



Return filed document to:
4T Development, LLC
Attn: Marion Pillard
7507 Firth Road
Firth, NE 68358

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
JENSEN VIEW ESTATES ADDITION**

**ARTICLE I
RECITALS AND DECLARATION**

1.1 4T Development, LLC, a Nebraska limited liability company ("Declarant"), is the equitable and legal owner of the real estate located in Jensen View Estates Addition, City of Lincoln, Lancaster County, Nebraska as legally described on Exhibit "A" and graphically depicted on Exhibit "B" (the "Property").

1.2 The Declarant is developing the Property as a residential subdivision (the "Subdivision") with two (2) commercial/multi-family parcels located at the entryway to the Subdivision, and the initial number of thirty-eight (38) residential Lots, and further Additional Property (as defined herein) which may be added to the Subdivision and to this Declaration of Covenants, Conditions, Restrictions and Easements for Jensen View Estates Addition ("Declaration" or "Covenants").

1.3 The Declarant desires to establish a uniform plan for the development of such Subdivision community. In order to provide for the preservation of the values and amenities of the Lots as well as for the maintenance of the character and integrity of the Lots and Common Areas (as defined herein), the Declarant, as owner of the Property, hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the restrictions, covenants, conditions and easements contained in this Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots and Common Areas, and the enjoyment of the residents who live in the Subdivision. These restrictions, covenants, conditions, and easements shall run with such Lots and Common Areas and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof. The Lots are, and each Lot is, and shall be, subject to all and each of the following conditions and other terms.

1.4 There has been (or will be) incorporated under the laws of the State of Nebraska, a nonprofit corporation under the name of Jensen View Estates Homeowner's Association, Inc.

("Association"), comprised of the owners of record (each being a "Lot Owner") for the purpose of, amongst other things, enforcing these covenants, conditions, restrictions, and easements created and established against and upon the Lots and Common Areas.

1.5 **Definitions.** For the purposes of this Declaration, except as otherwise defined or the context requires otherwise, the following terms shall have the meaning set forth below:

- i. **"Additional Property"** shall mean any real property and improvements lying adjacent to or in close proximity to the Property, which Declarant and any other party with the consent of the Declarant may from time to time add to the provisions of this Declaration. After any Additional Property becomes subject to this Declaration, such Additional Property shall be included in the definition of "Property".
- ii. **"ARB"** shall mean the Architectural Review Board which is formed by the Declarant in accordance with the terms of Article III, Section 3.2 below.
- iii. **"Association"** shall mean the Jensen View Estates Homeowner's Association, Inc., a Nebraska nonprofit corporation, which has been established for the purpose of enforcing and maintaining compliance with this Declaration.
- iv. **"City"** shall mean City of Lincoln, Nebraska.
- v. **"Common Area(s)"** shall mean all non-buildable outlots, drainage way, ponds, open space and all pedestrian walkways that abut one or more Lots, as shown on any final plat of all or any portion of the Property; provided, however, that such final plat has been filed with the Lancaster County Register of Deeds, as well as all landscaped islands, medians, and entrance monument areas that are located in public street right of way or easements that serve or benefit the Property and/or Association.
- vi. **"Declarant"** shall mean 4T Development, LLC, a Nebraska limited liability company, its successors, and assigns. Declarant is the initial owner/developer of the Property.
- vii. **"Front Lot Line"** shall mean that portion of any Lot Line generally parallel to the primary face of the residence and which directly abuts a street or private roadway open to the use of the general public.
- viii. **"Front Yard"** shall mean the entire portion of a Lot from the Front Lot Line of such Lot to the primary face of the residence to be constructed upon the Lot.
- ix. **"Improved Lot"** shall mean and refer to any Lot included within the Property and upon which shall be erected a completed dwelling with a certificate of occupancy issued for the same. For any commercial/multi-family Lots, an Improved Lot shall consist of the applicable Improvements on such Lot and the issuance of a certificate of occupancy for the same.
- x. **"Improvement"** shall having the meaning as set forth in Article III, Section 3.1 below.

- xi. **"Lot" or "Lots"** shall mean all lots now or hereafter located on the Property which are shown on any final plat of all or any subdivided portion of the Property that has been filed with the Lancaster County Register of Deeds.
- xii. **"Lot Line"** shall mean exterior boundary and/or property lines of a Lot.
- xiii. **"Lot Owner"** shall mean the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding, however, those parties having any interest in any of such Lot merely as security for the performance of any obligation (such as contract seller, the trustee or beneficiary of a deed of trust or a mortgage). The purchaser of a Lot under land contract or similar instrument shall be considered the "Lot Owner" for the purposes of this Declaration.
- xiv. **"Member"** shall mean those Lot Owners entitled to vote on matters pertaining to the business of the Association.
- xv. **"Property"** shall mean the real property legally described on Exhibit "A", which is attached hereto and incorporated herein by this reference. Additionally, in the event that any Additional Property becomes subject to this Declaration, such Additional Property shall be deemed to be included in the definition of "Property".
- xvi. **"Rear Lot Line"** shall mean the segment of Lot Line that is not adjacent to a Front Lot Line.
- xvii. **"Side Lot Line"** shall mean the segment of Lot Line that is adjacent to a Front Lot Line.
- xviii. **"Street Side Lot Line"** shall mean that portion of any Lot Line that is adjacent to a Front Lot Line and abuts a public street or private roadway.
- xix. **"Street Side Yard"** shall mean the side yard of a corner lot that faces a public or private street adjacent to the Front Yard of said Lot.

