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2022-06538

RECORDER MARILYN HEBING

POTTAWATTAMIE COUNTY, IA

FILE TIME: 05/06/2022 01:01:47 PM

RECORDING FEE	145.00
RMA FEE	1.00
ECM FEE	1.00

R FEES \$45⁰⁰ RMA \$1⁰⁰
 A FEES _____ ECOM \$1⁰⁰
 T TAX \$ _____

**AMENDMENT TO FINAL PLAT OF HILLSIDE ESTATES
Recorder's Cover Sheet**

Preparer Information:

Leo P. Martin, Peters Law Firm, P.C., 233 Pearl Street, Council Bluffs, IA 51503
Phone: (712) 328-3157

Taxpayer Information:

Turn the Paige Investments, LLC, Attn: Jarrod C. McIntyre, PO Box 241674, Omaha, NE 68124

Return Document To:

Leo P. Martin, Peters Law Firm, P.C., 233 Pearl Street, Council Bluffs, IA 51503

Grantor:

Turn the Paige Investments, LLC

Grantees:

Turn the Paige Investments, LLC and The City of Council Bluffs, a municipal corporation in the County of Pottawattamie and State of Iowa

Legal Description: A Replat of Lot 1, Franklin Heights Subdivision, in the Southwest Quarter of the Northwest Quarter of Section 32, Township 75 North, Range 43 West of the 5th P.M., Pottawattamie County, Iowa as Lots 1 through 27 inclusive, and Out Lots A, B, C, D and E of Hillside Estates

Document or instrument number of previously recorded documents:

City Deed to Turn the Paige Investments, LLC recorded March 8, 2022, as Document 2022-03328

Final Plat Hillside Estates recorded March 29, 2022, as Document 2022-04466

AMENDMENT TO FINAL PLAT OF HILLSIDE ESTATES

COMES NOW Turn the Paige Investments, LLC, a Nebraska limited liability company that has obtained a Certificate of Authority to transact business in Iowa, and for its Amendment to Final Plat of Hillside Estates (hereinafter the “Amendment”) states:

RECITALS

1. Turn the Paige Investments, LLC, a Nebraska limited liability company that has obtained a Certificate of Authority to conduct business in Iowa, acquired title to Lot 1, Franklin Heights Subdivision, City of Council Bluffs, Pottawattamie County, Iowa pursuant to a City Deed dated March 7, 2022, that was recorded on March 8, 2022, as Document 2022-03328 in the records of the Pottawattamie County Recorder's Office. That deed was executed under and by virtue of the authority vested in the Mayor of Council Bluffs, Iowa, by Resolution No. 20-235 adopted and approved on September 28, 2020.
2. On March 29, 2022, as Document 2022-04466 in the records of the Pottawattamie County Recorder's office, The City of Council Bluffs recorded a Final Plat for Hillside Estates to create Lots 1 through 27 inclusive, and Out Lots A, B, C, D and E, being a Replat of Lot 1, Franklin Heights Subdivision, in the Southwest Quarter of the Northwest Quarter of Section 32, Township 75 North, Range 43 West of the 5th P.M., Pottawattamie County, Iowa.
3. Turn the Paige Investments, LLC, and The City of Council Bluffs previously entered into a Development Agreement that contemplated that The City of Council Bluffs would file the Final Plat for Hillside Estates in substantially the same form as Document 2022-04466 prior to conveyance of the property to Turn the Paige Investments, LLC.
4. Turn the Paige Investments, LLC was the owner of Lot 1, Franklin Heights Subdivision when The City of Council Bluffs filed the Final Plat of Hillside Estates on March 29, 2022.
5. Turn the Paige Investments, LLC intended that a Declaration of Covenants, Conditions, Restrictions and Easements for Hillside Estates (the “Declaration of Covenants”) would be filed with the Final Plat. Turn the Paige Investments, LLC intended that an access easement for the maintenance of a retaining wall be retained for the benefit of the Homeowners Association and that the terms of that reserved easement be included within the Declaration of Covenants. The City of Council Bluffs consents to the filing of the Declaration of Covenants that is attached hereto and incorporated herein by this reference and consents to the retention of the access easement for maintenance of the retaining wall by the Homeowners Association.
6. The purpose of this document is to ratify certain portions of the Final Plat of Hillside Estates filed by the City of Council Bluffs on March 29, 2022, in Document 2022-04466 and to modify other provisions of said Final Plat. This Amendment also includes a title opinion letter based on an updated abstract of property which is intended to be a substitute for the title opinion letter included in the Final Plat of Hillside Estates filed on March 29, 2022, as Document 2022-04466 in the records of the Pottawattamie County Recorder's office.

7. The City of Council Bluffs approves this Amendment to the Final Plat of Hillside Estates.

NOW THEREFORE, Turn the Paige Investments, LLC, with the consent of The City of Council Bluffs, amends the Final Plat of Hillside Estates recorded March 29, 2022, as Document 2022-04466 in the records of the Pottawattamie County Recorder's Office as follows:

1. The diagram of all Lots, Out Lots, and the street identified on the Final Plat diagram as Paige Lane, and the Curve Tabulation tables, and the Surveyor's Notes as certified by the Land Surveyor's Certificate as each of these are shown on Page 1 of the Final Plat of Hillside Estates in Document 2022-04466 recorded March 29, 2022, are ratified and approved.

2. The Vehicular Access Statement as stated on the Final Plat recorded as Document 2022-04466 is ratified and approved and for clarity purposes, is restated as follows:

VEHICULAR ACCESS STATEMENT

Lot 1, and Lots 15 through 27 inclusive, do not have direct vehicular access to Franklin Avenue or Bennett Avenue. Vehicular access from all numbered Lots to Franklin Avenue is only available by Paige Lane Public Right-of Way.

As part of this platting all rights of direct vehicular access from Out Lot A to Franklin/Bennett Avenues is hereby dedicated to the City of Council Bluffs.

3. The "Note: Standard Utility Easements" contained on Page 2 of the Final Plat recorded March 29, 2022, as Document 2022-04466 is modified to read as follows:

NOTE: STANDARD UTILITY EASEMENTS

A perpetual easement is reserved for storm drainage and the installation and maintenance of utilities 5 feet wide along each side of interior lot lines, except for the following common lot lines: Lot 3-Lot 4, Lot 5-Lot 6, Lot 13-Lot 14, Lot 19-Lot 20, Lot 24-Lot 25 and Lot 26-Lot 27, and 10 feet in width along all front and rear lot lines. The drainage areas and included drainage systems, if any, are private and are to be maintained by the owners of the lots adjoining the same

Erection of Structures Prohibited: Turn the Paige Investments, LLC, or its successors or assigns shall not erect any structure over or within easement areas without obtaining the prior written consent of the City Engineer.

Change of Grade Prohibited: Turn the Paige Investments, LLC, or its successors or assigns, shall not change the grade elevation, or contour of any part of these easement areas without obtaining the prior written consent of the City Engineer.

Removal and Replacement: The cost of removal and replacement of any unauthorized improvement or structures within the easement areas, necessitated by the exercise of the

rights under this dedication, shall be borne by Turn the Paige Investments, LLC, or its successors or assigns.

Surface Restoration: City's liability to restore the surface within the easement areas shall be limited only to grading and seeding.

Duty to Repair: City agrees that any drain tile, drive or access way, fence, yard or other improvements outside of the easement areas which may be damaged as a result of an entry made through an exercise of the City's right of access, shall be repaired at no expense to Turn the Paige Investments, LLC, or its successors or assigns.

Easements Run With the Land: These easements shall be deemed to run with the land and shall be binding on Turn the Paige Investments, LLC, or its successors or assigns.

4. In addition to the "Note: Standard Utility Easements" contained on Page 2 of the Final Plat recorded March 29, 2022, as Document 2022-04466 an additional note regarding an access easement for maintenance of a retaining wall is added to the Final Plat that reads as follows:

NOTE: ACCESS EASEMENT FOR MAINTENANCE OF RETAINING WALL

An access easement for the purpose of maintenance and repair of the retaining wall located on Out Lot D at the back end of Lots 3 through 10 and extending at the back end of a portion of Lot 11 (the "Retaining Wall") is hereby reserved for the benefit of the HOMEOWNERS ASSOCIATION across a ten (10) foot wide strip on Lot 2. The northerly line of said ten (10) foot wide strip commences at the northwest corner of Lot 2 (where Lot 2 adjoins the junction of the east line of Out Lot E and the south and west corner of Out Lot D) and then extends in a southeasterly direction on the common boundary line between Lot 2 and Out Lot D to the northwest corner of Lot 3, thence extending an additional ten (10) feet in a southeasterly direction along the common boundary line between Lot 2 and Lot 3. In addition, the access easement for the purpose of maintenance and repair of the Retaining Wall shall use the ten (10) foot easement area reserved for utility easements at the back of Lots 3 through 10 and shall extend, at a width of ten (10) feet, onto Lot 11 to the extent that the Retaining Wall extends onto Lot 11.

5. The title opinion letter shown on pages 3 and 4 of the Final Plat recorded March 29, 2022, as Document 2022-04466 is replaced by the title opinion letter that is attached hereto and incorporated herein by this reference.
6. The Certificate and Receipt of the City Clerk of the City of Council Bluffs, Iowa and Corrected Resolution No. 22-60, including the Proof of Publication, shown on pages 5 through 12 of the Final Plat recorded March 29, 2022, as Document 2022-04466 are ratified and approved.
7. The Declaration of Covenants attached hereto is added to the Final Plat of Hillside Estate and each Lot and Out Lot shall be subject to the terms and conditions of the Declaration of Covenants which shall run with the land.

8. The Pottawattamie County Auditor's Certification of Subdivision Name Approval shown on the last page of the Final Plat recorded March 29, 2022, as Document 2022-04466 is ratified and approved.

DEDICATION

Know all people of these presents: That Turn the Paige Investments, LLC, a Nebraska limited liability company authorized to do business in Iowa, being the sole owner and proprietor of the land described as Lot 1, Franklin Heights Subdivision which is located in the Southwest Quarter of the Northwest Quarter (SW¼ NW¼) of Section 32, Township 75 North, Range 43 West of the 5th P.M., Pottawattamie County, Iowa, which is embraced within this plat, has caused with our free consent and in accord with our desire, the same to be subdivided into Lots 1 through 27 and Out Lots A, B, C, D and E, inclusive, as shown on Page 1 of the Final Plat Hillside Estates recorded as Document 2022-04466 in the records of the Pottawattamie County Recorder's Office and to be known as:

Hillside Estates, containing Lots 1 through 27 inclusive, and Out Lots A, B, C, D and E.

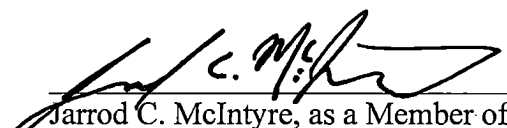
As part of this platting, as amended, Turn the Paige Investments, LLC does hereby dedicate Out Lots A, B, C and D to the Homeowners Association and/or their assignees. Said Homeowners Association and/or their assignees are responsible for all maintenance.

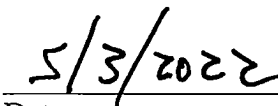
As part of this platting, Turn the Paige Investments, LLC does hereby grant ingress/egress access to the Homeowners Association over Out Lot E for maintenance activities on Out Lot D.

As part of this platting, as amended, Turn the Paige Investments, LLC does (subject to the grant of ingress/egress access rights granted to the Homeowners Association across Out Lot E for maintenance activities on Out Lot D) hereby dedicate and grant Out Lot E to The City of Council Bluffs for access to a portion of Lot 6 of the Auditor's Subdivision of the Southwest Quarter of the Northwest Quarter (SW¼ NW¼) of Section 32, Township 75 North, Range 43 West of the 5th P.M., Pottawattamie County, Iowa, containing a cemetery.

And said Turn the Paige Investments, LLC does hereby ratify and approve of the disposition of the portion of its property as shown on the Plat recorded March 29, 2022, as Document 2022-04466 where it is identified as Paige Lane which is to be known as Paige Lane Road, and that Paige Lane Road (34,067 square feet) is dedicated to The City of Council Bluffs, Iowa, for public use.

In witness hereof we do hereto set our hand, for: Turn the Paige Investments, LLC, a Nebraska limited liability company authorized to do business in Iowa.


Jarrod C. McIntyre, as a Member of
Turn the Paige Investments, LLC


Date

ACKNOWLEDGEMENT TO DEDICATION

STATE OF IOWA, COUNTY OF POTTAWATTAMIE, ss:

On this 3rd day of May, 2022, before me the undersigned, a notary public in and for said County, personally came, Jarrod C. McIntyre, as a Member of Turn the Paige Investments, LLC, a Nebraska limited liability company authorized to do business in Iowa, personally known to me to be the identical person whose name is affixed to the above dedication as a member of said limited liability company, and he acknowledges the execution thereof to be his voluntary act and deed as such member, and voluntary act and deed of said Turn the Paige Investments, LLC.

Witness my hand and notary seal



Leo P. Martin
Notary Public

CERTIFICATIONS AND APPROVALS

We hereby a) re-certify the portions of the Final Plat Hillside Estates in Document 2022-04466 recorded March 29, 2022 that are ratified and affirmed in this Amendment; b) consent to and approve the modifications to the Final Plat Hillside Estates in Document 2022-04466 recorded March 29, 2022 that are modified by this Amendment; and c) certify the following documents that will be recorded with the Pottawattamie County Recorder contemporaneous with this Amendment to Final Plat of Hillside Estates:

- A. All private restrictions and/or covenants, if any, which will be a part of the subject development.
- B. Title Opinion letter of attorney.

We hereby certify that we will meet all equal opportunity and fair meeting objectives consistent with federal, state and local guidelines.

Jarrod C. McIntyre
Jarrod C. McIntyre, Member of
Turn the Paige Investments, LLC

5/3/2022
Date

Courtney Harter
Community Development
Approved by Director, Community
Development, Courtney Harter

5-4-2022
Date

Matthew Walsh
City Council: Approved by Mayor
The Honorable Matthew J. Walsh

5/5/22
Date

Jodi Quakenbush
Attested to by: City Clerk,
Jodi Quakenbush

5-5-22
Date

Certificate of Treasurer of Pottawattamie County, Iowa

I, Lea A. Voss, the Treasurer of Pottawattamie County, Iowa, hereby certify that the property included in the Hillside Estates Subdivision, is free from certified taxes and certified special assessments.

Lea A. Voss
Treasurer of Pottawattamie County,
Iowa, Lea A. Voss

5-6-2022
Date



**PETERS
LAW FIRM,
P.C.**

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JACOB J. PETERS
LEO P. MARTIN
SCOTT J. ROGERS
JON E. HEISTERKAMP
JOHN C. RASMUSSEN
JORDAN T. GLASER
BRODY D. SWANSON
KALE B. ROGERS
SANDRA R. MASS
CHRISTOPHER J. SHALD

May 2, 2022

Examined by

Peters Law Firm, P.C.
Abstract Opinion #5169

Turn The Paige Investments, LLC
Attn: Jarrod C. McIntyre
PO Box 241674
Omaha, NE 68124

Christopher N. Gibbons, AICP
Planning Manager
Community Development Department
The City of Council Bluffs
209 Pearl Street
Council Bluffs, IA 51503

RE: Examination of Abstract of Title
Abstract Opinion No. 5169
Our File No. 37614

To Whom It May Concern:

As requested, I have completed an examination of the Abstract of Title provided as to the following described real estate situated in Pottawattamie County, Iowa, described to-wit:

Lots 1 through 27 inclusive and Out Lots A, B, C, D and E, Hillside Estates, being a Replat of Lot 1 Franklin Heights Subdivision, City of Council Bluffs, Pottawattamie County, Iowa.

The Abstract of Title to the above-described property is in one part, containing Entries No. 1 through No. 38, both inclusive, and is certified through April 5, 2022, at 8:00 a.m., last certified by Clear Title & Abstract, LLC, Title Guaranty Division Member No. 8146.

TITLE

Subject to the exceptions listed below, we find marketable title to the property to be in Turn The Paige Investments, LLC, pursuant to a City Deed dated March 7, 2022, filed March 8, 2022 as Document 2022-03328 as disclosed at Entry No. 35.

EXCEPTIONS

1. Entry No. 36 discloses a Final Plat of Hillside Estates that was filed by The City of Council Bluffs on March 29, 2022, as Document 2022-04466. The City of Council Bluffs was no longer the owner of the property at the time the Plat was filed.

Requirements:

- A. An Amendment to the Final Plat of Hillside Estates must be filed by Turn The Paige Investments, LLC, as the owner, with the consent of The City of Council Bluffs;
- B. To the extent that Turn The Paige Investments, LLC, approves portions of the Final Plat of Hillside Estates filed by The City of Council Bluffs, those sections of that Final Plat will need to be ratified and approved in the Amendment to the Final Plat;
- C. To the extent that The City of Council Bluffs attempted to retain easements and/or grant easements, Turn The Paige Investments, LLC, will need to grant those easements in the Amendment to the Final Plat;
- D. This title opinion will need to be included with the Amendment to the Final Plat because the title opinion filed with Final Plat filed by The City of Council Bluffs was not based on an updated abstract;
- E. A Declaration of Covenants should be attached to the Amendment to the Final Plat if the owner intends to make the lots subject to covenants;
- F. The various government offices that are required to approve a Final Plat will need to approve the Amendment to the Final Plat.

2. Entry No. 23 discloses a Franklin Heights Area Boundary Survey dated January 12, 2021, filed January 20, 2021, as Document 2021-00980.

3. Entry No. 24 discloses City of Council Bluffs Zoning Ordinance #3967 which was amended to be Ordinance #3968, Ordinances 4930 and 4948 with changes to Municipal Code, and Ordinances 5216, 5217, 5255, 5323, 5458, 5469, and 5502.

Entry No. 25 discloses City of Council Bluffs Ordinance 4589.

Entry No. 26 discloses City of Council Bluffs Ordinance 4942.

Entry No. 27 discloses City of Council Bluffs Ordinance 5264.

Entry No. 28 discloses Pottawattamie County Ordinance 5333.

SINCE THESE ORDINANCES GENERALLY REGULATE AND RESTRICT YOUR USE OF THE PROPERTY UNDER EXAMINATION, YOU ARE REFERRED TO SAID ORDINANCES FOR FURTHER PARTICULARS.

4. Entry No. 30 discloses the following:

WE DO NOT CERTIFY TO UNPAID FEES FOR SERVICES FOR SEWER SYSTEMS, STORM WATER DRAINAGE SYSTEMS, SEWAGE TREATMENT, SOLID WASTE COLLECTION, WATER, AND SOLID WASTE DISPOSAL, WHICH HAVE BEEN CERTIFIED TO THE COUNTY TREASURER FOR COLLECTION UNLESS THESE CHARGES HAVE BEEN ENTERED ON THE TAX RECORDS.

5. Entry No. 31 discloses the following:

INASMUCH as the office of the County Treasurer indexes Buildings on Leased Land and assessments for Machinery and Equipment in such a manner it is impossible to determine

if there are any which would attach to the real estate under examination, we do not certify to such assessments.

6. Entry No. 34 discloses the following:

NO SEARCH made for Bankruptcies filed subsequent to 1 October, 1979. Your attention is directed to the Bankruptcy Clerk of Federal Court, Des Moines, Iowa where said matters are now filed of record.

7. Entry No. 37 discloses a LIEN SEARCH, including Liens in District and Federal Courts, Pottawattamie County, as to the following persons, ONLY: -

Ten years last past: - Turn The Paige Investments, LLC
City of Council Bluffs

8. Entry No. 38 discloses:

GENERAL TAXES for the year 2019 and prior years paid.
GENERAL TAXES for the year 20202 ALL PAID.
P-754332152006

NOTE: Taxes for the individual lots in Hillside Estates have not been assigned.

CAUTIONARY INSTRUCTIONS

This examination does not constitute a certification that any building or other improvements situated upon the described property are within the platted boundary lines. Such determination could only be made by survey.

This examination does not constitute a certification that any fences or other apparent boundary line markers are situated upon the platted boundaries of the land. This determination could only be made by survey.

If any person is in possession other than the titleholders named in this opinion, you should make inquiry to determine the nature and extent of the claimed right of possession.

You are charged with notice of any visible easements such as power lines, and if any such easements exist, you should make inquiry to determine the nature and extent of the claimed easement right.

The opinion covers the period shown on the abstractor's certificate only. You take subject to any matters affecting title from the last certificate to closing. You can purchase for yourself from the abstractor a lien search and certificate as of closing. Contact the abstractor or this office for assistance.

Under Iowa law, any person who furnishes labor, services, or materials, incident to the

construction of any building or other improvement upon real estate, may file a Mechanic's Lien against the real estate, within ninety days after completion of the improvements, if the improvements have not been paid for. You should therefore satisfy yourself that no recent improvements have been made on the property, or if any such improvements have been made, you should satisfy yourself that all bills, in connection with the improvements, have been paid.

You should assure yourself as to the availability of reasonable and convenient access to the real estate from an existing public right-of-way. You are charged with notice of any rights to access to and from highways and streets which may be designated as "controlled access facilities" by the state and local authorities.

You are charged with notice that the use of any real estate located in the State of Iowa may be subject to restrictions relating to Flood Plain Zoning; these restrictions on use are administered by the Iowa Department of Natural Resources in conjunction with local and federal authorities. In the event the real estate described herein appears to be physically located in an area where there is a potential for flooding from any source, you are directed to consult with the City or County officers having charge of zoning matters to determine whether or not restrictions may apply by virtue of Flood Plain Zoning.

The abstract has not disclosed the existence of hazardous substance, pollutants, contaminants, hazardous wastes, underground storage tanks, drainage wells, active or abandoned water wells, and other environmentally regulated activities. You are cautioned that federal, state and local legislation may, in the event there are environmental and/or public health violations, permit injunctive relief and require removal, remedial actions and/or other "clean up." The cost of such "clean up" may become a lien against the real estate, and a party interested in the real estate may incur personal liability even though said party may not have disposed of any hazardous substances, pollutants, contaminants, or hazardous waste on the real estate or used any underground storage tanks or wells.

You should, therefore, make a careful inspection of the property to determine that such environmental contamination or conditions do not exist. You may also want to consider the following:

- a) Inquire as to past uses of the property to determine if such uses could have resulted in any contamination or future contamination of the property or the groundwater, and ascertain whether any adjoining property has been or is being used for a purpose which has or could result in contamination of the property under examination; and
- b) Make a visual inspection and/or conduct professional testing to confirm the real estate is free of environmental hazards and contamination.

The laws of the U.S.A. relating to bankruptcy provide that all bankruptcy cases are to be filed with the Clerk of the Bankruptcy Court. Since the clerk's office is not in the county in which the real estate is situated, the abstract company cannot certify whether or not the title to the real estate is affected thereby. If a concern should be present regarding the effects of bankruptcy upon

the title of the subject real estate, an inquiry should be made to the office of the Clerk of Bankruptcy Court in Des Moines, Iowa.

We retain the Abstract of Title pending the filing of the Amendment to the Final Plat.

If you have questions, please contact me.

Sincerely,

PETERS LAW FIRM, P.C.

By: 
Leo P. Martin

LPM:tdm

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS OF HILLSIDE ESTATES, A SUBDIVISION IN THE
CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA**

THIS DECLARATION is made as of the 3rd day of May, 2022, by **Turn the Paige Investments, LLC**, a Nebraska limited liability company.

RECITALS:

A. This Declaration is filed as part of the Final Plat of Hillside Estates Subdivision, a subdivision in the City of Council Bluffs, Pottawattamie County, Iowa. The property subject to these covenants as of the filing of the plat will be legally described as Lots 1 through 27, inclusive, Hillside Estates Subdivision, Council Bluffs, Pottawattamie County, Iowa.

B. For the purpose of promoting the development and to provide for the preservation of the values and amenities of Hillside Estates, as well as for the maintenance of the character and residential integrity of Hillside Estates, 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, integrity, and attractiveness 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 are, and each Lot is and shall be subject to all and each of the following conditions and other terms:

**ARTICLE I
DEFINITIONS**

The following terms as used in this Declaration shall have the meanings set forth below unless the context clearly requires otherwise:

- 1.1. "Association" means Hillside Estates Homeowners Association, an Iowa not-for-profit corporation organized or to be organized as provided herein.
- 1.2. "Board of Directors" means the board of directors of the Association.
- 1.3. "Builder" means any party that acquires fee title to a Lot(s) for the purpose of constructing a residence thereon for resale.
- 1.4. "City" means the City of Council Bluffs, Iowa.
- 1.5. "Common Facilities" see Article IV, below.

1.6. "Declarant" or "Developer" means Turn the Paige Investments, LLC, a Nebraska limited liability company.

1.7. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements of Hillside Estates, a subdivision in Pottawattamie County, Iowa, as it may be amended or supplemented from time to time.

1.8. "Townhome Lot" means Lots 1 through 6, Lots 13 and 14, Lots 19 and 20 and Lots 24 through 27. The following Townhome Lots shall be paired for the purpose of constructing single-family attached residences which will have a single-family residence on each Lot with a common wall between the paired Lots. The paired lots are Lot 1 and Lot 2; Lot 3 and Lot 4; Lot 5 and Lot 6; Lot 13 and Lot 14; Lot 19 and Lot 20; Lot 24 and Lot 25; and Lot 26 and Lot 27.

1.9. "Lot" means both Single Family Lots and Townhome Lots.

1.10. "Members" means members of the Association as described in Section 5.2.

1.11. "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 for 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.

1.12. "Single Family Lot" means Lots 7 through 12, Lots 15 through 18, and Lots 21 through 23.

1.13. "Subdivision" means Hillside Estates Subdivision, a subdivision in the City of Council Bluffs, Pottawattamie County, Iowa.

1.14. "Turnover Date" is defined in Article 2, Section 2.34.

ARTICLE II

RESTRICTIONS AND COVENANTS

2.1. The following provisions of this Article II and Article IV hereof shall not apply in any manner to any of the activities of the Declarant in developing Hillside Estates, or any subsequent additions or phases of said subdivision or to in anyway the limit, prevent or impair any activities of the Declarant in connection therewith.

2.2. Each Lot shall be used exclusively for single-family residential purposes. Separate single-family residences shall be constructed on each Single Family Lot. A single-family residence referred to as a townhome shall be constructed on each of the adjoining Townhome Lots with a common wall on the boundary between such adjoining Townhome Lots. The single-family residence constructed on a Single Family Lot shall be subject to side lot set back described in

Section 2.5. The separate single-family residences on the paired Lots known as Townhome Lots shall have a common wall on the adjoining lot line between the paired Lots and will not be subject to the side lot set back on the common lot line between the paired Lots. No residence located on any Lot may be designated, used or converted for the use of more than one family.

Nothing in this Paragraph shall prohibit an Owner's use of its residence for quiet, inoffensive activities, such as tutoring or giving art or music lessons, or for a home office, so long as such activities do not violate the other restrictions set forth in this Declaration, and do not materially increase the number of cars parked on the street, or interfere with adjoining owners' use of their Lots.

Each residence may be occupied by only one (1) family consisting of persons related by blood, adoption or marriage or no more than two (2) unrelated persons living and cooking together or in the same residence as a single housekeeping unit; PROVIDED, HOWEVER, that nothing contained herein shall prevent occasional temporary occupancy by guests of the family or occupancy by full-time domestic servants or medical assistants employed by the family; and FURTHER PROVIDED, nothing contained herein shall prevent the owner of a residence from renting a residence as long as the residence is occupied by only one (1) family as set out in this paragraph.

Notwithstanding anything contained herein to the contrary, Developer or a Builder, subject to the Developer's approval, may temporarily use a residence, garage or trailer on a Lot as a sales, marketing or construction office for the sole purpose of (i) enabling the Developer to develop, construct, market and sell its Lots and residences in the Addition or in any other addition or subdivision owned by Developer, or (ii) enabling a Builder to construct, market and/or sell such Builder's residences in the Subdivision until such Builder's last residence in the Subdivision is sold.

2.3. Architectural control for the development of the Lots shall be provided by Developer. If the responsibility for architectural control has been transferred to the Board of Directors, the Board may delegate the responsibility to an Architectural Committee created by the Board. Upon Developer's completion of construction on all Lots, or if the Declarant sells all Lots before construction is completed, then any architectural control shall be the responsibility of the Board of Directors of the Association.

2.4. No residence, building, fence, wall, driveway, patio, patio enclosure, rock garden, swimming pool, pool house, tennis court, basketball backboard (including any backboard affixed to a residence, building or other improvement or free-standing, any post, stand or structure therefore, whether temporary or permanent), swing set, jungle gym, playground set, dog house, tree house, antenna, flag pole, solar heating or cooling device, tool shed, wind mill, wind generating equipment, storage building, ancillary building, greenhouse 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 Developer. Unless a special exception is granted by the Developer, any permitted detached structure shall be constructed and maintained by use of the same siding, paint and shingles as the

primary residence. No detached garages shall be permitted.

(a) An Owner desiring to erect an Improvement on any Lot shall deliver two sets of construction plans, landscaping plans and plot plans to the Developer (herein collectively referred to as the "Plans"). Such plans shall reflect or include a description of the type of Improvement, the quality and use of exterior materials, exterior design, the exterior color or colors of such Improvement and the proposed location of the Improvement on the Lot. Concurrent with submission of the plans, an Owner shall notify Developer of the Owner's mailing address.

(b) Developer shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Lot and in the surrounding area, and any general scheme or plans formulated by Developer. In this regard, Developer intends that the Lots shall be and form a developed residential community with homes constructed of high-quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Developer to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Developer 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, Developer 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. No construction, including any grading or other preparation for the construction of the Improvement causing a physical change to the Lot shall commence prior to the issuance of such written notice of approval.

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

2.5. No part of any residence, except as hereinafter provided, may be erected or maintained on any of the Lots nearer to the front street right-of-way ("R.O.W ") than twenty (20) feet, nor nearer to the side Lot line than five (5) feet, provided, however, that Developer shall have and does hereby reserve the right with the consent in writing of the record owner of the fee simple title to any such Lot, to change any building line on any such lot or lots, so long as the change conforms to the City of Council Bluffs, Iowa Zoning Ordinances, if any, then in effect, and with the PR/Planned Residential Development Plan set forth in Resolution No. 21-146 adopted and approved by the City of Council Bluffs, Iowa on May 10, 2021. With regard to Townhome Lots, the side Lot setback requirement shall not apply to the common boundary between the adjoining paired Townhome Lots.

2.6. No single-family residence or townhome shall exceed two stories in height. All single-family residences and each townhome (Each such residence being hereinafter referred to in this Section 2.6 as a "Residence") designed for construction on any Lot will be required to have the following minimum square footage, to-wit:

a. The phrase "finished living area" as used in this Section shall include in all cases areas on the first and second floor of the Residence enclosed and finished for all-year occupancy computed on outside measurement of the Residence. The term shall not include any area in any basement, breezeway, garage, porch or attic finished or unfinished. No Residence on any lot shall be more than two stories in height, unless consented to in writing by Developer. Developer shall have and hereby reserves the right to reduce the floor area requirement set forth above, provided the total reduction for any one Residence may not exceed ten (10) percent of such minimum floor area requirements for such Residence.

b. Each single-family Residence on a Single Family Lot shall include at least an attached two car garage. Each Townhome Lot shall include an attached one car garage. No detached garages shall be permitted.

2.7. No Lot may be subdivided nor may any two or more Lots be combined to form one building lot for a single residence or townhome without the consent of Developer.

2.8. The exposed portions of the front foundation walls and any exposed foundation walls facing any street of any residence or townhome must be covered with either siding, stone, brick, or painted simulated brick and any other exposed foundation walls shall be covered with either brick, stone or siding or shall be painted. At least one hundred (100) square feet of the exposed front walls and of any exposed walls facing any street of any residence or townhome must be covered with either stone or brick. All exposed foundations on side and rear elevations, not otherwise covered in brick or stone, shall be painted to match the residence. House numbers (i.e., addresses) shall be installed in brick inlay to the front of residences.

2.9. All driveways must be constructed of concrete, brick, paving stone or with other materials approved in writing by Developer. Each driveway shall be used to serve only a single residence or serve a single unit of any townhome on the Lot for which such driveway is constructed unless otherwise approved in writing by Developer. Driveway approaches shall be constructed of concrete or other material acceptable to Developer. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete or other material acceptable to Developer. No asphalt overlay of driveway approaches will be permitted.

2.10. No yard signs, banners, or other signs are permitted without the Developer or Association's prior approval except for a) a professionally prepared For Sale sign, not exceeding five (5) square feet, or b) a single sign for a builder who is completing the initial construction of a single family residence i) on a Lot owned by the builder, or ii) on a Lot owned by an Owner who will, upon completion of the initial construction, occupy the single family residence. All signs permitted by the Developer or the Association shall be maintained in good condition and repair, with a neat and orderly appearance, and shall comply with the applicable ordinances of the City. Without limiting the foregoing, no sign shall be permitted which (i) describes the condition of the

residence or the Lot, (ii) describes, maligns, or refers to the reputation, character or building practices of Developer, any Builder, or any other Owner, or (iii) discourages or otherwise impacts or attempts to impact a party's decision to acquire a Lot in the Subdivision. In the event of a violation of the foregoing provisions, Developer or the Association shall be entitled to remove any such offending sign, and in so doing, shall not be subjected to any liability for trespass or otherwise.

2.11. No exterior television or radio antenna, satellite receiving, or exterior solar heating or cooling device of any sort shall be permitted on any Lot without the specific prior written approval of Developer.

2.12. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles or other motor vehicles outside of the garages located on the Lot 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.

2.13. No boat, camper, motorcycle, snowmobile, all-terrain vehicle, trailer, auto drawn or mounted trailer of any kind, recreational vehicle, mobile home, truck, aircraft, camper trailer, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) at any time. No motor vehicles may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the residence or townhome located on such Lot. No construction equipment, grading or excavating equipment, tractors or semi tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Section 2.13 shall not apply to trucks, tractors or commercial vehicles that are necessary for the construction of a residence or townhome s or other Improvements during the period of construction.

2.14. No incinerator, trash burner or Open burning of any kind shall be permitted on any Lot. No garbage or trash can, or container shall be permitted unless completely screened from View, except for pickup purposes. No fuel tank or propane tank shall be permitted on any Lot unless completely buried underground. 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, rubbish or cutting shall be deposited on any street, road or Lot. No clothesline shall be permitted outside of any residence or townhome at any time. Produce or vegetable gardens may only be planted and maintained in rear yards or in side yards that are not facing any street, with the written approval of Developer.

2.15. 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. No exterior Christmas lights or other decorative lighting or other decorations of any kind may be erected or maintained at any time on any Lot or on any residence or townhome or other Improvement located on any Lot, except for a ninety (90) day period beginning on November 1st of each calendar year.

2.16. Fences must be constructed using black metal or tan vinyl and must be approved by Developer. No fence shall extend forward past the rear of the house. No woven wire or barbed

wire fences shall be erected or maintained. All fences, walls, screens or other barriers of any nature or type must be approved by Developer. No fences, walls, screens or other barriers of any nature or type shall exceed a height of six (6) feet from the ground level nor extend forward toward the street from any foundation of any residence or townhome facing a street, and no posts or braces shall be located on the outside of any such fence, wall, screen or other barrier.

2.17. No above ground swimming pools shall be placed or maintained on any Lot.

2.18. Construction of any Improvement shall be completed within six (6) months 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, drainage or contour of any Lot without the prior written consent of Developer. Materials and equipment used in construction and landscaping shall be maintained and stored in neat and orderly manner. Discarded materials, rubbish, trash and unneeded equipment will be removed from the Lot at least weekly during the construction and landscaping process. No street shall be used for the storage or loading or unloading of any materials or equipment and all construction and landscaping operations and activities will be confined to the Lot on which the construction and landscaping operations and activities are occurring. If any Improvement is damaged or destroyed, the Improvement shall be removed or fully repaired within three (3) months of the date of such damage or destruction unless Developer extends such time for repair or removal for good cause shown.

2.19. No animals of any kind shall be raised, bred, or kept on any Lot, except that up to a combined total of two of any of the following types of animals may be kept as pets: dogs, cats or other animals of a type commonly used or permitted to be used as household pets in urban areas, so long as such animals are kept in compliance with any ordinances or regulations of Pottawattamie County, Iowa or other applicable governmental authority; provided however, that under no circumstances shall any poultry (including but not limited to chickens, ducks, geese, cattle, exotic birds or turkeys), horses, donkeys, reptiles, mules, swine or any member of the swine family be raised bred or kept on any Lot. No household pets may be sheltered on any Lot outside the residence or townhome on said Lot. No dogs or other household pets shall be allowed to run free on any other Lot. No stable or other shelter for any household pet shall be erected, altered, placed or permitted to remain on any Lot, except for a doghouse to be used to house up to two dogs (if two dogs are permitted on said Lot under the other provisions of this Section; provided always that the construction plans, specifications and the location of the proposed structure for a doghouse have been first approved by Developer, or its assigns. Dog houses shall only be allowed adjacent to the rear of the residence, concealed from public view. No dog runs or kennels may be constructed or installed on any Lot without the written permission of Developer. The plans proposed site location and materials to be used in the construction of the dog runs or kennels shall be provided to Developer for Developer's review as in the case of any other Improvement.

2.20. All Lots shall at all times be kept free of weeds, trash and debris, including unused building materials. 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. All yards (front, side, and back) must be hydro seeded or seeded with stacked straw covers until the lawn is established.

2.21. 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.

2.22. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

2.23. No structure of a temporary character, carport, trailer, basement, storage shed, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No temporary structures of any kind may be erected or used as a residence. No structure or dwelling shall be moved to any Lot without the written approval of Developer.

2.24. No water wells may be dug or drilled on any Lot that is serviced by City Water.

2.25. All garage doors shall remain closed at all times when not in use for entry to or exit from the garage.

2.26. No Owner of any Lot shall use, suffer or permit any person or persons in any manner whatsoever, to use any parcel for any purpose in violation of the laws and regulations of the United States, the laws and regulations of the State of Iowa, or the ordinances and regulations of Pottawattamie County, Iowa, or any other lawful authority. No Owner of any Lot shall use, suffer or permit any person or persons in any manner whatsoever, to use any Lot for any purpose or in any manner which will constitute a noxious or offensive activity or an unreasonable, improper invasion upon the quiet use and enjoyment of any other Lot. Each Owner of a Lot shall maintain said Lot in a clean and wholesome condition and all police regulations shall in all respect and at all times be fully complied with by the Owner of said Lot so as to prevent noxious and offensive activities or conditions which could constitute a public or private nuisance. No unsightly objects or nuisances of any kind shall be erected, placed or permitted to remain on any Lot nor shall any Lot be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner or Owners of any Lot or any resident thereof.

2.27. No telephone, electric or other utility lines or conduits or fuel or propane tanks shall be located aboveground.

2.28. The front-entry door of each residence shall have a storm door included.

2.29. All rear and side exits of residences must exit to a solid surface (e.g., concrete pad) that shall be at least 48" wide.

2.30. All homes must have a HERS rating certificate of 70 or less. "HERS" means Home Energy Rating System. The HERS index is an industry standard by which a home's energy efficiency is measured, as developed by RESNET (Residential Energy Services Network).

2.31. The Association or the Architectural Committee may waive or modify any one or more of the foregoing restrictions. The Association may also further restrict or regulate the use and occupancy of the Subdivision and the Lots by reasonable rules and regulations of general

application within the Subdivision adopted from time to time by the Association.

2.32. Notwithstanding any provision of this Article or any other provision of this Declaration to the contrary, all property within the Addition shall be used only in compliance with City requirements. In every case in which any provision of this Declaration is at variance with City requirements, the more restrictive provision shall govern and control.

2.33. The Association or its authorized agents may enter any Lot on which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses, and such fines as may be imposed by the rules and regulations adopted by the Association, shall be deemed secured by a lien upon such Lot enforceable in accordance with the provisions of Article V. All remedies described in this Declaration, and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, occupant or other party of any provision of this Article, or any other provision of this Declaration.

2.34. Notwithstanding anything in this Article II or elsewhere in this Declaration to the contrary, Developer shall have and maintain absolute and exclusive control of the Association and the Architectural Committee, if applicable, including appointment and removal in Developer's sole discretion of all officers of the Association, members of the Board of Directors and all members of the Architectural Committee, until the date (the "**Turnover Date**") which is the earlier of (a) the expiration of 10 years from the date of recording of the most recent plat affecting the Subdivision, or (b) the effective date designated by Developer in a notice to the members of the Association stating that Developer relinquishes control. Until the Turnover Date, Developer will be entitled to cast all votes with respect to the election and removal of all officers of the Association, the Board of Directors, and members of the Architectural Committee and with respect to any other matter requiring the vote or approval of members of the Association or the Architectural Committee as set forth herein or in the Association's Articles of Incorporation or Bylaws. Notwithstanding the foregoing, or any other provision to the contrary set forth in this Declaration, if at the occurrence of the Turnover Date, Developer continues to own any Lots in the Addition, then so long thereafter as Developer continues to own Lots in the Subdivision, Developer shall have the sole and exclusive authority to appoint all of the members of the Architectural Committee.

ARTICLE III **RIGHTS OF DEVELOPER**

Notwithstanding anything in this Declaration to the contrary, Developer may at any time and from time to time prior to the Turnover Date, in its sole discretion, without the consent of any Builder or other Owner, Association member or other party, (a) subdivide any Lot owned by Developer into two or more Lots, (b) combine any two or more Lots owned by Developer into fewer Lots, (c) add to the Addition any such land as may be owned or approved for addition by Developer, or (d) dedicate portions of the Addition owned by Developer to any governmental or quasi-governmental body (including the City) if, in Developer's sole discretion, such dedication will benefit the Addition as a whole. Any such change, addition or dedication shall become effective upon the recording with the County Recorder's Office of an amendment to this

Declaration setting forth the same. No other Owner shall be entitled to further subdivide any Lot, nor combine any Lots without the Association's approval.

ARTICLE IV
COMMON FACILITIES; EASEMENTS AND RESTRICTIONS
RELATING TO COMMON FACILITIES

4.1. There shall be created, as shown on the face of the final plat of the HILLSIDE ESTATES, such open space tracts as the Declarant may determine which open space tracts owned by Declarant which portions of property are designated on the Final Plat of HILLSIDE ESTATES, as "Common Facilities". The Final Plat will create Out Lots A, B, C, D and E. Out Lot E will be dedicated to the City of Council Bluffs. The City of Council Bluffs will be responsible for the maintenance of Out Lot E. Out Lot E will not be part of the Common Facilities. Out Lots A, B, C and D will be part of the Common Facilities.

4.2. The Common Facilities as well as all easements related thereto created or arising out of the HILLSIDE ESTATES development shall be for the benefit of all Lots in the HILLSIDE ESTATES and for the benefit of subsequent additions and/or phases which may added and shall be developed, used, paid for, and maintained, as provided in this declaration.

4.3. When the Declarant is no longer entitled to two hundred (200) votes per Lot owned by the Declarant as provided in Article V, Section 5.2, below, the Common Facilities will be deeded by the Declarant to the Association (as hereinafter defined) by Quit Claim Deed.

4.4. Maintenance of the Common Facilities, related easements, and/or any amenities located on them shall be completed by the Association at the cost and expense of the Owners of the Lots. Common Facilities shall include, but not be limited to, a) the stormwater detention basins on Out Lot B and Out Lot C; b) trees planted within Out Lot A along Franklin Avenue; and c) the retaining wall located on Out Lot D at the back end of Lots 3 through 10 and extending at the back end of a portion of Lot 11. All of such costs, including, but not limited to, maintenance expenses, insurance, and real property taxes, shall be borne by the Owners of the Lots through assessments by the Association.

4.5. It is the express intent of the Declarant that, during the development phase of the HILLSIDE ESTATES and other additions and/or phases of HILLSIDE ESTATES, the Lots that have been created in the earlier additions and/or phases will have the benefit of the Common Areas, related easements, and amenities that exist on them, and shall pay for the same, and that the undeveloped property within the HILLSIDE ESTATES shall not bear the burden of such expense.

4.6. No Owner of any Lot shall use, suffer or permit any person or persons in any manner whatsoever, to use the Common Areas or any portion thereof for any purpose in violation of the laws and regulations of the United States, the laws and regulations of the State of Iowa, or the ordinances and regulations of Pottawattamie County, Iowa, or any other lawful authority.

4.7. No Owner of any Lot shall use, suffer or permit any person or persons in any manner whatsoever, to use the Common Areas or any portion thereof for any purpose which will constitute an unreasonable, improper invasion upon the quiet use and enjoyment of any Lot or for any noxious and offensive activities or in such a manner so as to cause conditions which could constitute a public or private nuisance or in violation of any rules or regulations established by the Association for the use of the Common Areas.

4.8. Nothing shall be kept on, stored on, altered upon, planted upon, dumped upon constructed on, or removed from the Common Area except on the written consent of the Association.

4.9. No sod, topsoil, muck, trees or shrubbery may be removed from the Common Area by Owners without the written approval of the Association. The Common Areas shall not be used for dumping of earth or any waste materials, including grass clipping or leaves. No burning of any kind is permitted on the Common Areas, except on the prior written consent of the Association.

ARTICLE V

HOMEOWNERS ASSOCIATION

5.1. The Association. Declarant has caused or will cause the incorporation of HILLSIDE ESTATES SUBDIVISION HOMEOWNERS ASSOCIATION, an Iowa 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 HILLSIDE ESTATES SUBDIVISION including:

(a) The landscaping, improving, equipping, maintaining, operating, repairing, keeping up and replacing Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include the Common Facilities as described above and hereafter acquired playgrounds and parks; dedicated and nondedicated roads, paths, ways, entry areas and green areas; and signs and entrances for HILLSIDE ESTATES SUBDIVISION.

(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 any Common Facility.

(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of HILLSIDE ESTATES SUBDIVISION; and the protection and maintenance of the residential character of HILLSIDE ESTATES SUBDIVISION.

5.2. Membership and Voting. The Owner of each Lot shall be and shall be automatically deemed by acceptance by the subsequent owner or grantee of any deed for a Lot to be a Member

of this Association. Membership in the Association shall be appurtenant to and may not be separated from the ownership of a Lot

The Owner of each Lot other than Declarant, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association. When more than one person or entity holds an ownership interest a Lot, all such persons or entities shall be considered to be Members of the Association but only one (1) vote for such Lot may be cast with regard to any such Lot and all of the owners of such a Lot will file a designation with the Association as to the name of the person who will exercise the right to vote as a Member for that Lot and if such owners fail to designate in writing such person, no vote shall be entitled to be cast for such Lot.

Declarant shall be entitled to two hundred (200) votes per Lot owned which is held to be sold to a contractor for future construction of a home until the earlier of either (a) the number of votes held by the Declarant for Lots owned by the Declarant become equal to the number of votes held by the Owners for all other Lots; or (b) the Declarant waives the Declarant's rights to vote in the matters coming before the Association.

5.3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Iowa 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 regulating to the Common Facilities.
- (b) The landscaping, mowing, watering, repair and replacement of trails, parks, medians, island in cul-de-sacs, outlets and other public property and improvements on parks, medians, thoroughfares or public property within or near HILLSIDE ESTATES SUBDIVISION.
- (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.
- (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) 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.

(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 Association.

(k) 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 HILLSIDE ESTATES SUBDIVISION by and through the Committee appointed by the Association from and after the date which is seven years from the date of this Declaration.

5.4. **Mandatory Duties of the Association.** The Association shall maintain and repair any entrance landscaping, entrance monuments and signs which have been or will be installed by Declarant along the entrances to HILLSIDE ESTATES SUBDIVISION and the maintenance and care of any property or Lots that the Association may own.

5.5. **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 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 the manner prescribed by the Board.

5.6. **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 sold by the Declarant to a contractor for future construction of a home.

5.7. **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 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 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 assessments or dues.

5.8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in this Article, and to perform the Powers and Responsibilities of the Association described in this Article.

5.9. 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.

5.10. 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 Article IV, above.

5.11. 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 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.

5.12. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of ten percent (10%) per annum, compounded annually. The 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' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability of the charge and lien provided for herein by nonuse of the Common Area or abandonment of an 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 right of the Association.

5.13. 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.

ARTICLE VI
EASEMENTS

A perpetual license and easement is hereby reserved to erect and operate, maintain, repair and renew buried or underground storm sewers, sanitary sewers, water and gas mains and cables, lines or conduits and other 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 signals provided by a cable television system and the reception thereof and or other purposes on, over, through, under and across the areas as designated for such purposes on the Final Plat of HILLSIDE ESTATES SUBDIVISION. An access easement for the purpose of maintenance and repair of the retaining wall located on Out Lot D at the back end of Lots 3 through 10 and extending at the back end of a portion of Lot 11 (the "Retaining Wall") is hereby reserved for the benefit of the HOMEOWNERS ASSOCIATION across a ten (10) foot wide strip on Lot 2. The northly line of said ten (10) foot wide strip commences at the northwest corner of Lot 2 (where Lot 2 adjoins the junction of the east line of Out Lot E and the south and west corner of Out Lot D) and then extends in a southeasterly direction on the common boundary line between Lot 2 and Out Lot D to the northwest corner of Lot 3, thence extending an additional ten (10) feet in a southeasterly direction along the common boundary line between Lot 2 and Lot 3. In addition, the access easement for the purpose of maintenance and repair of the Retaining Wall shall use the ten (10) foot easement area reserved for utility easements at the back of Lots 3 through 10 and shall extend, at a width of ten (10) feet, onto Lot 11 to the extent that the Retaining Wall extends onto Lot 11. No structures or trees or shrubs of any kind shall be constructed on any area subject to the licensee and easement areas described above.

The Declarant further retains the right to an easement over the Common Areas and over any other Out Lots shown on the Final Plat of HILLSIDE ESTATES SUBDIVISION as necessary to facilitate the final construction of the Subdivision and any additional additions or phases of the Subdivision, for the utility installation for the Subdivision and any additional additions or phases of the Subdivision and sales and marketing activities of the Lots by the Declarant and the right to grant additional easements to any public authorities and utility companies over any portion of the Common Areas and over any other Out Lots shown on the on the Final Plat of HILLSIDE ESTATES SUBDIVISION to correct any drainage issues or problems that may arise (provided however that the Declarant shall have no obligation to undertake any such correction of any drainage issues or problems).

ARTICLE VII
GENERAL PROVISIONS

7.1. Enforcement of Declaration. 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 of 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.

7.2. Amendment of Declaration. This Declaration may be amended solely by Declarant in any manner which it may determine in its full and absolute discretion at any time and from time to time until all Lots have been sold, or for a period of ten (10) years from the date hereof, whichever first occurs including but not limited to by adding additional lots and common areas as property subject to the terms of this Declaration or to remove any property, Lots or Common Area previously subject to this Declaration from the terms thereof. For the purposes of this Declaration, Lots sold by Declarant shall not include any Lot sold to contractors for future construction of homes and shall remain for purposes of this Declaration a Lot which has not been sold until a residence is purchased by an Owner for the purpose of constructing a residence on said Lot to be occupied by said Owner or until a residence has been constructed on such a Lot and the same has been sold by such a contractor to a third party. Thereafter this Declaration may be amended by either a) approval of the proposed amendment at a meeting of the Owners in which at least sixty percent (60%) of the Owners of the Lots covered by this Declaration vote to approve the amendment, or b) an instrument that is signed by the owners of at least sixty percent (60%) of the Lots covered by this Declaration. Easements contained herein may not be amended unless they are amended by agreement of all parties concerned with the easement.

7.3. Termination of Status as Declarant. Turn the Paige Investments, LLC, or its successor or assign, 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.

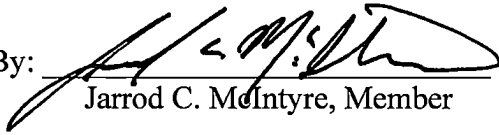
7.4. Effect of Partial Invalidation. Invalidation of any covenant shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

ARTICLE VIII
COVENANTS RUNNING WITH THE LAND

Each Owner, by the acceptance of a deed creating an interest or estate in any land within the Addition, and the heirs, legal representatives, successors and assigns of each of the foregoing, accepts the same subject to the all of the terms, provisions, covenants, conditions, restrictions, reservations, easements and liens and subject to all of the rights, benefits and privileges of every kind which are granted, created, reserved or declared by this Declaration, and all impositions and obligations hereby imposed (including the imposition of personal liability for payment of assessments and other amounts owing hereunder), all of which shall be deemed covenants running with the land and shall bind every Owner having any interest or estate in any land within the Addition, and shall inure to the benefit of any such person or entity, as though the provisions of this Declaration were recited at length in each and every deed, conveyance or other instrument evidencing or creating such interest or estate.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 3rd day of May, 2022.

Turn the Paige Investments, LLC

By: 
Jarrod C. McIntyre, Member

STATE OF IOWA)
)ss.
COUNTY OF POTTAWATTAMIE)

This record was acknowledged before me on May 3, 2022, by Jarrod C. McIntyre, as Member of Turn the Paige Investments, LLC, a Nebraska limited liability company, Declarant/Developer.




NOTARY PUBLIC IN AND FOR SAID STATE