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DECLARATION OF COVENANTS AND RESTRICTIONS

WILDERNESS RIDGE SUBDIVISION

*Ramona D. Toline*  
CUMING COUNTY CLERK  
FEE \$ 88.00  
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THIS DECLARATION made this 14 day of September, 2020, by J & J Land Development, Inc., a Nebraska corporation, Tyler Toline and Sarah Toline, hereinafter collectively sometimes referred to as the "Declarant".

WITNESSETH:

- A. J & J Land Development, Inc., a Nebraska corporation, is the owner in fee simple title of the real estate located in Cuming County, Nebraska, more particularly described as follows:

A tract of land located in Addition "J" to the City of West Point, Cuming County, Nebraska and in the Northwest 1/4 of the Southwest 1/4 of Section 36, T22N, R6E of the 6th P.M., Cuming County, Nebraska; more particularly described as follows:

Beginning at the Northwest Corner of the Northwest 1/4 of the Southwest 1/4 of Section 36, T22N, R6E of the 6th P.M., Cuming County, Nebraska; thence N 87°53'39" E on the North line of the Northwest 1/4 of said Southwest 1/4, 1319.71 feet to the Northeast corner of the Northwest 1/4 of said Southwest 1/4; thence S 02°07'23" E on the East line of the Northwest 1/4 of said Southwest 1/4, 991.88 feet; thence S 87°56'08" W, 412.32 feet; thence S 87°51'23" W, 462.50 feet; thence N 25°50'41" W, 360.42 feet; thence S 87°51'06" W, 300.00 feet to a point on the West line of the Northwest 1/4 of said Southwest 1/4; thence N 02°06'51" W, 662.18 feet on said West line to the Point of Beginning, containing 27.23 acres more or less.

Less and except the following described land which has been conveyed to Tyler Toline and Sarah Toline:

A tract of land located in the Northwest 1/4 of the Southwest 1/4 of Section 36, Township 22 North, Range 6 East of the 6th P.M., Cuming County, Nebraska being more particularly described as follows:

Commencing at the Southwest Corner of the Northwest 1/4 of the Southwest 1/4 of said Section 36, Township 22 North, Range 6 East of the 6th P.M., Cuming County, Nebraska; thence N 02°06'51" W on an assumed bearing on the West

line of the Northwest 1/4 of said Southwest 1/4, 660.00 feet to the Point of Beginning; thence N 02°06'51" W on said West line, 40.00 feet; thence N 87°53'39" E and parallel to the North line of the Northwest 1/4 of said Southwest 1/4, 907.62 feet; thence S 02°06'12" E on the Northerly extension of the East line of a previously surveyed tract by Arthur D. Burr, LS #344, dated November 16, 1994, 369.40 feet to the Northeast corner of said surveyed tract; thence S 87°51'23" W on the North line of said surveyed tract, 462.50 feet to the Southeast corner of a tract previously surveyed tract by Fred M. Franklin LS #525 dated January 23, 2000; thence N 25°50'41" W on the East line of said surveyed tract, 360.42 feet to the Northeast corner of said surveyed tract; thence S 87°51'06" W on the North line of said surveyed tract, 300.00 feet to the Point of Beginning, containing 4.88 acres, more or less, the Northerly 40 feet of such tract being located in Addition "J" to the City of West Point, Cuming County, Nebraska.

Tyler Toline and Sarah Toline are the owners in fee simple title of the real estate located in Cuming County, Nebraska, more particularly described as follows:

A tract of land located in the Northwest 1/4 of the Southwest 1/4 of Section 36, Township 22 North, Range 6 East of the 6th P.M., Cuming County, Nebraska being more particularly described as follows:

Commencing at the Southwest Corner of the Northwest 1/4 of the Southwest 1/4 of said Section 36, Township 22 North, Range 6 East of the 6th P.M., Cuming County, Nebraska; thence N 02°06'51" W on an assumed bearing on the West line of the Northwest 1/4 of said Southwest 1/4, 660.00 feet to the Point of Beginning; thence N 02°06'51" W on said West line, 40.00 feet; thence N 87°53'39" E and parallel to the North line of the Northwest 1/4 of said Southwest 1/4, 907.62 feet; thence S 02°06'12" E on the Northerly extension of the East line of a previously surveyed tract by Arthur D. Burr, LS #344, dated November 16, 1994, 369.40 feet to the Northeast corner of said surveyed tract; thence S 87°51'23" W on the North line of said surveyed tract, 462.50 feet to the Southeast corner of a tract previously surveyed tract by Fred M. Franklin LS #525 dated January 23, 2000; thence N 25°50'41" W on the East line of said surveyed tract, 360.42 feet to the Northeast corner of said surveyed tract; thence S 87°51'06" W on the North line of said surveyed tract, 300.00 feet to the Point of Beginning, containing 4.88 acres, more or less, the Northerly 40 feet of such tract being located in Addition "J" to the City of West Point, Cuming County, Nebraska.

- B. The real estate referenced in Recital A. above is hereinafter referred to as the "Property"; and
- C. The Property forms the Wilderness Ridge Subdivision, a subdivision located in Addition "J" to the City of West Point, Cuming County, Nebraska and Part of the Northwest ¼ of the Southwest ¼ of Section 36, T22N, R6E, Cuming County, Nebraska.

Declarant, by execution of this Declaration, states that all homesites or lots which are part of the Property shall be conveyed subject to the terms and conditions of this Declaration which shall run with the land and be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. DEFINITIONS. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

A. "Plat" means and includes the final plat of the Property (Wilderness Ridge Subdivision) prepared by Advanced Consulting Engineering Services dated June 11, 2020, recorded on July 15, 2020 as Instrument No. 202001112 in the Clerk's Office of Cuming County, Nebraska; and approved by the City of West Point, Nebraska in Ordinance Number 1414, recorded July 15, 2020 as Instrument No. 202001111 in the Clerk's Office of Cuming County, Nebraska.

B. "Homesite" means any plot of ground designated as a lot upon the recorded Plat of the Property, When Homesite is used, it shall be deemed to include the lot and the dwelling unit, if any, located thereon.

C. "Owner" means any person, firm, corporation, partnership, association, trust, limited liability company or other legal entity or any combination thereof which owns the fee simple title to a Homesite.

D. "Dwelling Unit" means the structure used as a residential living unit located upon a Homesite, including the garage and any appurtenances.

2. DECLARATION. Declarant hereby expressly declares that the Property shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

3. DESCRIPTION OF THE PROPERTY. The Property consists of eight (8) Homesites Numbered 1 through 8 inclusive. The sites of the Homesites are designated on the Plat.

4. LAND AND USE AND BUILDING TYPE.

A. **Single Family Dwelling**. No Dwelling Unit shall be erected, altered, placed or permitted to remain on any Homesite other than one (1) single family dwelling not to exceed two (2) stories in height and attached connected garage of sufficient size to house at least two (2) automobiles, but not to exceed space for four (4) automobiles unless otherwise approved,

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in writing, by the Architectural Control Committee. All garages must have a minimum of twenty-four (24) feet of concrete apron in front of each stall. Each Homesite shall be used exclusively for a single family residential property. Each Dwelling Unit must have ground floor living space of at least 1,800 square feet. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick or a material matching the siding on the residence.

**B. Construction.** All residences must be constructed from the ground up on site, provided that building components including trusses, walls, floor sections, etc., may be delivered to the site and incorporated into the Dwelling Unit. Mobile homes and trailers are prohibited and manufactured housing must be approved prior to construction by the Architectural Control Committee, which may be withheld in the sole discretion of the Architectural Control Committee. All Dwelling Units must be equipped with a sewer backflow preventor.

**C. Contractor.** Meyer Building Company is the only preapproved contractor for construction of any Dwelling Unit or other structure on the Homesites. Other contractors may be used only if prior written approval is received from the Architectural Control Committee.

