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**PRIVATE LAKE AGREEMENT**

This Agreement made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_ by \_\_\_\_\_  
\_\_\_\_\_ ("Developer").

WITNESSETH:

WHEREAS, Developer is the owner of a parcel of unimproved land ("the Tract") located within the corporate boundaries of the City of Overland Park, Kansas (the "City") and legally described on Exhibit A attached hereto; and,

WHEREAS, Developer has platted the Tract into a residential subdivision (the "Subdivision") and desires to sell lots to the public; and

WHEREAS, Developer has created a common green area (the "Common Area"); and

WHEREAS, the Common Area will contain a private lake (the "Private Lake") and,

WHEREAS, City of Overland Park Municipal Code (OPMC) Section 15.10.300 establishes a policy for private lakes and ponds in subdivisions and requires that certain conditions be fulfilled.

NOW THEREFORE, the Developer hereto agrees as follows:

ARTICLE I - DEVELOPER COVENANTS

Developer hereby states that Developer will fulfill the following conditions which are requirements of OPMC Section 15.10.300:

- 1.1 Developer has filed with the City a subdivision plat containing the Common Area. Such plat contains language to the effect that the Common Area is private and for the use, benefit and enjoyment of the owners of the property within the Subdivision and that the Private Lake is located within the Common Area.
- 1.2 Prior to the consummation of the sale of any lot in the Subdivision, Developer will cause the Subdivision's Homes Association (the "Homes Association") to be duly formed as a Kansas corporation.

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- 1.3 Prior to the sale of any lot in the Subdivision, Developer will cause to be recorded with the Register of Deeds of Johnson County, Kansas a Homes Association Declaration covering all of the platted lots within the Subdivision and containing in addition to other matters normally found therein, the following provisions regarding the Private Lake:
- (a) The Homes Association Declaration will acknowledge that the Private Lake is located within the Common Area of the Subdivision.
  - (b) The Homes Association Declarations will acknowledge that the Private Lake is the sole responsibility of the Property Owners within the Subdivision, which Property Owners shall maintain the Homes Association to be used as the vehicle by which to fulfill the obligations of this Agreement. Such delegation shall not, however, relieve the Property Owners of their responsibilities herein.
  - (c) The Homes Association Declaration will provide that one of the duties and obligations of the Property Owners will be to properly maintain the Private Lake in order to obviate the effects of detrimental erosion or other damage caused by the flow of water and other materials into the Private Lake from the surrounding property.
  - (d) The Homes Association Declaration will require that the Homes Association levy assessments against the lots within the Subdivision sufficient to pay for the maintenance of the Private Lake and for any costs incurred by reason of this Agreement. The Homes Association will have an enforceable lien on any lot in the Subdivision in the event that the Property Owner fails to pay an assessment. All purchasers of lots will be given an outline summary of the maintenance obligations of the Homes Association as per this Agreement.
  - (e) It is fully understood by the Developer and by all successors in title to the Developer that the City is under no past, present or future obligation to expend any public funds or to take any other action to maintain or improve the Private Lakes. Developer and all successors in interest to Developer guarantee that no such maintenance or improvement request will ever be made of the City.
  - (f) The Homes Association Declaration will contain a provision requiring the written consent of the City to the termination of the Homes Association Declaration in its entirety or to any amendment, modification or termination of any provision thereto regarding the Private Lake.
  - (g) The Homes Association Declaration will name the Developer and the City as third-party beneficiaries of all provisions therein relating to the Private Lake and will give to the Developer and to the City the right to enforce all restrictions, obligations and other provisions regarding the Private Lake.
- 1.4 Developer will cause the Homes Association to enter into an agreement with Developer to establish a sharing arrangement for the maintenance and other costs associated with the Private Lake. Developer's obligation to contribute periodically to the maintenance fund will decrease over

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time and will cease once Developer transfers title to all lots and the Common Area in the Subdivision.

- 1.5 Developer will retain title to the Common Area until such time as substantially all of the lots within the Subdivision have been sold to the public. Developer will then transfer title to the Homes Association.
- 1.6 Prior to the sale of any lots within any future phases of the Subdivision, Developer will cause to be recorded with the Register of Deeds of Johnson County, Kansas, a Homes Association Declaration covering all of the platted lots within such phase of the Subdivision and containing the provisions regarding the Private Lake set forth herein.

ARTICLE II - MISCELLANEOUS

- 2.1 This Agreement shall be binding upon Developer and its respective successors and assigns.
- 2.2 This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.
- 2.3 This Agreement shall be filed of record in the office of the Register of Deeds of Johnson County, Kansas.

ARTICLE IV - RECORDING OF DOCUMENT

- 3.1 The attorney for the City, at Developer's cost, shall cause this Agreement to be filed with the Register of Deeds of Johnson County, Kansas. The City and the Developer shall each receive a duly executed copy of this agreement for its official records.

ARTICLE V - SUBMISSION OF RECORDED DECLARATION

Prior to the issuance of any building permit within the Subdivision, the City shall be provided a recorded copy of the required Declarations showing compliance with this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the date first above written.

\_\_\_\_\_  
Developer

By: \_\_\_\_\_  
President/Partner

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**EXHIBIT A**

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