and walls which are exposed in excess of 6 inches above final grade shall be painted the same color as the residence or covered with siding compatible with the structure. No "earth" homes shall be permitted. No driveway shall be constructed in such a manner as to permit access to a street across a rear lot line, except as approved in writing by the Developer. A foundation wall must be built under all fireplace chimneys. All exposed chimneys must be of a masonry material which includes stucco. A low profile black termination cap is required for each chimney.

4. Minimum Floor Area. No residence shall be constructed upon any Lot in the District unless it has a total finished floor area of not less than 2,500 square feet if a 2-story or 1 1/2-story design and 1,800 square feet if a 1-story design. The Developer, in its discretion, may allow variances from the foregoing square footage requirement. All floor areas shall be determined exclusive of any porches, garages, attics and basement areas, whether finished or unfinished, except that walk-out basements, if finished with full length windows shall count on a 2 square foot of basement equals 1 square foot of floor area.

**5. Approval of Plans and Post-Construction Changes.**

(a) No residence or Exterior Structure may be erected upon or moved onto any Lot unless and until the building plans, specifications, exterior color scheme, materials, location, elevation, grade and landscaping thereof have been submitted to and approved in writing by the Developer, or in the case of Exterior Structures as provided in Section 8 below, the Architectural Committee. Nor shall any change or alteration in such building plans, specifications, exterior color scheme, materials, location, elevation, grade and landscaping thereof be made until such change or alteration has been submitted to and approved in writing by the Approving Party. 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 exterior colors or landscaping thereof or with respect thereto shall be changed and no exterior additions or alterations to any structure shall be made unless and until the changes have been submitted to and approved in writing by the Approving Party. All replacements of all or any portions of a structure because of age, casualty loss or other reason, including, without limitation, roofs and siding, shall be of the same material as the original structure unless the changes have been submitted to and approved in writing by the Approving Party.

6. **Set Backs.** No building, exclusive of porches, porticoes, stoops, balconies, bay and other windows, eaves, chimneys and other similar projections, shall be closer to any street than the building setback lines, if any, shown on the plat.

7. **Commencement and Completion of Construction.** Unless the following time periods are expressly extended by the Developer in writing, construction of the residential building on a Lot shall be commenced within six months following the date of delivery of a warranty deed from the Developer to the purchaser of such Lot and shall be completed within six months after such commencement, except that Builder owned "speculative" homes may be left incomplete as to interior features customarily selected by the homeowner, e.g. floorcovering, light fixtures, wallpaper, appliances, ceramic, and interior paint and stain. In the event such construction is not commenced within such six month period (or extension thereof), the Developer shall have, prior to commencement of construction, the right to repurchase such Lot from such purchaser at its original sale price. No Owner of a Lot in violation of this construction commencement provision shall be entitled to reimbursement for taxes, interest or other expenses paid or incurred by or for such Owner.

**8. Exterior Structures.**

(a) ~~No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except~~ (i) with and pursuant to the advance written approval of the Architectural Committee, and (ii) in compliance with the additional specific restrictions set forth in subsection (b) below; provided, however, that the approval of the Architectural Committee shall not be required for any deck, gazebo or similar Exterior Structure that has been specifically approved by the Developer as part of the residential construction plans approved by the Developer and has been built in accordance with such approved plans.

(b) (i) All residential fences and privacy screens (other than those installed by the Developer) shall be consistent with the standard designs, heights and materials to be selected by the Architectural Committee. All fences shall be constructed with the finished side out. No metal (other than wrought iron), chain link or similar fence or privacy screen shall be permitted. No fence shall extend toward the front of the residence beyond the rear corners of the residence, except as recommended by the Developer or the City of Shawnee for safety or aesthetics above retaining walls erected by the Developer or Builder between the curb and the front building set-back line. No fence shall exceed six feet in height.

(ii) All basketball goals shall be approved in writing by the "Approving Party" as to location, design and materials. Approval will be granted for a location behind the rear building line and is not anticipated to be granted for any basketball goals attached to the front of the residence or free standing in a "front-entry" driveway. Backboards shall be clear or painted a neutral color and poles shall be a neutral color. The Developer is committed to provide a paved basketball court with a permanent, high-quality goal with safety padding at the pool-tennis parking area.

