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CERTIFICATE OF SUBSTANTIAL COMPLETION  
AND FORMATION OF HOMES ASSOCIATION

THIS CERTIFICATE OF SUBSTANTIAL COMPLETION is made this 16th day of November, 1987, by North Star Development Company, Inc., a Kansas corporation, and is filed pursuant to paragraph 23 of the Declaration Restrictions of Sumarlee Estates, a subdivision in the City of Overland Park, Johnson County, Kansas, filed with the Register of Deeds of Johnson County, Kansas on September 13, 1983 and found in Volume 913 at Pages 14 through 24;

WITNESSETH:

WHEREAS, North Star Development Company, Inc. has executed and filed with the Register of Deeds of Johnson County, Kansas a subdivision plat known as "Sumarlee Estates"; and

WHEREAS, such plat creates the subdivision, Sumarlee Estates, composed of the following-described real property:

All of that land now platted as Sumarlee Estates; a subdivision in Overland Park, Johnson County, Kansas, including Block 1, Lots 1 through 16 inclusive, Block 2, Lots 1 through 42 inclusive, Block 3, Lots 1 through 13 inclusive, and Block 4, Lots 1 through 12 inclusive in said Sumarlee Estates Subdivision;

WHEREAS, North Star Development Company, Inc., the developer of the subdivision platted as Sumarlee Estates, a subdivision in Overland Park, Johnson County, Kansas and known as Westmont, hereby certifies that said subdivision is substantially completed and that a homes association may be formed as provided for and contemplated in paragraph 23 of the Declaration of Restrictions of Sumarlee Estates recorded in Volume 913 at Pages 14 through 24 with the Register of Deeds of Johnson County, Kansas;

NOW, THEREFORE, in consideration of the recitals contained herein and in said Declaration of Restrictions of Sumarlee Estates, North Star Development Company, Inc., for itself, and for its grantees, past and future, hereby subjects all of the above-described lots to the covenants, charges, assessments and easements hereinafter set forth.

ARTICLE I. DEFINITION OF TERMS.

For purposes of this Certificate of Substantial Completion, 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 parts 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 Sumarlee Estates, all common areas, and all additional property where hereinafter may be made subject hereto in the manner provided herein.

(c) The term "developer" shall mean and refer to North Star Development Company, Inc., a Kansas corporation, and its successors and assigns.

(d) The term "owner" shall mean the record owner in fee simple of any lot in the district, including the developer.

(e) 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, (iv) berms, fences and related landscaping constructed or installed by the developer along 119th Street or Antioch Road, (v) sprinkler systems installed by the developer, and (vi) all other areas and places, together with all improvements thereon and therefore, 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 or private street, road, terrace, circle or boulevard shown on any recorded plat of all or part of the district.

(g) The term "improved lot" shall mean a lot on which a residence has been erected and occupied at some time. Any other lot in the district shall be deemed to be an "unimproved lot".

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

(i) The term "Certificate of Substantial Completion of Subdivision" shall mean a certificate executed, acknowledged and recorded by the developer stating that the subdivision is substantially complete and that the Homes Association contemplated by paragraph 23 of the

Declaration of Restrictions referred to herein may be formed.

ARTICLE II. HOMES ASSOCIATION MEMBERSHIP,  
VOTING AND MANAGEMENT.

Membership in the Homes Association shall be limited to the owners of lots within the district and every such owner shall be a member. The Homes Association shall have only one class of membership. Each member shall have one vote for each lot for which he is the owner and upon which he shall not be delinquent in the payment of any assessment; provided, however, that when more than one person is an owner of any particular lot, all such persons shall be members and the vote for such lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such lot.

Anything in the foregoing paragraph to the contrary notwithstanding, the sole member of the Homes Association prior to the recording of the Certificate of Substantial Completion of the subdivision shall be the developer. No other lot owner shall have the right to vote until such Certificate of Substantial Completion is recorded although all of the obligations and restrictions imposed hereby shall be of full force and effect with respect to such other lot owners at all times after the recording of this Certificate of Substantial Completion.

ARTICLE III. POWERS AND DUTIES  
OF THE HOMES ASSOCIATION.

