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Clay J. Dowling

REGISTER OF DEEDS

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DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS OF HILLS OF ASPEN CREEK,
A SUBDIVISION IN SARPY COUNTY, NEBRASKA

THIS DECLARATION, made on the date hereinafter set forth, is made by RICHLAND HOMES, L.L.C., A Nebraska Limited Liability Company, hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Sarpy County, Nebraska and described as follows:

Lots 1 through 267, inclusive, and Outlots A through G inclusive in Hills of Aspen Creek, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot" and Outlots A through O are herein referred to collectively as "Outlots" and individually as "Outlot".

The Declarant desires to provide for the preservation of the values and amenities of Hills of Aspen Creek, for the maintenance of the character and residential integrity of Hills of Aspen Creek, and for the acquisitions, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Hills of Aspen Creek.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot is and shall be subject to all and each of the following conditions and other terms:

ARTICLE I.
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a church, school, park, outlot, or for other non-profit use.

Record Record & Return to: Adams & Sullivan, P.C., L.L.O., 1246 Golden Gate Drive, Suite 1, Papillion, NE 68046

2. No residence, building, shed, fence (other than fences constructed by the Declarant), wall, pathway, driveway, patio, patio cover enclosure, desk, rock garden, swimming pool, dog house, pool house, tennis court, flag pole, satellite receiving stations or "discs", solar heating or cooling device, or other external improvements, 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, excavation or tree removal for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

A. An owner desiring to erect an Improvement shall deliver two (2) sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description, type, quality, color (including any change in color) and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, owners shall notify the Declarant of the owner's mailing address.

B. Declarant shall review such plans in relation to the type and exterior of improvements construction, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

C. Written notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

D. No Lot owner, or combination of Lot owners, or other person or persons, shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

3. No single-family resident shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height. No structure, building or porch shall be constructed, erected, installed or situated within thirty (30) feet of the front yard line, except as set forth herein, all Improvements on the Lots shall comply with all other set back requirements of the Zoning Code of the County of Sarpy, Nebraska.

4. The exposed front foundation walls must be constructed of or faced with clay-fired brick or stone or other material approved by Declarant. All exposed side and rear concrete or concrete block foundation walls must be covered with clay-fired brick, stone, siding or shall be painted. All driveways must be constructed of concrete, brick, paving stone or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with wood or other material approved in writing by Declarant. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with asphalt shingles (30 year heritage style and weathered wood in color).

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5. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, not less than two (2) caliper inches in diameter, shall be planted in the yard of each residence. One of the trees must be planted in the front yard. All yards shall be sodded and the trees planted within one (1) year from the date the foundation of the residence on the Lot was completed.

6. No streamers, posters, banners, balloons, exterior illumination or other rallying devices will be allowed on any Lot in the promotion or sale of any Lot, residential structure or property unless approved in writing by the Declarant. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a Lot as "For Sale". No business activities of any kind whatsoever shall be conducted on any Lot including home occupations as defined in the Zoning Code of the City of Gretna, Nebraska; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner of owners of any Lot or any resident thereof. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, their agents or assigns, during the construction and sale of Lots.

7. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. Any change in color or use of materials for the exterior of any Improvement subsequent to the Declarant's initial approval shall be submitted to Declarant or its assigns for review in accordance with Article I, Section 2 hereof.

8. Exterior television or radio antenna of any sort shall not be permitted on any Lot, except a satellite receiving dish not exceeding twenty-four (24) inches in diameter and attached directly to the residence may be permitted provided that the location and size of the proposed satellite receiving dish be first approved by Declarant, or its assigns. No tree houses, tool sheds, windmills, or similar structures shall be permitted on any Lot.

9. No repair of any boats, automobiles, motorcycles, trucks, campers (trailers, van-type, auto-drawn or mounted) snowmobiles, recreational vehicles (RV), other self-propelled vehicles or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

10. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors, or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Section 10 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Gretna, Nebraska.

11. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or

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container or fuel tank shall be permitted unless completely screened from view, except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubble or cutting shall be deposited on any street, road, or Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards.