(iii) All recreational or play structures (other than basketball goals) shall be located behind the back building line of the residence.

(iv) No above-ground swimming pools shall be permitted. All pools shall be fenced. All pools and hot tubs shall be kept clean and maintained in operable condition.

(v) All outside doghouses and other animal shelters shall be located in the back yard; shall be up against or within ten feet of the residence, shall be painted the same color as the residence and shall have roofs that are compatible with the residence. Dog runs with concrete or paved surface and enclosed with wire or chain-link type fence will not be allowed.

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

**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 shall ever be placed, erected or used for business, professional, trade or commercial purposes on any Lot; provided, however, that this restriction shall not prevent an Owner from maintaining an office area in his residence in accordance with the applicable ordinances of the City of Shawnee, Kansas.

(b) No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any 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 neighborhood. 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) No vehicle, trailer, bus, camper, boat or similar apparatus shall be parked, left or stored in any yard. No truck or commercial vehicle shall be parked, left or stored in any driveway or street for more than a sixteen-hour period. No inoperable vehicle, trailer, bus, van, camper, boat or similar apparatus shall be parked, left or stored in any driveway or street for more than a 24-hour period. It is the intent of the parties hereto that all automobiles shall be kept in an enclosed garage whenever possible. Motorized vehicles shall not be operated on any Lot or Common Area, other than in the street.

(d) No television, radio, citizens' band, short wave or other antenna, satellite dish, solar panel, clothes line or pole, or other unsightly projection shall be attached to the exterior of any residence 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 on the neighborhood and any such rules and regulations shall be binding upon all of the Lots. No lights or other illumination shall be higher than the residence.

(e) All garage doors shall remain closed at all times except when necessary for entry or exit.

(f) No garage sales, sample sales or similar activities shall be held more than once each year by a resident within the District without the written consent of the Approving Party.

(g) No mailbox or standard therefor shall be erected or installed without the prior approval of style, material, construction, and location being granted by the Approving Party.

(h) No speaker, horn, whistle, siren, bell or other sound device, except intercoms and those used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any residence or in any yard.

(i) All public utilities shall be underground.

(j) In the event of vandalism, fire, windstorm or other damage, no buildings shall be permitted to remain in damaged condition for longer than 30 days before commencement of rebuilding or repairs. Repairs or rebuilding shall proceed without interruption once begun.

(k) No shed, barn, detached garage or other storage facility shall be erected upon, moved onto or maintained upon any yard except as authorized by the Approving Party. Storage shall be permitted under a deck provided such area is fenced or otherwise screened.

(l) No fuel storage tanks of any kinds shall be permitted.

(m) All residences must have a minimum two (2) car garage. No carports are allowed.

(n) It is the Developer's intent to preserve the natural environment as much as possible. Circular driveways are permitted if approved by the Approving Party.

(o) No exterior light shall be aimed at streets or adjacent housing or lots.

(p) Use of crushed gravel or natural driveways is prohibited. Plain concrete, patterned concrete, bominite, interlocking pavers, brick, or other stone finishes are encouraged.

(q) No automotive repairs or rebuilding or any other form of automotive remodeling or refurbishing, whether for hire or otherwise, shall occur on any of the lots hereby restricted except on a noncommercial basis and not for hire within the confines of any enclosed garage built on the said premises and as permitted under the other provisions in these restrictions.

(r) Motorized vehicles shall not be operated on any vacant lot or common areas, except for mowing and other maintenance by employees or contractors of Developer or Homes Association.

10. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes and do not constitute a nuisance to the neighbors or neighborhood. Pets must be leashed and accompanied by a responsible person when on the trails or other common area. The Developer, and subsequently the Homes Association Board of Directors when formed, shall have the authority to determine what constitutes a nuisance. Upon such determination, such animal will be removed from the subject lot within three weeks of notification to the owner thereof of such determination or, in the event that a further determination is made that there is a potential for danger from the animal, then within 48 hours of such notification.