1. In addition to the powers granted by other portions of this Declaration or by law, the Homes Association shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by its Board of Directors to carry out and effectuate the purposes of this Certificate of Substantial Completion, including, without limitation;

(a) To enforce, in its own name, any and all building or use restrictions which have been or hereafter may be imposed upon any of the lots in the district; provided, however, that this right of enforcement shall not serve to prevent changes, releases or modifications of restrictions or reservations from being made by the parties having the right to make such changes, releases or modifications under the terms of the deeds, declarations, contracts or plats in which such restrictions and reservations are set forth. The expense and cost of any such enforcement proceedings by the Homes Association shall be paid out of the general fund of the Homes Association, as herein provided in this Certificate of Substantial Completion. Nothing herein contained shall be deemed or

construed to prevent any owner from enforcing any building or use restrictions in his own name.

(b) To exercise control over all common areas.

(c) To maintain public liability, workman's compensation, fidelity, fire and extended coverage, director and officer liability and other insurance with respect to the activities of the Homes Association and the property within the district.

(d) To levy and collect the assessments which are provided for in this Certificate of Substantial Completion.

(e) To enter into agreements from time to time with the developer regarding the performance of services and matters benefitting both the developer and the Homes Association and its members and the sharing of the expenses associated therewith.

7. (f) To engage the services of a management company or other person or entity to carry out and perform the functions and powers of the Homes Association, including, without limitation, keeping of books and records, maintenance of landscaping, common areas, and streets and partial maintenance of the exteriors of residences.

(g) To exercise the architectural and aesthetic control and authority given and assigned to it in this Certificate of Substantial Completion or in any other deed, declaration, contract or plat relating to all or any part of the district.

(h) To make such reasonable rules and regulations and to provide means to enforce such rules and regulations as will enable it to adequately and properly carry out the provisions and purposes of this Certificate of Substantial Completion.

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

2. In addition to the duties required by other portions of this Certificate of Substantial Completion or by law, the Homes Association shall have the following duties and obligations with respect to providing services to owners within the district and maintaining the exterior of private property:

X (a) To spray, chemically treat, trim, mow and clip (but not to plant, remove, replant, re-seed or replace)

all trees, shrubbery and grass located on all lots.

(b) To provide for the plowing and removal of snow from driveways and sidewalks after any accumulation of four inches (4") or more.

(c) To provide for the collection and disposal of rubbish and garbage for each residence one day per week (which day shall be the same for all residences).

#### ARTICLE IV. METHOD OF PROVIDING GENERAL FUNDS.

1. For the purpose of providing a general fund to enable the Homes Association to exercise the powers, maintain the improvements and render the services provided for herein, all improved lots in the district, other than lots then owned by the developer, shall be subject to a monthly assessment to be paid to the Homes Association by the respective owners thereof. The amount of such monthly assessment shall be fixed periodically by the Homes Association and, until further action of the Homes Association, shall be \$\_\_\_\_\_ per month.

2. The monthly assessment upon each improved lot in the district may be increased or decreased (i) by the Board of Directors from time to time in an amount not to exceed 20% of the amount of monthly assessment in effect on the preceding January 1, or (ii) only at a meeting of the members specially called for that purpose and of which advance notice is given and if a majority of the members present at such meeting authorize such increase or decrease by an affirmative vote therefore; provided, however, that the monthly assessment may not be decreased below an amount that is necessary to permit the Homes Association to perform its duties specifically in subsection 2 of Article III.

3. The monthly assessments provided for herein shall commence \_\_\_\_\_, 1987 and the first such assessment shall be due and payable on such date. Thereafter, each monthly assessment shall be due and payable on the first day of each calendar month. The first monthly assessment for each improved lot shall be due and payable at the time of occupancy and shall be prorated as of the date thereof.

#### ARTICLE V. LIEN ON REAL ESTATE.

1. The monthly assessment shall become a lien on the lot against which it is levied as soon as it is due and payable as set forth above. In the event of the failure of any owner to pay any monthly assessment within five days of the due date thereof, then such assessment shall bear interest at the rate of 10% per annum from the due date until paid. Should it become necessary to engage the services of an attorney to

collect any assessment hereunder, all costs of collecting such assessment, including court costs and reasonable attorneys' fees, shall be added to the amount of the assessment being collected and the lien on the lot.

2. All liens on any lot in the district for assessments provided for herein shall be inferior and subordinate to the lien of any valid purchase money first mortgage now existing or which may hereafter be placed upon such lot.