**D. Building Location.** No building shall be erected nor located on any lot nearer to the right of way line than the minimum building setback lines, as described on the Plat, however Declarant reserves the right to determine if a minimum setback of forty (40) feet would apply. Each structure shall be located no nearer than ten (10) feet from any side lot line, but shall have a total combined width for the two side yards of not less than twenty (20) feet. No structure shall be located closer than forty (40) feet to any rear lot line. These minimum setback line restrictions shall also apply to the garage. If the Owner of one Homesite, however, shall purchase a second Homesite, and the second Homesite purchased adjoins the first, the setbacks for the side lot line may be waived by the Owner and said Owner may construct a dwelling house on both said Homesites, subject to the front lot line and rear lot line setback requirements, and these restrictive covenants herein set out shall govern both said Homesites as one unit, and the Homesite Owner may not thereafter sell either Homesite as one unit, and the Homesite Owner may not thereafter sell either Homesite, or any part thereof, separately, but the Homesite Owner must sell the two (2) Homesites as one track or parcel of land. For purposes of this section, eaves, steps and open porches shall not be considered as a part of the structure; provided, however, that this shall not be construed so as to prevent any portion of a structure on a Homesite be located nearer than eight (8) feet from any side lot line or twenty (20) feet from any structure on an adjacent lot, whichever is greater. All dwellings are to be staked prior to the start of construction. Declarant reserves the right to approve the site plan prior to the home staking.

**E. Completion Date.** Construction of a dwelling shall begin within a period of two (2) years from the date on which a Homesite is conveyed by the Declarant to the purchaser thereof, unless extended by a written instrument duly executed by the Declarant. During the period before construction, following conveyance by Declarant and during the period prior to construction, the Homesite/lot shall be mowed and maintained by the Homesite Owner.

Construction of any dwelling shall be completed within one (1) year from the date of beginning, or thereafter be completely removed, unless a waiver from the required completion date shall have been approved in writing by the Architectural Control Committee. Occupying a motor home as a residence in this Subdivision is not permitted. A dwelling must be constructed on a purchased Homesite within two (2) years of the purchase date. During the two (2) year period that the Homesite is unimproved, the Homesite property shall be maintained on a monthly basis during the spring, summer and fall seasons. Easements reserved for the installation and maintenance of utilities shall be as shown on the Plat. No permanent building or structure shall be placed on such easements, but gardens, shrubs, landscaping and other purposes that will not interfere with installation or maintenance of utilities are allowed.

F. **Materials.** All buildings shall be constructed of new materials only. Structures with cement block exteriors, including structures with cement block foundations above grade, shall be prohibited, unless expressly approved in writing by the Architectural Control Committee. Roofing must be of asphalt, steel or wood shake shingles. Roll roofing is expressly prohibited. All dwellings must be faced with brick, stone, or stucco of not less than 30 % of total exterior, as approved by the Architectural Control Committee. Exceptions to this Section F can be only by unanimous written consent of the Architectural Control Committee. The roof pitch of all residences shall be in compliance with the requirements of the Cuming County, Nebraska building code or not less than six (6) inches/twelve (12) inches, whichever is more restrictive, and shall maintain a minimum of a one (1) foot overhang. Prior to construction and installation, the Architectural Control Committee must approve, in writing, any solar panel installation and the location of said installation. All sides of Dwelling Units shall have at least one (1) window unless the Architectural Control Committee grants an exception to this requirement in writing.

G. **Home Occupations.** No Homesite shall be used for any purpose other than as a single-family residence, except that a home occupation, defined as follows, may be permitted: any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said residence, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is: (a) No sign nor display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a Dwelling Unit; (b) No person is employed other than a member of the immediate family residing in the Homesite; (c) No mechanical or electrical equipment is used, provided that, in no event shall a tea room, fortune telling parlor, animal hospital, or any form of animal care or treatment such as dog trimming, animal kennel or boarding facility be construed as a home occupation; and (d) no meetings or assembly of employees, agents or contractors at the Homesite, other than those residing in the Dwelling Unit.

5. STRUCTURE AND POWERS OF ARCHITECTURAL CONTROL COMMITTEE: There is hereby created the Wilderness Ridge Subdivision Architectural Control Committee ("Committee") which shall consist of three (3) persons appointed by J & J Land Development, Inc., or its successors and assigns, who shall serve until they are removed or have resigned. This Committee may designate any one of its members to act on its behalf. In the event of a vacancy on the Committee, J & J Land

Development, Inc., or its successors and assigns, shall have the authority to appoint a replacement. The Committee shall have the authority and power to approve all plans and specifications for all structures to be erected in the Subdivision. Said Committee may act as a representative of the Owners of the Homesites in the Subdivision and may act to enforce the covenants and restrictions herein by due process of law, which authority and power in the Committee shall not exist to the exclusion of the authority and power vested in said Owners.

