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**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND  
RESTRICTIONS OF ARBOR HILLS**

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KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, TS Development, LLC, a Nebraska limited liability company, hereinafter referred to as “**Developer**,” is the owner of a certain tract of real property more particularly described as set forth in Exhibit A, which is attached hereto and fully incorporated herein by this reference (hereinafter, the “**Property**”).

WHEREAS, situated within the Property are lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 Block 1, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 Block 2: of said Arbor Hills; said lots being hereinafter collectively identified and referred to as the “**lots**” and individually as a “**lot**,” and

WHEREAS, for purposes of preserving, enhancing and protecting the value, attractiveness, natural terrain, beauty and desirability of the lots, Developer is desirous of establishing a set of covenants, conditions and restrictions for the Property; and

WHEREAS, this Declaration of Covenants, Conditions and Restrictions of Arbor Hills (hereinafter, this “**Declaration**”) sets forth such covenants, conditions and restrictions.

NOW, THEREFORE, the following covenants, conditions and restrictions are hereby imposed upon and against the Property, each lot, and any part of the same, except as specifically exempted hereunder, all of which shall be held, sold and conveyed subject to the provisions of this Declaration, which shall be deemed covenants running with the land and shall be binding upon all parties having any right, title or interest in the Property or any part thereof, except such lots as are specifically exempted hereunder, their heirs, successors and assigns, and shall inure to the benefits of each Owner of a lot.

**ARTICLE 1-DEFINITION**

A.“**Owner**” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot, and such owners of all the lots shall be referred to collectively as the “**Owners**”.

B.“**Architectural Review Committee**” shall mean a committee of three (3) persons appointed by the Developer, until such time as all the lots have been sold. Thereafter, a representative selected by Developer shall remain upon the Architectural Review

Committee for as long as Developer so chooses, with the other two members shall be chosen by a majority of the Owners.

C. “**Developer**” shall mean TS Development LLC, a Nebraska Limited Liability Company, its successors or assigns.

D. “**Front Lot Line**” shall mean that portion of any lot line which directly abuts a street open to the use of the general public. In the case of corner lots which have lot lines abutting two streets, the Owner of such lot shall have the right to designate which is the Front Lot Line.

E. “**Side or Rear Lot Line**” shall be deemed to mean that portion of any lot line which does not directly abut a street open to the use of the general public

## **ARTICLE 2- SINGLE FAMILY RESIDENCES AND PRIOR APPROVAL OF PROPOSED IMPROVEMENTS**

A. Each lot shall be used and occupied solely as a residence for a single-family dwelling and for no other purpose. No townhouses, condominiums, apartments or multiple dwelling units of any kind or type shall be built on any lot or lots nor shall any Owner allow or permit any dwelling unit constructed on any lot to be converted into any kind or type of townhouse, condominium, apartment or multiple dwelling unit.

B. Anyone desiring to construct a new dwelling, garage, outbuilding or other appurtenant structure or improvement upon a lot, or to substantially add to, alter or modify any portion of the exterior of an existing dwelling or building, hereinafter collectively referred to as “**Improvements**,” shall first submit to the Architectural Review Committee for its review and prior written approval a complete set of building plans showing the nature, kind, shape, height, materials, location and plot plan of the Improvements (hereinafter, “**Plans**”). Improvements, as related to alterations or modifications of existing dwellings or buildings, refers to substantial and significant changes to such structures as determined by the Architectural Review Committee, but shall not include the installation of decks, hot tubs, patios, pools or similar character . The Plans shall be signed and certified by the Owner as being true and correct and shall contain a statement that the Owner will submit any amendments, modifications or changes to the Plans to the Architectural Review Committee, for prior written approval.

C. No construction of any Improvement shall commence until the Plans have been approved, in writing, by the Architectural Review Committee. The Architectural Review Committee shall have the exclusive right, authority and power to approve or reject the Plans, in its sole and absolute discretion. In this regard, the Architectural Review Committee shall take into consideration the harmony and conformity of the external design and location of the improvements in relation to surrounding structures and proposed structures and the topography, natural terrain, size, and estimates of cost, and such other factors as the Architectural Review Committee deems necessary, appropriate or relevant to maintain property values of the lots and promote the beneficial use of the lots in conformity to this Declaration. The Architectural Review Committee shall reject any Plans in which, in the opinion of the Architectural Review Committee, either the style, size, material or plot plan of such residence does not conform to the general standard and character of the single family residences constructed or to be constructed on other lots located within the Property. However, approval of such Plans shall not be unreasonably or arbitrarily withheld.

