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DECLARATION OF RESTRICTIONS

STATE OF KANSAS 1998  
COUNTY OF JOHNSON  
FILED FOR RECORD

BLACKTHORNE ESTATES  
1ST PLAT

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SARA F. ULLMANN  
REGISTER OF DEEDS

WHEREAS, a plat of land known as BLACKTHORNE ESTATES, 1ST PLAT has been filed with the Register of Deeds of Johnson County, Kansas on March 27, 1998, in Plat Book 103, at Page 31; and

WHEREAS, said plat creates said Blackthorne Estates, 1st Plat, composed of lots and tracts described on Exhibit "A" attached hereto; and

WHEREAS, said plat dedicates to the public all of the streets and roads shown on said plat for use by the public; and

WHEREAS, Heritage Development of Kansas, Inc., a Minnesota corporation ("Developer") is the owner of all of the lots and land shown on the aforesaid plat and now desires to place certain restrictions thereon, all of which restrictions being for the use and benefit of the Developer, and for its future grantees and assigns.

NOW, THEREFORE, in consideration of the premises, the Developer for itself and its successors, grantees and assigns, hereby agrees that all of the lots, tracts and land shown described on Exhibit "A" shall be and they are hereby restricted as to their use in the manner hereinafter set forth.

DEFINITION OF TERMS USED:

For the purposes of these restrictions, the word "Developer" shall mean Heritage Development of Kansas, Inc., a Minnesota corporation.

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The word "street" shall mean any street, road, drive, or terrace of whatever name, as shown on said 1st plat of Blackthorne Estates or plats of land subsequently encumbered with this Declaration.

The word "outbuilding" shall mean an enclosed or unenclosed, covered structure, not directly attached to the residence to which it is appurtenant.

The word "lot" may mean either any numbered lot as platted, or any tract or tracts of land as conveyed, which may consist of one or more numbered lots, as platted, or part or parts of one or more numbered lots, as platted, and upon which a residence may be erected in accordance with the restrictions hereinafter set forth. A "corner lot" shall be deemed to be any lot as platted, or any tract of land as conveyed, having more than one street contiguous to it.

The word "tract" shall mean any area identified by a letter of the English Alphabet or as otherwise identified and shown on said plat.

The terms "district" or "subdivision" as used in this agreement shall mean all of the land described on Exhibit "A" attached hereto (hereinafter referred to as "Blackthorne"). If and when other land shall, in the manner hereinafter provided for, be added to that described above, then the term "district" and "subdivision" shall thereafter mean all land which shall from time to time be subjected to the terms of this agreement, including any future modifications thereof.

The term "improved property" as used herein, shall be deemed to mean a single tract under a single ownership and use, and on which tract a residence has been erected or is in the process of erection or on which any other building not in violation of the restrictions then of record thereof is erected or is in the process of erection. Any such tract may consist of one or

more contiguous lots or part or parts thereof. Any other land covered by this agreement shall be deemed to be vacant and unimproved.

The term "Association" shall mean the Blackthorne Estates Homes Association, a Kansas not-for-profit corporation.

The term "public places" as used herein shall be deemed to mean all streets.

The term "owners" as herein used shall mean those persons or corporations who may from time to time own the land within the district.

**PERSONS BOUND BY THESE RESTRICTIONS:**

Those who execute this instrument and all persons and corporations who or which may own or shall hereafter acquire any interest in the above-described lots and land hereby restricted shall be taken to hold and agree and covenant with the owners of said lots and land, and with their successors and assigns, to conform to and observe the following covenants, restrictions, and stipulations as to the use thereof and the construction of residences and improvements thereon for a period of time ending on December 31, 2018, provided, however, that each of said restrictions shall be renewable or amended in the manner hereinafter set forth.

The covenants are to run with the land and shall be binding on all owners within this subdivision and their grantees, heirs and assigns and all persons claiming under them until December 31, 2018, and shall be automatically continued thereafter for successive periods of twenty (20) years each, unless the owners of the fee title to the majority of said lots shall by resolution at a special meeting called for that purpose upon mailed notices to all such owners, release, change, amend or alter any or all of the said restrictions, to be effective at the end of any such twenty (20) year period. Such release, change, amendment or alteration shall be in

writing, shall be signed and acknowledged by the owners of the lots agreeing thereto, and shall be filed with the Register of Deeds of Johnson County, Kansas within two (2) years prior to the expiration of said twenty (20) year period. Provided, this document may be amended at any time upon the affirmative vote of seventy-five percent (75%) of the owners of the fee title to said lots, and with the written approval of the Developer, if it at that time Developer owns one or more lots or tracts. Such amendment shall be in writing, shall be signed and acknowledged by the owners of the lots agreeing thereto, and shall be filed with the Register of Deeds of Johnson County, Kansas. The following restrictions or protective covenants shall be kept by all persons owning, occupying or using said lots and land and may be enforced by injunction, mandatory or otherwise; the Association may recover its reasonable attorneys fees in connection with such proceedings.