6. APPROVAL BY ARCHITECTURAL CONTROL COMMITTEE. No building or other structure shall be erected, constructed, placed, maintained or altered on any Homesite in this Subdivision until the building plans (including floor plans, external design, location with respect to lot lines, topography and finished grade elevations), specifications and site plan showing the location of such building, have been approved in writing by the Architectural Control Committee. Two (2) sets of complete plans must be furnished, one (1) of which will be retained in the office of the Declarant and one (1) will be returned to the builder. The Committee's approval or disapproval, as required in this Declaration shall be in writing. No structure of any kind which does not fully comply with such approved plan shall be erected, constructed, placed or maintained upon any Homesite, and no changes or deviations in or from such plans as approved shall be made without the Committee's prior written consent. In the event the Committee, or its designated representative, fails to approve or disapprove such design or location within thirty (30) days after said plans and specifications have been submitted to them and if no suit to enjoin the erection of such building or the making of such alterations has been commenced prior to completion thereof, such approval will not be required and this covenant shall be deemed fully complied with. The plans must show floor plan, quality of construction, materials, outside colors to be used and harmony of external design with existing structures and location with respect to lot lines, topography and finish grade elevations. In addition, the site plans must show placement of driveways. The Architectural Control Committee's approval or disapproval of the plans shall be in writing. No structure of any kind which does not fully comply with the approved plans shall be erected, constructed, placed or maintained upon any lot and no changes or deviations in or from such plans as approved shall be made without the Architectural Control Committee's prior written consent.

7. LIABILITY OF DECLARANT AND COMMITTEE MEMBERS. Neither Declarant nor the Architectural Control Committee nor any member thereof nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence or non-feasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any structure erected according to such plans or any drainage, well or septic system problems resulting therefrom. Every person and entity which submits plans to the Committee agrees, by submission of such plans, that the party making the submissions will not bring any action or suit against the Committee, the Declarant or either of them to recover any damages or require the Committee or its representative to take or refrain from taking any action. Neither the submission of any complete set of plans to the Declarant or to the Committee for review by the Committee, nor the approval thereof by the Committee, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent lot Owner may claim any reliance upon the submission and/or approval of any such plans or the buildings or structures described therein.

8. COMMITTEE VACANCIES. In the event there is any vacancy created in the Committee, J & J Land Development, Inc., its successors and assigns, shall have the right to appoint another person to fill said vacancy. If there be no then existing J & J Land Development, Inc., nor its successors and assigns, then Eighty (80%) percent of the record title Owners of the Homesites may elect by a majority vote of said Eighty (80%) percent, the Architectural Control Committee.

9. ARCHITECTURAL CONTROL COMMITTEE EXPIRATION. The authority of the Committee shall expire fifteen (15) years after the date of the recording of the Plat. J & J Land Development, Inc., or its successor or assign, may, at any time, relinquish its right to designate a Committee member or to fill any vacancy on the Committee and upon its written relinquishment of the same, any vacancy on the Architectural Control Committee shall be filled by an election of the majority of Eighty (80%) percent of the Homesite Owners in the Subdivision.

10. PERIMETER FENCING, RETAINING WALLS AND SWIMMING POOLS. The Architectural Control Committee must approve all retaining walls, perimeter fencing and swimming pools in writing. Fencing may not exceed six (6) feet in height. This paragraph is not to be construed to prohibit the planting or maintenance of hedges, shrubbery or trees. No fencing is to be installed in easement areas unless approved in writing by the Architectural Control Committee. No swimming pool shall be permitted which extends more than one (1) foot above ground.

11. NUISANCES. No noxious or offensive activity shall be carried on upon any Homesite, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood.

12. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding of any type or nature shall be used on any Homesite at any time as a residence, temporarily or permanently. This covenant, however, shall not be construed to prohibit a construction trailer or the erection of a temporary field office by the Declarant or by a building contractor used during construction of a residential dwelling.