D. Written approval or disapproval of such Plans shall be given by the Architectural Review Committee within thirty (30) days of receipt of the Plans and a complete set of all approved Plans, as amended, shall be kept by the Architectural Review Committee for a period of up to five (5) years after such Improvements have been substantially completed.

E. Notwithstanding anything contained herein to the contrary, the Architectural Review Committee shall have no right, power or authority to: (i) allow, permit or consent to the construction of any single family residence on any lot if such residence would violate any of the terms or provisions of this Declaration; or (ii) waive any term, condition or restriction imposed by this Declaration on such lot.

### **ARTICLE 3A – OUTBUILDINGS**

No more than two (2) outbuildings may be constructed or placed on a lot, which outbuilding(s) shall be of comparable or complementary design and color to the dwelling unit located on the lot. No outbuilding shall exceed twenty (20) feet in height or have a footprint in excess of three thousand square feet (3,000 sq. ft.), and only one outbuilding on any given lot may exceed one thousand square feet (1,000 sq. ft.).

### **ARTICLE 3B – CONSTRUCTION STANDARDS**

The following minimum standards shall be required for all approved Plans with respect to the construction, remodeling or reconstruction of any Improvement, provided, however compliance with said minimum standards shall not limit the Architectural Review Committee from disapproving Plans in accordance with this Declaration.

A. Each single family dwelling constructed on a lot shall have a minimum floor area, exclusive of terraces, patios, porches, carports, garages, basements, walk-out basements, daylight basements and lower levels, whether finished or not, of to wit: (i) one thousand eight hundred (1,800) square feet in the case of a one-story ranch-style family residence; No residence shall be allowed to consist solely of a basement.

B. If active solar panels are installed on any dwelling, they shall be flush with the roof or sidewall of the dwelling and shall not be located in any yard.

C. All homes shall meet the International Residential Code developed by the International Code Council and in effect for the City of Kearney, Nebraska.

D. All exterior air conditioning systems shall be located in the side or rear yard and shall be screened by landscaped shrubbery or fencing approved by the Architectural Review Committee

E. No dwelling or structure of any type or kind shall be located within fifty (50) feet of the Front Lot Line or within twenty-five (25) feet of any Side or Rear Lot Line.

F. All residences shall have a minimum of a two-door/two stall garage, containing no less than 480 square feet, which garage shall be attached to the dwelling unit located on the lot. Garage driveways shall be paved for a minimum of twenty (20) feet out from the garage.

G. A drain tube or pipe with a diameter specified by Developer shall be installed under each lot Owner's driveway to facilitate drainage of the road which abuts the lot/lots owned by said Owner and to ensure that the water flow in culverts parallel to each road remains uninhibited.

#### **ARTICLE 4 – NUISANCE**

No noxious, illegal or offensive trade, activity or practice shall be carried on upon any lot, nor shall anything be done on any lot that may become a nuisance to the neighborhood.

No advertising sign, billboard or other advertising device of any kind or type (employed for any commercial purpose) or nuisance, shall be permitted, erected, placed or suffered to remain on any lot or on any structure or improvement located on any such lot. No lot shall be used in any way or for any purpose which may in any way endanger the health or unreasonably disturb the peace and quiet of another lot Owner. No business of any kind or anything that may be construed as a business of any kind may be conducted on or from any lot; provided, however, that this paragraph shall not prevent nor prohibit the Developer from placing on any lot owned by Developer, signs advertising the sale of such lot or advertising the development as a whole, and provided, further, that this paragraph shall neither prevent nor prohibit any lot Owner, or his agent, from placing upon any lot owned by such lot Owner a "For Sale" sign or political yard sign.

#### **ARTICLE 5 – SUBDIVIDING**

No lot shall be subdivided in any manner.

#### **ARTICLE 6 – TRAILERS, MOBILE HOMES, PARKING**

No trailer, mobile home, tent, shack, barn or non-residential dwelling erected in or on any lot shall at any time be used as residence, temporarily or permanently; nor shall any structure of a temporary character be used as a residence. No trailer, mobile home, motor coach, semi-truck, tractor or boat may be stored or parked in any front yard. Except for guests of an owner staying with owner for 14 days or less, no trailer, mobile home, semi-truck, tractor, motor coach or boat may be parked in any driveway or street for a period of time exceeding a total of seven (7) days per year. Farm machinery and equipment, commercial or industrial vehicles, machinery and other equipment and recreational vehicles and accessories shall be parked and stored in buildings except during construction..