If any party hereto, or any of its grantees or assigns, shall violate or attempt to violate any covenants herein, it shall be lawful for any other person or persons owning any real estate in Blackthorne to prosecute any proceedings at law or equity against the person or persons violating or attempting to violate any such covenants and either prevent him or them from so doing or to recover damages for such violation.

Invalidation of any one of these restrictions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

1. No lot in Blackthorne shall be used for any purpose except residential one-family residences. No building shall be erected, altered, placed, or permitted to remain on any lot, other than one detached single-family dwelling not to exceed three (3) stories in height and an attached private garage for not less than two cars.

2. No lot shall be in any way subdivided. No building, structure, appurtenance or improvement of any type shall be erected, placed or altered on any lot until construction plans and specifications, including a plan showing location on the lot, have been approved by the Developer, or the Architectural Control Committee, hereafter defined. The Architectural Control Committee shall have the absolute discretion to approve or disapprove such plans, and shall consider same in connection with these restrictions, quality and type of workmanship and materials, harmony of external design and colors with existing structures and landscape, and location with respect to topography and finished grade elevation. No fences shall be erected, placed or altered without the prior approval of the Developer or the Architectural Control Committee.

A. The Architectural Control Committee will be composed of the Board of Directors, of the BLACKTHORNE ESTATES HOMES ASSOCIATION ("Board of Directors"), or a subcommittee designated by it. Until such time that there exists a Board of Directors of the BLACKTHORNE ESTATES HOMES ASSOCIATION, the Developer will act as the Architectural Control Committee. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant.

B. The Architectural Control Committee shall have control over completed homes in Blackthorne at or after the recording of this Declaration; exclusive control over approval of new homes to be constructed after the date of the filing of this Declaration shall be vested solely in Developer, until such time as the homes are sold and the owners thereof become subject to this Declaration of Restrictions and any homes association declaration, at which time said homes will then become subject to the Architectural Control Committee.

C. No building shall be located nearer than twenty-five (25) feet to the existing street lot line as shown in the recorded plat(s) of Blackthorne or the setback required by city ordinance, whichever is more restrictive.

D. No building shall be located nearer than five (5) feet to any interior lot line, or as required by city ordinance, whichever is more restrictive.

E. For the purposes of these covenants, eaves, steps and open porches shall not be considered a part of a building, provided, however, that this shall not be construed to permit any portion of a building or structure to encroach upon another lot.

F. No fencing shall be permitted upon any of the lots unless such fencing shall be wooden and built with methods and materials which harmonize with external design of buildings in Blackthorne; all such fences must be approved in writing by the Architectural Control Committee. No fence shall exceed 48" in height unless specifically approved for a greater height by the Architectural Control Committee. No animal pens or runs shall be permitted without Developer approval.

G. All houses shall have external driveways consisting exclusively of properly constructed concrete surfaces; all lots, regardless of house location thereon, shall be fully sodded provided, however, no sodding shall be required where, in the opinion of the Architectural Control Committee, soil, lighting or topographical conditions would make sodding impractical or unreasonably expensive, and provided further that no duty to clear any tract of trees, bushes, shrubs or natural growths which are kept reasonably attractive shall be implied.

H. Each lot shall be used for only single family residential purposes; provided, however, that the Developer reserves the right to utilize one or more lots for common areas or common amenities, or sales offices. The Board of Directors may establish rules and regulations for the use of a portion of a home by the owner thereof in furtherance of his or her occupation; provided, however, that such use shall not otherwise result in the violation of these restrictions or permit advertising (on or off site) or visitation by customers or clients at the home; and provided, further, that use of any lot for day care (child or adult) purposes is prohibited.

I. The above lots may be improved, used or occupied only for private residences, and no flat, duplex or apartment house, though intended for residential purposes, may be erected thereon.

J. No residence shall be more than three stories in height, except that split-level construction shall be permitted.

K. No trailer, basement, tent, shack, garage, barn or outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any residence of temporary character be permitted.