13. DETACHED BUILDINGS. On all Homesites, the construction and placement of not more than two (2) detached storage or pet shelter structures (maximum 2400 square feet combined total for all structures) to be used for the storage of lawn tools, toys, recreational equipment, or any other personal property or for the shelter of pets must be of a quality construction and must be maintained in attractive and neat appearance and blend with the established home and be submitted to the Architectural Control Committee for approval before beginning construction. The placement and construction of the detached structures are to be submitted to the Architectural Control Committee which Architectural Control Committee shall have the authority to approve or disapprove the placement and construction of detached storage structures. No structure shall have an exterior side wall exceeding sixteen (16) feet in height.

14. SIGNS. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed, or permitted to remain on any Homesite except for one sign per Homesite consisting of not more than six square feet advertising that a Homesite is for sale. No business activities of any kind whatsoever shall be conducted on any lot unless otherwise permitted herein. The above restrictions as

to signs and business activities does not apply to J & J Land Development, Inc., and its agents and assigns, in connection with development of the Subdivision.

15. ANIMALS, LIVESTOCK. No non-domesticated species are allowed. House pets consisting only of dogs or cats are allowed, unless they are being used for commercial purposes, including but not limited to breeding or training. No dog or cat is permitted to run at large. A maximum of 4 cats and 2 dogs per household is permitted. Animals are not permitted to become a neighborhood nuisance or hazard in any manner.

16. DEBRIS, GARBAGE AND REFUSE DISPOSAL. No incinerator or trash burner shall be permitted on any Homesite. No Homesite should be used as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. Any firewood stored on a Homesite shall be behind the Dwelling Unit, stacked and hidden from view.

17. OPTION TO REPURCHASE AND RIGHT OF FIRST REFUSAL. In the event that a residential dwelling meeting the requirements of these restrictions is not completed on any Homesite within a period of two (2) years from the date on which such Homesite is conveyed by J & J Land Development, Inc., to the purchaser thereof, unless extended by a written instrument duly executed by J & J Land Development, Inc., J & J Land Development, Inc., shall thereupon have the right during the ensuing twelve (12) month period commencing on the second anniversary date of such conveyance to repurchase such Homesite from the current Owner of such Homesite, free and clear of all liens and encumbrances, except current property taxes which shall be prorated to the date of closing, at eighty-five percent (85%) of the price at which J & J Land Development, Inc., sold such Homesite to the original purchaser thereof, without payment of interest or any other charges, upon J & J Land Development, Inc., or its successor and assign, serving written notice upon the current Owner of such Homesite of J & J Land Development, Inc.'s, or its successor and assign, intention to exercise its option and effect such repurchase, notwithstanding whether the current Owner of such Homesite was also the original purchaser thereof. The closing of such repurchase shall take place at the office of J & J Land Development, Inc., or its successor and assign, or such other location as it selects, not later than thirty (30) days from the date of the giving of such written notice to the current Owner of such Homesite, who shall take such actions and shall execute such documents, including a warranty deed to such Homesite, as the attorneys for J & J Land Development, Inc., or its successor and assign, shall deem reasonably necessary to convey good title to such Homesite to J & J Land Development, Inc., or its successor and assign, free and clear of all liens and encumbrances as aforesaid. J & J Land Development, Inc., or its successor and assign, shall be given the first right to repurchase any vacant Homesite within the Subdivision that is offered for resale.

18. FUEL STORAGE TANKS. Propane tanks must be placed on concrete pads large enough to extend to all edges of the propane tank. Fuel storage tanks are not allowed.

19. LOT DIVISION. There shall be no subdivision or sale of any Homesite by an Owner for the purpose of building an additional dwelling.

20. RECREATIONAL OR COMMERCIAL VEHICLES AND PARKING. No roadside or driveway mechanic shops are permitted on any Homesite. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of 7 days shall be permitted to stay on a Homesite at any time; nor shall vehicles offensive to the



neighborhood be visibly stored, parked or abandoned on any Homesite. No unused building material, junk or rubbish shall be left exposed on the Homesite except during the actual building operations and then only in a neat and inconspicuous manner. No motor vehicles may be parked or stored outside on any Homesite, provided, however, vehicles that are driven on a regular basis by the occupants of the dwelling located on each Homesite may be parked on the driveway of that Homesite. No continuous parking along the street is allowed. No semi-tractors and/or trailers, school buses, modular homes or mobile homes are allowed on any Homesite. Campers, boats, trailers, snowmobiles, jet skis or similar recreational vehicles are to be parked in an enclosed garage.

