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NOTTINGHAM DOWNS-DUPLEX  
DECLARATION OF RESTRICTIONS

STATE OF KANSAS  
COUNTY OF JOHNSON } ss  
FILED FOR RECORD

1986 DEC 12 A 11:58 6

RUBIE M. SCOTT  
REGISTER OF DEEDS

THIS DECLARATION, made as of the 19th day of November, 1986, by HANOVER DEVELOPMENT COMPANY II, a Kansas general partnership; DEF

WITNESSETH:

WHEREAS, Hanover Development Company II has executed and filed with the Register of Deeds of Johnson County, Kansas, a Third Plat of the subdivision known as "Nottingham Downs"; and

WHEREAS, such plat adds certain duplex lots to the subdivision of Nottingham Downs, including the following described lots, to wit:

Lots 1 through 6 of Block 5, all in Nottingham Downs, Third Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, according to the recorded plat thereof;

WHEREAS, Hanover Development Company II, 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 Hanover Development Company II and its future grantees, successors and assigns;

NOW, THEREFORE, in consideration of the premises, Hanover Development Company II, 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.

(b) The term "Duplex Unit" shall mean, collectively, (i) one of the two separate residential units contained in

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a duplex that has been or is being constructed on any Lot and (ii) the portion of the Lot that is allocated to such unit.

(c) The term "District" shall mean all of the above-described lots in Nottingham Downs, Third Plat, all Common Areas, and all additional property which hereafter may be made subject hereto in the manner provided herein.

(d) The term "Developer" shall mean and refer to Hanover Development Company II, a Kansas general partnership, and its successors and assigns.

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

(f) The term "Common Areas" shall mean (i) street right-of-ways, (ii) streets and street islands, (iii) gateways, entrances, monuments and other similar ornamental areas and related utilities and landscaping constructed or installed by the Developer at or near the entrance of any street adjacent to a Lot, (iv) the Private Park, and (v) all other areas and places, together with all improvements thereon and thereto, 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.

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

(h) The term "Homes Association" shall mean Nottingham Downs-Duplex Homes Association, Inc., a Kansas not-for-profit corporation to be formed by the Developer.

(i) The term "Exterior Structure" shall mean any man-made structure protruding above ground that is not directly attached to and a structural component of the residence to which it is appurtenant, including, without limitation, any gazebo, shack, greenhouse, outbuilding, detached garage, barn, shed, patio enclosure, animal shelter, playhouse or tent.

(j) The term "Certificate of Substantial Completion" shall mean a certificate executed, acknowledged and recorded by the Developer stating that all of the Lots in the District (as then composed or contemplated by the Developer) have been sold by the Developer and the duplexes to be constructed thereon are substantially completed.

(k) 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.

(1) The term "Private Park" shall mean all of Tract A of Nottingham Downs Private Park, a subdivision in Overland Park, Johnson County, Kansas, according to the recorded plat thereof.

2. Use of Land. None of the Lots may be improved, used or occupied for other than private residential purposes, and no flat, apartment house or other structure containing three or more living units, although intended for residential purposes, may be erected thereon. No residential building which has previously been at another location shall be moved onto any Lot. No trailer or Exterior Structure 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 office, sales or storage purposes during the development of the District.

3. Building Material Requirements. Exterior walls of all residential buildings and all appurtenances thereto shall be either masonry (brick or stone) (non-artificial or man-made) or stuccato board with one inch by six inch cedar bats on four foot centers or a combination thereof. Windows shall be constructed of glass and wood; provided, however, that storm windows may be constructed of colored metal. Exterior doors and louvers shall be constructed of wood, colored metal and glass. Roofs with a pitch of three inches or more per foot shall be covered with wood shingles, wood shakes, slate or tiles. Flat roofs, or roofs with a pitch of less than three inches per foot, shall be covered with tin, built up asphalt, wood shingles, wood shakes, asbestos shingles, slate or tile. Any building products that may come into general usage for dwelling construction of comparable quality and style in the area after the date hereof 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 an unfinished condition for longer than five

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 house or covered with siding compatible with the structure.

4. Minimum Floor Area. No Duplex Unit shall be constructed upon any Lot unless it has a total finished floor area of not less than 850 square feet; provided, however, that Hanover Development Company II shall have the right to permit the construction of a smaller Duplex Unit under such conditions and for such circumstances as it may deem appropriate and approve. All floor areas shall be determined exclusive of any porches, garages, attics and basement areas, whether finished or unfinished.

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 Approving Party. 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.

(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 unless and until the changes have been submitted to and approved in writing by the Approving Party.

(c) The Approving Party shall not be liable to any person for any discretionary approval, disapproval or failure to approve any matter submitted for its approval as required by the provisions of this Declaration.

6. Commencement and Completion of Construction. Unless the following time periods are expressly extended by the Developer, construction of the residential building on a Lot shall be commenced within 90 days 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. In the event such construction is not commenced within such 90 day 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.