3. Nonpayment of any assessment provided for herein within 60 days from the due date thereof shall cause such assessment to become delinquent. Payment of both principal and interest of a delinquent assessment may be enforced as a mortgage lien on such lot through proceedings in any court in Johnson County, Kansas having jurisdiction of suits for the enforcement of such liens. The Homes Association may file certificates of nonpayment of assessments in the office of the Register of Deeds of Johnson County, Kansas whenever any assessment is delinquent. For each certificate so filed, the Homes Association shall be entitled to collect from the owner of the lot described therein a fee of \$25.00, which fee shall be added to the amount of the delinquent assessment and the lien on the lot.

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

#### ARTICLE VI. SPECIAL ASSESSMENTS.

In addition to the monthly assessments provided for herein, the Homes Association shall have the authority to levy from time to time a special assessment against any lot and its owner to the extent the Homes Association expends any money for services or materials (a) to correct, eliminate or enforce any breach by such owner of any restriction contained in any deed, declaration, contract or plat covering such lot or (b) to maintain or repair any lot or improvement thereon because of the willful or negligent act of the owner of the lot or his family, guests or invitees. Such special assessment shall be due and payable, and become a lien on such lot, upon notice to such owner of the assessment. Interest at the rate of 10% per annum shall accrue from the date due until paid and shall also be part of the lien against such lot. Such lien shall be enforced and terminated in accordance with the provisions of Article V above.

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ARTICLE VII. LIMITATION ON EXPENDITURES.

The Homes Association shall at no time expend more money within any one year than the total amount of the assessments for that particular year, plus any surplus which it may have on hand from prior years, plus any reserves it may have created and maintained for a given purpose; nor shall the Homes Association have the power to enter into any contract which binds the Homes Association to pay for any obligation out of the assessments for any future year, except for contracts for utilities, maintenance or similar services or matters to be performed for or received by the Homes Association or its members in subsequent years.

ARTICLE VIII. COMMON AREAS.

1. The developer covenants and agrees to convey title to or its interest in the common areas (except any part thereof that is within any lot) to the Homes Association, without cost to the Homes Association, not later than one month after the developer has recorded the Certificate of Substantial Completion of Subdivision.

2. Prior to such conveyance, the expenses of maintenance of the common areas shall be divided between the developer and the Homes Association as they may agree from time to time. After such conveyance, all expenses of maintenance of the common areas and any and all liabilities in connection therewith shall be borne by the Homes Association, and the developer shall be relieved of any responsibility, liability or expenses in connection therewith.

ARTICLE IX. NOTICES.

1. At least seven days prior to any meeting of the Homes Association, it shall give written notice to all members of the place, time and purpose of the regular or special meeting of the Homes Association.

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

3. All notices required or permitted under this Certificate of Substantial Completion shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to the person entitled to such notice at the last address listed with the Homes Association for such person.

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ARTICLE X. 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 Certificate of Substantial Completion such other adjacent (without reference to public streets and right-of-ways) lands as it may now own or hereafter acquire to the west of the district, 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 Certificate of Substantial Completion applicable solely to such additional property as may be necessary or desirable as solely determined by the developer in good faith.

ARTICLE XI. OBSERVANCE OF ALL LAWS.

The Homes Association shall at all times observe all applicable state, county, city or other laws or regulations and, if at any time any of the provisions of this Certificate of Substantial Completion shall be found to be in conflict with such laws, such provisions shall become null and void, but no other parts of this Certificate of Substantial Completion not in conflict therewith shall be affected thereby.

ARTICLE XII. AMENDMENT AND TERMINATION.

This Certificate of Substantial Completion 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 of two-thirds of the lots within the district as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion of Subdivision, by the developer.

ARTICLE XIII. 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 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. 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.



ARTICLE XIV. COVENANTS RUNNING WITH THE LAND.

All provisions of this Certificate of Substantial Completion shall be deemed to be covenants running with the land and into whosoever hands any of the property in the district shall come.

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

NORTH STAR DEVELOPMENT  
COMPANY, INC.

By: David W. Beaver  
David W. Beaver,  
Executive Vice President

STATE OF KANSAS     )  
                          ) ss.:  
COUNTY OF JOHNSON )

BE IT REMEMBERED, that on this 16th day of November, 1987, before me, the undersigned, a notary public in and for the County and State aforesaid, came David W. Beaver, Executive Vice President of North Star Development Company, 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, 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 official seal the day and year last above written.

Maureen D. Coulter  
Notary Public

My Commission Expires:

