

## DECLARATION OF RESTRICTIVE COVENANT AGREEMENT

This Declaration of Restrictive Covenant Agreement (“**Declaration**”) is executed as of this 23<sup>rd</sup> day of January, 2023 (the “**Effective Date**”), by Frankfort Community Care Homes, Inc., (“**Care Home**”) and the City of Frankfort, Kansas (“**City of Frankfort.**”)

### RECITALS

- A. The Care Home is the owner of that certain parcel of land located in Marshall County, Kansas, (the “**Property**”) which is more fully described as follows:

The South 200 feet of Block 42, City of Frankfort, Marshall County, Kansas except and less a tract of land described as:

A tract of land and appurtenances in Block 42 of the Original City of Frankfort, in Marshall County, Kansas, being more fully described as follows: STARTING at the Southwest corner of said Block 42, point being marked with a ½” x 30” rebar with plastic cap (w/PC); thence North 00°42’32” East along the West line of said Block 42 for 143.68 feet to the POINT OF BEGINNING; thence South 88°39’51” East for 123.87 feet; thence South 00°42’32” West for 62.00 feet to a ½” x 30” rebar w/PC; thence North 88°39’49” West for 123.87 feet to the West line of said Block 42; thence North 00°42’32” East along said West line for 62.00 feet to the point of beginning. Containing 0.18 acres, more or less

- B. The City of Frankfort, at the special insistence of the Care Home, entered into a Grant Agreement, on behalf of the Care Home, with the Kansas Housing Resources Corporation to fund the construction of infrastructure (utilities, street improvements, street lighting and sidewalks) to serve eight low and/or moderate rental units to be owned by the Care Home or as owner occupied units at a location in proximity to the real estate described above, the same being 510 N. Walnut Street in Frankfort.
- C. The construction of the infrastructure has been completed and the grant funds expended in their entirety to pay for such infrastructure cost.
- D. The Care Home intends to sell such lots to a developer or to individual home owners to carry-out the purposes of the Grant Agreement such that eight low and/or moderate housing units for low to moderate income persons are built upon the tract of real estate described above.

NOW THEREFORE, in consideration of the foregoing premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged the Care Home as current owner, declares as follows:

1. Use Restrictive Covenant.

- (a) From and after the Effective Date, (i) no new structure, dwelling, or other improvements shall be constructed on the subject real estate unless such structure, dwelling or other improvement meets the program requirements of the Kansas Housing Resources Corporation for low and moderate income housing as may be determined by the Kansas Housing Resources Corporation from time to time and (ii) any conveyance to a developer or individual shall otherwise be used in furtherance of the Grant Agreement, dated November 7, 2017, to construct/provide eight low and/or moderate housing units for low to moderate income persons. The program requirements shall remain in effect for a period of 5 years after any conveyance of the subject tract of real estate or any portion thereof.
  - (b) This Declaration to constitute deed restrictions and covenants running with the land and any conveyance by the Care Home shall expressly provide that the conveyance is subject to this Declaration.
  - (c) In the event of a breach or threatened breach of this Declaration, any party adversely affected by such breach, the county or municipality where the Property is located shall be entitled to institute proceedings at law or in equity for relief from the consequences of said breach including seeking injunctive relief to prevent a violation thereof. The prevailing party in any such action shall be awarded its costs and expenses, including reasonable attorneys' fees, which shall be deemed to have accrued on the commencement of such action and shall be awarded whether or not such action is prosecuted to judgment.
  - (d) The charges and burdens of this Declaration are, and shall at all times be, prior and therefore superior to the lien or charge of any mortgage hereafter made affecting the Property or any part thereof, including any improvements now or hereafter placed thereon, and notwithstanding a foreclosure or other voluntary or involuntary transfer of title pursuant to such instrument, shall remain in full force and effect. The charges and burdens of this Declaration are not intended to either create a lien upon the Property, or grant any right of foreclosure, to any person or party.
2. Any person or entity having or acquiring fee or leasehold title to the Property or any portion thereof shall be required to comply with this Declaration only during the period such person or entity is the fee or leasehold owner of the Property, and thereafter shall be released therefrom, except that such person or entity shall continue to be liable for, and shall not be released from liability for, obligations, liabilities or responsibilities that accrue or accrued during said period of ownership. Although persons or entities may be released under this paragraph, the restrictions of this Declaration shall continue to be

restrictions upon the Property, running with the land, and shall inure to the benefit of, and be binding upon, their successors and assigns in title or interest.

- 3. All notices provided for herein may be delivered in person, sent by Federal Express or other overnight courier service, mailed in the United States mail, postage prepaid, or sent by electronic or facsimile transmission, and, regardless of the method of delivery used, shall be considered delivered upon the actual receipt or refusal of receipt thereof. The name, address and other information to be used in connection with such correspondence and notices to Owner shall be the then-current owner's name and address information maintained in the official real estate tax records with respect to the Property.
- 4. This Declaration may be amended or canceled only by written instrument executed by the City of Frankfort and the then-current owner of the Property.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be signed by its duly authorized representatives, as of the day and year first above written.

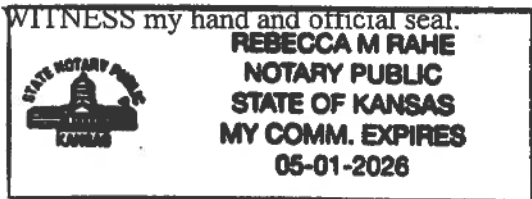
FRANKFORT COMMUNITY CARE HOMES, INC

By: [Signature]  
Printed Name: Jeremy Brandt  
President

ATTEST:  
[Signature]  
Secretary  
Printed Name: Thomas R. O'Neil

STATE OF KANSAS, COUNTY OF MARSHALL, ) SS:

BE IT REMEMBERED, That on this 23<sup>rd</sup> day of January, 2023, before me, the undersigned, a notary public in and for the County and State aforesaid, came Jeremy Brandt and Thomas O'Neil, the President and Secretary, of Frankfort Care Homes, Inc., personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said Frankfort Care Homes, Inc., and such persons duly acknowledged the execution of the same to be the act and deed of said corporation.

(Seal) 

[Signature]  
Notary Public

My Commission Expires: 05/01/2026

CITY OF FRANKFORT, KANSAS

By: Brian Smith  
Brian Smith  
Mayor

ATTEST:

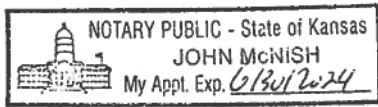
Melody Tommer  
Melody Tommer  
City Clerk

STATE OF KANSAS, )  
 ) ss:  
COUNTY OF MARSHALL, )

BE IT REMEMBERED, That on this 18<sup>th</sup> day of February 2023, before me, the undersigned, a notary public in and for the County and State aforesaid, came Brian Smith and Melody Tommer, the Mayor and City Clerk of the City of Frankfort, Kansas, personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument of writing on behalf of said City of Frankfort, Kansas., and such persons duly acknowledged the execution of the same to be the act and deed of said city.

WITNESS my hand and official seal.

(Seal)



John McInish  
Notary Public

My Commission Expires: 6/30/2024