#### **ARTICLE 7 – EROSION**

During construction on any lot, the Owner of such lot shall control soil erosion. Upon failure to do so, the Developer or any other Owner, upon 48 hours' advance notice to the offending Owner, may enter upon said lot and take such reasonable steps to control erosion and bring said lot into compliance with this paragraph and assess the costs thereof against said lot. When such assessment is filed for record, it shall become a lien against the lot and shall bear interest at the rate of 14% per annum until paid. Notwithstanding the right to do so granted in this Article 7, neither Developer nor any other Owner shall have a duty to take remedial steps with regard to erosion control on another Owner's lot and shall not be limited in any action for damages by the failure to take such remedial steps.

## **ARTICLE 8 – BURIED UTILITIES**

All outdoor wiring for any lot shall be placed underground. No wires for electric power, telephones, radios, televisions or for any other use shall be placed or permitted above ground on any lot, except inside a residence. No aerials, antennas, television dishes or radio or television towers shall be placed or permitted above the ground of any lot, except when placed beside or upon a single family residence constructed on such lot and below the roof line.

## **ARTICLE 9 – SEWER AND WATER**

Each Owner shall assume any and all responsibility and liability for the construction, installation, and maintenance of a private water supply and private sewage disposal facilities. Such private water supply and private sewage disposal facilities shall meet any and all applicable local, state, and federal laws, rules, regulations, standards and the like, including, but not limited to, those required by the Nebraska Department of Health.

Any private water supply systems or private sewage disposal facilities, or any part of either, shall be placed, installed or constructed at least ten (10) feet away from any lot line of a lot, or at such further distance from a lot line as may be required by local, state or federal law.

## **ARTICLE 10 – ANIMALS**

No animals, livestock or poultry of any kind may be raised, bred, kept or maintained on any lot for commercial or business purposes, or for anything that can be construed as a business or commercial nature; provided, that 4-H activities shall not be considered to be of a business or commercial nature. Any animals or livestock listed below may be raised, bred, kept or maintained on any lot for personal, non-commercial purposes, in any number or combination, so long as the aggregate assigned point value is no greater than four (4) per lot:

- Horse – two (2) points, (must have ten (10) plus acres)
- Calf – one (1) point
- Dog – one (1) point, max three (3)
- Chicken- one-third (1/3) point
- Cow – two (2) points
- Sheep/Goat– one-half (1/2) point
- Cat – one (1) point, max four (4)

Any such animals or livestock shall be kept in an area of the lot which is fenced with a fencing material approved in writing by the Architectural Review Committee for purposes of containing any such animal or livestock. Any animals, livestock or poultry other than those listed above may not be raised, bred, kept or maintained on any lot, unless written permission is granted from the architectural review committee. The limitations set forth in this Article shall not apply to animals that live inside a residence and are confined at all times to a cage, terrarium or aquarium.". The aggregate assigned point value for any Owner owning two or more adjacent lots shall be equal to the number of such adjacent lots multiplied by four.

#### **ARTICLE 11 – FENCING**

The construction of any fences shall not be commenced unless and until written approval of the type and material of the fence is approved in writing by the Architectural Review Committee. No barbed wire fencing shall be installed on any lot.

#### **ARTICLE 12 – TRASH**

No lot may be utilized or maintained as a dumping ground for junk, vehicles in disrepair or rubbish, including, but not limited to, leaf and grass clippings. All waste, garbage and trash must be kept in sanitary containers and removed from such lot on a weekly basis, except that Owners shall be allowed to compost organic materials. No incinerators may be placed, constructed, kept or maintained upon any lot. All lots shall be kept free of all debris and noxious weeds and frontage right of way shall be mowed in their entirety at least three (3) times per year. Upon failure of any Owner to comply with the requirements of this paragraph, Developer may employ the services of a third party to bring the Owner into compliance with the terms and provision of this paragraph, and Developer may assess the cost thereof against the lot. When said assessment is filed of record, such assessment shall be a lien upon the lot and shall bear interest at the rate of 14% per annum, until paid.

