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LANCASTER COUNTY, NE

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**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

**THIS DECLARATION** made on this 2<sup>nd</sup> day of September 2003, by the undersigned.

**WITNESSETH:**

**WHEREAS**, Gerry A. and Dianne D. Krieser are the owners, hereinafter referred to as "Developer", of certain real property in the County of Lancaster, State of Nebraska, which is more particularly described as:

Lots one (1) through five (5), Stevens Creek Ridge Addition, located in the Northeast quarter of the Southeast quarter of Section seventeen (17), Township ten (10) North, Range eight (8) East, Lancaster County, Nebraska.

**NOW THEREFORE**, the undersigned hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions (the "Covenants"), which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any rights, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**

**Architectural Control**

Prior to the construction of any residence on any lot described above ("Lot"), a set of building plans for such residence shall be submitted by the owner of the applicable Lot ("Lot Owner") to the Developer for approval. Said building plans shall be signed and certified by the Lot Owner as a true and correct copy of the building plans for the residence to be constructed on such Lot and contain a statement that the Lot Owner will submit to the Developer, for written approval, any amendments, modifications or changes to such building plans. Such building plans shall show the size, exterior material, design and plot plan for the residence to be constructed on such Lot and shall indicate the location of residence, any garage and any other structures to be placed or constructed on such Lot. One set of such building plans, and all amendments, modifications and changes thereto, signed by the Lot Owner shall be left on permanent file with the Developer. No construction of any residence on any Lot shall be commenced unless and until written approval of the building plans for such residence has first been obtained from the Developer. Written approval or disapproval of such building plans shall be given by the Developer within thirty (30) days from and after receipt thereof by the Developer. Approval of such building plans shall not be unreasonably withheld; provided however, that the Developer shall have the right, in its sole discretion, to approve or reject any such plans if, in the opinion of the Developer, either the style, size, material or plot plan of such residence does not conform to the general standard and character of the restrictive covenants and the Stevens Creek Ridge Development.

Krieser Farms  
5212 TROON DR  
C 214

Prior to the construction of any addition to any residence constructed on any Lot, or the change or modification in the exterior of any residence constructed on any Lot, the Lot Owner shall first obtain the written approval of the Developer to proceed with any such construction, change or modification which approval shall not be reasonably withheld.

Regardless of any of the requirements of these Covenants concerning the prior approval of building plans by the Developer, the Developer shall have no power to (i) allow, permit or consent to the construction of any residence on any Lot if such residence would violate any of the other terms or provisions of these Covenants, or; (ii) waive any term, condition or restriction imposed by these Covenants on such Lot. The Developer may, in its sole discretion, at such time as Developer deems appropriate, transfer and assign to a three member Architectural Review Board, who are Lot Owners and appointed by Developer, the right to approve or disapprove building plans using the same criteria the Developer has set forth in this Article I. Vacancies occurring thereafter shall be appointed by majority vote of the remaining members of the Architectural Review Board, and such vacancy must be filed by a Lot Owner.

## **ARTICLE II**

### **Association Membership and Voting Rights**

Every Lot Owner shall be a member of the Association, which shall be a Nebraska non-profit corporation, including contract sellers, but not including persons or entities who hold an interest merely as security for the performance of an obligation. No Lot Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and ownership of such Lot shall be the sole qualification for membership. At its first meeting, the Association shall adopt bylaws for its organization and the conduct of its business, which bylaws include provision for the election of directors and officers.

The Association shall have two classes of voting membership. Class A members of the Association shall be all the Lot Owners with the exception of the Developer. Class A members shall be entitled to cast one vote at a membership meeting of the Association, provided that the Lot Owner has paid the current dues and assessments on its respective Lot(s). Rights of membership shall pass by conveyance of any Lot to the grantee thereof as appurtenant to said conveyance. When more than one person holds an interest in any Lot, all of such persons shall be members, but in no event shall more than one vote be cast with respect to one Lot, and the vote for such Lot shall be exercised as they among themselves shall determine.

Class B members of the Association shall be the Developer, and the Class B member shall be entitled to two votes for each Lot in which they hold the interest required for membership by this Article II.

Membership voting rights are to be governed and regulated by the bylaws of the Association, which shall not be inconsistent with the provisions of these Covenants.

## ARTICLE III

### **Property Rights in the Common Areas**

The City of Lincoln, Nebraska, and the County of Lancaster, Nebraska, have approved the final plat of Stevens Creek Ridge Addition upon condition that the Common Area be maintained by the Developer on a permanent and continuous basis. Developer hereby covenants for themselves, their successors, and their assigns that they will convey the Common Area to the Association, free and clear of all encumbrances and liens and that the Association by acceptance of the deed to the Common Area agrees to assume the obligations of the Developer to comply with the conditions of approval of Stevens Creek Ridge Addition regarding continuous and permanent maintenance of the Common Area and private improvements therein. The Common Area shall be defined as the private roadways in Stevens Creek Ridge Addition or such other areas as Developer may designate in writing from time to time in its sole discretion.

Every Lot Owner shall have the right and easement of enjoyment to the Common Area and said right and easement shall pass with the title to every Lot, subject to the following provisions:

(a) Use of the Common Area shall be restricted to members and their guests, and the Association shall have the right to limit the number of guests and their members to adopt reasonable regulations applicable to use by guests.

(b) The Association shall have the right to charge a reasonable admission and/or fee for the use of any recreational facility situated upon the Common Area and shall also have the right to contract with Developer or with any other person, persons, or entity for the charging of reasonable admission or other fees in exchange for management, development, maintenance, and improvement of any such recreational area.

(c) The Association shall have the right in accordance with the bylaws to borrow money for the purpose of improving the Common Area and the facilities, and to mortgage said property, provided, however, that the rights of any mortgagees shall be subject to the rights of the Lot Owners.

(d) The Association shall have the right to suspend the rights to use the Common Area and recreational facilities therein by a member for the period during which any assessment against a Lot Owner remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations.

The use of the Common Area shall be subject to the following:

(a) No use shall be made of the Common Area which shall in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over such Common Area.

(b) No Lot Owner shall place any structure whatsoever upon the Common Area, nor shall any Lot Owner engage in any activity which would temporarily or permanently deny free access to any part of the Common Area to all members.

(c) The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the board of directors of the Association.

## **ARTICLE IV**

### **Dues and Assessments**

Dues and assessments may be established and fixed in accordance with the bylaws of the Association. The board of directors of the Association shall have the power and authority to establish and enforce dues and assessments for all legitimate purposes and objectives of the Association; provided, however, that the dues and special assessments may be made only by the affirmative vote of at least two-thirds of the board of directors of the Association. Assessments shall be made by dividing the total assessment by the number of Lots covered by these Covenants within Stevens Creek Ridge Addition and assessing each Lot in that amount equal to the quotient.

Written notice of any meeting of the board of directors of the Association called for the purpose of taking any action to establish dues or any special assessment pursuant to the provisions of this Article IV, whether by the board of directors or otherwise, shall be sent to all members not less than fifteen (15) days nor more than forth-five (45) in advance of any meeting called for that purpose.

Both annual and special assessments shall be fixed at a uniform rate for all Lots.

Any assessments whether for dues or special assessments, shall be lien against the Lot assessed and if not paid within thirty (30) days after the due date shall bear interest from the due date until paid at the rate of ten percent (10%) per annum. The Association may bring an action of law against the Lot Owner personally obligated to pay the same or foreclose a lien against the applicable Lot. No Lot Owner may waive or otherwise escape liability for the assessment provided herein by virtue of his or her abandonment of their Lot.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall release such Lot from liability for any assessments not foreclosed or thereafter becoming due or from the lien attaching to said Lot by reason of such dies or assessments.

## **ARTICLE V**

### **General Provisions**

1. Every Lot Owner shall have a right and easement of enjoyment in and to the benefits conferred upon the properties by virtue of these covenants.

2. No walls, fences, structure, planting or other materials shall be constructed, placed, planted, maintained or permitted to remain on any easement areas reserved for the installation and maintenance of utilities or drainage, as shown on recorded plat of the Stevens Creek Ridge Development, if such wall, fence, structure or planting would (i) damage or

interfere with the installation or maintenance of any such utilities, or; (ii) change the direction or flow of the surface water drainage channels in any such easement area, or; (iii) obstruct or retard the flow of water through any drainage channels over the easement area.

3. All driveways from an attached garage or other building on the Lot to street shall be constructed of concrete or asphalt. The primary driveway shall extend from an attached garage to North 129<sup>th</sup> Court. All other driveways on the Lot shall connect to the primary driveway.

4. No Lot or any residence hereafter placed or constructed shall be utilized for any purpose other than for single family residential purposes. No townhouses, condominiums, apartments or multiple dwelling units of any kind or type shall be built on any Lot, nor shall any Lot Owner allow or permit any dwelling unit constructed on any Lot to be converted into any type of townhome, condominium, apartment or multiple dwelling unit. Only one (1) single family residence shall be permitted per Lot. No Lot shall be replatted or subdivided or partial thereof sold, transferred or conveyed.

5. No dwelling or other structure of any kind or type shall be located on any Lot within seventy-five (75) feet of the front Lot line, nor within twenty-five (25) feet of any side or rear Lot line, nor in the case of the Lot abutting two (2) or more streets, within seventy-five (75) feet of any street right of way or Lot line. No cantilever, or chimney shall extend into the required set back area.

6. In accordance with the terms hereof, a maximum of one (1) accessory building, barn, garage, storage shed, or any structure of any kind may be constructed or placed on any Lot and shall be located behind the residence; including detached swimming pool house, so long as the accessory structure is constructed with the same architectural style as the single family residence located upon such Lot and is not larger than 1,250 square feet. Lot Owner must have approval (pursuant to the procedures set forth in Article I hereof) for any such structure from Developer before construction begins, whether or not such structure is constructed concurrently with the residence or thereafter. The residence shall be constructed before any such other structure.

7. No residence shall be constructed on any Lot specifically in Stevens Creek Ridge, unless such residence has a minimum floor area, exclusive of terraces, patios, porches, car ports, garages, basements, walkout basements, daylight basements, and lower levels, whether finished or not, of an aggregate of 2,700 square feet.

The exterior of any residence constructed on any Lot must be faced with "color lok" siding (or equal to or better) less than eight inches wide or vinyl, stucco, stone or brick; provided however, that in no event shall any side of any such residence substantially parallel to a front line and the dominant side of the residence be faced with no less than eighty percent (80%) brick or stone, unless the home style is a cape cod or colonial where the brick or stone front side requirement may, in the sole discretion of the Developer or Architectural Review Committee, be waived. All chimneys shall be entirely faced with brick or stone. There shall be no exposed concrete foundation on the residence or any other structure on the Lot. Each residence shall have a garage with no fewer than three (3) stalls.

8. No solar or other energy collectors shall be constructed on any Lot without first being approved by Developer or the Architectural Review Committee.

9. Except for appropriate gutter and downspout systems, all single family residences constructed on any Lot shall have an architectural designed roof consisting of:

- a. Wood or shake shingles;
- b. Slate shingles;
- c. Built-up composition shingles;
- d. Cement shingles; or
- e. Shingles of comparable or higher quality than the above,

and this restriction shall apply to any residential roof that needs to be resingled during the existence of these Covenants, Conditions and Restrictions. This restriction is not to be construed to prohibit the installation of skylights in any residential roof.

10. Any exterior air conditioning unit or system placed on any Lot must be located on the side yard adjacent to the residence or in the rear yard; provided however, no exterior air conditioning unit shall be placed in the side yard facing a street on a corner lot.

11. No roof pitch shall be less than a 6/12 pitch of any residence or accessory building, barn, garage, storage shed or pool house.

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

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

14. No trailer, motor coach, recreation vehicle or boat may be stored or parked in any front or side yard.

15. A minimum of three (3) offsets on the front elevation of a residence is required unless the homestyle is a cape cod or colonial.

16. No previously constructed building or any prefabricated building of any kind whatsoever shall be moved onto any Lot.

17. Lot Owner shall commence construction on any Lot within twenty-four (24) months of the date of conveyance to the Lot Owner from the Developer and such limitation shall not recommence by a reason of a subsequent sale. Once construction of any single family

residence is begun on any Lot, such single family building and landscaping plans approved by this Developer, shall be completed within eighteen (18) months.

18. All outdoor wiring for any Lot shall be placed underground. No wires for electric power, telephones, radios, television or for any other use shall be placed or permitted above the ground on any Lot except inside a residence. No aerials, antennas, television dishes or satellite dishes (greater than 24" in diameter), poles, towers or other devices shall be placed or permitted above the ground on any Lot except when placed inside the residence constructed on such Lot, below the roof line or as otherwise approved by Developer or the Architectural Review Committee.

19. No animals, livestock or poultry or any kind may be raised, bred or kept on any Lot, except dogs, cats and household pets; provided such dogs, cats or other household pets are not kept, bred or maintained for commercial purposes. No dog runs shall be located in a front yard nor within ten (10) feet of a side lot line unless in the backyard.

20. No Lot may be utilized, maintained or used as a dumping ground for rubbish, except leaf and grass clippings. All waste, garbage and trash must be kept in sanitary containers and removed from such Lot on a weekly basis. No incinerators may be constructed or maintained upon any Lot. All Lots shall be kept free of debris and weeds and shall be kept mowed. All portions of the Lots not encompassed within the building site shall be planted to appropriate grasses and shall be well maintained and manicured by Lot Owner.

21. All sewage and water systems shall be constructed in accordance with the standards and requirements of the Lincoln – Lancaster County Health Department and all other regulatory bodies. No lagoon shall be constructed on any Lot until approved in writing by the Developer or Architectural Review Committee after receipt of proof satisfactory to either Developer or such committee showing percolation tests demonstrating inadequate soil conditions for an underground septic system, or unless otherwise expressly authorized by regulation or directive of the Lincoln – Lancaster County Health Department or other applicable regulatory body. Alternative septic systems such as "mound" and "constructed wetlands" are favored by the Developer and Architectural Review Committee over lagoon systems.

22. Lot Owners may, at their own expense, (i) access water via the rural water access provided by Developer or the applicable rural water authorities, or (ii) drill or engage third parties to drill for water on their respective Lots.

23. The Lot Owner shall be responsible for the safety of themselves and their guests and invitees and shall indemnify and hold harmless the Developer from any injuries or damages suffered by themselves, their guests and invitees through the use of any portion of Stevens Creek Ridge.

24. Only plant materials grown for aesthetic landscape purposes, for personal and not commercial use, shall be grown on Lots. No field crops shall be cultivated and/or raised for any commercial use. Fruit and, or vegetable gardens for personal use, not commercial use, are allowed. The restrictions of this Section 24 apply only to Lots not owned by Developer, and do not apply to Outlot A. Developer retains all rights to develop and/or subdivide Outlot A in its

sole discretion. Notwithstanding the foregoing, nothing in these Covenants shall prevent Developer from cultivating and raising field crops for commercial purposes on any Lot owned by Developer or Outlot A.

25. No wire, chain link, or snow fencing shall be permitted abutting a public roadway. Fencing (other than chain link or snow fencing) or landscaping materials must entirely shield from view any propane tanks. Lots and adjoining ditches shall be maintained by the Lot Owners so as not to appear unsightly and so as to control noxious weeds.

26. No industrial activity shall be conducted on any Lot or in any residence thereon. No commercial vehicles, heavy construction equipment, or like equipment, or mobile or stationary trailers of any kind (including but not limited to mobile homes) shall be permitted on any Lot of the subdivision unless they are located inside accessory outbuildings and maintained in such a manner as not to be offensive to the occupants of adjoining Lots. Personal vehicle which require commercial license plates, such as vans and pickups, are excluded from this restriction. No businesses of any kind or anything that may be construed as business may be conducted on any Lots covered by these Covenants, except that (a) this restriction shall not prevent a Developer from placing on any Lots owned by the Developer, signs advertising the development of Lots thereon or the improvements to such Lots or exercising Developer's other rights hereunder and (b) this restriction shall not prevent a Lot Owner from maintaining a small, homebased business, or in a home office which does not disturb the quiet and enjoyment of the occupants of other Lots. No business or commercial use shall be permitted that requires the utilization of any structure other than the personal residence.