21. HOMEOWNERS ASSOCIATION. The "Wilderness Ridge Homeowners Association" hereinafter referred to as the "Homeowners Association", or "Association", shall be created by J & J Land Development, Inc., at its option acting on behalf of the Owners and future Owners of Homesites in this subdivision. Each Owner of a Homesite in this subdivision shall be a member of the Association and shall be entitled to cast one (1) vote at all meetings for each Homesite that is owned. (The purpose of the Association is to manage and to support financially all park, common, and easement areas, all landscaped entrance ways, and all private drives or streets, street lighting, fountains, and accent lighting, the performance of its responsibilities listed in Paragraph 26 and the provision of such security services as may be deemed advisable and practical in the sole discretion of the Association or, until such time as the Association is created by J & J Land Development, Inc., in the sole discretion of J & J Land Development, Inc., and all purposes as the membership deems necessary). After its creation by J & J Land Development, Inc., the Association shall conduct a meeting at least once each year to organize itself and to elect its officers. The Association shall adopt by-laws for its government and may levy and collect dues. The Association shall have the authority to impose and collect annual assessments for the following: The maintenance of private drives and streets including clearing snow, the operation of street lighting; and maintenance of fountains, accent lighting; and mowing of common areas or applicable easements. The performance of its responsibilities listed in Paragraph 26; and all legal & professional fees, directly related to the Association's duties and responsibilities, and the provision of the aforesaid security services; provided, however, that the total of such dues and assessments levied against such Homesite shall not exceed Three Hundred Dollars (\$300.00) per Homesite per year. Those assessments shall be levied equally on each Homesite in the recorded Plat of Wilderness Ridge Estates. Failure to pay said assessments or annual dues shall be a violation of these covenants and restrictions. Any such assessments or annual dues shall be billed by the Association to the Owner of each Homesite (accompanied by an itemized statement) during the month of January of each year and shall be due and payable within thirty (30) days. All Homesites in this Subdivision shall, from and after the recording of these restrictions, be subject to said annual dues and assessments. The Association for a partial year of ownership will grant no proration of dues. Said dues and assessments, including interest, costs of collection and attorneys' fees, if any, as hereinafter provided, shall be a lien in favor of the Association upon the Homesite against which such dues and assessments are charged until discharged by payment or released by the Association, which lien may, but need not, be enforced in the same manner as is provided in the mechanic's lien statutes of the State of Nebraska. Notwithstanding anything to the contrary herein, the Association need not file or record or send any notice with respect to any lien or liens or bring suit thereon within any time specified in the mechanic's lien statutes of the State of Nebraska to enforce the same. The Association may, but need not, publicly record such notices of undischarged liens arising hereunder as it deems appropriate and may, but need not, bring a separate independent action any court to enforce

payment of, or to foreclose, the lien created hereunder. Provided further, that any person purchasing or dealing with said Homesite may rely upon a certificate signed by the President or Secretary of the Association showing the amount of such certificate, and the Association shall not be entitled to enforce any lien for such charge accruing prior to the date of any such certificate unless the amount thereof is shown in the said certificate. The within above-described lien is subordinate to any first mortgage lien. The Association may also enforce the restrictions concerning accumulations of rubbish, weeds, or trash, and may own any land for use by all or less than all of the Homesite Owners as a "common area". Any past-due annual dues, assessments, or other charges assessable hereunder shall bear interest at the rate of eight percent (8%) per annum commencing thirty (30) days after same become due and with attorneys' fees, and shall be due and payable without relief from valuation and appraisal laws. The Association may be formed for, and engage in, such other activities as may be beneficial to the Homesite Owners, to the public at large, or which may qualify the Association as a "not-for-profit" corporation or "association", as defined in the Internal Revenue Code. Until such time as the Association is created by J & J Land Development, Inc., J & J Land Development, Inc., acting on behalf of the Association to be formed, shall be entitled to carry out the responsibilities assigned to, and enjoy and exercise the rights and powers granted to, the Association pursuant to these restrictions; provided, however, that the total of such dues and assessments levied by J & J Land Development, Inc., in such capacity against each Homesite shall not exceed Three Hundred Dollars (\$300.00) per Homesite per year so long as the Association has not been created and J & J Land Development, Inc., is acting in such capacity on behalf of the Association to be formed.