L. No dwelling or residence shall be occupied until fully completed, except for exterior painting, sod, landscaping and minor trim details, and such dwelling or residence must be fully completed within twelve (12) months after the first earth excavation is started. In the event of fire, windstorm, or other damage, no building shall be permitted to remain in a damaged condition longer than three (3) months.

M. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other common household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose, and further provided that not more than three (3) dogs or cats (or combination thereof) shall be kept or maintained on any lot. In the event an otherwise permitted animal, in the discretion of the Board, constitutes a nuisance or endangers the safety or welfare of any resident of the subdivision, such animal shall be removed from the subdivision by the owner thereof. In the event the owner fails or refuses to remove the animal, the Board of Directors may cause the animal to be removed.

N. No school or other buses, motor homes, mobile homes, autos, campers, camper-trailers, recreational vehicles, tractors or trucks shall be parked at the curb for more than twenty-four (24) hours at any one time. No school bus, camper, motor home, mobile home, camper, camper-trailer, recreational vehicle, tractor, truck with a capacity in excess of 3/4 ton, truck with camper attached or boat shall be parked or left outside on any lot for more than twenty-four (24) hours at any one time; such vehicles shall be stored in a garage if kept on a lot for more than twenty-four (24) hours. No major repair work shall be done on any car, truck, trailer or other vehicle while parked outside the garage or in the street. No autos, buses, boats, trucks, race cars, wrecked cars, modified stock cars, trailers, or vehicles that are not in operating condition, are not registered or whose presence might create an unsightly appearance or create a nuisance or be a hazard to life or health shall be allowed to be parked or left on any lot or at the curb. No trash, old appliances, junk or other refuse shall be allowed to accumulate on any lot.

O. All doors on garages shall be kept closed, except when opened for the purpose of parking or removal of motor vehicles.

P. No exterior clotheslines or poles (including flagpoles unless attached to a dwelling) may be erected or maintained on any of the lots hereby restricted.

Q. No exterior Christmas lights and/or holiday decorations may be erected or maintained on any of the lots hereby restricted, except during a sixty (60) day period beginning November 15th of each calendar year.

R. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Outside trash burning shall be prohibited, except on lots that have residences under construction.

S. No radio or television aerial wire, antenna, antenna tower, or satellite dish, whether permanent or temporary, shall be maintained outside of any structure unless in accordance with applicable federal and/or state law and approved by the Architectural Control Committee.

T. No tanks for the storage of oil or other fluids may be maintained on any portion of the premises above or below the surface of the ground.

U. No trash, ashes, or other refuse shall be thrown, dumped or placed upon any undeveloped portion of the subdivision.

V. Lawns shall be kept in good condition as soil, climate and other natural conditions permit, and grass shall not be permitted to reach a height of six (6) inches or more or otherwise create an unsightly appearance. In the event such grass is not kept within the height limitation above, the Association shall have the right to have such grass cut, and the cost therefor collected from the owner in the same manner as Association dues.

W. Any property owner or property subject to the restrictions herein set forth may construct, for their personal use, one in-ground swimming pool, the design and materials of which shall be subject to the approval of the Architectural Control Committee; no above ground or above grade swimming pools shall be permitted. No tennis courts shall be allowed unless constructed on common areas or areas owned by the Homes Association.

X. No storage buildings shall be allowed.

Y. No energy collectors or solar panels or solar collectors shall be installed or maintained on the exterior of any residence or on any lot.

Z. Basketball goals may be erected only with the prior written approval of the Architectural Control Committee. All basketball goals shall be free-standing on poles, and shall not be attached to any residence or building. Poles, nets, hardware, backboards and braces shall be kept in good condition, and backboards shall be of a transparent or clear material.

AA. No sign of any type shall be erected, placed or maintained on any lot or on any structure on a lot without the prior approval of the Architectural Control Committee, except that subdivision entry signs/markers, directional signs and advertising signs may be erected and maintained by the Developer or the Board of Directors, with the consent of the Developer (so long as Developer owns land in the subdivision). For purposes hereof, a "sign" includes any mark, symbol, word(s), drawing or other drawing intended to communicate to a viewer.

BB. No residence or lot or any portion thereof may be leased or rented for a period of less than six (6) months. All leases or rental agreements shall be in writing, and the owner of the lot shall be responsible for compliance by the renter or lessee of these restrictions and the rules and regulations of the Association.