27. Until such time as Developer is no longer a Lot Owner, annual and special assessments customary in the subdivision of property and maintenance thereof, other than for capital improvements, may be levied by the Developer in its reasonable discretion. Any special assessment for capital improvements shall be approved by the affirmative vote of two-thirds (2/3) of each class of members affected and entitled to vote, at a regular meeting of the members or a special meeting of the members, if notice of a special assessment is contained in the notice of the special meeting.

## **ARTICLE VI**

### **Miscellaneous**

1. The herein enumerated restrictions, rights, reservations, limitations, agreements, covenants and conditions shall be deemed as covenants and not as conditions hereof and shall run with the land and shall bind the several Lot Owners, their successors, assigns, heirs and devisees until the first day of January, 2027, and continuously thereafter for successive ten (10) year periods unless and until any amendment thereto shall have been approved in writing by a two-third (2/3) affirmative vote of the Lot Owners unless otherwise provided herein. Each Lot Owner shall be entitled to one vote.

2. The enforcement of these Covenants shall be by proceedings at law or in equity, and may be instituted by either the Developer, or any Lot Owner (including the Developer) against any person or persons violating or attempting to violate any provisions

hereof. If the Developer, or any Lot Owner is successful in any action, whether at law or equity, to enforce any term of provision of these Covenants, then the Developer or the Lot Owner instituting such action, as the case may be, shall be entitled to an award of reasonable attorneys' fees and court costs, which shall constitute a lien on the Lot owned by the Lot Owner against whom enforcement is sought. In addition, the City of Lincoln, Nebraska and the County of Lancaster, Nebraska shall have the right to enforce by a proceeding at law or in equity all restrictions, conditions and covenants regarding maintenance of the Common Area. In the event the Association dissolves, the lot owners shall remain jointly and severably liable for the cost of maintenance of the aforementioned Common Area and private improvements located therein.

3. Any failure to enforce any of the terms, conditions, covenants, or provisions of these Covenants in a particular situation shall not be deemed a waiver or abandonment of such term, covenant, condition or restriction as they may apply in any other situation or to the same or a similar situation on any other site. A validation by judgment of a court of any of the covenants, conditions, restrictions requirements or terms set forth in these Covenants or any action undertaken pursuant to these Covenants shall not affect any other covenant, condition, restriction, requirement or term set forth in these Covenants or any other action undertaken hereunder.

4. Each deed, lease or other conveyance of any interest in any portion of the Lots covered by these Covenants shall include a statement to the effect that such property is subject to the provisions of these Covenants and that the Covenants run with the land. If, by reason of inadvertence or otherwise, such statement is not set forth in any deed, lease or conveyance, such statement shall be deemed to have been set forth therein for all purposes, and any such deed, lease or conveyance shall be constructed as is such statement had been set forth therein.

5. Any instrument amending, modifying, abrogating, or canceling these Covenants and must be approved by the city attorney's office in writing and recorded before it shall be effective.

IN WITNESS WHEREOF, the undersigned being the Developer of record herein, has set its hand and seal this 2<sup>nd</sup> day of September, 2003.

DEVELOPER:

Gerry A. Krieser

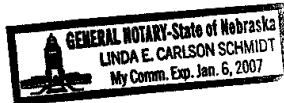
Gerry A. Krieser

Dianne D. Krieser

Dianne D. Krieser

STATE OF NEBRASKA           )  
  )ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me on this 2<sup>nd</sup> day Sept of 2003, 2003 by Gerry A Krieser & Dianne D Krieser



Linda E Carlson Schmidt

Notary Public

The foregoing Declaration of Covenants, Conditions and Restrictions are hereby approved by the City of Lincoln, City Attorney's Office, and the County of Lancaster, County Attorney's Office, for the limited purpose of consenting to the transfer of maintenance responsibilities from the Owner to the Association.



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Rick Peo, Chief Assistant City Attorney



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Dave Johnson, Deputy County Attorney