22. UTILITIES AND TELEVISION ANTENNAS. All public utility services, either in the streets or on any Homesite, including but not limited to electric, gas, telephone service, and cable television, shall be located underground, and shall not be visible. Only one outside above-ground television, A.M., F.M., or short-wave radio antennas of any type, shall be erected or maintained on any Homesites or structures in this subdivision. Each Homesite Owner may, however, have on his Homesite no more than two (2) satellite dishes for electronic signal reception. The placement and size of the antenna or satellite dishes must be approved by the Architectural Control Committee before placement on any Homesite. All street or Homesite lighting shall be situated on posts with no lines visible. To assure the enforcement of this restriction, J & J Land Development, Inc., for itself, its successors, and assigns, does hereby agree:

- (a) To prohibit the erection and use of overhead wires, poles, and other facilities of any kind, including, but not limited to those associated with electrical, television, cable or telephone service, either electrically or by telephone from poles and overhead wires around the perimeter of the subdivision or development. Nothing herein should be construed to prohibit J & J Land Development, Inc., from installing street lighting at J & J Land Development, Inc.'s choice of locations if serviced by underground wire or cable;
  - (b) To require that the owner of any building erected on the Property install an electric service entrance of sufficient capacity to meet present and future requirements of the occupants in accordance with the engineering standards of the electric utility company;
  - (c) To require Owners to assume all landscaping responsibility and restoration of paved or planted areas made necessary by maintenance, replacement or expansion of the underground service
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facilities. Owner to assume all responsibilities and cost if Owner chooses to substantially alter the grade in the utility easement, which would result in the utility company relocating their lines to provide adequate protection for said line.

- (d) To require accessibility to all strips in which underground service is located for operation, maintenance, or replacement of facilities; and
- (e) To require that the Owner of any building erected on the property must pay any cost differential for underground service laterals.

23. BUILDINGS. The Architectural Control Committee in advance of the construction of any such improvement shall determine the placement of all buildings, including the lot and building elevations. No alterations of location or any improvement prior to construction shall be made and no improvement shall be physically placed in any other position than that located by the Architectural Control Committee without approval of the Architectural Control Committee. All expense with regard to such location placements and the actual physical staking for the location of such physical improvement shall be borne by the Homesite Owner.

24. FIRES. No fire shall be permitted to burn upon any street or roadway in this subdivision and no burning of trash shall be permitted.

25. SWALES AND DITCHES. Roadside standard ditches, or swales, if any, whether adjacent to roads or along or near property lines for drainage purposes shall be constructed in accordance with City of West Point, Cuming County, Nebraska specifications adopted by the City and in effect at the time of said construction, and such ditches or swales shall not be filled in.

#### 26. COMPLIANCE BY BUILDER, LOT OWNER

(a) During the construction of any structure, every reasonable effort shall be made, by the Builder and/or Homesite Owner, to control erosion on the construction site in accordance with recommendations issued by the Soil and Water Conservation Service, United States Department of Agriculture.

(b) The Builder shall also indemnify and hold Declarant harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which may arise out of or are connected with, or claimed to arise out of or connected with, any work done by Builder, Builder's employees, agents, or subcontractors which is not in compliance with the erosion control plan implemented by the Declarant.

27. CONVEYANCE OF COMMON AREA TO ASSOCIATION. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to all common areas in this subdivision to the Homeowners Association not later than five (5) years after all Homesites in this subdivision have been sold by J & J Land Development, Inc., its successors and assigns.