11. Landscaping and Lawns. Prior to occupancy, and in all events within six months after commencement of construction, all lawns, including all areas between each residential building and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, or right-of-way line, shall be fully sodded and shall remain fully sodded at all times thereafter. However, no naturally wooded lot (as designated by the Developer) need be sodded behind the rear building line of the residence. The Owner may also leave a portion of the side or front of the lot as a natural area if approved in writing by the Developer. Prior to occupancy, and in all events within six months following commencement of construction of the residence, the Owner thereof shall expend a minimum of \$750 for beautification of the portion of the Lot between the street and the front building line of the residence. Beautification shall include, but not necessarily be limited to, plantings, brick, stone or wood retaining walls to preserve natural areas, flower beds, benches, statuary, brick or stone walkways if in addition to the minimum required for all residences, and other features applicable to certain lots if approved the Developer. All vegetable gardens shall be located in the back yard. The Owner of each Lot shall keep the sodded portion of the lawn uniformly mowed and clipped with a length of grass not to exceed five inches and shall properly maintain and replace all trees and landscaping. Except for thorn trees such as locust and hedge, no live tree (except as required for excavation and construction) of 3" or more trunk diameter as measured 18" above ground level shall be removed except with written consent of the Approving Party.

**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 mains and lines, electric and telephone lines and other utilities, and to give or grant rights-of-way or easements therefor, on any lot or any Common Area. All utility easements and rights-of-way shall inure to the benefit of all utility companies, including, without limitation, the Johnson County Unified Wastewater District, for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of all Owners in the District and the Homes Association as a cross easement for utility line or service maintenance.

No water from any roof, downspout, basement or garage drain or surface drainage shall be placed in or connected to any sanitary sewer line; nor shall any other connection of any kind be made to a sewer line without the prior written approval of the Developer.

**13. Common Areas.**

(a) The Developer and its successors, assigns, and grantees, as Owners of Lots in the District, shall have the right and easement of enjoyment in and to all of the Common Areas, but only for the intended use, and such easement shall be appurtenant to, and shall automatically pass with, the title to each Lot.

(b) Developer covenants and agrees to convey title to or its interest in the Common Areas (except any part thereof that is within any Lot or outside of the District) to the Homes Association, without any cost to the Homes Association, not later than one month after the Developer has recorded the Certificate of Substantial Completion. The Homes Association shall at all times be responsible for the proper maintenance of all Common Areas, except any part thereof that is within any Lot.

(c) The ownership by the Homes Association of any Common Area and the right and easement of enjoyment of the Owners in the District as to any Common Area shall be subject to the right of the Developer to convey sewage, water, drainage, maintenance and 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 Area without the express written consent of the Approving Party.

(e) Any gates or similar security facilities that may be installed as or in a Common Area shall be constructed and operated in a manner so as to permit access at all times by emergency vehicles.

(f) The Developer and the Homes Association shall have the right to make additional rules, regulations and restrictions pertaining to the use of any Common Area.

**14. Architectural Committee.**

(a) To provide for an Architectural Committee to continue to serve after filing of the Certificate of Substantial Completions, the Board shall appoint not less than three nor more than five members for said Committee. This section deals exclusively with the Committee as constituted after filing the Certificate of Substantial Completion.

(b) If possible, no more than two Architectural Committee members shall be from any one particular plat located within the subdivision of Forest Park Estates and no more than two members of the Board shall serve on the Architectural Committee at any time. The positions on the Architectural Committee shall be divided into two classes with staggered two-year terms. No committee member shall serve for more than three consecutive terms (a full term being defined as 18 or more months).

(c) The Architectural Committee shall meet at least once each calendar month to consider applications with respect to Exterior Structures unless no applications are pending. Any application that is not acted upon by the Architectural Committee within 45 days of the date on which it is filed shall be deemed to have been approved. 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.

(d) At each meeting, the Architectural Committee shall consider and act upon applications that have been submitted to it for approval with respect to Exterior Structures. In making its decisions, the Architectural Committee may consider any and all aspects and factors that the committee members, in their absolute discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Forest Park Estates neighborhood, including, without limitation, the plans, specifications, exterior colors, materials, location, elevation, landscaping and use of the 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 guidelines and conditions that it intends to follow in making its decisions.