ARTICLE II ASSOCIATION AND MEMBERSHIP

2.1 **The Association.** Declarant has caused (or will cause) the incorporation of the Association, and the Association has (or shall have) as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the Property located within the Subdivision for the benefit of the Lot Owners and their family and guests. The authority and purpose of the Association shall include, but not be limited to, the following:

- i. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of the Subdivision and collecting dues for the operation and maintenance of the Common Areas (the "Rules and Regulations"). The Rules and Regulations may permit or restrict use of the Common Areas by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of any Common Areas.
- ii. The Declarant or Association may now or in the future acquire, construct, landscape, improve, equip, maintain, operate, repair, keep up and replace

Common Areas for the general use, benefit and enjoyment of the Members. Common Areas may include playgrounds and parks; dedicated and non-dedicated roads, pathways, entry areas and green areas; and signs and entrances for the Subdivision. Common Areas may be situated on property owned or leased by the Association, on private property subject to an easement in favor of the Association, or on public property.

- iii. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of the Subdivision; and the protection and maintenance of the residential character of the Subdivision.
- iv. The enforcement of these Covenants and the Rules and Regulations, including the authority to bring the appropriate court action, including an action for a temporary restraining order, preliminary injunction or permanent injunction enjoining such violations. In addition to all other rights and remedies available to the Association in the event of a violation or breach of any of the Covenants or the Rules and Regulations, the Association shall have the right to assess the property owner who is responsible for such violation the amount incurred by the Association in remedying the violation and enforcing the Covenants and the Rules and Regulations, which includes, but is not limited to, reasonable labor and material costs incurred by the Association in fixing, repairing and/or remedying the violation or enforcing the Covenants and Rules and Regulations, an administration fee of 10% of such costs to reimburse the Association for its efforts in remedying the violations and enforcing the Covenants and the Rules and Regulations, reasonable attorney fees, court costs, and other reasonable expenses incurred in enforcing the Covenants and the Rules and Regulations, and interest on such costs and expenses paid by the Association at the rate of 10% per annum until paid.

2.2 Membership and Voting. The Subdivision shall initially consist of two (2) commercial/multi-family parcels Lots and thirty-eight (38) residential Lots, and the Owner of each Lot shall be a Member of the Association. Membership shall be a appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot except as otherwise specifically set forth in this Declaration regarding Declarant's rights for voting. The Association shall have two (2) classes of membership:

CLASS "A" memberships shall include all members of the Association except the Declarant. Each Class "A" member of the Association shall be entitled to all the rights of membership and to one (1) vote for each Improved Lot in which the interest requisite for membership is held, provided however, that no more than one (1) vote shall be cast with respect to any such Improved Lot.

CLASS "B" membership shall include only the Declarant, who shall be entitled to one hundred (100) votes for each Lot owned by Declarant or owned by any other Owner prior to completion of the Improvements necessary to be deemed an "Improved Lot"; provided however, the Class "B" membership of the Declarant shall be converted to Class "A" membership upon the later of (i) fifteen (15) years from the filing of this Declaration upon the Property or (ii) at, for, and during such time or times as the total number of votes entitled to be cast by Class "A" members equals or exceeds the total number of votes entitled to be cast by Class "B" members.

2.3 Purposes and Responsibilities. The Association shall have the powers conferred upon not-for-profit corporations by the Nebraska Non-Profit Corporation Act, and all powers and duties

necessary and appropriate to accomplish the purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but not be limited to the following:

- i. The acquisition, development, maintenance, repair, replacement, operation and administration of the Common Areas, and the enforcement of the Rules and Regulations.
- ii. The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks, medians, thoroughfares or public property within the Subdivision.
- iii. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
- iv. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Areas against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.
- v. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.
- vi. The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.
- vii. The deposit, investments and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.
- viii. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association. The Board of Directors of the Association shall have the right to hire a management company to manage and operate Common Areas and to assist in the collection of dues.
- ix. General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.
- x. The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.
- xi. The exercise of any and all rights assigned to the Association by Declarant including but not limited to the architectural control of the Improvements constructed in the Subdivision.

2.4 **Mandatory Duties of the Association.** The Association shall maintain and repair any amenities located in the Common Areas, including but not limited to any fences, signage, monuments, landscaping, recreational areas, etc. which have been or will be installed by Declarant or the Association along the entrances and other Common Areas of the Subdivision.

2.5 **Annual Dues and Assessments.** The Association may fix, levy and charge the Owner of each Lot with dues and assessments (hereinafter referred to collectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in a manner prescribed by the Board for maintenance, repair or reconstruction of the Common Areas, insurance, and real estate taxes arising subsequent to the execution and recordation of these Covenants. Assessments for capital improvements to the common areas may be levied by the Board of Directors. The dues and assessments levied and collected by the Association shall be committed and expended to accomplish the purposes and to perform the powers and responsibilities of the Association described in this Declaration. Except as otherwise specifically provided, the dues and assessments shall be determined by the Board of Directors of the Association and shall be payable at the time and in the manner prescribed by the Board.

2.6 **Purpose of Dues.** The dues collected by the Association may be committed and expended to accomplish the purposes of the Association as set forth in this Declaration, and to perform the powers and responsibilities of the Association as further described herein.

2.7 **Abatement of Dues and Assessments.** Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues and assessments due in respect of any Lot and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant.

2.8 **Liens and Personal Obligations for Dues and Assessments.** The dues and assessments, together with interest thereon, costs and reasonable attorney fees shall be the personal obligation of the Lot Owner at the time when the dues and assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorney fees, shall also be a charge and continuing lien upon the Lot in respect of which the due and assessments are charged. The personal obligation for delinquent dues and assessments shall not pass to the successor in title to the Lot Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid dues and assessments.

2.9 **Subordinate to Mortgage.** The lien of such annual or special assessments shall be subordinated to the lien of any mortgage or first deed of trust given as collateral for a home improvement or purchase money loan now or hereafter placed upon the lot against which such assessment is made. Sale or transfer of any Lot shall not affect or terminate the dues and assessment lien.

2.10 **Assessments for Capital Improvements.** In addition to the annual dues, the Board of Directors may levy an assessment or assessments for capital improvements for defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement or replacement of Common Areas and the amenities located within, including fixtures and personal property related thereto, and related facilities, provided that any such assessment in excess of \$1,000.00 per Lot in any year may be rejected at any time within

thirty (30) days of the notice of the levy by the vote of Members comprising not less than fifty-one percent (51%) of the total votes of Lots covered by this Declaration, at a regular meeting of the Members or at a special meeting of the Members, if notice of the assessment for capital improvements is contained in the notice of the special meeting.

2.11 **Refuse Service.** The Association may select a single provider to provide refuse collection services for the entire Property. Each member of the Association covenants that the Association reserves the right to conduct all negotiations with vendors to provide refuse removal from each Lot. The cost of the refuse services for each Lot shall be paid by the Lot Owner directly to the service provider and shall not be collected by or paid to the Association.

2.12 **Certificate as to Dues and Assessments.** The Association shall upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Lot have been paid to the date of the request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment, or installment thereof. The dues and assessments shall be and become a lien against each Lot as of the date such amounts first become due and payable.

2.13 **Effect of Nonpayment of Dues or Assessments and Remedies of the Association.** Any installment of dues or assessments which is not paid when due shall be delinquent. Delinquent dues or assessments shall bear interest from the due date at the rate of sixteen percent (16%) per annum, or the maximum rate allowed by law, whichever is less. The Association may bring an action at law against the Lot Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Lot Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of its Lot. The mortgagee of any Lot shall have the right to cure any delinquency of a Lot Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right to foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

2.14 **Dissolution of Association; Lot Owner Responsibilities.** Each Lot Owner by the acceptance of a deed by which the interest requisite for membership in the Association is acquired, shall be deemed to covenant that, in the event the Association dissolves, such Lot Owner shall remain jointly and severally liable along with all other Lot Owners within the Property for the cost of administering and maintaining the Common Areas in the same manner as required of the Association. In the event such Lot Owners fail or refuse to perform any required maintenance and upkeep of the Common Area, the City of Lincoln, after seven (7) days' notice to such Lot Owners, may perform the required maintenance and assess each Lot and Lot Owner for the cost of the performance of such maintenance on an equal per lot basis. Each assessment of the City's actual costs or performing the maintenance shall be the personal obligation of each Lot Owner who is the owner of the Lot at the time of the assessment and shall be a lien up the Lot assessed. To evidence such lien for unpaid assessments, the City shall prepare a written notice setting forth the amount, the name of the Lot Owner, and a legal description of the Lot. Such notice shall be signed on behalf of the City by the Mayor and shall be recorded with the Register of Deeds of Lancaster County, Nebraska. Each Lot Owner shall pay the Lot Owner's pro-rata share of the City's actual cost of maintaining the Common Area within thirty (30) days following receipt of an assessment thereof. Delinquent payments shall be subject to a late charge of 10% of the delinquent payment or Fifty Dollars (\$50.00), whichever is greater.

ARTICLE III ARCHITECTURAL CONTROL

3.1 **Residential.** Except for any Lots which are specifically zoned for commercial or multi-family development, each Lot shall be used exclusively for single-family residential development (which may include townhome or condominium development if zoned for the same). Additionally, no residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball pole and/or backboards, dog house, pool house, mailbox or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant or the ARB (as applicable). An Owner desiring to erect an Improvement to any Lot shall deliver plans as provided in Section 3.2 below.

3.2 **Plan Approval.** Prior to the construction of any residence on any Lot, a set of building plans for such residence shall be submitted by the Lot Owner to the Declarant. Said building plans shall be signed and certified by the Lot Owner as a true and correct copy of the building plans for the residence to be constructed on such Lot and contain a statement that the Lot Owner will submit to the Declarant, any amendments, modifications, or changes to such building plans for written approval. Such building plans shall show the size, exterior materials (including percent coverage of each exterior material on the front façade of the building), design and plot plan for the residence to be constructed on such Lot and shall indicate the location of residence, any garage and any other structures to be placed or constructed on such Lot. The Plans shall reflect compliance with Article IV below.

A Lot Owner shall also provide a paint sample for approval of the exterior color of the residence or other Improvements. Exterior paint colors shall be restricted exclusively to earth tones which are approved by Declarant or the ARB, as applicable, with no exceptions. Any Lot Owner acknowledges that the Declarant or the ARB, as applicable, shall maintain paint samples for approved "earth tones" that may be utilized in the Subdivision, and each Lot Owner shall be responsible for obtaining approval for any paint colors prior to applying the same to any residence or other Improvements. Bright shades of blue, yellow, purple, and green are strictly prohibited and may not be used for any exterior surfaces. Declarant or the ARB, as applicable, shall retain absolute and exclusive control of the approval of exterior paint colors for all residences within the Property. One (1) set of such building plans, and all amendments, modifications, and changes thereto, signed by the Lot Owner shall be left on permanent file with the Declarant.

Construction of any residence on any Lot shall not commence unless and until written approval of the building plans for such residence has first been obtained from the Declarant. Written approval or disapproval of such building plans shall be given by the Declarant within thirty (30) days from and after receipts thereof. Approval of such building plans shall not be unreasonably withheld; provided however, that the Declarant shall have the sole and exclusive right, in its sole and absolute discretion, to modify the application and interpretation of these standards, requirements and restrictions when exercising plan approval authority. The Declarant or ARB, as applicable, shall review such plans in relation to the type and exterior of Improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarant or the Association. In this regard, Declarant intends that the Lots shall be a developed residential community with homes constructed of high quality materials. No pre-manufactured homes of any kind, other atypical improvements and home designs such dome houses, A-frame houses or log houses will be allowed. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant or the ARB, as applicable, to promote development of the Lots and to protect the values, character and

residential quality of all Lots. If Declarant or the ARB, as applicable, determines that the proposed Improvements will not protect and enhance the integrity and character of all Lots and neighboring Lots within the Subdivision as a quality residential community, Declarant or the ARB may refuse approval of the proposed Improvements.

The Declarant shall have the right to reduce, increase or otherwise modify these standards within Additional Property added to the Declaration. The Declarant may, in the Declarant's sole discretion, at such time of the Declarant deems appropriate, transfer and assign to a 3rd party consultant or to a three (3) member architectural review board, who are Lot Owners appointed by Declarant ("Architectural Review Board"), the right to approve or disapprove building plans using the same criteria the Declarant has set forth. Vacancies occurring thereafter shall be appointed by majority vote of the remaining members of the Architectural Review Board, and such vacancy must be filled by a Lot Owner.

3.3 Exterior Alterations. Prior to the construction of any addition to any residence constructed on any Lot, or the change or modification to the exterior (including modification of exterior paint color) of any residence constructed on any Lot, the Lot Owner shall first obtain the written approval of the Declarant or Architectural Review Board to proceed with any such construction, change or modification, which approval shall not be unreasonably withheld.

ARTICLE IV GENERAL PROVISIONS

4.1 Grading. Declarant, and its successor and assigns, hereby reserves the sole and exclusive right to establish all grades, slopes and/or contours on all Lots and to fix the grade upon which any single-family residence hereafter is erected or placed on any such Lot. Once such grades, slopes and/or contours have been established by the Declarant they will not be changed in connection with the construction of any single-family residence on any Lot more than two feet from the grades, slopes and/or contours established by Declarant, without prior written permission of the Declarant, but in no event shall any such Lot be graded or sloped so as to change the flow of surface waters to or from any adjoining Lots. The Declarant may, in the Declarant's sole discretion, at such time as the Declarant deems appropriate, transfer and assign to the Architectural Review Board the right to establish and enforce such grades, slopes and contours.

4.2 Erosion Control. Lot Owner shall be always responsible during construction to have in place erosion control measures including, but not limited to, silt fences or other additional measures, which will contain erosion of soil on the Lot and prevent tracking of mud onto streets by construction vehicles. Lot Owner acknowledges Declarant shall have the right to inspect the Lot during construction. In the event Declarant observes soil eroding off the Lot, Declarant shall have the right to require Lot Owner to implement additional erosion control measures to the satisfaction of Declarant. Lot Owner acknowledges that by accepting deed to a Lot, Lot Owner shall automatically assume responsibility for continuing compliance with the NPDES SWPPP permit requirements relating to the Lot, including, but not limited to, proper maintenance of erosion control structures in place. Prior to commencement of any construction activity on the Property, Lot Owner shall (i) submit an Individual Lot Notice of Intent (NOI) and Storm Water Pollution Prevention Plan for the Lot to the City of Lincoln Building and Safety Department, and (ii) provide a copy of the approved Individual Lot NOI to Declarant in accordance with the Covenants. Any liability associated with noncompliance with the NPDES SWPPP permit or Individual Lot NOI and SWPPP relating to the Lot after the date of Closing shall be the sole responsibility of Lot Owner and no responsibility shall accrue to Declarant.

4.3 **Excavation.** No dirt from grading, excavation or resulting from any other activity may be removed from the boundaries of the Subdivision without the written permission of the Declarant and without first offering such dirt to the Declarant for placement (at the expense of Lot Owner relocating same) within the Subdivision at an area or areas designated by the Declarant for stockpiling dirt. Dirt placed in such stockpiling areas shall be leveled at the expense of Lot Owner relocating same to allow for mowing and maintenance. At such time as the Declarant deems appropriate it may transfer and assign to the Association this right to the dirt and the designation of its placement. This right shall expire January 1, 2038.

4.4 **Easement Areas.** No walls, fences, structure, planting or other materials shall be constructed, placed, planted, maintained or permitted to remain on any easement areas reserved for the installation and maintenance of utilities or drainage, as shown on recorded plat of the Jensen View Estates Addition, if such wall, fence, structure or planting would (i) damage or interfere with the installation or maintenance of any such utilities; or (ii) change the direction or flow of the surface water drainage channels in any such easement area; or (iii) obstruct or retard the flow of water through any drainage channels over the easement area.

4.5 **Single Family Dwelling Use.** No Lot or any residence hereafter placed or constructed shall be utilized for any purpose other than for single family residential purposes except as shown on Exhibit "B" or as otherwise approved by the Declarant. No condominiums, apartments or multiple dwelling units of any kind or type shall be built on any Lot, nor shall any Lot Owner allow or permit any dwelling unit constructed on any Lot to be converted into any type of condominium, apartment or multiple dwelling unit except for the multifamily area and attached single-family (townhouse) area as shown on Exhibit "B" or as otherwise approved by the Declarant.

4.6 **Required Setbacks.** No dwelling or other structure of any kind or type shall be located on any Lot within twenty-five (25) feet of the Front Lot Line, nor within five (5) feet of any Side Lot Line or within twenty (20) feet of the Rear Lot Line. In the case of corner lots abutting two (2) or more streets, no dwelling or other structure of any kind or type shall be within twenty-five (25) feet of any street R.O.W. or Street Side Lot Line, unless said setback requirement is waived by the Declarant or Architectural Review Board. The following Street Side Lot Line setbacks have been reduced from twenty-five (25) feet to ten (10) feet: i) the S. 87th St. side of Lot 1 Blk 5; and ii) the S. 87th St. side of Lot 1 and 2, Blk 3; and iii) the S. 87th St side of Lot 1 Blk 4. No cantilever, or chimney shall extend into any required setback area. Side yard setback on an attached single-family unit may be zero (0') if it is a common party wall.

4.7 **Required Square Footage.** No residence shall be constructed on any Lot unless such residence has a minimum floor area, exclusive of terraces, patios, porches, car ports, garages, basements, walkout basements, daylight basements, and lower levels, whether finished or not, of:

Zone 1 Properties (See Exhibit "B" for general location):

- i. 1,650 square feet in the case of a one-story ranch style residence or split entry; or
- ii. 1,400 square feet main level and 600 square feet up in the case of a one and one-half story or split-level residence; or,
- iii. 2,200 square feet in the case of a full two-story multilevel single-family residence.

Zone 2 Properties (See Exhibit "B" for general location):

- iv. 1,400 square feet in the case of a one-story ranch style residence or split entry; or
- v. 1,200 square feet main level and 400 square feet up in the case of a one and one-half story or split-level residence; or,
- vi. 1,850 square feet in the case of a full two-story multilevel single-family residence.

Zone 3 Properties (See Exhibit "B" for general location):

- i. 1,200 square feet

Zone 4 Properties (See Exhibit "B" for general location):

- i. Office and/or Multi-family. Minimum square footage is not applicable to Zone 4 Properties. Zone 4 Properties will be reviewed by the Declarant for approval.

4.8 **Exterior Façade.** The exterior of any residence constructed on the street side of any Lot must be faced with siding of wood or concrete, stucco, natural stone, or brick; provided however, that in no event shall any side of any such residence substantially parallel to a Front Lot Line/primary side of the residence be faced with no less than:

Zone 1 Properties (See Exhibit "B" for general location):

- i. Thirty-five percent (35%) brick or natural stone;

Zone 2 Properties (See Exhibit "B" for general location):

- i. Twenty-five percent (25%) brick or natural stone

Zone 3 Properties (See Exhibit "B" for general location):

- i. Twenty-five percent (25%) brick or natural stone

unless the home style is a cape cod or colonial where the brick or stone front side requirement may, in the discretion of the Declarant or Architectural Review Committee, be waived. All exposed foundation walls on the front and any street side elevations shall be constructed of or faced entirely with brick or natural stone. All other exposed foundation walls shall not exceed an average of 36" in height and shall be painted or sided to match the exterior color of the residence.

4.9 **Exterior Design (Front Elevation).** A minimum of two (2) offsets on the front elevation of a residence is required unless the home style is a cape cod or colonial or unless otherwise waived and approved in writing by the Declarant. Exterior treatment of offsets shall wrap said offset consistent with the material used on the adjacent face.

4.10 **Garages.** The garage in the residential structure and any outbuilding shall provide space for all cars, trucks, motor vehicles, buses, campers, trailers, boats, and maintenance equipment, which are used, parked or stored on any Lot.

- i. Each single-family structure located within Zone 1 Properties shall have an attached garage appropriately sized to hold a minimum of three (3) full-sized motor vehicles.
- ii. Each single-family structure located within Zone 2 Properties and Zone 3 Properties shall have an attached garage appropriately sized to hold a minimum of two (2) full-sized motor vehicles.
- iii. Approval of single-family structures with attached garage to hold four (4) or more full-sized motor vehicles shall be evaluated by the Declarant on an individual basis.

4.11 **Driveway Surface.** Any driveway from any attached garage or outbuilding to the public or private street shall be constructed of concrete.

4.12 **Solar Panels.** Any solar panels placed on any residence constructed on any Lot shall be mounted flush with the roof of such residence and shall not be located along any exterior wall of such residence nor in any yard of any Lot.

4.13 **Roof Material.** Except as set forth in Section 4.12 above, and except for appropriate gutter and downspout systems, all single-family residences constructed on any Lot shall have a roof consisting of Roofing materials shall be equal to or better than an architectural grade shingle which provides an appearance of depth such as the Horizon or Heritage II shingle or equivalent, shakes, wood shingles, tile or slate. This restriction shall apply to any residential roof that needs to be re-shingled during the existence of these Covenants. This restriction is not to be construed to prohibit the installation of skylights in any residential roof.

4.14 **Roof Pitch.** No roof pitch shall be less than a 4:12 pitch of any residence, storage shed or pool house unless otherwise waived and approved in writing by the Declarant or Architectural Review Board.

4.15 **Air Conditioning Equipment.** Any exterior air conditioning unit or system placed of any Lot must be located on the side yard adjacent to the residence or in the rear yard; provided however, no exterior air conditioning unit shall be placed in the side yard facing a street on a corner lot except for corner lot of a Zone 3 Properties where exterior air conditioning units may be placed in the side yard facing the street provided the unit must be concealed with landscaping or screening approved by the Declarant or ARB.

4.16 **Sidewalks.** Each Lot Owner, other than the Declarant, shall be, and does hereby assume, any and all responsibility or liability for the construction, installation and maintenance of public sidewalks parallel to each street or private roadway which abuts the Lot or Lots owned by such Lot Owner. All sidewalks parallel to each street or private roadway which abuts a Lot shall be constructed and paid for by such Lot Owner upon the earlier date of: (i) the construction of the residence or building constructed on such Lot, or (ii) whenever required by the City of Lincoln, or the Association, whichever is first. Each individual Lot Owner, other than the Declarant, shall indemnify and hold the Declarant harmless from any liability or cost incurred in connection with the installation of or payment for any public sidewalk parallel to each street or private roadway which abuts the Lot owned by such Lot Owner.

4.17 **Nuisance.** No noxious or offensive trade, activity or practice shall be carried on upon any Lot, nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the neighborhood.

4.18 **Temporary Structure.** No trailer, mobile home, basement, tent, shack, barn, or any other outbuilding erected in or on any Lot shall at any time be used as a residence, temporary or permanent; nor shall any structure of a temporary character be used as a residence.

4.19 **Outside Vehicle Storage.** No cars, pickups, vehicles, maintenance equipment trucks, buses, recreational vehicle, including but not limited to self-propelled mobile homes, campers, trailers boats, etc. shall be stored or parked upon any residentially zoned lot within the Properties except within an enclosed structure. Provided, such vehicles may be temporarily parked or stored upon lots within the Properties for periods of time not to exceed twenty-one (21) days per year. The only exception shall be automobiles, sport utility vehicles, or pickups used on a daily or regular basis.

4.20 **Prefabricated Construction.** No previously constructed building or any prefabricated building of any kind whatsoever shall be moved onto any Lot.

4.21 **Construction Completion.** Once excavation or construction of any single-family residence is begun on any Lot, such single-family building and landscaping shall be completed within eighteen (18) months unless otherwise waived and approved in writing by the Declarant.

4.22 **Exterior Communications Equipment.** No television antennas, radio towers, or satellite dishes which are two and one-half (2.5) feet in diameter or greater shall be placed on any Lot except within the interior of any residential structure or outbuilding. All wires, cables, conduits, or pipes shall be placed on the interior of such residential structure or outbuilding or placed underground.

4.23 **Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot for commercial purposes. The only animals permitted outside the dwelling unit shall be cats and dogs. Except for any further limits imposed by the City in accordance with its zoning regulations, each Owner shall be entitled to a maximum of three (3) dogs and three (3) cats per Lot unless approved in writing by a majority vote of the Board of Directors of the Association. All animals shall be confined to the area owned by the particular Owner of such animal unless the Owner or family member is accompanying the animal and has the animal under safe control. No dog runs shall be located in a front yard nor within five (5) feet of a Side Lot Line unless in the back yard. All dog runs shall be considered Improvements on a Lot, and subject to prior approval by the Declarant or ARB, as applicable.

4.24 **Construction Vehicles and Dumpsters.** Declarant may designate and enforce locations through and over which all construction vehicles shall enter and exit the Property during development. During construction of any building on a Lot, a dumpster shall be placed on the Lot and no material may be staged or stored on any street, road or another Lot. Such dumpsters shall be covered and must be emptied when full. Lot Owner shall cause all building material, wrappers, and other waste to be placed in the dumpster and shall promptly pick up and properly dispose of any debris caused by wind, vandalism, or careless disregard which is on the Lot or has been disturbed upon neighboring properties.

4.25 **Sanitation.** No Lot may be utilized, maintained or used as a dumping ground for rubbish, except leaf and grass clippings. All waste, garbage and trash must be kept in sanitary containers and removed from such Lot on a weekly basis. No incinerators may be constructed or maintained upon any Lot. All Lots shall be kept free of debris and weeds and shall be kept mowed.

4.26 **Fences.** Fences shall be four-foot or five-foot (4' or 5') tall, vinyl coated black, chain link fence or black wrought iron appearance fencing constructed with commensurate posts, rails, and support materials. Fencing shall not be constructed on any Lot closer to the street than the rear wall of the residence constructed upon such lot. Wood panel or vinyl panel fencing material is not permitted except for privacy/screen wall fencing which may be installed to separate deck or patio areas on the rear of townhouse units. Said privacy/screen fence for townhouse units shall not exceed 16' in length measured from the rear face of the unit and its placement shall be limited to the common lot line between two (2) attached townhouse units. All fences shall be submitted to the Declarant for review and approval prior to installation.

4.27 **Retaining Walls.** All retaining walls shall be made from materials with earth tone colors and consist of materials such as cement blocks, poured concrete faced with brick or natural stone, rock boulders and limestone wall slabs. In no event shall retaining walls be made from railroad ties.

4.28 **Landscaping.** Prior to construction of any single-family residence on any Lot a landscaping plan signed by the Lot Owner shall be submitted to the Declarant or ARB for approval.

Landscape plans for all Zone 1 Properties and Zone 2 Properties must include a minimum of one (1) tree placed in the front yard of the Lot. Corner lots shall have a minimum of in each street front yard and street side yard area. Tree size and type shall be a minimum of two-inch caliper (diameter) or larger deciduous tree or a five (5) feet tall or taller evergreen tree. Said tree(s) shall be properly maintained by the Lot Owner. Lot Owner shall be responsible for any additional tree or landscaping requirements which may be imposed by the City. Landscape Plan for Zone 3 Properties must be submitted to the Declarant or ARB for approval.

The Declarant shall be responsible for the initial planting of street trees as required by the City along each street or private roadway that abuts any Lot or Lots. Such street trees shall be paid for by the Lot Owner at the time the Lot is purchased from the Declarant. The Lot Owner shall be responsible for maintenance and replacement of any street tree installed by the Declarant or City.

All portions of the Lot not encompassed within single family residential structure, outbuilding, improvements, driveways or paths shall be sodded and shall have an underground sprinkler system installed upon the completion of construction of the residence and shall be properly maintained and manicured by the Lot Owner. No obnoxious or illegal weeds shall be allowed to grow on any Lot. Prior to the commencement of construction of any structure, building or improvements, all such sites shall be properly maintained and free of unsightly weeds and vegetation.

4.29 **Outbuilding Design.** No outbuilding shall be constructed larger than 120 square feet in floor area, nor shall such a building have length or width of more than 10 feet nor exceed 10' in height. Outbuildings shall not be located within 50' of the Front Lot Line, within the side yard setback or within 8' of the Rear Lot Line. Each outbuilding shall have eaves and a pitched roof. The exterior finishes (excluding windows and doors) for the outbuilding shall be constructed in a similar style and constructed of the same or as near to the same materials as the residence on the lot. No lean-tos can be attached to any outbuilding or single-family residential structure.

4.30 **Swimming Pools.** Underground swimming pools shall be permitted. No above ground swimming pools are allowed on any Lot. Swimming pools shall be fenced in accordance with Section 4.26.

4.31 **Commercial Use.** No business or commercial use shall be permitted on a residential Lot, except home occupations which do not have employees on site and as allowed by the City's zoning regulations.

4.32 **Signs.** No advertising signs, billboards, or other advertising devices shall be permitted on any Lot within the Property, except (i) a yard sign placed by the owner of the lot advertising such lot is for sale, and (ii) a yard sign placed by the general contractor during construction on a lot; provided such permitted signs may not be larger than 24 inches by 36 inches. Declarant may erect signs of any size advertising Lots for sale within the Property, and a sign advertising a single Lot for sale may be erected upon any Lot.

4.33 **Replat.** No Lot shall be split, re-platted or subdivided or parcel thereof sold, transferred or conveyed without the written approval of the Declarant or the Association. This provision does not apply to the Declarant.

ARTICLE V MISCELLANEOUS

5.1 **Duration.** The enumerated restrictions, rights, reservations, limitations, agreements, covenants and conditions shall be deemed as covenants and not as conditions hereof and shall run with the land and shall bind the Lot Owners, their successors, assigns, heirs and devisees until the 1st day of January, 2048, and continuously thereafter for successive ten (10) year periods unless and until any amendment thereto shall have been approved in writing by a two-third (2/3) affirmative vote of the Lot Owners unless otherwise provided herein.

5.2 **Enforcement of Declaration.** Except for the authority and powers specifically granted to the Declarant, the Declarant, Association or any Lot Owner named herein shall have the right to enforce by a by proceedings at law or in equity, all reservations, restrictions, conditions and covenants now and hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. In addition, the City shall have the right to enforce by proceedings at law or in equity all restrictive covenants and conditions regarding maintenance of the Common Area. Failure by the Declarant, Association, City or any Lot Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The City proceedings may be to restrain violation of the duty to maintain the Common Areas, to recover a monetary judgment upon the personal obligation and debt of the Lot Owner to pay the Lot Owner's prorated share of the City cost to maintain the Common Area or to foreclose upon the defaulting Lot Owner's Lot in a like manner as mortgages on real property. If the Declarant, Association, or any Lot Owner is successful in any action, whether at law or equity, to enforce any term or provision of these Covenants, then the Declarant or the Lot Owner instituting such action, as the case may be, shall be entitled to an award of reasonable attorney's fees to the extent permitted by law, and court costs, which shall constitute a lien on the Lot owned by the person against whom enforcement is sought. Suit to recover a money judgment for unpaid assessments for the cost to maintain the Common Area shall be maintainable without foreclosure of the Lot Owner's Lot or waiving the lien securing the assessment.

5.3 **Amendment.** This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of twenty (20) years from the date hereof. Thereafter, any portion of this Declaration may be amended by an instrument signed by the Lot Owners of Lots comprising not less than a two-thirds (2/3) affirmative vote of the total votes of Lots included within the Property.

5.4 **Survivor.** The invalidation of any one of the covenants, conditions, restrictions, and easements set forth herein shall not affect the validity of the remaining provisions hereof, all of which shall remain in full force and effect.

5.5 **Assignment.** 4T Development, LLC shall have the power to assign any and all of its rights and duties as Declarant in this Declaration to a successor or assign, or the Association at such time as the Declarant deems appropriate, by filing a Notice of Assignment of Declarant Rights and Duties that delineates which rights and duties are to be assigned. 4T Development, LLC or its successors or assigns, may also terminate its status as Declarant under this Declaration in its entirety, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as Declarant with respect to these remaining rights and duties the Declarant has not previously assigned to another entity, association or individual under a Notice of Assignment of Declarant

Right and Duties, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant with respect to the remaining rights and duties.

5.6 **Additional Property.** The Declarant may, at any time, add Additional Property to be subject to the terms of this Declaration without the consent or approval of the members of the Association. Such additions to this Declaration shall be made by the execution and recordation of an instrument by the Declarant, or their successors and assigns, which instrument shall be deemed an amendment to this Declaration (which need not be consented to or approved by any member of the Association) and shall (i) refer to this Declaration, stating the date and filing information; (ii) contain a statement that such Additional Property is conveyed subject to the provisions of this Declaration or only specified portions thereof; (iii) contain an exact legal description of such Additional Property; and (iv) state such other or different covenants, conditions, restrictions and easements as the Declarant, in its sole discretion, shall specify to regulate and control the use, occupancy and improvements of such Additional Property. Specifically, these Covenants may be applied to and may be recorded against all future phases of the Subdivision as such land is final platted in multiple phases.

5.7 **Future Street Connections.** Declarant hereby discloses that public streets within the Subdivision may in the future be extended for future additions, and/or connected to adjacent developments as may be required by the City.

5.8 **City Approval.** Notwithstanding the foregoing provisions, any instrument amending, modifying, abrogating, or terminating this Declaration pertaining to the structure, existence or financing of the Association maintenance of the Common Areas, enforcement of this Declaration by the City and City approval of amendments to this Declaration must be approved by the City of Lincoln City Attorney's office in writing and recorded with the Register of Deeds before it shall be effective.

5.9 **Option to Repurchase.** In the event a Lot Owner does not commence construction of a single-family dwelling unit on a Lot within thirty-six (36) months of the date on which the Lot Owner, or its predecessor in interest, purchased the Lot from Declarant, then Declarant shall have the option to repurchase said Lot from the then-current Lot Owner (the "Option to Repurchase"). The Option to Repurchase shall be carried out in accordance with the terms below:

- i. **Option Price.** The option price to be paid by Declarant for the purchase of a Lot under the Option to Repurchase shall be the purchase price paid to Declarant by Lot Owner, or its predecessor in interest, for said Lot.
- ii. **Exercising the Option to Repurchase.** Declarant shall exercise the Option to Repurchase by delivering written notice to the then-current Lot Owner within sixty (60) days of the expiration of thirty-six (36) months after the date on which the Lot was purchased from Declarant ("Option Notice").
- iii. **Real Estate Purchase Terms.** Within fourteen (14) days of Option Notice, Declarant shall obtain a title commitment for the Lot and, subject to Declarant's approval of title, the Declarant shall (1) set a closing date within sixty (60) days of Option Notice; and (2) shall require Lot Owner to deliver a good and sufficient Warranty Deed transferring and conveying to Declarant good and marketable title to the Lot free and clear of any and all liens, encumbrances, and real estate taxes. All expenses for the repurchase of the Lot shall be allocated between the parties in the same manner as the original sale made by Declarant.

- iv. Duty of Good Faith and to Cooperate. Declarant and Lot Owner shall each have a duty of good faith to the other to fulfill the terms and intent of this Section 5.9 and shall cooperate with each other to accomplish the same.

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APPROVED AS TO FORM FOR THE LIMITED PURPOSE OF TRANSFERRING
MAINTENANCE OF THE COMMON AREA TO THE ASSOCIATION:



Assistant City Attorney

Date: November 13, 2023

DECLARANT:

4T DEVELOPMENT, LLC,

a Nebraska limited liability company

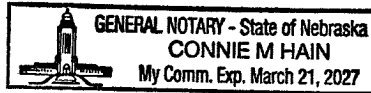


Marion Pillard, Manager

STATE OF NEBRASKA)

) ss

COUNTY OF LANCASTER)



The foregoing instrument was acknowledged before me this 15th ^{day} ~~of October~~ ^{November}, 2023
by Marion Pillard, Manager of 4T Development, LLC, a Nebraska limited liability company, on
behalf of the company.



Notary Public

Exhibit "A"

LEGAL DESCRIPTIONS OF PROPERTY

- Lot One (1), Block One (1), inclusive;
- Lots One through Thirteen (1-13), Block Two (2) inclusive;
- Lots One through Six (1-6), Block Three (3) inclusive;
- Lot One (1), Block Four (4) inclusive;
- Lots One through Twelve (1-12), Block Five (5) inclusive;
- Lots One through Six (1-6), Block Six (6) inclusive;
- Lot One (1), Block Seven (7) inclusive;
- Outlots A, B, and C inclusive;

all located in Jensen View Estates Addition, City of Lincoln, Lancaster County, Nebraska (collectively referred to as the "Property" or "Properties" or "Lots" and individually referred to as "Lot");

Exhibit "B"