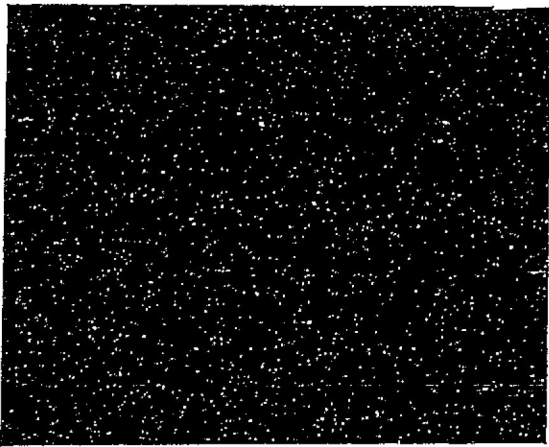
CC. No hunting or use of firearms or archery equipment shall be permitted in the subdivision.

DD. No artificial vegetation shall be permitted on the exterior of any lot; exterior sculptures, fountains and other similar yard decor shall be subject to the prior approval of the Architectural Control Committee.

3. Easements for installation and maintenance of utilities and drainage facilities are reserved on the front, side, or rear of each lot or tract. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

4. All single story residences shall have a total finished ground floor area of not less than 2000 square feet; all two story residences shall have a finished ground floor area of not less than 1000 square feet and a total finished floor area of 2000 square feet; all one and one-half story residences shall have a finished ground floor of not less than 1250 square feet and a total finished floor area of 2000 square feet.

5. All residences shall have a roof of cedar shake or wood shake shingles, slate or tile, provided, however, that products resembling cedar shake or wood shake shingles may be used if approval is obtained from the Developer or the Architectural Control Committee prior to installation.



6. It is agreed that if the owner of any vacant lot fails or refuses to cut weeds or brush from the cleared portions of the property, then the Architectural Committee shall have authorization to do so and the cost thereof may be taxed as a lien against the property.

7. The Developer unconditionally reserves the right to subject additional land to these restrictions and add same to the district and subdivision and Blackthorne Estates Homes Association at any time, by document recorded in the Office of the Register of Deeds of Johnson County, Kansas.

8. As conditions precedent to the development of Blackthorne, Developer has been required to pay to the City of Overland Park and other authorities certain fees, charges and impositions for streets, parks, utilities and other off-site improvements. Each grantee of the Developer or of any Owner of a Lot, by the acceptance of a deed, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each occupant of a Lot, and the heirs, successors and assigns of the foregoing persons, hereby releases the Developer, its successors, agents, officers, members, stockholders and assigns from any obligation to remit any part of such fees, charges and impositions to him, her or it in the event any of the same are declared invalid or illegal, or refunded for any reason, the refund or return of same to the Developer notwithstanding; it is expressly understood that Developer shall have the sole right to make claim for and receive any such refund or return.

OPTION TO EXCLUDE APPLICABILITY  
OF THE TERMS AND CONDITIONS OF THE FOREGOING  
DECLARATION TO CERTAIN REAL PROPERTY

The Developer shall have the power at any time to waive or modify any or all of the restrictions or covenants contained herein as to said real property remaining undeveloped or

unimproved and under the ownership of the Developer, or its assigns. The Developer specifically reserves the right carry on its business in the subdivision, so long as Developer owns land within the subdivision or new homes are being constructed, including, but not limited to, maintaining sales offices, model homes, business offices and other facilities necessary or convenient for the business of Developer.

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the 12<sup>th</sup> day of October, 1998.

"Developer"

HERITAGE DEVELOPMENT OF KANSAS, INC.,  
a Minnesota corporation

By: [Signature]

Name: Edward John Dobbs

Title: Vice president

STATE OF Minnesota, Hennepin COUNTY, SS.:

BE IT REMEMBERED, that on this 12<sup>th</sup> day of October, 1998, before me the undersigned, a Notary Public in and for the county and state aforesaid, came Edward John Dobbs, Vice President of Heritage Development of Kansas, Inc., who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

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

[Signature]  
Notary Public

My Appointment Expires:

Jan. 31, 2000

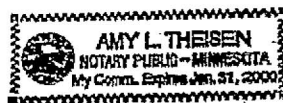


EXHIBIT "A"

Lots 1 through 54, inclusive, and tracts A and B, BLACKTHORNE ESTATES,  
1ST PLAT, a subdivision in the City of Overland Park, Johnson County, Kansas,  
as shown on the recorded plat thereof.