(e) Any applicant who is dissatisfied with the 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 15 days of the date the Architectural Committee renders its decision. Any decision rendered by the Board on appeal shall be final and conclusively binding on the applicant.

15. No Liability for Approval or Disapproval. 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 discretionary approval, disapproval or failure to approve any matter submitted for approval, for the adoption of any rules, regulations or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration.

16. Covenants Running with Land: Enforcement. The agreements, restrictions and reservations herein set forth are, and shall be, covenants running with the land into whosoever hands any of the property in the District shall come. 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 and reservations; provided, however, that no person shall be obligated to enforce any such agreements, restrictions and reservations. No agreement, restriction or reservation herein set forth shall be personally binding upon any Owner except with respect to breaches thereof committed during its or his seizing of title to such Lots; provided, however, that 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.

The Developer, its successors and assigns, and all other Owners of any of the Lots and the Homes Association, 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 and reservations herein set forth, in addition to any action at law for damages. The failure to enforce any of the agreements, restrictions or reservations herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter.

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

18. Release or Modification of Restrictions. The provisions of this Declaration shall remain in full force and effect until December 31, 2015 and shall automatically be continued thereafter for successive periods of five years each; provided, however, that the then Owners of a majority of the Lots may release the District, or any part thereof, from all or part of such provisions as of December 31, 2015, 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 the original expiration date 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 both (a) the Owners (excluding herein the Developer if it is then an Owner) of a majority of the Lots (excluding those owned by the Developer) and (b) the Developer, or its successors and assigns.

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

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

21. Homes Association. A Homes Association shall be formed upon recordation with the Register of Deeds the Articles or Incorporation by the Developer creating such Homes Association. The Homes Association shall be known by the name of Forest Park Estates Homes Association, Inc.

A. **Membership in Association.** Every owner of a lot which is subject to assessment shall be a member of the Association and the Association shall administer all common area. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

B. **Voting Rights.** There shall be two classes of voting membership in the Association which rights shall be exercised as provided below.

**Class A.** Class A members shall be all owners with the exception of Developer and such members shall be entitled to one vote for each dwelling owned. When more than one person owns an interest in any dwelling, all such persons shall be members; however, they shall all collectively exercise the one vote with respect to any dwelling.

**Class B.** The sole Class B member shall be Developer and such member shall be entitled to two votes for each lot owned. The Class B membership shall cease and shall be converted to Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, which by virtue of the two to one ratio of votes between Class B and Class A will occur when sixty-six (66%) percent of the lots included within this declaration at that time have been sold by Developer; provided however, that if additional land is thereafter annexed into the Association and the subdivision so as to create an additional number of lots of such an amount that the proportion of lots sold is decreased below sixty-six (66%) percent, then and in that event the Class B membership shall automatically be recreated in the same manner and in the same condition as it originally existed. The Developer shall convey title in all Common Areas not later than the date at which the Class B memberships cease.

C. **Covenant and Lien for Assessments.** The Developer for each lot owned within the subdivision and the Association hereby covenants and agrees to pay, and each owner of any lot by acceptance of a deed is deemed to covenant and agree to pay, to the Association;

(1) Annual or semi-annual assessments or charges

(2) Special assessments for capital improvements; and

(3) Any other assessments for such expenses as are hereinafter created for by the Association or provided for in this declaration. All assessments shall be fixed, established and collected from time to time as hereinafter provided. Such assessments, together with the interest thereon, costs and reasonable attorney's fees involved in any collection thereof, shall be a charge and a continuing lien in favor of the Association upon the real estate or lot against which each such assessment is made. Such lien shall arise and run from the time at which any assessment remains unpaid for thirty (30) days after the same has become due and payable. Interest shall run on any unpaid assessment at the then current judgment rate as provided in the laws of the State of Kansas. The Association may bring an action at law against the owner

personally obligated to pay same, or foreclose the lien against the property through proceedings in any court having jurisdiction of suits for the enforcement of such liens. Provided however, the lien for assessments provided herein shall be subordinate to the lien of any pre-existing first mortgage placed upon any property subject to assessment. Such liens may be recorded and shall run with the land and shall become due and payable in the event of transfer or refinancing of any lot subject to an assessment lien.