7. Construction of Hedges, Fences and Boundary Walls. No metal, chain link or similar fences shall be permitted and all fences shall be consistent with the fence design(s) and materials to be selected by the Developer. No fence or boundary wall shall be erected upon or moved onto any Lot unless and until the location, design, configuration and materials have been submitted to and approved in writing by the Approving Party. In addition, all Lots with rear or side property lines adjacent to R-1 zoned, single family property or the Private Park shall have a six (6) foot high, board on board, two (2) sided (alternating) fence erected on such rear or side property line. For purposes hereof, fences shall include, without limitation, all privacy screens and enclosures.

8. Set-Back and Side Yard Requirements. No residence or other structure shall be located closer than 30 feet to the curblane of any street or six feet to any side property line.

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

(a) Except as otherwise provided in Section 2 above, no building or structure of any sort shall 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.

(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, nor shall anything be done which may be or become an annoyance or a nuisance to the neighborhood. Each Owner shall properly maintain his Duplex Unit and the improvements thereon in a neat, clean and orderly fashion.

(c) No vehicle, truck, trailer, bus, camper, boat, airplane or other apparatus shall be left, maintained, repaired, serviced or stored on any Lot, except in an enclosed garage; provided, however that motor vehicles may be parked in driveways and on streets for not more than a 24-hour period. Motorized vehicles shall not be operated on any Lot, other than in the street.

(d) No television, radio, citizens' band, short wave or other antenna, clothes lines or clothes line poles, awnings, canopy, satellite disc, solar panels, or other unsightly projections shall be attached to any residence or constructed or erected upon any Lot. No basketball goal shall be constructed or erected upon any Lot unless and until approved in writing by the Approving Party. No lights or other illumination shall be higher than the residence. No above-ground swimming pool, hot tub, or tank for the storage of fuel shall be maintained above the surface of the ground; provided, however, that above-ground hot tubs may be maintained if adequately screened and if approved in writing by the Approving Party.

(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 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 Developer.

(h) In the event of vandalism, fire, windstorm or other damage, no buildings shall be permitted to remain in damaged condition for longer than three months.

10. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; provided, however, 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. In no event, however, shall more than three dogs or cats, or combination thereof, be raised, bred or kept on any Duplex Unit.

11. Landscaping and Lawns. At the time of construction of each Duplex Unit, the Owner shall spend a minimum of \$400.00 per Duplex Unit in landscaping and shall landscape to the same standards as that generally prevailing throughout the District and in accordance with the plans approved by the Developer. Prior to occupancy, 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, sidewalk or right-of-way line, shall be fully sodded or shall be planted with zoysia strips no more than 12 inches apart, or six inches apart if zoysia

plugs, except in such areas designated by the Developer to be left as natural area. The Owner of each Duplex Unit at all times shall keep his lawn, including areas between his residence and any adjacent street, fully sodded, or planted with zoysia strips or plugs, and keep such lawn uniformly mowed and clipped with a length of grass not to exceed four inches.

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, over, under, upon and through all easements and rights-of-way shown on the recorded plat of the District 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 Duplex Units 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 Duplex Unit.

(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 and except the Private Park; as provided below) 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. Prior to such date, Developer shall cause the Homes Association to enter into an agreement with the Developer establishing a cost sharing arrangement for the maintenance of such Common Areas.



(c) Developer shall retain title to the Private Park until Certificates of Substantial Completion have been filed for all subdivisions for which the Private Park is or is to be a common area. Prior to such date, Developer shall cause the various affected homes associations to enter into an agreement among themselves and Developer establishing a cost sharing arrangement for the proper maintenance of the Private Park, including, without limitation, maintaining landscaping and any improvements erected in the Private Park and correcting the effects of material detrimental erosion or other damage caused by the flow of water through the Private Park. Within one month after the filing of Certificates of Substantial Completion for all affected subdivisions, Developer shall transfer title to the Private Park to the various homes associations as tenants in common, and at such time Developer's obligation pursuant to the maintenance agreement will terminate.

(d) 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.

(e) No owner shall improve, destroy or otherwise alter any Common Area without the express written consent of the Approving Party.

(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. Covenants Running with Land; Enforcement. The agreements, restrictions and reservations herein set forth are, and shall be, covenants running with the land into whose-soever 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 to observe 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 seizin of title to its or his Duplex Unit; 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 seizin of title to such Duplex Unit.

The Developer, its successors and assigns, and all other Owners of any of the Duplex Units 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. The City of Overland Park, Kansas, is hereby deemed to be a third party beneficiary with respect to the provisions hereof relating to the Private Park and as such shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or enforce the observation of the agreements, restrictions, obligations and other provisions relating to the Private Park.

15. 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.