28. WAIVER OR AMENDMENT OF COVENANTS. It is expressly provided that J & J Land Development, Inc., its successors or assigns, shall have the exclusive right for a period of five (5) years from the date of recording of this Declaration to amend any or all of the restrictions or covenants

herein contained; except that J & J Land Development, Inc., its successors or assigns, shall not, during such five-year period, increase the Three Hundred Dollar (\$300.00) limitation on the total dues and assessments which may be levied annually by the Homeowners Association, against any Homesite. Such amendment shall be evidenced by the recording of a written amendment signed and recorded in the Office of the Recorder of Cuming County and shall become effective upon such recording. This shall include the right to waive any part of the restrictions or conditions as to any particular Homesite. After five (5) years from the date of recording of this Declaration, these restrictions, limitations and covenants, including that provision of paragraph 21 which places a Three Hundred Dollar (\$300.00) maximum on the total dues and assessments which may be levied annually by the Homeowners Association, against any Homesite, may be amended at any time by the recording of such amendment executed by the Owners of the fee title of not less than seventy-five percent (75%) of the Homesites in the subdivision, except that no amendment of the provisions of Paragraph 26 shall be effective unless such amendment is also executed by the Owners of the fee title of not less than one hundred percent (100%) of the Homesites containing all or a portion of a retention pond.

29. DURATION OF COVENANTS. These Covenants and Restrictions are to run with the land and shall be binding on all parties and persons claiming under them for ten (10) years from the date this Declaration is filed, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless by a vote of the then Owners of the fee title of not less than seventy-five percent (75%) of the said Homesites covered by these covenants and restrictions, it is agreed to change such covenants and restrictions in whole or in part, except that no amendment of the provisions of Paragraph 26 shall be effective unless such amendment is also executed by the Owners of the fee title of not less than one hundred percent (100%) of the Homesites containing all or a portion of a retention pond.

30. SEPARABILITY OF COVENANTS, Invalidation of any one of the covenants or restrictions by judgement of a Court of competent jurisdiction shall in no way affect any of the other covenants or restrictions and all other provisions of these covenants and restrictions shall remain in full force and effect.

31. ENFORCEMENT OF COVENANTS. The right to enforce these provisions by injunction, together with the right to cause the removal by due process of law of any structure, is hereby vested in each Owner of a Homesite in this subdivision, and in the Homeowners Association, its successors and assigns. These covenants and restrictions may all be enforced by a civil action for damages and by any other appropriate remedy at law or in equity. If any person or persons shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons vested with the title of any of the Homesites herein before described, the Homeowners Association, its successors and assigns, or the Declarant, to proceed either in law or in equity, against such person or persons violating or attempting to violate any such covenants, and to enjoin them from so doing, to recover damages for such violation and to seek all other appropriate relief. In the event that the Homeowners Association, or the Declarant should employ counsel to enforce any of the foregoing covenants and restrictions, all costs incurred in such enforcement, including reasonable attorneys' fees, shall be paid by the Owner of such Homesite or Homesites against whom such enforcement action is brought. Homeowners Association, or the Declarant, as the case may be, shall have a lien upon such Homesite or Homesites to secure Owner's payment of all such costs, which lien may be enforced in the same manner as is provided in Paragraph 21 of these restrictions.

32. EFFECTIVE DATE. These Restrictions and Covenants shall be deemed to be effective upon their recording in the Office of the Recorder of Cuming County, Nebraska.

DECLARANT:

J & J Land Development, Inc., a Nebraska Corporation

By: Joseph T. Prinz  
Its: President

Tyler Toline  
Tyler Toline

Sarah Toline  
Sarah Toline

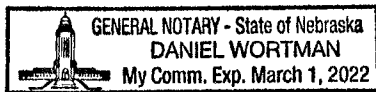
STATE OF NEBRASKA )

) ss

COUNTY OF CUMING )

Before me, the undersigned, a Notary Public in and for said County and State, this 14 day of September, 2020, personally appeared Joseph T. Prinz, President of J & J Land Development, Inc., a Nebraska corporation, and who acknowledged for and on behalf of the said Corporation the execution of the above and foregoing instrument as its voluntary act and deed.

WITNESS my hand and Notarial seal.



Daniel Wortman  
Notary Public

My commission expires: 3-1-22

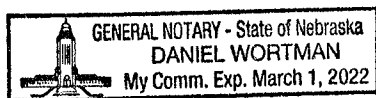
STATE OF NEBRASKA    )

) ss

COUNTY OF CUMING    )

Before me, the undersigned, a Notary Public in and for said County and State, this 14 day of September, 2020, personally appeared Tyler Toline and Sarah Toline and who acknowledged the execution of the above and foregoing instrument as their voluntary act and deed.

WITNESS my hand and Notarial seal.



*Daniel Wortman*  
Notary Public

My commission expires: 3-1-22