**D. Use of Assessment Monies.** Assessments levied by the Association shall be used to enhance the property and to promote the recreation, health, safety and welfare of the residents in the subdivision and owners of lots and for the improvement and maintenance of all common area.

**E. Creation of Assessments.** The Developer initially, and thereafter The Board of Directors of the Association shall fix the annual or semi-annual assessment per lot in accordance with the Articles of Incorporation to be subsequently filed with the Register of Deeds of Johnson County, Kansas. The maximum assessment may be increased each year, after the first initial such assessment, by no more than fifteen (15%) percent above the maximum assessment for such initial year or the previous year without any vote of the membership in the Association. A majority vote of the membership shall be required to increase any maximum assessment by more than fifteen (15%) percent. Provided however, the Association may levy in any year a special assessment applicable to any year and future years for the purpose of defraying part or all of the expenses as to the cost of reconstruction, repair or replacement of capital improvements on the common area, and/or the construction of new capital improvements. Such special assessments shall be levied only upon the vote of two-thirds (2/3) of the voting power of members present in person or by proxy at a meeting of the members called pursuant to the notice provisions contained in the Articles of Incorporation and any applicable Bylaws.

**F. Rate of Assessment.** Both annual or semi-annual assessments and special assessments must be fixed at a uniform rate for all similar lots, and due dates shall be established by the Board of Directors of the Association so as to provide for efficient collection of assessments. All assessments of owners, other than the Developer, shall commence on the date of such owner's acquisition of any lot within the subdivision or the Association.

**G. Maintenance of Common Area.** The Association shall provide for the perpetual maintenance of all common areas, footpaths, jogging paths (and easements therefore), swimming pool, tennis courts, and utilities, buildings and equipment thereon. Each owner shall be responsible for the maintenance of such owner's lot and any improvements thereon, provided however, the Association may, by vote of three-fourths of its members present at a meeting in person or by proxy provide for the grounds keeping of all owners' lots and to include the costs thereof as a part of the assessments. In the event that the Association fails to adequately and properly maintain any common area, the City of Shawnee, Kansas is hereby granted a perpetual easement in such event to enter upon the common area to maintain same.

**H. Easements and Right-of-Way.** Developer, the Association and, as provided herein, the City of Shawnee, shall have a right of access and an easement to, over and through all of the common area, dedicated easements and platted easements contained within the Association and the subdivision for all purposes which enable such parties to perform their obligations, rights and duties with regard to maintenance, repair, restoration and/or servicing of utilities for the common area in the subdivision.

I. Insurance. The Board of Directors shall obtain and maintain, to the extent obtainable, fire and other hazard insurance of standard extended coverage, vandalism and malicious mischief endorsements, insuring all common area and improvements thereon, and public liability insurance in such limits as the Board of Directors may from time to time determine, covering the same common area and improvements with cross liability endorsement to cover the members and owners in the Association. The board of Directors may also obtain such other insurance as it may determine from time to time to be necessary with all premiums for all policies purchased by the Association to be charges as a common expense over all property contained within the subdivision and to be paid from the assessments thereon.

J. Annexation of Additional Land. Developer shall have the right to annex additional land into the subdivision and the Association, in which event the owners in such additional, annexed land shall have the same right in the Association as are contained herein. Upon Annexation, the owners in such additional land shall have the same rights to the common areas in the Association and the same right of ingress and egress to the property as the original owners. Developer hereby covenants that annexation shall be mandatory of all land developed in accordance with the Planned Unit Development approved by the City of Shawnee of which the land initially bound hereby is a part. Said annexation to occur at the filing of each plat as subsequent phases are developed.

22. Notices. Any notice required to be sent to any owner under the provisions of this declaration shall be deemed to have been properly sent and received when mailed, postage prepaid to the last known address of the person who appears as an owner on the records of the County Appraiser and Register of Deeds of Johnson County, Kansas at the time of such mailing.

FOREST PARK DEVELOPMENT COMPANY  
a Kansas general partnership

By: David K. Miller  
General Partner

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