12. No fence shall be permitted to extend closer than fifty (50%) of the front line or halfway behind a main residential structure. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. Unless other materials are specifically approved in writing by Declarant, fences shall only be composed of wrought iron, wrought iron look alike such as aluminum or steel, or vinyl. Vinyl fences must be approved by the Declarant and may be denied in Declarant's sole discretion. Fences which are adjacent to any boulevard must be composed of wrought iron or wrought iron look alike such as aluminum or steel. No fence shall be of the chain link, wood or wire types. All fences must be approved by the Declarant. Any fence shall be constructed solely within a Lot boundary and may not encroach onto another Lot. A survey depicting the location shall be provided prior to the construction of the fence, and if not, an as-built survey of the completed fence prepared by a licensed surveyor must be provided to the Declarant showing the fence is located entirely within a Lot without any encroachments to another Lot.

13. No swimming pool may extend more than one (1) foot above ground level.

14. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the grade or contour of any Lot.

15. A public sidewalk shall be constructed of concrete five (5') feet wide by four (4") inches thick in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed four (4') feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Gretna.

16. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Maximum driveway slope at the sidewalk intersection shall be no more than two percent (2%) cross slope within public right-of-way to provide for a tabled driveway cross slope that is compliant with ADA/PROWAG guidelines, if possible and the City of Gretna standards. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted. The Lot owner shall be responsible to provide adequate remedial measures to prevent street creep/driveway binding on any curved streets where the street abuts the driveway approach.

17. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns, if required by this Declaration. Dog houses shall only be allowed at the rear of the residence, attached to or immediately adjacent to the residence. Dog runs or kennels shall be permitted only with the approval of the Declarant, or its assigns; provided, always that any permitted dog run or kennel shall be located immediately adjacent to the rear of the residence. No animals, livestock, agricultural-type animals, fowl, or poultry of any kind, including pot-bellied pigs, shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the residential structure may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the owner.

18. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds, or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any water materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

19. No Residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except if parts of two (2) or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat, and is as large in area as the largest Lot in the original plan.

20. No structure or a temporary character, carport, detached garage, trailer, basement, tent, outbuilding, or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structure or dwelling shall be moved from outside Hills of Aspen Creek to any Lot without the written approval of Declarant.

21. All utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

22. Declarant does hereby reserve unto itself the right to require the installation of siltation fences or erosion control devices and measures in such location, configurations and designs as it may determine appropriate in its sole and absolute discretion on or from any Lot, including "track-out". The Lot owner shall be solely responsible for the cost of any erosion control measures. The Lot Owner shall not materially change the grade or contour of any Lot and shall control the flow of surface water from its Lot so not to interfere with the drainage of any adjoining or downstream Lot. A Permanent Storm Water Drainage Easement is granted over all the Lots except where structures exist to provide for a positive flow or water drainage from one Lot to another.

23. During the mass grading operations for the Lots, Declarant has retained professional engineers to periodically conduct moisture and field density testing services related to the soil conditions and to establish adequate slope across the Lots for proper surface drainage conditions. Upon completion of the mass grading operations, the future responsibility of the soil conditions, the adequate slope and proper surface drainage and final grading of the Lot is the sole responsibility of the Lot owner to ensure proper drainage.

24. No claims for adverse possession shall begin to accrue for adverse possession of real property until ten (10) years after the Declaration date of recordation.

ARTICLE II. HOMEOWNERS ASSOCIATION

1. The Association. The Declarant has caused the incorporation of HILLS OF ASPEN CREEK HOMEOWNERS ASSOCIATION, a Nebraska not for profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots, including:

A. The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as

swimming pools, tennis courts, health facilities, playgrounds and parks; and dedicated and nondedicated roads, paths, ways and green areas; outlots; signs and entrances for Hills of Aspen Creek. Common Facilities may be situated on property owned by or leased by the Association, on public property, on private property subject to an easement in favor of the Association, or on property dedicated to a Sanitary Improvement District.

B. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities 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 the Common Facility.

C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Hills of Aspen Creek and the protection and maintenance of the residential character of Hills of Aspen Creek.

2. Membership and Voting. Hills of Aspen Creek is divided into four hundred seventy-two (472) separate residential lots (referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to 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 Lots merely as security of the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot.

The Owner of each Lot, whether one or more persons or entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit 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 shall not be limited to the following:

A. The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

B. The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks or public property within or near Hills of Aspen Creek.

C. The fixing, levying, collecting, abatement and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

D. 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 Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

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E. 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.

F. 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.

G. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

H. 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.

I. The Association shall purchase and provide comprehensive general liability coverage insurance for the Association in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association, in addition to the foregoing, shall provide Directors and Officers liability coverage insurance for the Association, for its Officers, and members of the Board of Directors. Finally, if the Association has any employees of any nature, the Association shall purchase and provide Worker's Compensation Insurance for all employees who may come within the scope of Nebraska Worker's Compensation laws. The Association may also purchase property casualty insurance for the physical assets of the Association.

J. General administration and management of the Association and execution of such documents and the doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

K. 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.

4. Mandatory Duties of Association. The Association shall maintain and repair the fence, signs and landscaping which have been installed in easement areas of the Hills of Aspen Creek subdivision and center islands dividing dedicated roads, in generally good and neat condition.

5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Lot with dues and assessments (herein referred to respectively as "dues and assessment") under the following provisions of this Declaration. Except as otherwise specially 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 the manner prescribed by the Board.

6. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or 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 or its affiliated entities.

7. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Lot at the time when the dues or assessments first become due and payable. The dues and

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assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successor, 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 assessment or dues.

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Articles, and to perform the Powers and Responsibilities of the Association described in Sections 3 and 4 of this Article.

9. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 11 below, the aggregate dues which may be come due and payable in any year shall not exceed the greater of:

- A. Two Hundred Fifty and no/100 Dollars (\$250.00) per Lot.
- B. In each calendar year beginning the first year after the initial year that dues have been levied and charged to Members, one hundred fifty percent (150%) of the aggregate dues charged in the previous calendar year.

10. Assessments for Extraordinary Costs. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Two Hundred and no/100 Dollars (\$200.00) per Lot. Notwithstanding the foregoing, the Board of Directors or the Declarant may levy an assessment for the purpose of defraying the cost of the construction and installation of U.S. Postal Service mailboxes in type, design and location determined by the Board of Directors or Declarant, in amount not to exceed Three Hundred Fifty and no/100 (\$350.00) per Lot. Maintenance of the mailboxes shall be the sole responsibility of the users thereof. Notwithstanding the foregoing, the Board of Directors may levy an assessment in an amount in excess of such limitations if it is necessary to meet the contractual obligations of the Association as set forth in the Subdivision Agreements of Hills of Aspen Creek Subdivision.

11. Excess Dues and Assessments. With the approval of seventy-five (75%) of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximum established in this Declaration.

12. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Lots, but dues may be abated as to individual Lots as provided in Section 6 above.

13. 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 assessment on a specified Lot have been paid to the date of 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 assessment shall be and become a lien as of the date such amounts first become due and payable.

14. Effect of Nonpayment of Assessments; 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, compounded annually. The

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Association may bring an action at law against the 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' fee incurred by the Association with respect to such action. No Owner may waiver or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Facilities or abandonment of the Owner's Lot. The mortgagee of any Lot shall have the right to cure any delinquency of an 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 of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

15. Subordination of the Lien to Mortgagee. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Lot shall not affect or terminate the dues and assessment lien.

16. Additional Lots. Declarant reserves the right, without consent or approval of any Owner or Member, to expand the Association to include additional residential lots including, but not limited to, single-family, Villass, villas, apartments and condominiums, in any subdivision which are contiguous to any of the Lots or additional lots. Such expansion(s) may be effected from time to time by the Declarant or Declarant's assignee by recordation with the Register of Deed of Sarpy County, Nebraska, of a Declaration of Covenants, Conditions, Restrictions and Easement, executed and acknowledged by Declarant or Declarant's assignee, setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration").

Upon the recording of any Subsequent Phase Declaration which expands the residential lots included in the Association, the additional lots identified in the Subsequent Phase Declaration shall be considered to be and shall be included in the "Lots" for purposes of this Article II, and the Owners of the additional residential lots shall be Members of the Association with all rights, privileges and obligations accorded or accruing to Members of the Association.

ARTICLE III.
VILLAS ASSOCIATION

1. The Association. The Declarant shall cause the incorporation of VILLAS OF THE HILLS OF ASPEN CREEK ASSOCIATION, a Nebraska not for profit corporation (hereinafter referred to as the "Villas Association"), solely for the real property described as follows:

Lots 1 through 16, inclusive, Lots 22 – 46, inclusive, and Lots 66 – 72, inclusive in the Hills of Aspen Creek, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska

Lots 1 through 16, inclusive, Lots 22 – 46, inclusive, and Lots 66 – 72, inclusive are herein collectively referred to as the "Villas Lots" and individually as each "Villas Lot". The Villas Association has as its purpose the promotion of health, safety, recreation, welfare and enjoyment of the residents of the Villas Lots, including:

A. The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities, if any, for the general use, benefit and enjoyment of the Members and the maintenance and repair of the improvements to the Lots as set forth herein. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas; and signs, fencing and entrances for Villas of Aspen Creek. Common Facilities may be situated on property owned by or leased by the

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Villas Association, on dedicated property, or property subject to easements accepted by and benefitting the Villas Association.

B. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules and regulations are uniformly applicable to all Members. The rules and regulations may regulate, limit or restrict use of Common Facilities to members, their families, their guests and /or by other persons, who may pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Villas of the Hills of Aspen Creek; and the protection and maintenance of the residential character of the Villas of the Hills of Aspen Creek.

D. The Villas Association shall purchase and provide comprehensive general liability coverage insurance for the Villas Association in such amounts as shall be determined from time to time by the Board of Directors of the Villas Association. The Villas Association, in addition to the foregoing, shall provide Directors and Officers liability coverage insurance for the Villas Association, for its Officers, and members of the Board of Directors. Finally, if the Villas Association has any employees of any nature, the Villas Association shall purchase and provide Worker's Compensation Insurance for all employees who may come within the scope of Nebraska Worker's Compensation laws. The Villas Association may also purchase property casualty insurance for the physical assets of the Villas Association.

E. Each Owner shall, at its sole cost and expense, procure and maintain in full force and effect a policy or policies of insurance insuring such Owner and the Villas Association, as an additional insured, against loss or damage by first and such other risks as may be included within an extended coverage endorsement covering the full replacement cost of the buildings and other improvements from time to time erected upon or under such Owner's Villas Lot. All such insurance shall be written by companies which are satisfactory to the Villas Association and which are authorized to do insurance business in the State of Nebraska. Each policy shall contain an agreement by the insurer that it will not cancel or modify such policy except after thirty (30) days prior written notice to the Villas Association and that any loss otherwise payable thereunder shall be payable notwithstanding any act or negligence of the insured. Certificates evidencing the existence of such insurance policies shall be delivered to the Villas Association by the Owner annually and upon the reasonable request of the Villas Association. Each Owner may obtain such additional insurance for such Owner's benefit and at such Owner's own expense as may be deemed necessary by the Owner, including coverage for personal property damage or personal liability.

2. Membership and Voting. The "Owner" of each Villas Lot shall be a Member of this Villas Association. For purposes of this Declaration, the term "Owner" of a Villas Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Villas Lot, but excluding however those parties having any interest in any of such Villas Lot merely as security of the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Villas Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Villas Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Villas Lot, and may not be separated from ownership of each Villas Lot.

The Villas Association shall have two (2) classes of voting members, Class A Members and Class B Members, defined as follows:

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CLASS A: Class A Members shall be all Owners, with the exception of Declarant or its assigns. Each Class A Member shall be entitled to one (1) vote for each Villas Lot owned. When there shall be more than one person or entity holding an interest in any Villas Lot, all such persons or entities or both, shall be Members; provided however, that the vote for such Villas Lot shall be exercised as such persons or entities or both, shall determine, but in no event shall more than one vote be cast with respect to any one Villas Lot. It is understood that the Owner of each respective Villas Lot created as a result of a Villas Lot Split shall be entitled to one (1) vote.

CLASS B: Class B Members shall be the Declarant of its assigns which shall be entitled to four (4) votes for each Villas Lot owned. For purposes herein, Declarant shall be considered the Owner of a Villas Lot notwithstanding the existence of any contract for sale or purchase agreement, with such ownership status continuing in all events until title is transferred by Declarant through the execution, delivery and recordation of a Warranty Deed. A Class B Membership shall terminate and be converted into a Class A Membership upon the occurrence of the date on which the total votes outstanding in the Class A Membership shall equal or exceed the total votes outstanding in the Class B Members.

The Class A and Class B Members may be sometimes collectively referred to as "Members".

3. Purposes and Responsibilities. The Villas Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Villas 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 shall not be limited to the following:

- A. Grounds and lawn care and maintenance, snow removal, seasonal start up and shut down of sprinkler systems and trash collection as generally described in Sections 13, 14, 15 and 16 of this Article.
- B. The development, operation and administration of the Common Facilities, if any, and the enforcement of the rules and regulations relating to the Common Facilities.
- C. The fixing, levying, collecting, abatement and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
- D. The expenditure, commitment and payment of Villas Association funds to accomplish the purposes of the Villas Association.
- E. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Villas Association as set forth in this Declaration, as the same may be amended from time to time.
- F. 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 Villas Association.
- G. The deposit, investment and reinvestment of Villas Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.
- H. The employment of professionals and consultants to advise and assist the

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Officers and Board of Directors of the Villas Association in the performance of their duties and responsibilities for the Villas Association.

I. General administration and management of the Villas Association and execution of such documents and the doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

J. 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 Villas Association.

4. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants for each Assessable Villas Lot and for each Owner of any Assessable Villas Lot, by acceptance of a deed therefore or by entering into a contract for the purchase thereof, whether or not it shall be so expressed in such deed or in such contract, that it is, and shall be, deemed to covenant and agree to the Villas Association:

- (1) Special Assessments for capital improvements; and
- (2) Monthly assessments for exterior maintenance and other operational expenses with respect to each Assessable Villas Lot as deemed necessary by the Villas Association, and

as such assessments shall be established and collected as hereinafter provided. The special assessments and monthly assessments together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment shall be made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person, persons or entity who, or which, was the Owner of the property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title, unless expressly assumed by them.

5. Purpose of Assessments. The assessments levied upon the Villas Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents in the Properties and for exterior maintenance, and other matters as more fully set out in this Article III herein. Assessments shall be levied solely against an Assessable Villas Lot. Assessable Villas Lot shall mean and refer to any Improved Villas Lot which the Board of Directors of the Villas Association determines is entitled to the benefits for which assessments are levied by the Villas Association as provided in this instrument. An Improved Villas Lot shall mean and refer to any Villas Lot upon which shall be erected a dwelling the construction of which shall be at least eighty percent (80%) constructed according to the plans and specifications for construction of said dwelling.

6. Monthly Assessments. The Board of Directors shall have the authority to levy and assess from time to time against any Assessable Villas Lot any monthly maintenance assessment for the purpose of meeting the requirements of this Article III for exterior maintenance, which assessments may not be equal for each Villas Lot or dwelling.

7. Special Assessment for Capital Improvements. The Villas Association may levy special assessments from time to time against a Villas Lot for the purpose of meeting the requirements of this Article III herein for the costs of any construction, reconstruction, repair or replacement of any capital improvements on such Villas Lot, including fixture and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each Villas Lot, who shall vote in person or by proxy at a meeting duly called for such purpose.

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8. Notice and Quorum for Any Action Authorized Under this Article. Written notice of any meeting called for the purpose of taking any action authorized under this Article III shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of such meeting. At the first meeting called, the presence of Members, in person or by proxy, entitled to cast sixty percent (60%) of all votes entitled to be cast by each Villas Lot shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum, at such subsequent meeting shall be ten percent (10%) of all the votes entitled to be cast. Any such subsequent meeting shall be held within sixty (60) days following the preceding meeting.

9. Rate of Assessment. The monthly assessments shall be paid pro rata by the Owners of all Assessable Villas Lots based upon the total number of Assessable Villas Lots; provided, however, the Board of Directors of the Villas Association may equitably adjust such prorations if it determines that certain Assessable Villas Lots on which all the improvements are not yet completed do not receive all of the benefits for which such assessments are levied.

The monthly assessments may be collected on a monthly or other periodic basis by the Villas Association. The Board of Directors of the Villas Association shall fix the amount of the monthly or other periodic assessments against each Assessable Villas Lot. Written notice of the assessment shall be sent to every Owner subject thereto. The dates payments are due shall be established by the Board of Directors. The special assessments for capital improvements shall only be assessed against the Assessable Villas Lot for which the costs of such construction, reconstruction, repair or replacement of any capital improvements occurs. The Villas Association shall, upon demand, and for a reasonable charge, furnish a certified signed by an officer of the Villas Association, setting forth whether or not all assessments on a specified Assessable Villas Lot have been paid. A properly executed certificate of the Villas Association as to the status of assessments, on a particular Assessable Villas Lot shall be binding upon the Villas Association as of the date of its issue by the Villas Association.

10. Effect of Nonpayment of Assessments; Remedies of the Villas Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest at the maximum legal rate allowable by the State of Nebraska, which at the time of the execution of these Declarations, is sixteen percent (16%) per annum. Should any assessment remain unpaid more than sixty (60) days after the due date, the Villas Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Villas Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the Villas Lot or Villas Lots, through proceedings in any Court having jurisdiction of actions for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessment provided for herein by abandonment or title transfer of such Owner's Lot.

11. Subordination of the Lien to Mortgages. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust or other initial purchase money security device, and the holder of any first mortgage, first deed of trust or other initial purchase money security device, on any Villas Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Villas Association. Sale or transfer of any Villas Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Villas Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Villas Lot as to which the first mortgage, first deed of trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Villas Association. No mortgage shall be required to collect any assessments due. The Villas Association shall have the sole responsibility to collect all assessments due.

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

13. Monthly Assessments. Monthly assessment may be assessed for, but not limited to, the following:

A. Care and maintenance of trees and shrubs, lawns and other exterior landscaping improvements as originally installed by the Declarant or builder, except such improvements as may be within the confines of any fenced in area on any Assessable Villas Lot or installed by or at the direction of the Owner, which improvements shall be the responsibility of the Owner. The Owner understands that the original landscape as installed by the Declarant or builder is warranted for a period of one year from the time of planting. The Owner is responsible for replacement of all dead landscaping improvements after the one year warranty period expires and the Owner agrees to allow the Villas Association to replace such dead landscape improvements at the expense of the Owner of record at the time of replacement and the Owner shall reimburse the Villas Association on demand.

B. Seasonal start up and shut down of an underground watering system.

C. Snow removal from drives, front walks and stoops only as to be determined by the guidelines set forth by the Board of Directors.

D. Trash removal, unless provided by local government authorities.

E. The Villas Association shall have no duty to repair, replace or maintain any exterior concrete surfaces, including walks, driveways, patios, foundations, doors, windows and decks.

F. Reserves for replacements, repairs and maintenance as determined by the Board.

14. Special Assessments. Special assessments may be assessed for, but not limited to, the following:

A. Maintain, repair and replace roofs.

B. Maintain, repair, including painting, all exterior walls, with the exception that the Villas Association shall not assume the duty to repair or replace any glass surfaces, including, but not limited to, window glass and door glass. The Villas Association shall not assume the duty to repair or replace any doors, door openers, and cooling units for air conditioning systems. However, the Villas Association shall assume the duty to paint the exterior surfaces of exterior doors.

C. Maintain, repair and replace gutters.

15. Access. The Villas Association, its officers, employees and agents, contractors and repairmen designated by the Villas Association, shall have the right to go on any Villas Lot for the purpose of performing the duties of the Villas Association hereunder, and the Villas Association is hereby granted a specific easement for such purposes.

16. Additional Lots. Declarant reserves the right, without consent or approval of any Owner or Member, to expand the Villas Association to include additional residential lots including, but not limited to, single-family, villas, apartments and condominiums, in any subdivision which are contiguous to any of

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the Villas Lots or additional lots. Such expansion(s) may be effected from time to time by the Declarant or Declarant's assignee by recordation with the Register of Deed of Sarpy County, Nebraska, of a Declaration of Covenants, Conditions, Restrictions and Easement, executed and acknowledged by Declarant or Declarant's assignee, setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration").

Upon the recording of any Subsequent Phase Declaration which expands the residential lots included in the Villas Association, the additional lots identified in the Subsequent Phase Declaration shall be considered to be and shall be included in the "Villas Lots" for purposes of this Article III, and the Owners of the additional residential lots shall be Members of the Villas Association with all rights, privileges and obligations accorded or accruing to Members of the Villas Association.