#### **ARTICLE 13 – MAINTENANCE AND UPKEEP**

All fences, landscaping, buildings and other improvements shall be kept and maintained in good condition and repair, and all residences, garages and accessory buildings shall be painted, stained or maintained from time-to-time, so as to maintain a good state of repair: ie; Peeling paint, broken windows. Maintenance of landscaping shall include the exercise of generally accepted landscaping practices.

If all or any portion of a residence or permanent improvement is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner, with all due diligence, to cause the

same to be rebuilt, repaired or reconstructed in the manner that will substantially restore it to its appearance and condition immediately prior to the casualty, unless the same is waived by the Architectural Review Committee. Such rebuilding, repair and reconstruction shall be undertaken within three (3) months after the casualty occurred, and shall be completed within nine (12) months thereafter, unless prevented by causes beyond the control of the owner.

There shall be an annual fee of two hundred dollars (\$200) assessed by the H.O.A., as dues to be used for trail and ditch upkeep and maintenance. These dues shall be due on June 1st of each calendar year. In the event the annual dues are not paid within five (5) days of the due date, a late fee of \$5.00 per day shall be added, calculated from the due date.

#### **ARTICLE 14 – DURATION**

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 Owners, their successors, assigns, heirs and devisees for a period of twenty (20) years from the date this Declaration is filed and recorded in the office of the Register of Deeds of Buffalo County, Nebraska and shall automatically continue thereafter for additional periods of ten (10) years each, unless amended, modified or terminated by a 2/3 affirmative, written vote of the Owners; provided, however, that so long as Developer owns three (3) or more of the lots, Developer shall have the right and authority to amend, modify or terminate this Declaration, in whole or in part, in Developer's sole discretion and without vote from any other Owner.

#### **ARTICLE 15 – ENFORCEMENT**

The Architectural Review Committee or any Owner shall have the right to enforce, by any proceedings at law or in equity, all covenants, conditions and restrictions now or hereafter imposed by this Declaration. Such proceedings may seek injunctive relief to restrain or enjoin any violation of this Declaration, to recover damages, or to enforce any other obligation created hereby. If the Architectural Review Committee or any Owner is successful in any action commenced, at law or equity, to enforce any term or provision of this Declaration, then the Architectural Review Committee or Owner instituting such action, as the case may be, shall be entitled to an award of a reasonable attorney fee and court costs, which shall constitute a lien on the lot owned by the person against whom enforcement is sought, in the same manner and with the same priority as a lien for annual or special assessment. Failure to enforce any covenant, condition or restriction shall in no event be deemed a waiver of the right to do so at a later date. The rights afforded in this Article 15 are not intended, and shall not be construed, to limit any rights available at law or equity to the Architectural Review Committee or any Owner, but rather

as an addition to the same. This Declaration shall be governed by and construed in accordance with the laws of the state of Nebraska. Venue for any proceeding instituted hereunder shall only be proper in the County or District Court of Buffalo County, Nebraska.

#### **ARTICLE 16 – COMMENCEMENT OF CONSTRUCTION**

Unless waived in writing by Developer at any time during which Developer owns three (3) lots or more, construction must commence within seventy-two (72) months after the initial purchase of the lot from Developer and must be completed within twenty-four (24) months of commencement. If an Owner fails to comply with the provisions contained in this Article 16, such Owner shall, at Developer's sole option and election, sell and convey the lot to Developer within twenty (20) days after written demand has been made upon Owner to sell the lot to Developer, for the same price and terms the lot was sold to Owner by Developer, less all legal costs, fees and commissions incurred by Developer in the original sale of the lot to the Owner by Developer.

#### **ARTICLE 17 – EXEMPTIONS FROM THIS DECLARATION**

Out lot A shall be exempt from this Declaration and shall have no voting rights or due commitments.

#### **ARTICLE 18 - SEVERABILITY**

The invalidation of any of the covenants or restrictions set forth herein shall not affect the validity of the remaining provisions hereof, all of which shall remain in full force and effect.

**IN WITNESS WHEREOF**, the undersigned have executed this Declaration on the date and year indicated below.

Dated this \_\_\_ day of \_\_\_\_\_, 2019.

**[Signature on following page.]**

TS DEVELOPMENT, LLC, a Nebraska  
Limited Liability Company

By: \_\_\_\_\_  
Seth Tschetter-Siedschlaw, Member

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF BUFFALO    )

The above and foregoing instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2019, by Seth Tschetter-Siedschlaw, member, on behalf of TS Development LLC, a limited liability company.

\_\_\_\_\_  
Notary Public