16. Release or Modification of Restrictions. The provisions of this Declaration shall remain in full force and effect until December 31, 2014 and shall automatically be continued thereafter for successive periods of five years each; provided, however, that the then Owners of a majority of the Duplex Units may, subject to the last sentence of this Section 16, release the District, or any part thereof, from all or part of such provisions as of December 31, 2014, 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 therein the Developer if it is then an Owner) of a majority of the Duplex Units (excluding those owned by the Developer) and (b) the Developer, or its successors and assigns. Notwithstanding

the foregoing, the prior written consent of the City of Overland Park, Kansas shall be required for the termination of this Declaration in its entirety or to any amendment, modification or termination of any provision regarding the Private Park.

17. 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.

18. Release of City of Overland Park. The City of Overland Park, Kansas is hereby released from any and all past, present or future liability for any damages that may be caused at any time to any real property or personal property, including, without limitation, any Lot, Duplex Unit, residence or other improvement, or the Private Park or any other Common Area, resulting from or related to, directly or indirectly, the grant by the City to the Developers of a variance from Chapter 15.08 of the Overland Park Municipal Code relating to the creek in the Private Park or otherwise acting or failing to act with respect to the Private Park or the City's permitting public storm water to enter the Private Park. The City is further released from any and all past, present or future obligations to expend any public funds or to take any other action to maintain or improve the Private Park.

19. Severability. Invalidity 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.

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

HANOVER DEVELOPMENT COMPANY II,  
a Kansas general partnership

By: Cyril VanKeirsbilck  
Cyril VanKeirsbilck, a partner

By: R. A. Akers  
R. A. Akers, a partner

By: WAYNE "E" SMITH, INC. a partner

By: Wayne E. Smith  
Wayne "E" Smith, President

By: VANKEIRSBILCK CONTRACTING  
CO., INC., (successor by merger  
to Tom Van Construction, Inc.),  
a partner

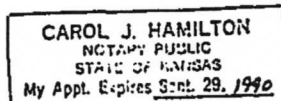
By: Thomas J. VanKeirsbilck  
Thomas J. VanKeirsbilck,  
President

The foregoing being all of the  
partners of Hanover Development  
Company II.

STATE OF KANSAS     )  
                              ) SS.  
COUNTY OF JOHNSON )

BE IT REMEMBERED, That on this <sup>4<sup>th</sup></sup> ~~10th~~ day of <sup>DECEMBER</sup> ~~NOVEMBER~~, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Cyril Van Keirsbilck, a partner in Hanover Development Company II, a Kansas general partnership, who is personally known to me to be the same person who executed the within instrument, and duly acknowledged the execution of the same in his capacity as a partner in such partnership.

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



My commission expires:

SEPTEMBER 29, 1990

Carol J. Hamilton  
Notary Public

CAROL J. HAMILTON  
Print or Type Name

STATE OF KANSAS     )  
                              ) SS.  
COUNTY OF JOHNSON )

BE IT REMEMBERED, That on this <sup>4<sup>th</sup></sup> ~~15th~~ <sup>DECEMBER</sup> day of ~~January~~, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came R. A. Akers, a partner in Hanover Development Company II, a Kansas general partnership, who is personally known to me to be the same person who executed the within instrument, and duly acknowledged the execution of the same, in his capacity as a partner in the partnership.

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

CAROL J. HAMILTON  
NOTARY PUBLIC  
STATE OF KANSAS  
My Appt. Expires Sept. 29, 1990

Carol J. Hamilton  
Notary Public

CAROL J. HAMILTON  
Print or Type Name

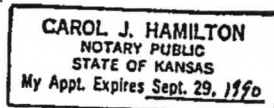
My commission expires:

SEPTEMBER 29, 1990

STATE OF KANSAS )  
 ) SS.  
COUNTY OF JOHNSON )

BE IT REMEMBERED, That on this <sup>4<sup>th</sup></sup> ~~20<sup>th</sup>~~ day of <sup>DECEMBER</sup> ~~NOVEMBER~~, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Wayne "E" Smith, President of Wayne "E" Smith, Inc., a corporation duly organized, incorporated and existing under and by virtue of the laws of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said corporation, in its capacity as a partner, on behalf of Hanover Development Company II, a Kansas general partnership, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

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



Carol J. Hamilton  
Notary Public

CAROL J. HAMILTON  
Print or Type Name

My commission expires:

SEPTEMBER 29, 1990

STATE OF KANSAS                    )  
                                      ) SS.  
COUNTY OF JOHNSON                )

BE IT REMEMBERED, That on this <sup>9th</sup> ~~10th~~ day of <sup>DECEMBER</sup> ~~JANUARY~~, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Thomas J. Van Keirsbilck, President of VanKeirsbilck Contracting Co., Inc., a corporation duly organized, incorporated and existing under and by virtue of the laws of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said corporation, in its capacity as a partner, on behalf of Hanover Development Company II, a Kansas general partnership, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

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

CAROL J. HAMILTON  
NOTARY PUBLIC  
STATE OF KANSAS  
My Appt. Expires Sept. 29, 1990

Carol J. Hamilton  
Notary Public

CAROL J. HAMILTON  
Print or Type Name

My commission expires:

SEPTEMBER 29, 1990