ARTICLE IV.
EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, CenturyLink, Cox Communications and any company which has been granted a franchise to provide a cable television system within the Lots, the City of Gretna, Black Hills Energy and Sanitary and Improvement District No. 333 of Sarpy County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signal provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots; an eight (8) foot side strip of land abutting the rear boundary lines of all interior Lots and all exterior lots that are adjacent to presently platted and recorded Lots; and a sixteen (16) foot wide strip of land abutting the rear boundary lines of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded. Provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fails to construct such facilities along any of such Lot lines within sixty (60) months of the date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways, but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

2. In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which CenturyLink files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then CenturyLink may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City of other appropriate governmental authority.

Should such charge be implemented by CenturyLink and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following event shall have occurred: (1) the Subdivision Improvement Date,

and (2) CenturyLink sends each Owner of record a written statement or billing for Four Hundred Fifty and no/100 (\$450.00) for each unimproved Lot.

3. A perpetual easement license and agreement is hereby reserved in favor of and granted to Hills of Aspen Creek Homeowners Association ("Association"), its successors and assigns, to erect, operate, maintain, repair and renew a landscape buffer on, over, through, under and across a twenty (20) foot wide strip of land abutting the rear boundary lines of all Lots abutting the right of way of Cornhusker Road and /or 180th Street as shown on the final plat of Hills of Aspen Creek which is filed in the office of the Register of Deeds of Sarpy County, Nebraska (Instrument No. 2018 - 24567). No improvements including fences, landscaping or plantings with the exception of grasses typically associated with maintained and regularly mowed lawns shall be allowed without the express written approval of the Association.

4. Other easements are provided for in the final plats of Hills of Aspen Creek which is filed in the office of the register of Deeds of Sarpy County, Nebraska (Instrument No. 2018 - 24567).

ARTICLE V. GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues or such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by Richland Homes, L.L.C. a Nebraska limited liability company, or any person, firm, corporation, partnership or entity designated in writing by Richland Homes, L.L.C., a Nebraska limited liability company, in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

3. Richland Homes, L.L.C., a Nebraska limited liability company, or its successors or assigns, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

4. Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

5. Any Lot owned by a subsidiary, affiliate, sister corporation or an entity of common ownership as the Declarant shall have the same rights as the Declarant hereunder.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 12th day of November 2018.

2018-26894 P

DECLARANT:
RICHLAND HOMES, L.L.C.,
A Nebraska Limited Liability Company,

By: *Gerald L. Torczon*
Gerald L. Torczon, Manager

STATE OF NEBRASKA)
)ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me this 6th day of November ~~October~~ 2018, by Gerald L. Torczon, Manager of Richland Homes, L.L.C., a Nebraska Limited Liability Company, on behalf of the company.

State of Nebraska - General Notary
MARY JAYNE THROENER
My Commission Expires
September 27, 2020

Mary Jayne Throener
Notary Public

CONSENT AND SUBORDINATION
OF LENDER

American National Bank, holder of the Deed of Trust dated February 28, 2018 and filed for record March 6, 2018 as Instrument No. 2018-04693 ("Deed of Trust") in the real estate records of Sarpy County, Nebraska by Richland Homes, L.L.C., does hereby subordinate the Deed of Trust to the Declaration of Restrictive Covenants, Restrictions and Easements ("Covenants") as though the Covenants were filed in the real estate records of Sarpy County, Nebraska prior in time to the recording of the Deed of Trust in the real estate records of Sarpy County, Nebraska; and hereby consents to the terms of the Covenants.

American National Bank,

By: *Edward J Kelleher*
EJ Kelleher
Title: *Executive Vice President*

STATE OF NEBRASKA)
)ss.
COUNTY OF SARPY)

Before me, the undersigned authority, on this day personally appeared Edward Kelleher know to me to be the person whose name is subscribed to the foregoing instrument, and upon being duly sworn did state and acknowledge that he is Executive Vice President of American National Bank, a national association, and that he executed the foregoing instrument in the capacity stated under authority of its Board of Directors and executed the foregoing document for the uses, purposes and considerations therein expressed as the free and voluntary act and deed of the corporation.

Given under my hand and seal of office this 12th day of November ~~October~~ 2018.

State of Nebraska - General Notary
MARY JAYNE THROENER
My Commission Expires
September 27, 2020

Mary Jayne Throener
Notary Public